**PUBLIC MEETING – JULY 13, 2005**

The Public Meeting was called to order at 1:30 p.m. by Chair Jean Curtiss. Also present were Commissioner Barbara Evans, Commissioner Bill Carey, Deputy County Attorney Colleen Dowdall, County Land/Survey Supervisor Greg LaZerte, and Public Works Director Greg Robertson.

**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 $927,197.36. Commissioner Carey seconded. The motion carried on a vote of 3-0.

**Hearing (Certificate of Survey): Mercer Family Transfer *(Continued from July 6, 2005)***

Colleen Dowdall stated that Thomas Mercer, the applicant, was available to personally appear last week and answer questions on the record. However, when this family transfer was originally postponed, it was announced on the record that the Board would take action on July 13, 2005. We took public testimony from Mr. Mercer last week but informed him that we would delay action on his request until today, because of the announcement at the original hearing. So you can continue the meeting and ask if there is any testimony and then close the public hearing and make your decision.

Chair Curtiss: So I will reopen the hearing on the Mercer Family Transfer. Is there anyone that wants to make any comments on this, or has any questions, or wants us to repeat anything from the record? Seeing no one then, we will close the hearing.

Commissioner Evans moved that the Board of County Commissioners approve the request by Thomas C. Mercer to create five 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 Carey seconded the motion. The motion carried on a vote of 3-0.

**Hearing (Certificate of Survey): Thomas Family Transfer**

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer for that parcel described as Tract 64A of COS 3121, located in Section 28, Township 13 North, Range 15 West.

Larry and Samara Thomas 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 10 acres in size located near Bonner, Montana. Larry and Samara proposes to create one approximately 3 acre parcel for transfer to Larry's father, Larry W. Thomas, Sr., for residential purposes and keep the remaining approximately 7 acre parcel for residential purposes as well.

The history of the parcel is as follows: COS 219 was filed in March, 1974, creating 43 parcels and access roads. COS 3121 was filed in October, 1984, creating Tract 64A as a single division of a parcel outside of platted subdivision when the transaction is an occasional sale, 10 acres in size. A Warranty Deed was filed in April, 2003, deeding the property to Larry W. Thomas.

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

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

Larry Thomas: Larry W. Thomas, Jr.

Chair Curtiss: Mr. Thomas we will have Colleen ask you some questions that we need to have the answers on the record.

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

Larry Thomas: Approximately eight years.

Colleen Dowdall: And prior to that your father owned it and your mother?

Larry Thomas: Yes.

Colleen Dowdall: How long did they own it?

Larry Thomas: I believe since 1988.

Colleen Dowdall: Okay. So you didn't acquire this with the intent to divide it?

Larry Thomas: No I didn't.

Colleen Dowdall: Do you intend to transfer the parcel that's going to remain in your ownership, in the next year?

Larry Thomas: No.

Colleen Dowdall: Does your father intend to transfer his interest in the next year?

Larry Thomas: No.

Colleen Dowdall: Will the property be developed or are there houses on the property now?

Larry Thomas: I have a home on my portion and then he is going to build a small home on his.

Colleen Dowdall: And he is going to reside there?

Larry Thomas: Yes.

Colleen Dowdall: Where does he reside now?

Larry Thomas: Kettle Falls, Washington.

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

Larry Thomas: No, I'm a drywall contractor.

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

Larry Thomas: No.

Colleen Dowdall: Do you understand that we are not reviewing this request for access, like we would if you were going through Subdivision Review? We would make sure that there was legal and physical access, we aren't reviewing it for sanitation or any other approvals and you still have to do that.

Larry Thomas: Yes.

Colleen Dowdall: And you still have to get your septic permits and check with floodplain and those kinds of things.

Larry Thomas: Right.

Colleen Dowdall: Okay.

Chair Curtiss: Are there any other questions for Mr. Thomas? Thank you. This is a Public Hearing, is there anyone else who would like to make comment about this family transfer? Seeing none I will close the Public Hearing.

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

**Hearing (Certificate of Survey): Hunter Family Transfer**

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Parcel A-2 of COS 4402, located in the northeast one-quarter of Section 20, Township 15 North, Range 22 West.

Cherryl Hunter 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 37.36 acres in size located near Frenchtown, Montana. Cherryl proposes to create one approximately 22 acre parcel for transfer to her son, Garret Hunter, age 8, for residential purposes and keep the remaining approximately 15.36 acre parcel for residential purposes as well.

The history of the parcel is as follows: Ida Slemons filed Certificate of Survey 1974 in May, 1979, creating a tract of land in excess of twenty acres. Ida filed a Warranty Deed in June, 1979, deeding Parcel A to Roger W. and Julia M. Bennett. Roger and Julia filed Certificate of Survey 4402 in September, 1994, creating Parcel A-1 for a family transfer and Parcel A-2 as a remainder. A Warranty Deed was filed in November, 2004, deeding Parcel A-2 to Cherryl Hunter.

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

| | | | |
|---|---|---|---|
| COS 5389 | 04/01/2000 | Family Transfer to father | SW 25-15-21 |

Chair Curtiss: Is Cherryl Hunter or her representative here? Cherryl, if you could come to the microphone and state your name for the record please.

Cherryl Hunter: Cherryl Hunter.

Chair Curtiss: Cherryl, we will have the Deputy County Attorney ask you the same list of questions?

Cherryl Hunter: Okay.

Colleen Dowdall: So have you owned the property since November of 2004?

Cherryl Hunter: Yes.

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

Cherryl Hunter: No.

Colleen Dowdall: Do you intend to transfer the remainder parcel or the other parcel on behalf of your son within the next year?

Cherryl Hunter: No.

Colleen Dowdall: Have you established a trust for him?

Cherryl Hunter: I am working on that. I talked to my lawyer and he said it's no problem.

Colleen Dowdall: Okay. And will you be the trustee of that trust?

Cherryl Hunter: Yes, I believe that's how it will work.

Colleen Dowdall: And if property is transferred, will you hold the money in trust then for your son?

Cherryl Hunter: Yes, I would.

Colleen Dowdall: Are you intending to develop either parcel?

Cherryl Hunter: No I am not.

Colleen Dowdall: Is there a house on either parcel?

Cherryl Hunter: Yes there is.

Colleen Dowdall: Do you intend to reside on the property?

Cherryl Hunter: Yes, I would like to build on the property.

Colleen Dowdall: So do you intend to build on the remainder or the transfer?

Cherryl Hunter: On the remainder.

Colleen Dowdall: Which parcel has the house?

Cherryl Hunter: Well the other parcel has the house and I intend to keep it as well.

Colleen Dowdall: Your affidavit said it would be for residential purposes but I take it that Garrett won't be living --?

Cherryl Hunter: He will be when we build over on the other side.

Colleen Dowdall: He will be living in your house not the parcel he owns?

Cherryl Hunter: Yes.

Colleen Dowdall: Lets see, so where do you and Garrett live now.

Cherryl Hunter: We live in Frenchtown now in a different location.

Colleen Dowdall: Do you live on the parcel that you divided for transfer to your father?

Cherryl Hunter: No, but we still retain both of those parcels. My dad still has his and I still own the other part.

Colleen Dowdall: Have you developed that property at all?

Cherryl Hunter: We did put a cabin on for my dad, outside of that no.

Colleen Dowdall: Do he reside in the cabin?

Cherryl Hunter: He does part of the time.

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

Cherryl Hunter: Originally when I bought this place I had considered doing it and I did. But I changed my mind because I fell in love with the piece, it's gorgeous and it has a really nice view of the Squaw Peak and I decided it would be a great investment, long-term investment for my son.

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

Cherryl Hunter: No.

Colleen Dowdall: Building on or developing property?

Cherryl Hunter: No.

Colleen Dowdall: Do you understand that an evasion of the Subdivision and Platting Act could be a misdemeanor?

Cherryl Hunter: Yes.

Colleen Dowdall: Do you understand that we have not reviewed this request for adequate access for vehicles in all weather? Those are things we do in subdivision review.

Cherryl Hunter: Yes.

Colleen Dowdall: This is not your only approval. You still need to get approval for Zoning Compliance, Floodplain and Septic Systems – any of those things?

Cherryl Hunter: Yes.

Commissioner Evans: Cherryl could you tell me why are you wanting to do this – why are you wanting to give land to an eight year old?

Cherryl Hunter: Because I would like to build and move onto that piece and so I'm going to go ahead and transfer it to my son as an investment. Land is so expensive here and I think as the future goes, he will always have that land and then he can reside there if he likes, someday, he has it. I've done this with my dad as well on the other land that we owned and that's why. It's a long- term investment, I don't intend on selling it.

Chair Curtiss: Thank you. Any other questions? This is a Public Hearing. Is there anyone else who would like to make comment? Seeing no one, I will close the Public Hearing.

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

**Decision *(Continued from June 29, 2005)*: Road Alterations and Abandonments (Tom Maclay's Property – McClain Creek Road)**

Chair Curtiss: Next we have a decision. We received a petition to alter some roads and abandon some roads on Tom Maclay's property in the McClain Creek area. Commissioner Evans and Greg LaZerte visited the site. They will give us their report.

Commissioner Evans: I'm going to have Greg do it.

