

PUBLIC MEETING – October 19, 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, Chief Civil Deputy County Attorney Mike Sehestedt, Deputy County Attorney Colleen Dowdall, Assistant Public Works Director Chuck Wright 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 \$635,610.73. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Decision: Petition to Alter County GLO Road – “Road to Jocko Valley” and “Military Road” (off Mullan Road, between Josephine Avenue and Mullan Trail)

A public hearing was held on this petition on October 12, 2005. A site inspection was conducted by Commissioner Bill Carey and Assistant Public Works Director Chuck Wright on Tuesday, October 18, 2005.

A petition has been filed with the Board of County Commissioners to alter and relocate that certain portion of a County road located within the northeast one-quarter of Section 14, Township 13 North, Range 20 West, P.M.M., County of Missoula, and State of Montana. The subject portion of the County road is bounded on the north by the southerly right-of-way line of the former Chicago, Milwaukee and Saint Paul railway and bounded on the south by the northerly line of the parcel conveyed to the Montana State Highway Commission described in Book 287 Micro, Page 76, and Missoula County Records. The County Road is more particularly described as follows:

General Land Office (GLO) roads as shown on the GLO plat for fractional Township 13 North, Range 20 West, P.M.M., surveyed by W. H. Baker in September, 1870. These GLO roads are described on said plat and the original surveyor’s notes as “Road to Jocko Valley” and “Military Road.” These roads are also shown in County Road Book 1.

The reasons for the request are as follows:

1. The roads are not locatable on the ground.
2. Relocating these roads, per the attached Exhibit “A” moves them to an existing private roadway easement and to a location in conformance with the Missoula County Grid Road Plan for the area.

The following landowners have been notified:

Larry T. Garrison	Kirk D. Mace	Justin K. Mantei Hattie J. Morris
MEI-296 LLC MEI-297 LLC	Leland F. Mentzer Donna Mentzer	Margaret Nesbitt James Nesbitt
Linda Scally	Martin C. Schmidt	Allen R. Bradstreet Yvonne Bradstreet
Kerry Wickman Arlene R. Wickman		

Chair Curtiss: I will reopen the public hearing and we will have a report from staff.

Chuck Wright: My name is Chuck Wright, I work at the Public Works Department. Bill Carey and myself went out and took a look at this particular area. It was pretty much a slam dunk. This road needs to be moved over and relocated. We can only handle everything north of the Mentzer addition so as far as we’re concerned there’s not any problem whatsoever on relocating that particular road.

Commissioner Carey: I agree with Chuck.

Chair Curtiss: Okay, so do we need to change any of the language in the petition since we can only do the portion that's in the County? Is there some – I didn't compare that yet.

Mike Sehestedt: I would refer to the map and say, to the extent the road is subject to County jurisdiction, the right-of-way is relocated from its current location to the location shown on the attached map, which is intended –

Chair Curtiss: So is the orange the part that the City has annexed or the other part the City has annexed?

Mike Sehestedt: Since I have a black and white map, you have me at something of an advantage.

Chair Curtiss: Oh. It's Halloween, put a little orange on your map.

Mike Sehestedt: Maybe with the notation that insofar as it's within the Mentzer addition, it's the intention to locate it within the platted road right-of-way.

Chair Curtiss: So we're basically talking about where it crossed COS 274.

Mike Sehestedt: Right. We're also vacating it in those areas that are outside the City's jurisdiction.

Chair Curtiss: Oh, I see. We're moving –

Mike Sehestedt: We're altering it and removing any right-of-way interest we have in those areas outside City jurisdiction to the locations shown.

Chair Curtiss: This is a public hearing. Is there anyone here today that would like to make further comment on altering the County roads that we've been asked to alter in the area shown that's not in the City.

Mike Sehestedt: For the future, we might advise developers that are going to require us to vacate a road, that they postpone moving to annexation until after we've completed the vacation. There is going to be a certain amount of ambiguity regarding these portions that are within the area already annexed by the City.

Chair Curtiss: Right, thank you. If there's no one else who wants to make comment, I'll close the public hearing portion and accept a motion.

