

PUBLIC MEETING – JULY 20, 2005

The Public Meeting was called to order at 1:45 p.m. by Chair Jean Curtiss. Also present were Commissioner Bill Carey, Deputy County Attorney Colleen Dowdall and Public Works Director Greg Robertson. Commissioner Barbara Evans was on vacation.

Pledge of Allegiance

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted the past week and approve the weekly claims list in the amount of \$605,974.83. Chair Curtiss seconded the motion. The motion carried on a vote of 2-0.

Hearing: Allomont Orchards Block 2, Lot 4A (15 lot subdivision on 3.7 acres in Lolo)

Chair Curtiss opened the public hearing.

Dale McCormick, Office of Planning and Grants, presented the staff report.

This is a request from Bitterroot Development Corporation, represented by John Kellogg of PCI, to subdivide a 3.7 acre parcel into 15 residential lots. The property is located in Lolo, east of Allomont Drive, south of Pertile Lane. A neighborhood meeting was held October 12, 2004. The minutes from that meeting are included within the application packet. A comment letter from the Lolo Community Council was received on June 17, 2005 and is attached to the staff report.

The Missoula Consolidated Planning Board, with six members present, conducted a public hearing on this request on Tuesday, July 5, 2005, and voted unanimously to recommend approval of the subdivision, subject to 14 conditions. The property is unzoned and the 2002 Lolo Regional Plan recommends a land use designation of Urban Residential – 6 dwelling units per acre. The property is located east of the Rossignol Orchard Tracts Subdivision that has a density of approximately 4.5 dwelling units per acre, east of the recently approved 73 lot Allomont Subdivision that has a density of 4.8 dwelling units per acre, and north of the 71 lot Avalon Meadows Subdivision that has a density of 5.36 dwelling units per acre. This proposal is for 15 lots on 3.7 acres, resulting in an overall density of 4.05 dwelling units per acre. Lots vary between 7,050 square feet and 11,135 square feet.

The property is located south of Pertile Lane, which provides access to Lots 1 through 5. Pertile Lane is currently an unpaved road with a 20 foot surface width in a 60 foot wide public access easement. Pertile Lane is proposed to be paved to a width of 32 feet with curbs. The property is located east of Allomont Drive, which is currently an unpaved road with a 20 foot surface width in a 60 foot wide public/private access easement without curbs. Allomont Drive will be paved to a 34 foot width with curbs in a 60 foot wide public access easement as a result of the recently approved Allomont Subdivision, which meets the standards of the County Subdivision Regulations. Allomont Drive provides access to Mallory Lane, which provides access to Lots 6 through 15. Mallory Lane is proposed as a 32 foot wide paved County road with curbs in a 60 foot right-of-way.

The applicant has proposed a conditional public road easement at the east end of the Mallory Lane cul-de-sac that could connect to the 3.71 acre Parcel 4B, Allomont Orchards Lot 4, Block 2, directly to the east. The applicant has not provided a statement describing the condition that would require it to be a public road easement. Rather than providing a conditional easement to the east, the Planning Board agreed with staff's recommended condition that the easement be dedicated as County right-of-way with this plat and that it be paved.

A 60 foot wide public access easement and paved roadway for the extension of Lancelot Lane to the north boundary of the Avalon Meadows Subdivision was required as a condition of final plat approval for the Avalon Meadows Subdivision. This connection was required for the purpose of providing access from the Avalon Meadows Subdivision to the 4.92 acre Lots 1, 2 and 3 of the Lower Lolo Addition, accessed by the Lolo View Lane cul-de-sac to the south of the subject property. The Lolo Regional Plan states that connections are needed between different neighborhoods and the County Subdivision Regulations state that connections should be made

with future planned roadways and that developments with loop streets should provide access to reasonably expected future streets.