Greg LaZerte: As you stated, Barbara and I, met with representatives of WGM and Tom Maclay and I believe the Forest Service was there briefly and we drove the existing road and checked out what was being proposed and it all looked find to me on paper and also on the ground. It would definitely be an improvement. I was assured that we would keep the existing road access to federal lands. It's not altering that in anyway. So, again it seems fine to me.

Commissioner Evans: And I would agree with that. But I've heard, kind of through the grape vine, that there is a piece you are worried about loosing, Greg, that's Greg Robertson.

Greg Robertson: Thank you. Glad to know who I am. My office did, actually I reviewed the construction plans for the proposed revision and there were a couple pieces, very short segments near the top, that needed revision which I've sent back to the engineer to make the appropriate changes. This is pretty routine and I don't know what grape vine you are listening to but, my only concern was there would be a petition for alteration before I did any sort of blessing on the plans since this was altering an existing right-of-way. This does now and will provide access to federal lands, both legal and physical. The existing McClain Creek Road in its current configuration is not buildable.

Commissioner Evans: And so you agree with Greg's assessment that we should do this and I agree as well, so.

Chair Curtiss: So my question would be though, because – is the applicant proposing to build this new road?

Greg Robertson: Yes the applicant has submitted construction plans to my office to build the new alignment.

Chair Curtiss: So do we need to some how condition this so that we will alter it contingent on it being built to your specifications?

Greg Robertson: That would be my suggestion.

Commissioner Evans: It will improve the grade.

Greg LaZerte: Oh yeah, significantly. Right now, when you reach the upper portion, it's close to a 35% - 40% grade and this will reduce it to 8% or below.

Chair Curtiss: Are there some Forest Service roads that are in this area too, that they will have to make some decisions on?

Commissioner Evans: They were there and they agreed.

Greg LaZerte: Right. The Forest Service really didn't have much to say on the matter. They said it looked good to them on paper and it is a better alignment, so it will be a much improved road. The existing Forest Service road and those deeds are not being affected by this alteration.

Greg Robertson: Correct.

Chair Curtiss: So it looks like we are altering the one to match better grade and then we are abandoning a couple pieces that are out in the middle of nowhere and don't do anything? They don't serve a function?

Greg LaZerte: Correct.

Commissioner Evans moved that the Board of County Commissioners approve the petition to alter and abandon a portions of County roads in the McClain Creek area, contingent upon building the road to Public Works satisfaction. Commissioner Carey seconded the motion.

Chair Curtiss: Is this hearing still open? Okay. This is a Public Hearing. Is there any comment before we vote. Mr. Kaufman?

Nick Kaufman: For the record, Nick Kaufman. To help answer the question with the Forest Service, the letter we got from Mr. Ball indicates that once the road plans are approved by the Forest Service, subsequent by Missoula County, and it's constructed, they will go ahead with their abandonment to the new right-of-way, also. There is just one last piece of evidence that I would like to provide to the Commissioners. This is a picture of a large brown bear, black bear in a pine tree right next to McClain Creek Road. This was taken last fall and he comes down, that's where he sleeps, and he crosses the road and feeds on the Hawthorne berries. With the realignment, we won't need to put up a cross walk.

Commissioner Evans: Do you think he could read if we did?

Chair Curtiss: So the Forest Service has its own process to abandon their roads, is that correct?

Nick Kaufman: That is correct.

Commissioner Evans: For the record, he is a fine looking bear.

Chair Curtiss: Any other public comment? Seeing none, I will close the Public Hearing. And we do have a motion that has been seconded. Any more discussion? All in favor?

The motion carried on a vote of 3-0.

Chair Curtiss: That's a unique bear, with that white on his chest.

Commissioner Evans: He is perched really strange.

**Consideration: Pioneer Addition (5 commercial lots on 24 acres) – South side of West Broadway, west of Flynn Lane**

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

This is a subdivision from the Dougherty family. The property is located about a mile east of the airport on the south side of West Broadway. It's west of Flynn Lane and west of where Mary Jane Boulevard will connect with West Broadway and it is just directly east of where Grant Creek comes under West Broadway and then flows south. The property contains approximately 24 acres and this is proposed as a five lot commercial subdivision. The lots range in size from approximately 3.5 acres to 5.25 acres gross, for a total of about 24 acres, as I said. The zoning is CA-3, it's a residential zone that allows a density of one dwelling unit per five acres which this proposal does not comply with at this point. The applicant is in the process of requesting rezoning and a condition of approval requires that Zoning Compliance be achieved on this subdivision, which is essentially going to be done through the rezoning request. You will likely be seeing that sometime in the very near future. We did evaluate this as a commercial subdivision. The roads in the subdivision meet all County Standards and they are proposed as public roads. The grid resolution does apply in this area and the road on the western most border of the property, Brian Street, is in conformance with a road that is envisioned to extend from England Boulevard up to West Broadway. There is a variance request to allow these lots to be through lots, all five of them are through lots, and that means that it has roads on two parallel sides. Staff has recommended approval on that variance request. The applicant had proposed an RSID for the installation of curb, gutter and sidewalk, and landscaping, along the public roads. Staff did recommend a condition of approval that the applicant be responsible for installing those improvements. The possibility does exist for the applicant to initiate an RSID to achieve that, but the ultimate responsibility will rest on the subdivider to do that. Public sewer and water will be provided in this subdivision and there is no parkland dedication requirement. It is within Airport Influence Area and thus a condition requiring a avigation easement is applied. The property is not within the floodplain, but the potential for high ground water does exist at this location and as you are aware, we have been working out those issues and resulting in a condition of approval with language in the covenants to reflect the possibility of high ground water here and that the applicant or future lot purchasers secure a study and evaluation of each site to determine whether basements could be potentially impacted by high ground water. In addition to the recommendation of approval on the variance request, staff has recommended approval of the subdivision with 21 conditions. I've touched on a few of those. I just want to hit on a few others that might highlight this project. The applicant would need to include an RSID waiver on the plat for all interior roads and West Broadway. The covenants would need to include language that the property owner maintain the boulevard landscaping and the one foot no access strip on West Broadway should be deleted. The drainage plan for this subdivision includes a series of catch basins that then are channeled to a detention pond west of the property through PVC pipe and then ultimately, piping that to Grant Creek. Fish, Wildlife and Parks and the Health Department did express some concerns about the drainage plan and we did meet, several different agencies met during the course of the review of this project and came to some conclusions about how the drainage plan might be developed and ultimately reviewed and approved by the Public Works Director. That would include biofiltration in the landscape boulevards, however no sumps. The boulevards would be the first catch of the drainage and then would be channeled to the detention pond in the west and ultimately to Grant Creek. But Fish, Wildlife and Parks felt with all of those stops along the way, that the impacts on Grant Creek may be mitigated. The pond has some perimeters that the agencies also felt were important which includes being located outside the 100 year floodplain and locating the ten inch outlet at a specific location so as to prevent siltation into the creek but also, low enough so that it doesn't become a fish pond, essentially. The property is along a Primary Travel Corridor, so there are some conditions that reflect compliance with Primary Travel Corridor Standards and a revegetation plan would need to be included with this project and that is included in the conditions. Language regarding wildlife, since this area is near the creek and some riparian area, Fish, Wildlife and Parks felt that was important. I would say finally, the memo on your desk that I also distributed to the applicants just as this hearing was beginning, includes an alternate Condition 21 which I described a moment ago about including language in the covenants about the high ground water. The motion that you could make for this subdivision is at the top of that page. If you were incline to approve this subdivision, the applicant has requested a three year plat approval period. So with that I will conclude my staff report.

Chair Curtiss: Is the developer or their representative here?

Bill Wagner: For the record Bill Wagner, representing Dougherty Ranch Limited Partnership, the applicant. We do concur with the work that OPG has done and compliment Jennie Dixon for her hard work with this project. We thank her and other staff members for working through Condition 21 regarding the floodplain and ground water

issue. With regards to zoning, that is covered in proposed Subdivision Findings of Fact, Section A. I would just simply like to state that there is a correct statement here and that is that our client does intend to apply for rezoning of this property and the land around this proposed subdivision in the very near future and the area to the west of this, nearer the airport is proposed to be zoned industrial and the remainder of the land to be zoned commercial. We intend to come in with that in the very near future, we realize that the Wye-Mullan Plan is still a work in progress, but it is our intention to get this commercial zoning in place as soon as possible. So we will be back before you on that in the very near future, thank you.

Chair Curtiss: Thank you. This is a Public Hearing. Is there anyone else that would like to make any comments. Actually, it's a consideration, but we treat them like a hearing. We let everybody talk. Seeing no one. Are there any questions or comments from the Commission?

Commissioner Carey moved that the Board of County Commissioners adopt Alternative Condition 21 as submitted on the memo from Jennie Dixon dated July 13, 2005. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: Colleen, could you help us with the language for what we will need to say about – because we are still working on developing the Finding of Fact based on the discussions that have happened the last few days.

Colleen Dowdall: I think Jennie put that in the proposed motion.

Chair Curtiss: Oh, in the main motion, okay. We did vote on that motion. Before we go to the next one, there is new legislation that requires us to ask if – we didn't have a hearing, this didn't go before the Planning Board. So therefore, but there have been some new things actually from early on. Is there anyone here that feels that there is anything new enough that we should delay a decision?

Commissioner Evans: I'm not clear on the no-access strip, are we suppose to do something with that?

Colleen Dowdall: I think it's included in the conditions that we have it removed. I think it was offered by the applicant and it would – but it's a condition that only works on a County road.