Commissioner Evans moved that the Board of County Commissioners approve the request to alter and relocate the GLO roads as shown on the map attached to the petition, to the extent the roads are subject to County jurisdiction. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Hearing: Rezoning From C-A3 to C-RR1 (Harper's Bridge, Lavoie Lane area)

Jennie Dixon, Office of Planning and Grants, presented the staff report. I have a few things I'd like to give the Commissioners. I received an additional public comment letter. For those of you in the audience, I don't have extras, but I will read this so that you are aware of what I distributed to the Commissioners. Commissioners, the presentation for this afternoon is on the second page here, but on the first page is a recommended motion based on a request to exclude the Getz parcel out of this. If you are in a position today of approving this rezoning request, I would suggest you use the motion on the first page of what I just distributed to you today. Last week I gave you a Request for Commission Action that included the Planning Board recommendation for denial of this rezoning request. So let me just start and I'll describe this proposal.

Staff is recommending approval of a request from Steve Morin to rezone properties located in the vicinity of Harper's Bridge Road and Lavoie Lane, from C-A3 to C-RR1. The original request was for rezoning 12 properties legally described in Attachment C of the packet. However, Mr. Henry Getz has requested that his tract be excluded from this rezoning request. The amended request includes 11 parcels containing approximately 30 acres.

All of the properties within the rezoning request are over one acre in size and eight of the eleven parcels are non-conforming at less than the five acres required by the current C-A3 zoning. Two of the tracts within the area of rezoning are vacant and two tracts have two homes each. There is a total of 11 single residential homes on these

11 parcels, with the possibility of adding two more homes on the two vacant parcels, for a total of 13 homes, without further subdivision review.

The current C-A3 zoning (1 dwelling unit per 5 acres) has front, rear and side yard setbacks of 50 feet and no maximum height of structures. The C-RR1 zoning (1 dwelling unit per 1 acre) has front and rear yard setbacks of 25 feet, side yard setback of 15 feet and a maximum height of 30 feet. These zones allow the same uses (residential). The C-A3 zone allows dog kennels as a special exception, whereas dog kennels are not permitted in C-RR1. The C-RR1 allows residential mini-warehouses as a special exception, whereas this use is not permitted in C-A3. The County's Growth Policy land use recommendation is Residential, with a density of 2 dwelling units per acre.

None of the area proposed for rezoning is within the regulatory floodplain. The area of rezoning on Parcel 1, Deed Exhibit 3982, specifically excludes the land within the 100 year floodplain as determined through an elevation survey which established the 100 year floodplain contour line located at elevation 3,061 feet.

Lavoie Lane and Harper's Bridge Road are County roads that ultimately connect to Mullan Road, approximately one-quarter to one-half mile north of the area of rezoning. Harper's Bridge Road is paved with a recent asphalt overlay to 22 feet wide from Mullan Road to the intersection with Lavoie Lane. Lavoie Lane is graveled to 18 to 20 feet. According to the County Public Works Department, there is no concern regarding the conditions of the roads in the area serving the proposed rezoning.

Each site is served by on-site wells and septic systems. Health Regulations and State sanitation statutes, which generally require one acre per single family dwelling, establish densities where individual wells and septic tanks are used.

A legal ad was published in the Missoulian on September 18, 2005 and September 25, 2005. Notice of the project was posted at one location on September 14, 2005. Property owners within 300 feet were notified by first-class mail on September 8, 2005. 7 letters from 6 owners/families opposed to the rezoning request and a petition with 18 signatures in favor of the rezoning request were received. Planning Board voted to recommend against adoption of this rezoning because they felt the area is premature for the level of development the rezoning would allow.

Chair Curtiss: Thank you, Jennie. Colleen, because this is a rezoning, could I have you quickly give a process explanation so today, if the commissioners vote to go forward with rezoning, then what would be the next process.

Colleen Dowdall: If you vote to – what you would be voting to do today would be to express your intent to rezone and then a notice would be published of the resolution that you have adopted, that you intend to rezone. There would be a 30 day protest period. If during that protest period, there is not adequate protest, you would then adopt a resolution that actually rezones the property.

Chair Curtiss: The folks that would have the right to protest would be the folks that are in the current C-A3 zone that this property is within.

Colleen Dowdall: Right, all of it that is contiguous. So people who are zoned C-A3 in other areas of the County would not protest, but those that are in the contiguous C-A3 zone, and it's a requirement for 40% of the free holders.

Chair Curtiss: Thank you. This is a public hearing. I'll open the hearing and ask for any public comment from the proponents or others.