The applicant has proposed a 20 foot wide pedestrian access and drainage easement along the east boundary of the subdivision. The Planning Board agreed with staff's recommendation to expand that to a 30 foot wide public access easement extending north from Pertile Lane along the eastern boundary of the subdivision. This 30 foot easement would provide one-half of the right-of-way for a future public roadway, connecting Pertile Lane and Farm Lane, roughly centered on the eastern boundary of this property, when it is needed to serve future subdivision of parcels to the south. Because the additional right-of-way easement at the east end of Mallory Lane could serve as a turnaround area, the Planning Board also agreed with the staff recommendation that the cul-de-sac be replaced by a "hammerhead" type emergency vehicle turnaround at the east end of Mallory Lane, subject to the review and approval of the County Public Works Department and the Missoula Rural Fire District. The County Public Works Department commented that they support the elimination of the cul-de-sac, extending the Mallory Lane right-of-way to the eastern boundary of the subdivision.

The applicant is proposing 5 foot wide concrete boulevard sidewalks with 7 foot wide landscaped boulevards along the east side of Allomont Drive, the north side of Pertile Lane and on both sides of Mallory Lane. The applicant has proposed a drainage swale parallel to the proposed gravel pedestrian walkway at the eastern boundary of the subdivision with a sump as the means to accommodate on-site storm water drainage. County Public Works commented that the developer should pave the proposed walkway and separate it vertically and horizontally from the drainage swale. Additionally, they commented that Missoula County will not be responsible for the maintenance of this walkway and sump. The Planning Board agreed with staff's recommended condition that the pedestrian path on the east side of the subdivision be 5 foot wide asphalt paving with landscaping and the covenants require maintenance of that walkway.

The Subdivision Regulations require the subdivider to dedicate land or cash-in-lieu of land totaling 11% of the lands proposed to be subdivided into lots one-half acre or smaller to satisfy the parkland dedication. The parkland dedication that is required for this 3.7 acre subdivision with 2.92 acres of net lotted area is 0.32 acres. The County Park Board commented that they concur with the proposal to provide cash-in-lieu of parkland for this subdivision.

The Missoula Rural Fire District serves the subdivision. The Lolo Fire Station is located on the west side of Highway 93, approximately 2 miles away. Missoula Rural Fire commented that homes must be addressed with signs clearly visible from the street. The Planning Board agreed with staff's recommended condition of approval that plans for address signage for Mallory Lane be reviewed and approved by the Missoula Rural Fire District.

Dale McCormick: That covers the major conditions. There is a drawing that Mr. Kellogg brought today that shows the configuration of the road in response to the recommended conditions of approval. Perhaps he can elaborate on that. I'll conclude my staff report with that. Thank you.

Chair Curtiss: Thank you Dale. Is the developer or their representative here?

John Kellogg: Thank you, Chairman Curtiss. For the record, I'm John Kellogg with Professional Consultants, representing Bitterroot Development Corporation, and Darin Patzer of Bitterroot Development is here. Just wanted to re-emphasize a couple of things that Dale went through; and appreciate Dale's efforts in reviewing this, really done a good job of coordinating the agencies and us in getting it all done. The proposed subdivision is a little over 4 units to the acre, which is well within the designation of the Lolo Comprehensive Plan of 6 to the acre for this area. Our overall density is less than the two – the Avalon and the Allomont Subdivision – recently approved by the County and we are not requesting any variances from Subdivision Regulations. We are proposing full width County standard streets, boulevard sidewalks all around and we've been working with Greg to work out the design of that drainage swale on the east end of the property. In the redesign that we've done that Dale mentioned that's behind you, the lower drawing that we've just brought in today, which hasn't been reviewed by Greg or anybody, but, is responding to the conditions that Dale has proposed and that the Planning Board has recommended to you. On that revised plat, we eliminated the cul-de-sac bulb and placed the hammerhead turnaround at the east end of the property. We widened the easement as Dale mentioned, along the east boundary, from 20 to 30 feet, and accordingly, we adjusted the widths of each of the tiers of lots then, moving westward from that easement, so that there would be a sufficient building site on each of the adjacent rows of lots. So, the square footages are going to be slightly different from what Dale mentioned previously. We've also realigned the pathway according to what Greg's office has recommended, to take it out of the bottom of the drainage swale.

Chair Curtiss: We were wondering if you were going to provide boots?