Commissioner Evans: Okay, I didn't want to miss it.

Chair Curtiss: Ready for a motion?

Commissioner Carey moved that the Board of County Commissioners approve the Pioneer Addition Subdivision for a period of three years based on the Finding of Fact in the staff report and on the public record and subject to the recommended conditions including the alternative Condition 21. Commissioner Evans seconded the motion.

Chair Curtiss: Do we need to do the variance first?

Commissioner Carey: Oh you are right. Sorry.

Chair Curtiss: If we could hold that motion and do recommended Motion 1 first.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Section 3-3(H) prohibiting through-lots, to allow through-lots, based on the findings of fact. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: Now we can reconsider your motion that's been made and seconded on the whole subdivision as listed on the memo today. All in favor of this one?

The motion carried on a vote of 3-0.

**Pioneer Addition Subdivision Conditions of Approval:**

**Roads**

1. Engineering plans, calculations and specifications for all roadway improvements, in compliance with Missoula County Subdivision Regulations, shall be reviewed and approved by the Public Works Department prior to final plat approval. *Subdivision Regulations Article 3-2*.

2. The subdivider shall present evidence of petitioning into the Missoula Urban Transportation District (MUTD), prior to final plat approval. *Subdivision Regulations Article 3-2 and MUTD recommendation*.

3. The following statement shall appear on the face of the plat:

   "Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for improvements to West Broadway/US Highway 10 West, and all interior roads, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-2(3)(E)*.

4. The subdivider shall install curb, gutter, sidewalk and boulevard landscaping on all interior streets within the subdivision, and additionally, sidewalk along West Broadway as shown on the site map, subject to review and approval by the Public Works Department, Montana Department of Transportation and OPG, prior to final plat approval. *Subdivision Regulations Articles 3-2(7), 3-2(8) and 3-2(9)(A)*.

5. The covenants shall be revised to include a provision requiring the property owner to maintain the boulevard landscaping, subject to review and approval by OPG, prior to final plat approval. This provision may not be changed or deleted without governing body approval. *Subdivision Regulations Articles 3-2(9)(A)*.

6. The one-foot "No Access" strip shown along the West Broadway frontage shall be deleted from the plat. *Subdivision Regulations Articles 3-2*.

**Drainage**

7. The developer shall include on the face of the plat a waiver of the right to protest creation of an RSID/SID for a stormwater drainage system for the area, based upon benefit. *Subdivision Regulations Articles 3-1(2), 3-4*.

8. Grading, drainage and erosion control plans shall be reviewed and approved by the Public Works Department and OPG prior to final plat approval. Drainage plans shall include use of the landscaped boulevards for biofiltration and overland flow of at least 50 feet from the pond outlet to Grant Creek. *Subdivision Regulations Article 3-4*.

9. The detention pond shall be designed accordingly, subject to review and approval by Public Works and OPG, prior to final plat approval:

   a. It shall be located entirely outside of the 100 year floodplain of Grant Creek.

   b. The ten inch outlet of the detention pond into Grant Creek shall be elevated above the detention pond floor to prevent passage of silt into the Grant Creek floodplain. *Subdivision Regulations Article 3-4*.

**Primary Travel Corridor**

10. The plat shall be revised to show a 50 foot setback from the property line, adjacent to the edge of West Broadway, subject to review and approval by OPG, prior to final plat approval. *Subdivision Regulations Article 3-14*.

11. The covenants shall be revised to include a statement requiring compliance with Primary Travel Corridor standards contained in Section 3-14(3)(A), (B) and (C). This statement may not be changed or deleted without governing body approval. *Subdivision Regulations Article 3-14*.

**Zoning**

12. The subdivision approval is conditioned upon achieving zoning compliance, subject to review and approval by OPG, prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B)*.

**Weeds**

13. A Revegetation Plan for disturbed sites shall be reviewed and approved by the Missoula County Weed Board and included in the covenants prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and Weed District recommendation*.

14. Section 4 of the covenants regarding weed control may not be changed or deleted without governing body approval. *Subdivision Regulations Article 3-1(2)*.

**Radon**

15. Section 3 of the covenants regarding radon mitigation systems may not be changed or deleted without governing body approval. *Subdivision Regulations Article 3-1(2*).

**Wildlife**

16. Section 5 of the covenants regarding Living with Wildlife shall be replaced with the following language, subject to review and approval by Fish, Wildlife and Parks, prior to final plat approval and may not be changed or deleted without governing body approval:

    "Owners and/or renters of lots in this commercial subdivision (hereafter "residents") must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining pets and properly storing garbage, livestock feed and/or other potential attractants. Residents must be aware of potential problems associated with the presence of wildlife such as deer, black bear, coyote, fox, skunk and other species. Please contact the Montana Fish, Wildlife and Parks office in Missoula for brochures that can help owners "live with wildlife." Alternatively, see the Education portion of FWP's web site at www.fwp.mt.gov.

    The following covenants are designed to help minimize problems that residents could have with wildlife, as well as helping residents protect themselves, their property and the wildlife that Montanans value.

    1. Residents must be aware of the potential for vegetation damage by wildlife, particularly from deer feeding on landscaping (lawns, flowers, ornamental shrubs and trees) in this subdivision. Residents should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.

    2. Garbage should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, other wildlife, or dogs.

    3. Do not feed wildlife or offer supplements (such as salt blocks), attractants or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against State law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, residents must be aware that deer could attract mountain lions to the area.

    4. If pets are allowed on-site, they must be confined to buildings, in a fenced yard or in an outdoor kennel area and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current State law, it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124). Pet food should be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such bears, skunks or magpies. When feeding pets do not leave food out overnight and consider feeding pets indoors, so that wild animals do not learn to associate food with your buildings. *Subdivision Regulations Articles 3-1(2), 3-1(10) and FWP recommendation*.

**Fire**

17. Plans for fire hydrants and water flow shall be reviewed and approved by the Missoula Rural Fire District, prior to final plat approval. Review shall ensure that the subdivider install and maintain fire hydrants as required, prior to final plat approval. *Subdivision Regulation Article 3-7 and Missoula Rural Fire District recommendation*.

18. Plans for addressing buildings so that address signs are clearly visible from the street shall be reviewed and approved by the Missoula Rural Fire District and included in the covenants, prior to final plat approval. *Subdivision Regulation Article 3-1(1)*.

**Airport**

19. The subdivider shall grant an avigation easement in compliance with the Airport Influence Area Resolution prior to final plat approval. *Subdivision Regulations Article 3-1(2) and Airport Authority recommendation*.

20. The following statement shall appear in the covenants and on the face of the plat:

"This property is within the Airport Influence Area and subject to the requirements of the Airport Influence Area Resolution." *Subdivision Regulations Articles 3-1(2), 4 1(12) and Airport Authority recommendation*.

**Floodplain/Groundwater**

21. The Covenants shall be revised to include the following language and shall not be amended or deleted without governing body approval:

    "While the subdivision is outside of the special flood hazard area of Grant Creek, the minimum finished floor elevation of any structure within the subdivision shall be established no lower than the 100 year base flood elevation from Grant Creek in effect at the time of development.

    Potential purchasers are advised to conduct their own subsurface investigation by a licensed professional geotechnical engineer with particular expertise in soil and groundwater investigations to determine the suitability of the property for their development proposal." *Subdivision Regulations Article 3-1(1)(B) and Floodplain Administrator recommendation*.

**Consideration: Resolution of Intent to Adopt Wye-Mullan Plan**

Chair Curtiss: So next we have a consideration of a Resolution of Intent to Adopt the Wye-Mullan Plan as it will be presented today with amendments. Just to clarify a little bit of what this means and what the next steps will be. Do we need to call Laval or did she get here? I thought I saw her a minute ago.

Commissioner Carey: She's here.

Chair Curtiss: Okay. So this would be, this is a Resolution of Intent to Adopt. So what is does, it says these are the items that have been identified that the Commission has worked through, with lots of help from most of you folks in the audience through work sessions, and then we've made decisions. So today we will be adopting this intent. Then the City Council will have time to respond to those through their process and at some point, probably sometime in August, we will be ready to actually adopt, depending on what issues might come up from the City. So there are some packets for folks, if you haven't picked them up. Okay, there is one item on your map. If you take out your map and you look at where Cote Lane goes down and kind of curves over towards the river and heads down, that one road there, I think, is Marcie Valeo's road.

Laval Means: It's a private driveway.

Chair Curtiss: It's a private driveway. So you can kind of scribble it off, it is there, but it is not a public road. It's just that little piece that hangs down over here in the cross hatched. It's there, but it's just not public.

Laval Means: When we were updating the transportation layer, it came back on and we've already talked about it. It wasn't supposed to be shown.

Chair Curtiss: Okay, so most of you have been here lots of times to visit with us on this. The first page, that is double sided, is all the issues that were identified through the public meetings, that we have been working through, so that's mostly for your information or your file, to make sure we covered all of those. Then the next piece that's stapled together has the revisions that the Commissioners have worked through on each one of those issues. There are a couple corrections that Laval has identified, when we visited before the meeting, that need to be cleared up. Either items that she put in that we didn't necessarily state in a motion or for clarification. There are two spots in here that there is one that needs to be corrected. The first one is on Page 8, under D. So this is the whole airport area and it's in the very last paragraph, right Laval?