Alicia Lechleitner: My name is Alicia Lechleitner. I am Steven Morin's oldest daughter. I am speaking to you today on behalf of my parents, my sister and myself. My father was asked by our neighbors to have his name be the main applicant for the zoning request. On October 14th, I was able to address the Zoning Board concerning this request. At that meeting, I read from a statement that our family had prepared that detailed our situation. As I stated then, each neighbor involved in this zoning request has their own reason for wanting you to approve this zoning change and has taken their own approach towards seeking its approval. In no way should my family's comments to OPG, Zoning Board or here today, be considered as the views of all the zoning change area's property owners. It simply represents our family's beliefs. Each property owner involved chooses to speak or not speak for themselves. Several concerns have been raised by our neighbors and we feel they are very important to address. There is a concern over a possible abundance of development if this zoning is approved. The main concern is that a lot of homes will be put in and it will be its own little development. Jennie has addressed that in

her staff report and I think that was handled great there. There's also a concern that larger portions of land in the area could be annexed into zoning. We talked to zoning and zoning told us that zoning cannot be annexed and in fact, annexed is not even an appropriate term to use when you're talking about zoning. Any land owner's in our area wishing to change their zoning would have to go through all the full zoning request procedures that we have gone through up to now. This request does not represent, as was alluded to, an island of its own or leap-frog zoning or a premature rush to development in our area. As many of you know, several large developments surround our area including Magnolia Estates, Council Groves, Mallard Way and the new one that is going to be under development, the Grizzly Den Estates. Concerns raised over the ground water level supporting further building are addressed when a land owner seeks building approval from the State and County for septic and well systems. Septics that will endanger the groundwater will not be allowed by State and local laws and to our knowledge, there is no plan to use this request, as was stated by one of the opposition letters, to force through a sewer system in our area. A somewhat related water issue is that of a floodplain. No one in the acreage is in documented government floodplain. I realize that there is a question raised by an opposing public comment letter about whether our government's floodplain map is correct, however, as we have found, there will always be questions and until new information is proven correct and recognized by our government, we must go by the current map. A photograph has been provided to you to show where they believe Lavoie Lane, in the area of the zoning request, has been flooded. But by looking at the photograph, you will see there are irrigation pipes irrigating that area and the water marks in question come from Mr. Cathy's sprinkler pipes. I can also provide the same photograph for you today that shows a larger encompassing area if you would like to look at that. The Missoula County Urban Comprehensive Growth Plan set forth a projected growth of 2 homes per acre in the zoning requested area. If our request is approved for C-RR1 zoning, we will actually be reducing the planned growth for the area, thus limiting the sprawl, as was stated by our neighbor. It was also stated that if residents wanted to live in an area with smaller lots, they should move to another area. The residents requesting this change have lived in this area longer than all but one of the opposing letters written to you, so to say that someone is coming in to throw up trailers and houses is not fair. These are residents who currently live here and are requesting to stay. Access to the area by public roadway has been reviewed by Missoula County officials and they have found no problems with Harper's Bridge Road and Lavoie Lane access to the properties in question. Approach permits for any future access will of course be needed and land cannot be taken away from property owners to do so. Although there are concerns for property owners on these roads, it's assumed that Missoula County has no concern about extra traffic as they have allowed the YMCA to operate a summer day-camp at the end of Lavoie Lane that has greatly increased the traffic on both roadways and has brought larger vehicles up and down the roads multiple times a day. The YMCA also provides oil service to Lavoie Lane in the summer to help reduce dust, which has been satisfactory to all the land owners. As we've seen recently, floods of epic proportion and that of Western Montana's 1997 flood, will of course cover the floodplain areas of Lavoie Lane, which are not included in the zoning request. Since the maps given to you were drawn out, Harper's Bridge Road has also received a new entrance from Mullan Road that alleviates the sharp corner access and allows for easier access to our area. Harper's Bridge Road also was resurfaced the end of this past summer up to Lavoie Lane. I and my family fully recognize and respect the rights of our fellow land owners to agree or disagree with our request. It is their right, as it is our right to come before you with the statements of fact that have been compiled by the Office of Planning and Grants and the recommendations of the County Zoning Board to ensure a fair and just decision for all parties involved. We choose to believe that our neighbors, be they in or outside the 30 acres in question, are not acting with malice towards anyone. We assume that everyone is pursuing the best interest of all the property owners affected. It is not our intent to do harm to anyone. We would simply like to see the many personal situations caused over the last 20+ years in our area brought to an end. For me personally, I would like to continue to raise my daughter on the land that I was raised on and has been owned by my family since my grandfather purchased the acreage over 30 years ago. It would continue the third generation ownership of our property. No matter what the outcome of our request, to the neighbors who have supported us, we offer our gratitude. Your support has made the last nine months bearable. And to the neighbors we have offended we offer our apologies. On a more personal note, which my family would like to go on record; to Percy and Anna Manning, who has lived on Harper's Bridge for many years and were friends of my grandparents, Lee and Marie Morin, for even more years, we are sincerely sorry this request caused you to believe you could lose your home. We would never allow that to happen. We thank you for your kindness and understanding of our situation, respect your position and your opinion as well. In closing we would like to thank Ms. Dixon for her well stated report and her representation of the facts to the County Zoning Board and the County Commissioners. I would like to extend a special thank you to our neighbors who are able to make it to this meeting today to support us. Thank you.