John Kellogg: Right. The soils here are, once you get past the superficial layers, are very sandy, very gravelly soils. My guess is there's not every going to be any standing water unless they have a torrential downpour and then only momentarily, within this drainage swale. In response, nevertheless, what we've done is taken that walkway and shifted it off to the side of the swale and left the bottom of the drainage swale coming northward here. What we anticipate is that this will also enable the adjacent property owners to likely consider this part of their lot, then, and then they'll be able to probably mow the grass through that swale and it makes a little bit easier process for maintenance. I wanted to briefly address an issue that Commissioner Evans brought up, I think, at the Planning Status on Monday. In the previous subdivision where Allomont Block 2, Lot 4, was split into Lot 4A and 4B, Pertile Lane was dedicated as a County road on that plat. We've got a copy of it in the packets. But, a 60 foot wide strip of land was dedicated by the developer but the roadway, at that time, was not accepted by the County for maintenance. There was a waiver of RSID for improvement to Pertile Lane should it be paved later on, which has never occurred since that time, it's still a gravel road. But, at issue was the fact that at the west end of this property, there's a gap between the boundary of this property, the edge of the right-of-way that was dedicated to the County and the access that comes out through the houses and is currently being proposed as the access to the north end of Allomont Drive. There's a gap in there that was not a public right-of-way. So, I think that created a little bit of a controversy at the time. With the dedication of Allomont Drive on the Allomont Subdivision recently approved, we have a whole triangle here that's being dedicated to the County which effectively connects Pertile Lane to that road system and resolves that issue that was a problem back in the late '70's when this subdivision, this 2 lot subdivision, was proposed. With that, I think that covers most of the major issues here. We're talking about standard single family houses. We've gone to the Lolo Community Center, received two letters from them, generally supporting the proposal, and we've received a unanimous recommendation of approval from the Planning Board also. Thank you.

Chair Curtiss: Thank you Mr. Kellogg. Anyone else who would like to speak?

Devin Jackson: My name is Devin Jackson, I'm a member of the Lolo Community Council. I'd like to say that he is correct. The members of the Lolo Community have not objected to this development. We do appreciate the low density and we believe it's the right spot to do it. We have a number of developments going in in this place. We did have a couple of concerns without looking at the new map. We had requested that it be added to the plat that it could be punched through at such time as necessary. It appears now it's already paved, it's not going to be a problem. We did not appreciate cash-in-lieu of parkland. There's not much parkland in the immediate area. However, it has passed the Park Board at that point. We also have stated several times that we believe that the roads should all be 40 feet. We were told, actually, that they were required to be 34, but now it appears that they are at 32 here. The community just really does express a lot of concern about the roads being too narrow, especially considering a lot of the people in Lolo do have RV's and boats and other such things. The only other concern we had not directly related to this project, but including this one and now Ponderosa Heights, which will be coming up shortly, we have close to 400 new homes that Department of Transportation is not going to look at. If we could, we request the Department of Transportation at least looks at Lolo as a whole, if not, each development one at a time, because there is no way out of Lolo other than a highway, either it's Highway 12 or 93, and so it does affect that and right now, 93 is backed up. Those were our only concerns.

Chair Curtiss: So there's no variance requested so for this type of road, 32 must be the standard. Is that correct, Greg?

Greg Robertson: The standard width for a road with parking on one side is 32, back to back.

Chair Curtiss: So it does say parking on one side.

Greg Robertson: Yeah, that's typically – 40 would be parking on both sides, 32 would be parking on one side. One minor thing that I'd like to comment on and I hadn't seen this revised plan of the hammerhead, but, you know, traditionally, or at least in my 5 years that I've been here, I've been pretty adamant about having adequate turnarounds for our trucks and I've been pretty consistent on that. I understand that there is a potential for extension of connection between Farm Lane and Pertile Lane, but given the interceding development, the likelihood of that happening anytime soon is quite a ways away. In the meantime, we're going to be expected to maintain the roadway through there. So, I would, if it is the desire of the Commissioners to go with the easement for future road purposes on the eastern boundary of this, I would prefer a temporary cul-de-sac rather than the hammerhead in the configuration that's shown above, that could be removed at a later date and right-of-ways adjusted to accommodate that. Hammerhead turns are very difficult, especially in snow conditions, to maneuver,

not to mention for snow storage and I read the comments and I didn't remember seeing that on the first agency review, but I've been out of the office.

Chair Curtiss: I think this came since Planning Board, so you probably weren't asked to comment again.