Laval Means: Yes.

Chair Curtiss: Yeah. So if you just want to address the wording that was put in there that we hadn't stated.

Laval Means: Well what we did at the hearing last week is discuss how we wanted to treat the mixed use land use designation that is within some portions of the extended approach and departure area (EADA). The decision was made to keep the land use designation as we had been moving forward with it, then we needed to add that to the list of the types of land uses that are within the EADA. So that's what that is, because – so the sentence that says, within the middle of that paragraph, "…the general recommended uses for the area to the east and west extending from the existing runway are.." Those are simply the land use designations where the EADA overlays off the main runway. And, because the Commissioners chose to keep that mixed use piece and it has a little

overlap within the EADA, we needed to come back and clarify by adding that to this list. So that is what that's about.

Chair Curtiss: So the addition is the words "mixed use" in this list that hadn't been there before?

Laval Means: Right.

Chair Curtiss: The other thing that needs to be clarified on here today and actually changed is on Pages 10 and 11, toward the bottom of the page on Page 10 where it says, "uses not recommended in the EADA." Laval, if you could talk about that one.

Laval Means: During the Public Hearing last week we talked about making some modifications to the description of the uses not recommended and also with regards to the community commercial specifically, in the mixed use actually, state that just for the area within the EADA of the main runway that we would say no residential and no assembly uses with this list. What I did when I put that in there, is I put the residential inside this list of assembly uses and it's not an assembly use. So what I'm asking is that we just move it outside of that so it should say, "Uses not recommended: Residential and Assembly uses including: …." this long list and the other revisions.

Chair Curtiss: And then take residential out of that list?

Laval Means: Right, just move it out of the list of Assembly uses and just keep it in the list of uses not recommended within that EADA off the main runway. And similarly, for the mixed use component because now with the mixed use designation having some small portions that are within the EADA of the main runway, this goes to Page 11 about the third bullet down, we have the Uses Not Recommended. We have to add that all in there because there wasn't a Uses Not Recommended before. So this we talked about at the hearing last week and this is what it would look like. But what I did is the same thing as I did with the Community Commercial which was include residential in with this Assembly Use list which wouldn't be appropriate. So I would say there again that we would go Residential and Assembly Uses including. And then just to keep making this clear, and we talked about this at the hearing, but this is the chance for you to see it all as it writes out, in this particular case, we want to make it clear that for that mixed use, it's only in those areas of the EADA and only for that area that is west of Flynn Lane, because we also have mixed use east of Flynn Lane, but establishing that as an existing pattern and an existing development. So, anyway that would be the correction I think we need to make.

Chair Curtiss: Thank you. Are there any comments on those changes or does anybody need clarification? I think they are all things we talked about and intended and they just needed to be written to reflect that. So as you know, we worked through several different issues, the fire issue, the neighborhood center issue, putting indicators and those kinds of things. We worked through the EADA use and then some land use, what types of land use. So I thought I would have Laval give us an overview of the map, of what we've ended up with here, that were including in this Intent Resolution.

Laval Means: So this is the map you are considering today. I'm going to highlight areas of the revisions, places that there are modifications to are, I'm going to kind of go from east to the west and the areas with some revision are west of Flynn Lane and south of Highway 10, we did a little bit of straightening out of the Highway Heavy Commercial to be reflective of a parcel in that area. We actually took out a land use designation we introduced with the Planning Board, that was called that Low Intensity Community Commercial, and really went back to the commercial/industrial land use designation that is more reflective of the document from August of last year, before going to Planning Board. We also did a little bit of straightening of land use boundaries, if you will, between a place we had community/commercial designated and mixed use. In this vicinity also, is more reflective of the plan back in August and September of last year. We ended up having to extend a little bit of the public/quasi-public because that reflects the school's ownership and that was a piece that we missed. So it actually comes to the underside of England Boulevard as it intersects with Flynn Lane. Then as we keep going west, we have about three different areas of community/commercial, the one I just mentioned, another one that is just north of the conservation easement here and then another strip of the community/commercial that is along the south side of this planned England Boulevard again. Beyond that we have mixed use and then beyond that we have urban residential at four dwelling units per ace and six dwelling units per acre. Some of this again is more reflective of the land use plan from August of last year. In that version we had more of a land use designation, it was kind of intersecting the north/south collector and the east/west collector with a neighborhood center land use in this vicinity. Instead, we have moved away from that use and have a breakdown, if you will, of community/commercial to mixed use and then from mixed use to the urban residential kind of setting up the transition. But what we did also, in the work over the last few months, is establish a little bit more of divisioning concepts of neighborhood center, even though there wasn't a neighborhood center land use designation in this area. So that's what the star

symbols indicate around the plan in a few different locations. So you will see three potential neighborhood centers that are shown. One in this area of the mixed use land use designation, another a little further south and in the vicinity closer to Mullan Road and then a third one that we show over in the area north of the Old Milwaukee in an area that we are pulling together with different land uses here to be sort of saying that with that residential density, it would be good to be thinking of some form of neighborhood center that helps kind of establishes a focal point for that as a neighborhood. So those are the three potential, we also went through and established a symbol for existing neighborhood indicators and one is within the Pleasant View Subdivision, another is indicated within the existing Hellgate Meadows Subdivision and then a third is indicated where it is zoned accordingly and in the vicinity of, still also part of the Hellgate Special District here, but not actually developed that way. The fourth is at the Hellgate Station indicating what exists and then a fifth is shown close to the intersection here at Kona Ranch and Mullan, acknowledging the zoning that's in that vicinity as well. So then you kind of keep going westward, we ended up with our Planning Board version showing four dwelling units per acre in the vicinity just north of Hellgate Meadows or north of Old Milwaukee here and actually showing less industrial with that Planning Board revision then what we had in the document back in August of last year. So there hasn't been that much change in this vicinity with the four dwelling units per acre, we did a little bit of tightening of the open and resource in this area, but then once we came across and got on the other side of this drainage here, we also used some of the same premise that we were using for an area that the airport has option to purchase, as we are for the area where the airport actually does purchase, and that is that beyond a line, an area that we understand the airport not to be considering for development for their own purposes, that we should think of appropriate community concepts for land use in that area. So saying separate to who happens to own the land, what might be an appropriate use for this area. So, out of our public hearings and work sessions, the idea of four dwelling units is proposed here. And then as you go further west beyond that and down along, beyond the clay hills, a new land use designation is introduced at cluster/two dwelling units per acre and that just kind of folds out and ends up then without any revision beyond that. Then up to the north, in this vicinity we had the low intensity commercial/industrial again and a little area of cluster that we revised to take it to commercial/industrial in both of those areas. And one other earlier vision that occurred was in this vicinity where we changed from rural residential, one per five, to light industrial along the Deschamps Lane and Rollercoaster and the railroad. A few other land use revisions to the south of Mullan Road are establishing a four dwelling unit per acre land use that would be south of El Mar Estates and west of the Kona East Development here. And the next 25, these are both within the Caitlin's Estates Subdivision, I believe that's called. And then as you go further south, then the next 25 acre as a cluster/two dwelling units per acre again, giving consideration to a transition, if you will, from north to south, going from four dwelling to a cluster at two and then the cluster at one in the remaining of this area. Otherwise, I believe those are the highlights of the revisions for your document. There are things that were taken off as well but, this is what we've got and what we are showing now.

Chair Curtiss: Thank you. So is there anybody that would like to make any comments or ask questions? Mr. Dougherty?

Jim Dougherty: Time and time again, Commissioners, I have gone to these meetings and when it comes to our property, which is down off of Deschamps Lane and our neighbor is Charles Deschamps. If you notice, where our piece is and Charlie's is right down below it, at two per acre, we have 173 acres down there and I don't think we want it as open space or open and resource. I see your sewer project and you have to be looking – this is our property in here. We border right along side Charles Deschamps. And I do believe that this is the airport influence area, which is right at the corner or northeast corner, I believe, it's right in here, it's hard to tell because this map does not depict LaValle Creek as most maps do. That is the boundary for ourselves but, we have this chunk of property in here and a little bit on the other side of the Old Milwaukee. The majority of our property is north and your sewer line is right now, right in this area, to facilitate Phantom Hills. And I'm sure if this is two per acre, it's a natural to have the sewer line be extended, either way, this property could be one per acre, any problem whatsoever, and that's what we are desirous of. We do not want to classify this as open and resource – to me it's open space. And with the County Airport taking so much of the property of our community out with their new runway, I would think that the County and planners would be desirous of more area for the residential section. We would like to have whatever we have to do to change this to the same as our neighbor.

Commissioner Evans: You want that one per acre?

Jim Dougherty: I would like to have that two per acre, same as Charles Deschamps, our neighbor, and extend the same thought process.

Chair Curtiss: I will have Laval address why it was designated like it is.

Jim Dougherty: Okay.

Chair Curtiss: Thank you Mr. Dougherty.

Laval Means: The designation of open and resource is reflective of floodplain – FEMA floodplain. So –

Commissioner Evans: The entire thing?

Laval Means: The part that we show open and resource, yes.

Commissioner Evans: Would you address that please, Jim?

Jim Dougherty: Well, as you all know, at our home place, we have a FEMA floodplain there and of course we had it abandoned by FEMA themselves. The area that we are talking about right here may or may not show on a FEMA floodplain, but as far as we are concerned, that just needs three more feet of dirt and you are up and out of the floodplain. There is many ways of getting rid of that.