Chair Curtiss: Thank you, Alicia.

Zane Sullivan: Commissioners and staff, my name is Zane Sullivan. I'm an attorney with the firm Sullivan, Tabaracci and Rhoades here in Missoula. I'm appearing today on behalf of Warren and Darlyne Block who are

some of the petitioners asking for the rezoning. I would again like to thank, as well, Ms. Dixon for her report. I would like to address a couple of issues that were noted in the materials by the Planning Board. In quick summary, the Planning Board seemed to be of the opinion that it would be premature to rezone this area because it was quite a ways out from the metropolitan locale of Missoula and would therefore result in a higher density than what maybe would be preferred by the Planning Board on an immediate basis. That leads me to a little bit of discussion of the background of how this zoning request came about. What is before you today is an area of Missoula County that currently exists. This is somewhat different than a request, as you all know, certainly, for a subdivision approval, which is a proposal to create areas for future construction and to create future density. This is somewhat more of an after-the-fact situation in that these properties have been divided as was pointed out by staff, 8 out of the 11 units in this request already exist in a non-conforming way. To argue against the Planning Board's recommendation, because the area doesn't match, and granting this does not match the immediate view of density, ignores the fact that it already exists. This property exists, it is there. These people through circumstances, not necessarily all of their doing – in fact perhaps maybe not at all – perhaps more likely due to a gap between zoning and subdivision, fell through the cracks. They went through the proper processes, got their property divided, obtained the necessary permits and understood that they were in compliance, only to find out later on, their disconnect between the zoning issues and the development. We've got an existing neighborhood that needs to be addressed. An overwhelming majority of these people in the requested area have joined in that request. It does comply with the Missoula County Growth Policy and therefore it is not creating something and even not to the density allowable under that plan, but it's asking to create something that is very permissible under the future growth plan of this County. The area exists, these people need help, they need your assistance to correct what basically is an out of sequence activity, if you will, that occurred over the last many years. As the previous speaker stated, these folks have lived in this area for a long time. They're not new comers. They're not trying to reinvent the wheel. They're not trying to do anything other than to correct what has happened to them more by accident than by design. Let's make it right and correct the record today. Thank you. I'd be happy to answer any questions.

Chair Curtiss: Thank you Mr. Sullivan. Others who would like to speak on this proposed rezoning?

Steven Morin: Hello. My name is Steven Morin. My daughter stated a lot of facts, Alicia Lechleitner, but our situation with this land that sits here in this corner, on the top of Lavoie Lane. I came in front of you people, Commissioners, back in May 2002, for a family transfer. It was asked at that time if I intended to really give this property to my daughters or was I trying to get by subdivision laws. At that time I stated, no. I stated that I was going to give this land to my daughters so that they had something to build on because of the cost of land in Missoula. They didn't have the finances at that time to buy property. The history behind this land is that my father gave it to me for the same reason after I got out of the service, to get a start in Missoula to raise my family. I'm trying to do the same thing for my daughters. Everything was approved back then. The land was surveyed off, permits were given, septic systems were approved and everything was filed and finished in 2003. My daughter and son-in-law, Eric and Lisa, moved back here last December, gave up a job in Butte after 9 years of service over there at a job. They moved back here to start a new life, to put our granddaughter through our school system because I felt that it was better and they wanted to get closer to their family, back to their family – his family, my family. Now, to go down to get an okay and people say, certain boards say, oh no, you can't do that. After everything was okayed. We've been paying taxes on it. I would not have spent \$10,000 in a survey system to hire a surveyor to survey the land off, to do the water tables, to do everything else if I didn't not know this was going to be legal. It was all okayed. Everything was done, filed. This spring they said, no, you cannot. So that's why we're here. We were told to appear in front of you to go in front of the Planning Board and to come in front of you. There's no subdivision going in out there. There are just people trying to live at the property that exist now. Thank you.