Greg Robertson: I wasn't asked to, although I do know that Erik and Dale had some correspondence between the two. I guess that's something internal that I need to work with Erik on to get corrected. Suffice it to say, the long term maintenance needs, we need to have adequate turnarounds.

Chair Curtiss: Could the cul-de-sac be located where the hammerhead is now, rather than back and have to get moved.

Greg Robertson: Sure. I just need, I prefer the smooth turnaround and we could do it temporarily, that could be removed at a later date with minimal effort.

Chair Curtiss: Okay. Thank you. Mr. Kellogg, would you like to comment on that request?

John Kellogg: Perhaps we could work with Greg. The hammerhead design is one that was compiled by fire departments a little while ago, one of the alternative designs that anticipated being able to turn around fire trucks, and they published a series of designs that could be used. I'm just wondering if modifying the dimensions of the turnaround is a possibility.

Greg Robertson: Modifying the dimensions to have a smooth turnaround.

John Kellogg: The widths of the legs. No, I don't mean a smooth turnaround, I'm talking about a backing motion.

Greg Robertson: That what I mean.

John Kellogg: I see, okay.

Chair Curtiss: Because a fire truck hopes they only have to come when you have a fire which they hope you never have. The Public Works needs to do this.

Greg Robertson: Every time the snow flies, we're down there.

Dale McCormick: Just wanted to add that this wasn't something that happened between Planning Board and Commissioners. This was something that staff, basically I talked with Erik about, and through that discussion and then also finalizing the conditions, gave the Public Works Department an opportunity to comment on those conditions. It is a bit of a surprise. But, with that said, it's also in the condition that it's subject to, and for exactly this reason, is subject to approval of the County Public Works Department, so if there's a way to modify the condition at this time, this would be the time to do it.

Chair Curtiss: So that Condition 1, that's listed as a Planning Board recommended condition, could say the proposed cul-de-sac could be replaced by a – and then whatever, but we don't want it just be the emergency type turnaround, but something that sufficient for the –

Dale McCormick: Perhaps it could say – shall be relocated to the east end of Mallory Lane, subject to review and approval – something like that.

Greg Robertson: Yeah, that would be fine, a temporary cul-de-sac. My concern is, is when we get ready, I mean, if we're expected to maintain it, that's one thing. If it's to be private, I wouldn't object to it, because it's not an issue for us. But apparently the road is to be publicly maintained and if that is the case, then we really do need to have an adequate turnaround.

Chair Curtiss: So that's the other thing, you could build it like this, if it wasn't expected to be accepted for maintenance.

Greg Robertson: We routinely allow them for private turnaround, because generally then just emergency access is of concern. But if it's public roadway, then there are other things that come into play besides emergency access.

Chair Curtiss: So are we – is our practice to, if they're built to County standards, to always accept them or could we say this one wouldn't be accepted for maintenance.

Greg Robertson: If it were built in this configuration and insisted upon, then we would likely not accept it for maintenance.

Chair Curtiss: So I guess that's the other question. Do you care if it's accepted for maintenance, Mr. Kellogg?

John Kellogg: We do. We'd like to dedicate this to the County for maintenance.

Chair Curtiss: Okay.

Commissioner Carey: So, could we say – the cul-de-sac shall be either replaced by a hammerhead type emergency vehicle turnaround at the east end of Mallory Lane or extended to the property line.

Greg Robertson: I think what could be said is that Mallory Lane shall be extended to the eastern boundary with a temporary cul-de-sac to be removed at a later date when the road is connected north/south – something along those lines.

Commissioner Carey: Okay. Right. John?

John Kellogg: Temporary cul-de-sac means?

Greg Robertson: Basically a paved turnaround.

John Kellogg: Okay, so it's built to County standard, a full, but temporary.

Chair Curtiss: Big enough for the trucks to turn.

Greg Robertson: What we would want to do would be to stop the sidewalks short and just have –

John Kellogg: Oh, I see, no sidewalks around the end of it then.

Greg Robertson: Correct. So it can be removed and just pulled straight through at a later date. That should minimize the amount of impact that you'll have also.

Chair Curtiss: Isn't there also some language in here, if I remember right, that talks about the future RSID, so when that connection from Farm Lane to Pertile is in, the people in this subdivision would help pay for some of that, so that could happen.