Chair Curtiss: Laval.

Jim Dougherty: Expensive to get rid of it.

Laval Means: We are trying to be consistent with the use of the open and resource land use designation as it pertains to floodplain and I think we even write, specifically, where there are exceptions to it. What we also have in this document is a paragraph, on Page 7-3, that says additional density beyond what is recommended in the land use description may be appropriate if the land is not within a flood hazard area, development does not conflict with the floodplain regulations and other resource constraints do not apply. To establish an appropriate density, recommended land use designations for adjacent areas and similarly situated lands should be considered. So I am not trying to say, I'm saying by the information we have and being consistent with the information we have, the open and resource is what is appropriate. We know that through specific development or surveys on property, sometimes properties can be deemed to be without the hazards and if that rationale is questioned to the extent of other resource constraints do not apply, then this says lets look at the land uses around it for what else might be appropriate.

Chair Curtiss: So if the FEMA map had an amendment or they came in and showed their elevations were different, if they brought a project in on that property it would be considered, even thought it shows green on the map?

Laval Means: If that is the only natural resource issue, yeah, we want to make sure that is very carefully considered, but yeah.

Chair Curtiss: Open and resource doesn't mean that it is parks, it means one house per forty?

Laval Means: Yeah.

Chair Curtiss: Okay. Did that help Mr. Dougherty? So that if your property really doesn't fall into the whole thing even though the maps show that right now, if you come forward with a project in the future that you can show some of those things don't apply, it could be considered different. Is it currently zoned, Laval?

Laval Means: It is.

Chair Curtiss: One per five or is that one per one out there?

Laval Means: Some of it is zoned – I'm not sure where the boundary of Jim Dougherty's land is – but probably CRR-1, one dwelling unit per acre for zoning.

Jim Dougherty: I thought it was one per forty?

Laval Means: It's land use designated one per forty, which is the community guide.

Chair Curtiss: But your zoning doesn't change with adopting this document. Your zoning still stays.

Jim Dougherty: One per acre?

Chair Curtiss: Right. Anyone else that would like to make comments on the land use map, Mr. Flynn or Mr. Deschamps?

Charlie Deschamps: That land that Jim is pointing to is under sprinkler irrigation now, they can't get a crop unless they sprinkle it, so I don't see how that can be in a floodplain. And some of that open and resource land that is under a pivot on our place, so I don't see where the FEMA would come in to that.

Chair Curtiss: Does it show on the FEMA map?

Charlie Deschamps: That I don't know.

Chair Curtiss: That's what we are going by. If the FEMA map is wrong, they can be corrected, but it does take a process.

Charlie Deschamps: I think the FEMA map rates that as an "X" which is no floodplain. That's a guess, but I think that's what it is.

Chair Curtiss: We will make sure we check the maps.

Commissioner Evans: So it would, I would assume, if we adopted this as it is and someone can come in with some information that shows what we've done is inaccurate, we can amend it, correct?

Laval Means: Yeah, well I think that maybe Colleen you can help with this. Does it necessitate an amendment to the document or the paragraph that I read off, acknowledges the rationale for the open and resource in that area and the way to treat it if that rationale doesn't exist.

Colleen Dowdall: What I try to think about is how the long range planners would deal with that when it came to them for review for comment on a subdivision. So if the floodplain designation was gone, do you think the language would be adequate for you, as a long range planners to say, okay it doesn't need to be one per forty because the floodplain designation has been removed?

Commissioner Evans: And it has one per acre zoning.

Laval Means: And it's one per acre zoning. Yeah, I mean it's a matter of how far out do you take 'what if' the rationale goes away on any land use designations.

Colleen Dowdall: Right and some of those are harder to deal with, such as whether the area was ready for development, that we deal with now in the County wide plan, or whether it has services available to it. I think it's easier if it's a discussion of, now it's on the floodplain, and later it's not on a floodplain map. It would be an easier distinction.

Chair Curtiss: Okay. Mr. Flynn I think you were next.

Mike Flynn: The only thing that I see here is that road that's – the first road north of Mullan Road where George Elmer Boulevard goes up the first intersection right there – that road has not been on any of the other maps, and now it's showing up on this map and it does –

Chair Curtiss: Is the pointer still sitting there Mike?

Mike Flynn: I don't know if I am smart enough to. This road right here, okay.

Chair Curtiss: That road across?

Mike Flynn: Yeah. Off Flynn Lane, there is only a 28 foot easement for the first quarter and than it goes into the conservation easement of the McKennon Families and then it goes into the Flynn Family Limited Partnership and then it goes into Katherine R. Flynn Family Limited Partnership. We had never proposed that road and I don't think it can be built anyway and I don't think it should be on this map.

Commissioner Evans: How did it get there?

Chair Curtiss: I will let Laval address that or do you have something else you would like to add?

Mike Flynn: From Roundup Drive – although it's not Roundup Drive anymore, but I don't know what the next road to the east of Roundup Drive is called for sure – but from Roundup Drive west, it could go through this little section right here and hook into this road, but from there to there it won't be built.

Chair Curtiss: Okay. Laval?

Laval Means: It has been shown on the transportation map and I believe on maps since June of last year. It's also, when you look at the street grid resolution, which is an appendix of the Wye-Mullan Plan, it shows actually more like from the intersection, so this is approximate, but the idea of trying to establish a local street – that would be from, is it Lariat Loop that runs east-west?

Mike Flynn: Yeah, that's south. Lariat Loop runs east and west, but that is south of that.

Laval Means: It is. It shows something south but in the same context.

Mike Flynn: I've got a February 2, 2005, the Transportation Master Plan Mullan Road and West Broadway area map from WGM, and it does not show that road on here.

Laval Means: And that's WGM's map. That's not the street grid resolution and it's not the Transportation Map that has been in this document.

Mike Flynn: I know that the McKennons are not planning on a road being there. And I've done quit a few things to accommodate their wishes and I just don't think it ought to be there, period.

Commissioner Evans: If there is no way to accomplish it, then there is no point putting it there.

Chair Curtiss: It was designed more to be an interior road, not a collector road. Or was it a collector road?

Laval Means: I think from the street grid resolution, it was to show it more like local, to show it as a local part of the system. When you started to show something connecting to the proposed development coming in with Forty-Four Ranch, it starts to line up and it starts to probably give it more significance than it needs to. It's true, there are these hurdles that would be, there is the conservation easement, there is not enough right-of-way. But, I'm saying, we have a lot of maps around and the WGM map indicates the work that that consultant has been doing in establishing dedicated right-of-ways and planning with the airport. But it doesn't show every line that the Transportation Map shows.

Commissioner Evans: I have no problem putting it in there if it is a dash line that says "we wish."

Chair Curtiss: And I think that is, we already know we don't have those right-of-ways, do we?

Laval Means: No.

Commissioner Evans: I really don't want to show it unless there is any potential, unless we say clearly, it's something we would like to have, but it isn't likely to occur.

Chair Curtiss: So, on the black line, say "potential" road grid, which we've always said our road grid was conceptual and not exact until we got the right-of-ways.

Laval Means: Okay, yeah.

Chair Curtiss: Okay, any other comment?

Diane Beck: Diane Beck, 8190 Haven Heights. I just have general comments, I did send this in an e-mail to Laval and many of you may have already received it, so some of it may be repetitious, but I wanted to read it into the record.

*First of all I was curious about the process and the steps that will be taken and I appreciate Laval's continued updates. It's nice getting an update every week as to where we are in the process and some of us can select which meetings to go to and which ones not to. My comments are a citizen that has participated in this process*

*since 1997. After this length of time, the citizens get restless and begin to feel that nothing is ever going to happen. Most of the folks that have participated originally have not been at meetings in the last three to five years. They sort of got worn down. The Planning Board took several months for their review and the joint governing body meeting was a benefit for everyone as everybody was able to speak to the entire body of decision-makers. I would have to say that the last few months have been agonizing though, for those that want to or can even take the time to participate. Sometimes two meetings a week between the two different governing bodies and two different processes, sometimes you can speak and sometimes you can't. Thank you to the Commissioners for allowing open discussions at their meetings. I guess I just have to say that some of these folks have to repeat everything twice and that's been really frustrating I'm sure for those that are taking up their own personal time or they are paying attorney's. It's just kind of hard for me to fathom the folks that are in this room continually trying to represent the best interest of the land that they own. I think that we need to listen to the land owners and not really create a plan based on a vision that a few people may have for an area. I kind of got off track there, but anyway, secondly, once the governing bodies are done – sometime later this year, maybe because I'm not sure where council is in their process – there have been substantial changes made to this plan. We sort of went full circle, I see today some stuff that was originally on here and kind of we are back to where we were last August. And some of that's good. But I guess my big question is are we planning on doing another Public Hearing to let people know what the changes are. I would have to say it's great for the Planning Department and governing bodies to have a vision, but the bottom line is that this plan should belong to the people that have to live with it every day and have invested their life savings or have their entire retirement invested in their property. And also, it should be a plan of the people who live in the area that have to live with it every day. So just curious about the process, I'm sure that will be discussed here today and just a bit of frustration with the dual agency review and I'm sure you guys are equally frustrated with it. But, or maybe be more frustrated if you had to sit with the council every day. But, anyway thanks for your time.*

Chair Curtiss: Thank you, Diane. And just to clarify, what we expect is that if we adopt this Resolution of Intent today, that gives the City Council something to respond to and I know that they are chinking along in their process too. But, then if there are some issues that need to be worked out, we can try to work them out as a group but, in the end, our vision is to have a joint meeting, when we get ready to finally adopt, that we would do it together so that people would have that opportunity – in the evening. Mrs. Fisher. Oh, Laval did you want to add to the comments?