Leroy Feltus: My name's Leroy Feltus. I live out there on Harper's Bridge Road and I have been there for 35 years. I can see in the 35 years that I have been there more and more people have moved out there in that area to get out of the City limits, get out from under the thumb of the City control. I can see this subdivision or whatever you want to call it, helping people to do just exactly that. I don't object to it at all. I think it's a good idea as long as it is kept within the family. The future is something else. The family can break it off and sell it, that's later down the line. For right now, the family is just trying to stay together. I don't object to that. I think it is a good idea and I think the Board should go along with it. I really do. It's going to happen sooner or later. You've already planned it back in '77, that it was going to be such. It's just one of those things that is coming to a head right now and it's a small area that should go. That's my opinion.

Jack Gillespie: Hello. I'm Jack Gillespie. I also live out on Lavoie Lane. This is a good community and they're not trying to bring in a ton of houses just to bring them in. It's a family oriented area. It's just trying to get back to, as was stated earlier, the regulations that have slipped by, one way or another. I don't foresee – I've heard

rumors of 20 houses being thrown up there. I think that's absurd. I don't think that anyone in this area would even imagine throwing that at this immediately. Not to say that that wouldn't, maybe in the future or something, but for the time being, at this present meeting, it's basically the family's trying to get together and trying to make what's right from things that have went astray.

Warren Block: My name is Warren Block and I'm probably coming about last and everything has been said already. Alicia did a wonderful job and so did her dad, Steve. Yes, we're just coming before the Commissioners seeking rezoning on this small parcel of land. As you already heard, there's 11 properties included here. They range in size from 1 to 5 acres. Nearly all of these properties are out of zoning compliance now. Some of these parcels go back before any zoning even existed in this area, back to the early '70's. Some others exist because of gift parcels given to children. I think 4 of these parcels have been gift parcels given to children. These are allowed by the State. Also, on the one property, permits were written by the Office of Planning and Grants. The Sanitation Department gave a septic permit, which allowed this young couple to build a home. They built it legally and in good faith, then later found out that it was in compliance – pardon me, they later found out that it was out of compliance and something needed to be done. And this resulted it in the requested removal of a different house, which had been established over 32 years, since 1973. As Alicia said, there are currently two deeded gift parcels out there, which are totally legal, are approved and have had the Sanitation Department septic permits, are sitting vacant, waiting for zoning change so that they may be allowed to build on them. Yes, we desire this rezoning; 1) So that any home out of compliance will be allowed to remain. 2) To allow the construction on these two vacant parcels to begin. 3) So that all parcels in this small area will come into compliance with the County. We are therefore asking, you the Commissioners, to approve this request to rezone this land. I thank you very much.

Chair Curtiss: Thank you Mr. Block. Anyone else that wants to make comment on this rezoning request?

Commissioner Evans: I would like to ask something. I don't ordinarily do this, but all of you folks that live out there, would you raise your hand, those of you that live in the area. How many of you are in favor of this rezoning? Thank you.

Chair Curtiss: To let the record reflect – I think that all the hands that went up, stayed up. Anyone else who would like to make further comment before we close the public hearing. Seeing no one come to the mic, we'll close the hearing.

Commissioner Evans: I'm ready to make a motion unless someone has questions or wants to say something more.

Chair Curtiss: Okay.

Commissioner Evans moved that request to rezone the property as legally described in the petition be rezoned from C-A3 to C-RR1, based on the findings of fact in the staff report, the public testimony and the written comment.

Commissioner Carey: You're referring to Jennie Dixon's memo to the Board dated October 19th, which also notifies us that Mr. Henry Getz has requested to be excluded from this rezoning.

Commissioner Evans: Right, that's what I was using was her –

Commissioner Carey: Well I see nothing in the findings of fact or the conclusions of law that would not allow us to do this, so I'll second your motion.

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

Commissioner Evans: I would like to put in the record that I think these people were done a grave injustice over a period of time. I apologize for that and I hope that there are no protests to muddy the water further. Thank you for your patience.

Chair Curtiss: The reason I had Colleen explain a little bit about the process, the Commissioners will have a Resolution of Intent to adopt this zoning change drafted. It has to be published, right Colleen?

Colleen Dowdall: Correct.

Chair Curtiss: It has to be published in the paper and then folks will have 30 days to protest –

Colleen Dowdall: From the first publication.

Chair Curtiss: From the first publication, to protest. If we don't receive 40% protest, then we can adopt. We just do that at another meeting. It's a formality.