John Kellogg: The north/south connection.

Greg Robertson: Yeah, and the tie in.

Chair Curtiss: Reconfiguring that cul-de-sac area would be part of that then.

Greg Robertson: Yep.

John Kellogg: Yes, that would be reconstructing that intersection.

Colleen Dowdall: The other complication is that the easement will have to reflect, to allow for the temporary cul-de-sac and I don't know if there's enough room in the easement for the hammerhead or for what the road would be like in the future, but the property will remain encumbered even when the road goes through, with that extra easement.

John Kellogg: Even when it's vacated, even when the outside curves of the bulb are removed.

Chair Curtiss: So, we'd have to vacate that?

Greg Robertson: It would have to be extinguished at a later date.

Colleen Dowdall: It would have to go through the vacation, a petition to vacate.

Chair Curtiss: The fat part of the bulb that's not necessary.

Greg Robertson: Right.

John Kellogg: You would anticipate vacating that at some future date then?

Greg Robertson: Yes.

John Kellogg: So our building envelopes, probably, would anticipate a setback from the future, our own internal setback, from the future road alignment.

Chair Curtiss: Do you have setbacks in the covenants?

John Kellogg: We anticipate creative setbacks, yes.

Greg Robertson: Typically, at least it's been my experience in subdivision's temporary cul-de-sacs, that the setback is relatively irrelevant, because it is recognized as a temporary issue, but I'm not sure how the Zoning and Subdivision Regulations read.

Colleen Dowdall: I just want to note that we won't vacate it without a petition from 10 freeholders. The County doesn't have jurisdiction to make that right-of-way go away, unless someone petitions. So, when you said we would vacate it, I just wanted that clear.

John Kellogg: So, it's not automatic and anticipates some future activity.

Chair Curtiss: So we probably shouldn't put temporary language here, just that the minutes from this meeting would reflect that we expect, when the future connection is made, that there wouldn't be a need for this cul-de-sac, but there isn't really such a thing in our regulations as a temporary cul-de-sac.

John Kellogg: Except that in this particular case, Greg is saying that the sidewalks would not be extended until the road is straightened and extended.

Greg Robertson: Correct.

Colleen Dowdall: So that's the part that could be subject to his review and approval, because he's reviewing it as a temporary, but we really don't have the ability to do a temporary right-of-way, so I think you're right, Jean, if we take out temporary and just say that the hammerhead will be replaced by a cul-de-sac.

Chair Curtiss: Or just say that the cul-de-sac will be relocated and leave out the hammerhead type, I mean if we just wanted to amend the Planning Board's language.

Colleen Dowdall: I'm just doing findings to reflect what's happening here, though, too.

Chair Curtiss: Did you have another comment.

Commissioner Carey: So what language are we left with then?

Chair Curtiss: The second sentence could read – the cul-de-sac shall be relocated to the east end of Mallory Lane – and then you would scratch the words about the emergency type turnaround. Oh, so you could just say – shall be relocated – scratch a whole bunch of words – to the east end, subject to review and approval – and then.

Commissioner Carey: It's extended to the property line, right?

Colleen Dowdall: That's what I said.

Greg Robertson: Right, the eastern boundary of the subdivision.

Colleen Dowdall: Mallory Lane is extended to the east boundary and that there's a cul-de-sac at the end of that.

Commissioner Carey: Okay.

Chair Curtiss: Okay, this is a public hearing. Any other comment? Yes sir.

Clarence Rule: My name's Clarence Rule. I own the property to the east of this proposed subdivision, I have 3.71 acres, and I have been assured by Foss Realty, Lee Foss, who has worked with the developer on this, that Pertile Lane, the paving of that, will be paid for by the developer. Can I be assured of that?

Chair Curtiss: It is required.

Greg Robertson: Currently, the construction plans and development proposal for this subdivision has that portion of Pertile Lane, that's along it's frontage, as paved, correct.

Chair Curtiss: The pavement would stop at your property line, Mr. Rule.

Clarence Rule: But it will be paid for by the developer?

Chair Curtiss: It will be paid for by the developer, that's what's proposed.

Clarence Rule: Okay, fine. I've lived there 22 years, so I know the whole story on that road, believe me, I know about the French drains, as they called them.