Laval Means: Just because we are on that topic. We have talked a little bit about that and I want to assure you that we want to, when we have, I think the best way to be most efficient with everybody's time, with the joint Public Hearing to give everybody an opportunity to have a few weeks after the City has finished their review and if there is need to have City and County kind of come together and look at any further modifications that the citizens and everybody has a few weeks to look at too. And we will be sending out postcards to the landowners again, letting them know that there will be those revisions available, and publicly advertise it so it would be, hopefully, a really good feedback.

Chair Curtiss: It'll also be on the web site again. Mrs. Fisher.

Jeri Fisher: Jeri Fisher, 1285 Lena Lane. I would like to go back to Mr. Dougherty's question. I have some real concerns there for him in that once this is put on there, people change, they come and go, and unless it is so clear, he will never get anything on that property and I am wondering if it can be changed to some other designation and allow him that opportunity to take that FEMA restriction off of there. I know I have found several properties where the FEMA map may show one thing, and on the ground, it's not even close. When they updated their maps the last time, they came up with something that was not even reasonable, there are several properties around Missoula where the 100 year floodplain, high mark on the bank, is way below the FEMA floodplain map and it shouldn't be that way. So, I would just ask that you reconsider that. Thank you.

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

Bonnie Snavely: Commissioner Curtis, Evans and Carey, my name is Bonnie Snavely and I think you all know me now. I own property within the proposed Mullan Wye West Planning Area. Confined between my two tracks of land, there is no appropriate designation shown for what is now Yellow Stone Fly. This is a tract of land which separates my two properties, it's owned by Yellow Stone Fly LLC. Yellow Stone Fly has been before the Commission piece-mealing three subdivision requests. Two weeks ago, you approved a variance of the current planning requirements to put townhomes – to permit townhouses, which in essence are duplexes or multifamily properties. It's reasonable to anticipate additional piece-mealed subdivision requests from them as they own additional land on which was Kona Ranch property, which bisects by property. My property lies generally west of Mullan Road, south of Kona Ranch Road and north of Cote Lane. I own a continuous tract of approximately 440

acres that is not developed and a separate tract of approximately 110 acres where I have my home, a farmstead and another home. The proposed plan classifies all of my property as cluster. 230 acres of my property is included in the Mullan Wye Sewer District and encumbered by the RSID for which I began making payment in November of 2004. I have engaged a nationally known planning firm, DTJ Design, for the planning of my properties. I have presented my proposed plan conceptually to the staff and to the Commission. The conceptual master plan was created after the completion of the market feasibility study based on the existing zoning as it is today. However, due to the variances granted to Yellow Stone Fly, and I certainly appreciate there were reasons that you may have been unable to do otherwise, I am forced to modify my planning to keep it financially viable and aesthectically appropriate. It is important to know that the Yellow Stone Fly subdivisions do not comply within this cluster designation. Last week I requested a change in the proposed designation of my property so that I can modify my planning in response to the variances granted to Yellow Stone Fly. My request was denied. I am surrounded by properties that do not meet the concept of cluster zoning, I have El Mar Estates continuous to my property to the immediate east, Stillwaters on the Clark Fork through the middle of my property and one unit per five acres to the north and to the east. Because of the variances that have been granted to Yellow Stone Fly, I have been harmed and the insistence that my property stay under this cluster zoning imposes a substantial financial burden upon me and a planning burden on my property. This burden is unsustainable as the conceptual master plan we were creating is no longer economically viable and cannot be sold. My property and Valeos is the only undeveloped property south of Mullan Road, east of Kona Ranch Road, which is designated for less than two dwelling units per acre and it's also encumbered by the cluster designation. Of that property, 230 acres is actually in sewer with 18 manhole covers and sewer mainlines running throughout. I pay those annual sewer RSID fees. The Pratt property, immediately to the south of El Mar Estates, has now been involved in this plan to show four dwelling units per acre with I believe there is still a cluster designation there, south of that a 25 acre parcel has now been shown as two dwelling units per acre clustered and I don't believe they even formally ever requested anything at that point. Recently, Commissioner Evans suggested the possibility of removing my property from the Mullan Wye Comprehensive Plan. Unless the modifications can be made which I have previously requested through the DTJ Design, through my attorneys and through me, I am requesting that my property be eliminated from the Mullan Wye West Plan Area. Removing it will permit me to plan and develop my properties consistent with the current zoning and any specific variances that are appropriate, given the variances allowed my neighbors. In fact, given the variances granted to Yellow Stone Fly to include its property in the plan area immediately, makes the Stillwaters subdivision non-compliant with the plan. Removal will allow the flexibility to appropriately plan under the current zoning and under the actual development that is surrounding my properties. Again, I respectfully request that you remove my Kona Ranch properties from the Mullan Wye West Plan Area. Thank you.

Chair Curtiss: Thank you Bonnie. So just to clarify, I think the Stillwaters meets the – they had one dwelling per 1.3 something acre, so that meets the cluster.

Laval Means: At gross density and what it's currently zoned at.

Chair Curtiss: Right, because it's zoned one per one right now, right?

Laval Means: Yeah.

Commissioner Evans: I would like to ask Colleen, is there some reason we shouldn't – couldn't – take them out of the plan.

Colleen Dowdall: I guess I am thinking more in terms of why you would want to, when we've defined a planning area and spent this amount of time reviewing the planning area for recommendations. I think that every designation is broad, it isn't zoning, it isn't regulations, it's designed – each description allows for a developer to use their creativity and their own concerns about bottom line to bring in a subdivision that could be described as compliant with the Comprehensive Plan. Given that, and given the fact that we can't turn down a subdivision for not being compliant with the Comprehensive Plan, but knowing that we need to do zoning compliant with the Comprehensive Plan, if we keep the old plan, I'm not sure how we would approve rezoning this property, because it would be governed by the old plan. I guess I can't think of a reason why you couldn't take it out, but I also think that you have to consider whether that's fair to all the people who have been involved with doing this with all of their properties.

Commissioner Evans: I'm not clear. Is it currently, the Kona Ranch, zoned one per acre?

Colleen Dowdall: It is zoned one per acre.

Commissioner Evans: If we leave it as we have it in the Plan, it's zoned one per acre.

Chair Curtiss: Cluster.

Laval Means: Right, cluster.

Commissioner Evans: They don't want cluster. Cluster to me allows you to save open space and put two houses closer together than one per acre, why wouldn't you want that?

Bonnie Snavely: Cluster in its pure state is excellent, it's the definition in the plan which creates the problem. One of the glaring things that was brought forward, when I brought my consultants in from Boulder last week at considerable expense to try to, in a very short encapsulated moment, share the vision for this property which I believe is appropriate. One of the things that Mrs. McLaughlin had realized was that Broomfield**,** Colorado, which has what is considered one of the most stringent open area set asides in the western United States, requires per thousand populations base, 24 acres of open area. The way the cluster designation reads currently in the plan, requires me to set aside 244 acres. No, it does not work – duplexes, triplexes contiguous to my property, no coordination of planning efforts – leave me no choice but to go to something that is economically viable.

Commissioner Evans: Colleen, is that correct?

Colleen Dowdall: You know, again this is a plan and the owner of this property could bring in any proposal that she wanted to and it would be reviewed under the plan in a broad way to see if it meets the goals and objectives of the plan, and if it didn't meet the goals and objectives of the plan, we could not turn down the subdivision based solely on its failure to meet the goals and objectives of the plan.

Commissioner Evans: It just make sense to me to say that she's got 234 acres and she says it would require 240-some acres of set aside, well, now, I've got a problem with that.

Bonnie Snavely: It's 244 acres of set aside, yes, 230 acres of sewer of 500 acres.

Colleen Dowdall: Laval can probably address that better.

Laval Means: So, the approximate 500 acres that Bonnie owns – cluster land use designation at one dwelling unit per acre for the overall area. That density was what was established with the work of the property owners working with Planning Board and that's what they came to, was one dwelling unit per acre as a base. Looking at the 50%, establishing an approximate target of 50% of the area as open space, helps to balance out the idea of the utilities, the sewer, the roads being in the area with the interest in the rural character and the character of the area. So the 50% is also reflective of coming from our Subdivision and Zoning Regulations for what is thought of as a rural cluster. So that's where that number came from and what we established in our review during work sessions and motions, was to add the term "approximate" 50% as a target and then also with Planning Board's review, the type of open areas that are in this set aside can be back lots, be the rear yards. It needs to fundamentally be a part of an open space plan for that property. An analysis of what's important out here, what is trying to be accomplished and how is that being – like a conservation design guideline or design technique process. And then, however that open space gets established, it can be part of the rear yards of lots, so there is a lot of flexibility of how the open space is established, in how it is established as permanently dedicated and then on top of that, there is where in our earlier draft, before Planning Board, we had three different layers of density, what we did with the Planning Board's review is go with the one dwelling unit per acre gross and then say that proportionally, more density can be established with proportionally – increased density can be established with proportionally more open space established. So there isn't really a set to that, but that provides some flexibility for even being more than one. But then the cluster also recognizes the idea of some forms of neighborhood commercials with that limited, some types of uses that would be a part of it, so there is even flexibility for some things other than residential to a certain scale. So those are all the components of the cluster.