Commissioner Evans: Colleen, would you explain, if I'm correct, that it is the folks within the proposed zoning district that have the right to protest.

Colleen Dowdall: It's actually within the original district, the contiguous C-A3.

Chair Curtiss: Which is a very large zoning district.

Commissioner Evans: I suggest that we give a 3-4 minute break for those of you who really want to depart the scene.

Chair Curtiss: We don't feel insulted if folks choose to leave after their issue.

Hearing: O'Keefe Ranch Estates (200 Lot Residential Subdivision) – Northwest of the Wye on Waldo Road

Jennie Dixon: For the record, I'm Jennie Dixon from the Office of Planning and Grants. I would like to just call your attention to the plat on the wall that PCI prepared and colored to see where the park and common areas are in this subdivision. The property is located west of Highway 93 North and on the south side of Waldo Road, so that north border is Waldo Road and the south border of the subdivision is Interstate 90. On the east side, or the right side in this picture, would be Jellystone Park and a subdivision called Mahlum Meadows, which was approved several years ago. To the west is an approved, but not platted, subdivision called Gallatin Estates and that subdivision may experience some modifications and come back before this board for possibly an amended subdivision. The proposed subdivision is accessed off of one point. At this point, off of Waldo Road, Victoria Drive comes down and hooked into a road, Merit Drive, that goes up this way, and then Dufferin. What I'm trying to point out at this point are the three roads in this subdivision we'd consider collectors. So those roads are proposed to meet County standards, except for not meeting road width requirement. What I've put on your desks today, let me back up again, I'm sorry. What I've put on your desks today are, at your request, to clarify staff's recommended motions and I will also, of course, present to you Planning Board's recommended motions. But this contains staff's motions on the variances and the main motion, in part, resulting from a new idea presented by the subdivider after Planning Board to make a road connection at this point. Planning Board recommended a road connection here and here to start making connections to property to the east, which may or may not subdivide in the future. The subdivider, after Planning Board, took a look at that and found what they felt to be a better idea and I think staff agrees, is just one connection at this point, which would be Dufferin Drive extending through a common area and Dufferin would connect to Gallatin Estates there on the west. So, staff had recommended approval of those three collector roads not meeting width requirements, but the Planning Board recommended against that variance and the difference would be requiring, at least, four additional feet of paved width for those three roads. But given the location of the subdivision and the context of only connecting to Gallatin Estates on the west and not knowing what will happen on the east, but whatever happens, only extending out to Highway 93, staff felt that these are not going to be like Reserve Street type of collectors, they're more a minor type of collector. We did support the 32 foot paved width and, of course, Public Works supported that as well. The other deficiency in the road system is Waldo Road up here, which is only paved to 24 feet and the requirement is 36 to 44 feet for that. Again, Planning Board recommended against that. The ultimate action of denying that variance is simply widening Waldo Road along this frontage, which staff, including Public Works, did not feel was appropriate and improvement of Waldo Road on a more comprehensive basis would make sense.

Commissioner Evans: Isn't that off-site of the subdivision?

Jennie Dixon: It is considered an off-site. Off-site roads are required to meet paving and width and walkway requirements in certain situations and so, in this situation, staff has recommended approval of a variance. The other elements of this subdivision include three cul-de-sac roads coming off of Victoria Drive, a loop road here, all of this being essentially Phases 1 through 3 or 4. This is a phased subdivision over 10 years. Nine phases are proposed to be developed over 10 years, essentially from north to south. The first four phases are proposed on septic systems and a community well and at Phase 5, the intention is for the property to be annexed into the City and connect to the City sewer. Half of this park area, this proposed as public park – a portion here – would happen with Phase 4 and that's kind of the developed area of the park where they would have a tot lot and a

basketball court, trails, a picnic shelter, that type of thing. This other area of the park is more of a passive recreation, there may be a ball field or two, but is less developed than in this area. Staff's conditions contain a lot of recommendations on how to maintain that. The plan for improvement to that area, we were very excited about and supportive of the applicant's proposal and are really looking to make sure that that park is maintained. The plat does contain an RSID waiver and in addition, staff has recommended a condition that the subdivider maintain that park until it's annexed into the City. The other open areas on the subdivision are shown in the yellow, these are common area. This is a common area/buffer against the sewage lagoons at Jellystone Park. They decided to design it so that homes were not right up against that. They have some buffer along Waldo Road and some walkways coming off the ends of the cul-de-sac roads and also in-between the lots on these longer blocks. One of the variance requests is to exceed block length and one of the normal ways to mitigate excessive block length is to place a common area strip or a walkway down the middle of those blocks and staff supports that.