Chair Curtiss: You could probably write a book on it.

Clarence Rule: Thanks a lot.

Dale McCormick: Just to clarify, it would be the pavement as well as curbs and boulevard sidewalks along that frontage of Pertile Lane.

Chair Curtiss: Okay. I think what we wanted to make clear is that other neighbors aren't being expected to pay for part of it, and they're not. Okay. Any other public comment?

Devin Jackson: I would like to ask that if we are going to go with the 32 foot width, we could get No Parking signs posted on one side of that road. I don't believe any preference has been expressed as to which side, but we would like it posted so as something could be done about it if somebody was parking on.

Commissioner Carey: That's a good point.

Chair Curtiss: Okay. Is that proposed in here Dale, the No Parking signs? Do you want to make any comments, Greg?

Dale McCormick: No, there are not.

Greg Robertson: No, but we can work with the developer on that.

Chair Curtiss: Okay, so let the record reflect that the developer will work with Public Works on signage for parking on one side, because I agree, when you start parking on narrow streets with cars on both sides, it gets too narrow.

Greg Robertson: Yeah, there's some real problems in Lolo, especially in the Ridgeway area, where the roads are narrow as it is, that were never designed for on-street parking and it makes it a real problem for us and emergency vehicles to get through.

Chair Curtiss: Right. Okay. Any other public comment on this subdivision? Seeing none, I'll close the hearing.

Commissioner Carey moved that the Board of County Commissioners approve the Allomont Orchards, Block 2, Lot 4A Subdivision, based on the findings of fact in the staff report and subject to the recommended conditions in the staff report, including that part of Condition 1 as amended at today's hearing, based on testimony presented at today's hearing. Chair Curtiss seconded the motion.

Chair Curtiss: Do we need to make an official, we talked about how we wanted to amend Condition 1, but should we do that as an official motion first?

Colleen Dowdall: Bill, did your motion reflect that change?

Commissioner Carey: Yes, I tried to.

Colleen Dowdall: Okay, then that's alright.

Commissioner Carey: Is that okay?

Chair Curtiss: Okay. Alright. Any further discussion? All in favor?

The motion carried on a vote of 2-0.

Chair Curtiss: So, we'll expect you to work together on that one.

Commissioner Carey: Thank you, Dale, for an excellent job. Thank you, John.

Allomont Orchards, Block 2, Lot 4A Subdivision Conditions of Approval:

Roads

1. Mallory Lane shall be extended to the east boundary line of the subdivision and a cul-de-sac shall be installed at the end of the road, subject to the review and approval by the County Public Works Department and the Missoula Rural Fire District. *Subdivision Regulations Article 3-2(1)(E), County Public Works and OPG recommendation.*
2. A 30 foot wide public access and utility easement extending south from Pertile Lane along the entire east boundary of the subdivision shall be dedicated on the final plat. The dedication language shall be reviewed and approved by the County Attorney's Office prior to final plat approval. *Subdivision Regulations Article 3-2(1)(E), County Public Works and OPG recommendation.*
3. The following statement shall appear on the face of the plat:

"Acceptance of a deed for a lot within this subdivision constitutes assent of the lot owner to waive the right to protest a future RSID/SID for improvements including, but not limited to, the installation of paving, drainage facilities, curbs and gutters, pedestrian walkways or bikeways to Pertile Lane, Allomont Drive and all roads within the subdivision, including those for which easements are shown for future roadways, 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."

Final language of the statement shall be reviewed and approved by the County Attorney's Office prior to final plat approval. *Subdivision Regulations Article 3-2(3)(E) and OPG recommendation.*

4. The developer shall petition for annexation into the Missoula Urban Transportation District prior to final plat approval. *Subdivision Regulations 3-1(1), 3-2(1) and MUTD recommendation.*

Pedestrian Access

5. The pedestrian path on the east side of the subdivision shall be 5 foot wide asphalt paving with landscaping. A drainage swale shall be located parallel to this path with vertical and horizontal separation from the paved walkway. Final plans for design of the path shall be reviewed and approved by County Public Works and OPG prior to final plat approval. *Subdivision Regulations Article 3-2(8), Public Works and OPG recommendation.*