Commissioner Evans: Well I had a misconception of cluster then, because what I only took it as far as cluster meaning you can put some that maybe would be over here over here, giving you two in this area and none over here, and that's what I thought cluster was. I'm not willing to say that a person has to give up half their property, I won't do that. So, I'm not going to be willing to leave cluster on there if that's the result.

Colleen Dowdall: I think the misconception is not that you dedicate half of your land, it is that you develop with structures half of you land, and then, if it's a parcel that has or if you did half-acre lots, the portion of your lot that was not with the structure would be considered part of the private open space. The idea is not to create parkland,

but to create open space. So I assume it's to retain the rural character of this area which was farmland so that there would be lots of open space. It wouldn't change her zoning density at all. If she brought in, under her current zoning, a subdivision that was clustered that did not have that amount of cluster or open space, it wouldn't mean that her subdivision would be turned down. It would mean that it would have to substantially comply with the goals and the objectives of the plan and if it doesn't, we cannot turn it down, or even condition it, based on the Comp Plan alone. But it does not change her density in any way. It's a concept that says you keep everything close together so that there is lots of open space. It is no different from other clustering that we consider already.

Bonnie Snavely: I would ask you also, to please reflect back on the comments that Diane Beck brought to you today who is the State President for the Realtors, Jeri Fisher spoke, and she and I concur on this point, certainly, about what you doing to landowners and land uses and I speak as someone who has professionally been involved for 25 years in real estate. This plan is beyond onerous. My goal has been to bring something unique and special to the community, something special for the property. The reality is I'm burdened with almost a half million dollars of RSID's. The 18 manhole covers do not reflect the rural character. I am an infill property, I've been bringing major developers and national developers from around the United States, east to west, and it's an infill project, it's not rural. I grew up on a rural property, I know what I love, I know what I appreciate, I intend to live the remainder of my life on this property. It's all so dramatically different and it's particularly even more different with the scar that has now torn it in half, with the very urbanized environment through the center of it. Where I brought the great planners, could we at least let them be the ones that could perhaps work in tandem with OPG to define cluster, because what you are looking to implement in cluster development is beyond anything that any of them are aware of in the west – not even remotely close.

Chair Curtiss: Bonnie, I think that the problem is, is that your interpretation of what it really means. Because the plan that you brought in and showed us the other day, reflected a lot of what we are talking about here. I think the cluster actually gives you way more flexibility then it currently has, without that cluster.

Bonnie Snavely: I would refer back to my professionals that are in the planning area that are telling me, no, that with all the constraints that have come out of this plan and we were on conference calls this morning, there is absolutely no way that I can make it fly and particularly with what has now been approved in the center of the ranch, through the middle of it. I cannot bring the developers to the table with what has now been approved, that has preliminary plat approval on Phase 3, it's not possible. So are you going to economically destroy me over this, it's more of an infill project now than it ever was. I respectfully am requesting that we either step back and let this be readdressed, this is a significant piece of property. I saw what happened with the property that had sewer that was zoned one dwelling unit per five acres with the issues of the airport. I'm currently zoned one unit per acre, with sewer in there, paying the RSID's and I can't look at what has happened and feel that I've been equitably treated and I'm sure you all don't intend to be there. I do desperately want to work together, but there is a juncture beyond which people have to seek other recourse. I don't want to go there.

Chair Curtiss Thank you. Colleen?

Colleen Dowdall: And I would like to address this to Bonnie. I'm going to sound a little provincial here, but when you bring in planners from out of state, who are telling you that our plan is onerous, or that it is having any effect on your property, it is because they live in a state where plans mean something. In Montana, designating your property with this plan is a concept, it's a guideline, but there is not a lot we can do with it. So to describe this as onerous is wishful thinking on our part. We do the planning, we formulate the plans, but there is very little teeth in them. So you could bring us almost anything and we would have to look at it and see if it complied with the Subdivision Regulations, complied with the zoning, and if it did, we would be hard pressed to turn it down.

Chair Curtiss: It's really the underlying zoning that is the only thing that has teeth right now.

Bonnie Snavely: Right, and so, now, from this we will go forward to find out and see a cluster zoning implemented because quite truthfully –

Chair Curtiss: It's your property, though, you have the right to protest cluster zoning.

Bonnie Snavely: I have the right to protest and then you have an accepted plan in place that become the bells and whistles for that zoning. May I ask, as someone who was born in Havre, Montana and lived a chunk of her childhood in Harlem and lived on a ranch in Missoula, Montana, could we possibly look above our provincialism and join the Rocky Mountain West. Missoula is a very special environment, as is the Whitefish, Flathead area, as is Bozeman. Why are we putting something on paper which is provincial which does not work for the plan and why will you not listen, despite my involvement since, I guess it has been 1997 that we've been involved in this.

To see two dwelling units per acre cluster on a piece of land where they didn't even ask for it, that's just simply inequitable to myself or Valeos because we are there and we are real. What happened? Why am I not being heard? The person with the two dwelling units per acre clustered and the four dwelling units per acre clustered, they don't pay the sewer SID. I do, a big one.

Colleen Dowdall: Could I just correct that I wasn't saying the plan was provincial, I was saying I am being provincial in being critical of someone who is coming in from out of state and it's just that was my only point.

Bonnie Snavely: These are national planners that work all over the United States and the first thing that they do is go to the local regulations completely, so, no, the way that this is being drafted we are looking at it absolutely as bringing it through. I don't believe, I know that this isn't prudent, I know what it's doing to me financially and I know what it's going to be doing to other people and I think, as County Commissioners, you've got to take heed. The reason so many of us have been so impassioned is we feel this is an important process, and it is important, but please let's articulate and put on paper what we truly mean to say, what will be read and addressed and dealt with, not something that I'm being told that has no effect and that I don't need to worry about it, because later it won't be relevant.

Chair Curtiss: Thank you. Mrs. Fisher? Let's keep our comments to the plan.

Jeri Fisher: I would like to state Stillwaters on the Clark Fork also has to pay the sewer rebate fee which is the same as the SID and we have managed to do that with what is there and planned within the parameters of what was available. I think if you were to start changing and taking this piece of property out, then I would go back to Mr. Dougherty – what if he wants his property out? And somebody else wants their property out. I don't know where you go with something like that. Also, there are no duplexes or triplexes in Stillwaters, that is a use definition. We do have townhouses with one adjoining wall. Thank you.

Commissioner Evans: I would like to say to you Bonnie, that there is no way that I can believe that clear out at Kona Ranch that that is infill property. That is on the far edge of this planning area and it seems to me the further out you get, the less density there should be, not four per acre. I can't see that in any way until fifty years from now and maybe fifty years from now there will be. I just want my say. So that's my major reason. One per acre seems to me to be appropriate for out there. And clustering I thought gave you more latitude, not less. So that's my reason.

Chair Curtiss: Are you going to add anything new?

Bonnie Snavely: Yes I am. Then why are we compromising at two dwelling units per acre?

Commissioner Evans: I just told you why.

Bonnie Snavely: It is an infill site and every letter of intent that has come in, it's an infill site.

Chair Curtiss: Thank you.

Diane Beck: Diane Beck, 8190 Heaven Heights. I just want to make a clarification. Bonnie referred to those couple of parcels just south of El Mar Estates, one which is designated, along with El Mar Estates, at four dwelling units per acre, and I see a large green park on there. I'm sure that land owner is probably not aware of that.

Laval Means: He is.

Diane Beck: Good. Great, I'm glad he is. Then the parcel just to the south of that, with a two dwelling unit per acre parcel, I think Bonnie was correct, that parcel is not being charged a per acre RSID because there is one dwelling unit on 25 acres and that is currently a working ranch, if you will, if you can call a 25 acre parcel a working ranch. Charlie would laugh at that, but. So I guess I am curious about the second 25 acre parcel getting a two dwelling unit per acre designation. I don't know if that was a request by the landowner or not. I'm assuming not, but I could be incorrect there. But the other parcel that is designated four dwelling units per acre the Pratt/Hauk property, in fact is paying RSID's and I think Bonnie said that they were not, but they are. They are included, it is bare land, there is not a dwelling unit there, so they are paying whatever it came out to be finally, $3,300 per acre.

Chair Curtiss: So I believe the one that is a working ranch that we designated that, the day that we talked about that it was to be a buffer between the four per acre and the one per acre, was our rationale that day if I remember

right. Did you have anything you need to add Laval? And again the parks, the little park bird houses are, that's what they look like to me, are indicators of the need for parks in those areas. Okay, any other comment on the land use of the map? Any comments on, now that you've had time to flip through all the decisions that we've made, I think most of you have been here on the days that we have had the Public Hearings. Okay. Seeing none, I guess we are probably ready to make a decision on whether or not we want to adopt a Resolution of Intent. Laval?

Laval Means: Just to be clear, I would like to find out or get some clarification on how we want to treat the issue that was raised about the road running east-west just north of Forty Four Ranch. I think there was a suggestion, should it be a dashed line, what would you, where are you heading with that? There are hurdles to putting it in place.