Commissioner Evans: Jennie, south of the park, are those lots so small that they will require the sewer in order to develop?

Jennie Dixon: No, I believe those are probably in later phases when the sewer is out there, but my understanding, given their sanitation system, is that it's on a large area basis and they have community drainfields up here and down here that these lots will be connected to, but I don't believe that the size of those lots directly affects connecting to sewer. It's really once you get to a certain number of lots.

Commissioner Evans: The reason I'm asking the question is, I hear people say, people in the last meeting, said they don't want to be in the City and to assume that they'd have to be in the City by Phase 5 or 6, whatever, I'd just as soon, unless it's required in order to get the density, that we don't throw the people to the City. That's just my feeling.

Jennie Dixon: And this subdivision is not requiring annexation, it is, at some point, requiring sewer connection and that's 5 years down the road, whatever the policies are at that time are really going to determine if it's annexed, when it's annexed, how public infrastructure is maintained and it's kind of hard to foresee that, but what we can foresee, at least, how we handle it now is that it will either be contracted for sewer and will remain in the County and they'll connect to sewer or they'll be in a position of having to annex and really, what that most directly affects is how the parks and other public use areas are maintained. The plat does contain RSID waiver, as I said, for park, but also for improvements to all the streets within the subdivision and to Waldo Road. The Department of Transportation asked for an RSID waiver for improvements out to Highway 93, be it a light at the intersection of Waldo and Highway 93 or other intersection improvements, connections, that might be made. That's a condition of approval. The Planning Board modified 5 of staff's 24 recommended conditions. I think rather than take you through each individual condition, unless during the public hearing folks want a little more explanation about those conditions, what I could do is simply explain that the Planning Board amended the requirement that the driveways – the original staff recommendation was to pave the driveways only 20 feet back. The Planning Board and applicant and staff all agree the driveways should be fully paved, and so that is Condition 5. Condition 8 was also amended, and that has to do with, there's a small little triangle of land – right there – that is proposed as park. Parks Department recommended that it be common area and the Planning Board and staff agrees, wanted to give the subdivider the option of simply making that part of the lot and not even making it a common area, so Condition 8 simply reflects that. The Planning Board also amended Conditions 17 and 18. Staff's original recommendation for these common area strips – our condition was to require 5 foot wide asphalt paths being proposed by the developer, but we memorialized it in the form of a condition, but we also asked that the subdivider install irrigation system and seed the grass there so that they are improved immediately upon people occupying this subdivision, or within two years through an improvements guarantee. The subdivider does disagree with that and would choose not to do the seeding or the irrigation, but is certainly willing to do the 5 foot wide pathways. Planning Board agreed with the subdivider. Staff's position is still probably better to have the subdivider or Homeowners Association install those improvements. The fifth condition that the Planning Board modified had to do with staff recommendation for pedestrian walkway connections on this side and this side of the subdivision. These blocks, as are many of the blocks in the subdivision, are longer than allowed by the Subdivision Regulations. As I mentioned earlier, one of the ways we mitigate that is pedestrian connections rather than roads, so we have a condition that has a ped(esterian) walkway somewhere in here to connect over to Gallatin Estates, their modified design showing a cul-de-sac in this approximate location, so getting a walkway to that cul-de-sac bulb, I think would be desirable and the applicant is certainly willing to do that. Over on this side – I think I made an error in what I gave you this afternoon. With the applicant's proposal to extend Dufferin Drive to the east, I believe we would still like to see a pedestrian walkway here. Planning Board deleted the requirement for that because they in fact said, no, we want to see a road right-of-way somewhere along here. If you go with the subdivider's proposal to extend the Dufferin Drive right-of-way here, I would ask you to keep Condition 19 in its original form in the staff report, with no strikeouts. My apologies for that confusion. The subdivision has two

No Build areas. One is along the Interstate here and it's simply a buffer from the Interstate. It's a No Build area for residences only. They can place sheds and fences and anything else in that 100 foot buffer, but they just proposed that 100 feet to keep people's homes away from the Interstate and we certainly think that's a good idea. The only other No Build Zone is a tiny little corner up here along Waldo Road where O'Keefe Creek comes under Waldo Road and heads to the west and so there's a creek bed, not really any substantial riparian vegetation, very small area of riparian resource that they've placed a No Build Zone on. One of the points of differences may be, however, that the applicant is proposing a pedestrian walkway Waldo Road, but had stopped it short of the edge of their property because of the creek and that riparian area where they've got a No Build, and staff has recommended extending the walkway to the end of their property there on Waldo Road so that the No Build Zone does not preclude placement of a walkway there.