Parks

6. The developer shall dedicate cash-in-lieu of parkland prior to final plat approval. *Subdivision Regulations Article 3-8, County Parks Board and OPG recommendation.*

Fire

7. Plans for address signage shall be reviewed and approved by the Missoula Rural Fire District prior to final plat approval. The approved plans for signage shall be included as a section in the covenants. *Subdivision Regulations Article 3-1(6) and Missoula Rural Fire District recommendation.*

Covenants

8. The Covenants shall be amended to include the following language, prior to final plat approval:

Section ____: Wildlife

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets and properly storing garbage, pet food and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, black bears, mountain lions, foxes, skunks and raccoons. Please contact the Montana Department of Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for help or brochures that can help homeowners "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 homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. There is potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners 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.
- b. **Gardens and fruit trees** can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because ripe and rotting vegetable material can attract bears and skunks. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.
- c. **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, dogs, etc. It is best not to set garbage cans out until the morning of garbage pickup.
- d. **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 provide supplemental feed attractants if it results in a "concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer could attract mountain lions to the area.
- e. **Pets** must be confined to the house, 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 as bears, mountain lions, skunks, raccoons, etc. When feeding pets do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- f. **Bird feeders** attract bears. If used, bird feeders should: a) be suspended a minimum of 20 feet above ground level; b) be at least 4 feet from any support poles or points; and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- g. **Barbecue grills** should be stored indoors. Keep all portions of the barbecues clean. Food spills and smells on the grill, lid, etc., can attract bears and other wildlife.
- h. **Compost piles** can attract skunks and bears. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves and garden clippings and piles should be

turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil).

- i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer [and/or elk] becoming entangled in the wire or injuring themselves when trying to jump the fence.
 - j. Purchasers of lots within this subdivision must recognize the subdivision is located near the Bitterroot River where lawful **waterfowl hunting** and the associated discharge of shotguns could occur from early morning until sunset, and the season can run from September into January. *Subdivision Regulations Article 3-1(1)(B), FWP and OPG recommendation.*
9. The Covenants shall be amended to include a Revegetation Plan for disturbed sites and include the following language: "Lot owners and the Homeowners Association shall maintain their property in compliance with the Montana County Weed Control Act and the Missoula County Noxious Weed Management Plan. Lot owners and the Homeowners Association shall revegetate any ground disturbance with beneficial species at the first appropriate opportunity after the disturbance occurs." The language is subject to review and approval by the Missoula County Weed Board prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B), Missoula County Weed Board and OPG recommendation.*
 10. The covenants shall be amended to include the following section prior to final plat approval: "Radon Mitigation: EPA has designated Missoula County as having a high radon potential (Zone 1). All residences should incorporate passive radon mitigation systems into the design." *Subdivision Regulations Article 3-1(1)(D), City-County Health Department and OPG recommendation.*
 11. The covenants shall be amended to include a provision for maintenance of the paved pedestrian pathway, landscaping, drainage swale and sump located along the east boundary of the subdivision. *Subdivision Regulations Article 3-1(6), County Public Works Department and OPG recommendation.*
 12. Article VII, Section 4, shall be amended to delete the language stating that a wood stove shall not be considered a nuisance, and include the language that "wood burning stoves or fireplace are prohibited. Pellet stoves that meet emission requirements of natural gas or propane fireplaces may be installed. Pellet stoves require an installation permit from the Missoula City-County Health Department." *Subdivision Regulations Article 3-1(1)(D), City-County Health Department and OPG recommendation.*
 13. The covenants shall be amended to state that homeowners are responsible for installation and maintenance of boulevard landscaping, including grass and shade trees, planted an average of 30 feet on center. *Subdivision Regulations Article 3-2(9) and OPG recommendation.*
 14. Article IX of the covenants shall require that sections pertaining to garbage, pets, wildlife, signage, noxious weeds, radon, woodstoves, and maintenance of the boulevards, paved pedestrian pathway, landscaping, drainage swale, and sump located along the east boundary of the subdivision not be amended or deleted without governing body approval. *Subdivision Regulation Article 3-1 and OPG recommendation.*

There being no further business to come before the Board, the Commissioners were in recess at 2:15 p.m. The preliminary budget hearing on the Fiscal Year 2006 Budget is scheduled to begin at 2:30 p.m.