Chair Curtiss: Could we draw a dashed line that shows the need for local roads going that direction and it wouldn't necessarily be exactly there, because I'm sure you don't want to cut through the conservation land.

Commissioner Evans: It's a wished for road.

Laval Means: I'm sorry?

Commissioner Evans: It's a wished for road.

Chair Curtiss: Designed to be a local road, not really a collector and that kind of thing.

Commissioner Evans: There is no way we could go through a conservation easement and correct me if I'm wrong Colleen, doesn't that make it 4F land?

Colleen Dowdall: It depends. It depends, a conservation easement is like a covenant, it depends on what the purpose and the uses were that were allowed in the negotiation between the landowner and whoever is holding the conservation easement. So if the owner of the property says it would foreclose putting a road through there then they would probably know what their conservation easement says. It also doesn't automatically make it, by 4F, I assume you mean the taxing?

Commissioner Evans: I mean the inability to change it without Federal process, or something of that sort.

Colleen Dowdall: I think you are unable to change the easement without the agreement of the two parties, the easement holder and the easement granter, so usually that is next to impossible.

Commissioner Evans: I have no desire to show a road that there is no possible way of getting. That seems silly to me.

Chair Curtiss: Do you have any recommendations Laval?

Laval Means: One route to go, especially if we think if there is a route in that area, we know it's important to be showing connectivity and to be showing a system of connecting routes, if there is concern over anything there being perceived as a collector rather than a local and we don't really know the type of route it could be, we do have the detail to build out infrastructure plan that is being set up. So, even with taking this off, when you look at something in the detailed infrastructure plan, the appropriate dialogue can be had as to its need or alternative locations and that kind of thing. And we can run through that course at that time too.

Commissioner Evans: Can't we put something in, like desired amenities. We would like to see more east-west roads, more north-south roads, more connector roads and we recognize that they are needed and they will be given extra consideration if they bring in a subdivision with it in it or something.

Laval Means: You know.

Commissioner Evans: Mike has his hand up back there.

Chair Curtiss: Mr. Flynn?

Mike Flynn: I don't think there would be any problem with showing that road west of George Elmer Boulevard. Yeah, from there over there would be no problem, but the other thing that you want to keep in mind is that there is

no road east of Flynn Lane, so that's going to dump any traffic, if that road was ever built which it will never be built, because of the 28 foot easement and because of the conservation easement. It will never be built, so there is no sense in showing it there. And if you do show it there, it dumps on Flynn Lane which is not, should never be, a major collector of any kind.

Chair Curtiss: No, I think that it would be handy, however, for the school buses to get kids to school but, they could loop around this other way. So maybe we can take it off then from George Elmer to Flynn? And then just have the language in the plan about connectivity, which we already have.

Laval Means: Yeah, I think we do.

Commissioner Carey: That sounds good.

Commissioner Evans: I can live with that.

Laval Means: Do you want to make a motion to that?

Commissioner Evans motioned that the Board of County Commissioners delete showing a road from George Elmer to Flynn Lane because such a road could never be built due to inadequate easement widths and conservation easements which would prohibit road construction. Commissioner Carey seconded the motion. The motioned carried on a vote of 3-0.

Laval Means: Do you want to clarify, it seems as though and I might be wrong, but three issues have been brought up today, besides the clarifications I need to make. One was the road, the second was hearing from Jim Dougherty on the land west of the airport that he owns, and the third was the request for pulling out the Kona Ranch parcel area from this planning process. Those are the three, were there any other ones?

Commissioner Evans: What I would like to do in regards to Dougherty's property is I would like to have something in there that says something like, at the current time, this acreage appears to be in the floodplain. If at anytime it does not remain in the floodplain, it would drop back to the zoning which currently exists.

Chair Curtiss: Which is one per one?

Commissioner Evans: Isn't that what it was, one per acre?

Laval Means: It's zoned one per one. And I think we heard Jim say either one per one or the two per one.

Commissioner Evans: So if he comes in with a project that asks for two per one, and it's no longer in the floodplain, we would look at it the same as we would look at any other. So I made up that language, if it's suitable, that's what I want.

Laval Means: At the current time this acreage is –

Chair Curtiss: Does our legal counsel have any advice?

Colleen Dowdall: No.

Laval Means: I have a little bit of advice.

Chair Curtiss: Okay, well our other legal counsel then.

Laval Means: Well, what we might want to do – at the current time this acreage appears to be in the floodplain – is make it be, maybe the term acreage is fine, some way I will identify an area, what I am wondering is how I try to identify or write this into the document and make it be about, where is the questionable area of FEMA designation in this area and use that language for that whole thing.

Chair Curtiss: Could we be more general, because some of the Grant Creek is going to probably change as they now have the money to redo that. So could we make it more general, saying areas shown on FEMA maps at this time could be changed, their underlying zoning.

Laval Means: That might be back to where we were. What – 7-3.

Chair Curtiss: By the way the good news is, we now have enough grants in, we think that Grant Creek Floodplain Project is going to be paid for. The grants just keep rolling in, which is great.

Laval Means: So what it says on 7-3 is *"Additional density beyond what is recommended in the land use description may be appropriate if the land is not within a flood hazard area, development does not conflict with the floodplain regulations and other resource constraints do not apply."*

Commissioner Evans: And put a delineation that shows Dougherty's land and refer back to that language. This is the Wye Mullan –

Laval Means: This a new indicator?

Commissioner Evans: If you do that to me again, I will throw something at you.

Laval Means: Or how about something that says, to the effect of, floodplain that is shown east of Deschamps Lane, some way of sort of locating it, but not using an indicator and writing it as an acknowledgement. I think we heard from Charlie that he may have land with the same piece, that's why I'm not sure I want to make it about a square parcel.

Commissioner Evans: So moved.

Chair Curtiss: East of Deschamps Lane, okay. Is there a second?

Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: So the last one is the Kona Ranch.

Commissioner Evans moved that the Board of County Commissioners leave the parcel in as a one per acre cluster. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: Bonnie, I think that maybe if you had your planner call either Laval or Colleen and really get the clarification, because I think that there really is this misconception out there about what state law has done to our ability with the, I really think that in the end, your project will fit on here and will be nice. Bonnie you need to talk on the microphone, I'm sorry.

Bonnie Snavely: I just said, it will not be the same project because of what you've done to me in this County Commission meeting. I've come to you with some of the best, I've brought my planners up, they've been available, we've try to achieve dialogue. It cannot be built. I need the latitude of at least two dwelling units per acre. We need to tone down the cluster to something that is reasonable and you need to address the reality of what's been done out there. I didn't do it! It's done. I'm not casting any aspersions whatsoever on anything you have done in regard to the Stillwaters Subdivision, but you have to look at what the remainder is and what can be realized. And you have to look at the financial burdens that have been placed on this property with this sewer RSID, it's huge. It's not small, it's a very, very substantial number. I implore you to please meet with me to not include it in this today, so that we can try to resolve it amicably, as over many years we did with the El Mar Estate sewer issue. But if you go the direction you are going today, you are not leaving that choice out there. And I'm asking you to please not go there. Thank you.

Chair Curtiss: And remember that this is our intent so it is not a final adoption. Your planner could have some time to clarify some of that back yard stuff and things, too.

Bonnie Snavely: We have already tried to have dialogue and we were accorded little time in the last two meetings, it was actually rather horrific what happened. If I could meet with you I would prefer to, I don't want to take any more time here today. I would ask, perhaps, that you could at least, if you are leaving my property in, since it is a very large and substantial parcel, would you please at least not approve it with this resolution, but perhaps add it in later, after we all get together on it. Thank you.

Colleen Dowdall: I really think it's important that in a notice of intent that you leave it in, because if it isn't in the Resolution of Intent, you certainly can't extend it later with the resolution.

Commissioner Evans: But you could take it out.

Colleen Dowdall: You could take it out, but you would not be able to add it in. I would also, I think that we have to do these designations or these discussions in the public and that's what we have done consistently but, I am certainly happy to speak with Bonnie's attorneys or land use planners to explain the limitations of Montana law. Because I think that most folks just find it hard to believe that we are so lame when it comes to regulations.

Chair Curtiss: Any more discussion on the Resolution of Intent to Adopt?

Commissioner Evans: No, but I would suggest that you come down and you talk to us prior to the fact that we finalized this plan, so that you can show us what you want to show us and we will see what we can do, whether we are going to leave it in or whether we're going to take it out. But, I agree with Colleen, that for the purposes of the intent it should be left in and I call for the question.

Chair Curtiss: So I guess first we need a motion on the whole Resolution of Intent to Adopt as amended today, as presented and amended today.

Commissioner Carey moved that the Board of County Commissioners adopt the Resolution of Intent to Adopt the Wye-Mullan West Comprehensive Area Plan revised drift, as amended by the Planning Board and as amended by the Board of County Commissioners, including all amendments made by the Board of County Commissioners and, in addition, the following: 1) Additional corrections including renumbering for consistency, modifying tables to reflect Board of County Commissioners changes, proof reading, consistent references to agencies, and clarifications if references are made to time sensitive information; and 2) the land use maps with amendments, reflecting amendments to the revised final draft. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: Is there any other business to come before the Commission? Seeing none, we're in recess.

There being no further business to come before the Board, the Commissioners were in recess at 3:25 p.m.