Commissioner Evans: Jennie, I don't see anywhere, maybe it's here, you tell me if it isn't, any requirement that they follow the highway beautification standards along Highway 10.

Jennie Dixon: It's not adjacent to Highway 10 – and are you talking about Primary Travel Corridor Standards?

Commissioner Evans: Yes.

Jennie Dixon: This is not on a Primary Travel Corridor. This is Interstate 90.

Commissioner Evans: Oh, I'm sorry, I thought it was Highway 10.

Jennie Dixon: That does not have any requirements for Primary Travel Corridor Standards.

Commissioner Evans: Okay, thank you.

Jennie Dixon: Sure. The school district, Frenchtown Schools, recommended a condition to require bus pullouts in the subdivision. During the summer, the subdivider did contact the school to determine what their requirements were and I believe they were unavailable during the summer to assist them, so that needed to be made a condition of approval. Now that school's in session and people are available, I believe they would be able to coordinate that and determine the best locations for pullouts. My guess is that location may end up being along this common area here, it's along the main route, Victoria Drive, but specifics will need to be determined by the school district and then, of course, reviewed by Greg and the Public Works Department for meeting road requirements.

Commissioner Carey: Which condition is that in, Jennie?

Jennie Dixon: That is Condition 21. The applicant requested a variance from – on the three main collector roads that I pointed out earlier, that requires 6 foot wide sidewalks and 10 foot wide boulevards. They proposed 10 foot wide boulevards but only 5 foot wide sidewalks, and we were recommending denial of that variance, saying we would rather see the extra foot, meeting the full width of a sidewalk, the 6 feet, and lose the foot out of the landscaped boulevard, for 9 feet, so, although staff's recommendation on Variance 3 is for denial, it doesn't change their street section at all and it still gets you an adequate width boulevard, I believe, and a full width sidewalk.

Chair Curtiss: So, we recently had a discussion about sidewalk and boulevard width and there was some number about how much boulevard you needed for a tree.

Jennie Dixon: You know, in the years that I've been doing this, I've heard a variety, but what I've generally heard from Parks and Recreation is about 6 feet, 7 feet, plus or minus a foot is probably a reasonable size to allow a tree to grow and have a drip line, so 9 feet certainly seemed sufficient in this instance. We had our comments from Rural Fire and Cindy Crittendon was at the public hearing for the Planning Board and made some comments about concerns about traffic and as a result, the Planning Board made a new condition, what I would call Condition 27, really as the Planning Board's best attempt to address traffic concerns in this area. I think anyone who has driven out there probably would think that the biggest impact of this subdivision is going to be out on the intersection and the safety concerns there. Condition 27 was an attempt to try to solve that as best they can, at least in an intermediate fashion, because we have the subdivision across the street, Williams Addition, approved and probably soon to be platted. This Condition 27 requires that Phases 3 through 9 not be filed or platted until a stop light is installed at that intersection or an MDT preferred alternate plan is presented or another road connection is made. What that's referring to – most likely referring to – is the possibility of a road connection happening at this point, extending through several different properties, out to what would be Highway 93 North.

The subdivider is not in a position right now to secure that and we are certainly not recommending that they do that now, because they have designed a subdivision that accesses out onto Waldo and with the platting of Gallatin, would have a second access out onto Waldo. This would be a third access possibly out to Highway 93, but that's really looking ahead to the future and the condition is requiring that they either make that connection now or prior to Phase 3, or a light at Waldo. Both PCI and I contacted James Freyholtz at MDT. We were given some conflicting information and I can only speak to what I was told and I'll let PCI address what information they received. It's in your packet today on the bottom of Page 3. I e-mailed Mr. Freyholtz the recommended condition from Planning Board that I just read to you and he said that that seems like a reasonable condition and would only ask that the developer be responsible for preparing this plan, and not put the burden back on MDT to prepare this plan, as required by the condition. I believe that PCI was told that the RSID waiver was going to be sufficient, so we have a little bit of conflicting information there. The RSID waiver is included in Condition 4. Again, just for your information and the audience, that RSID waiver is saying that anyone in the subdivision has waived their right to protest an RSID for improvements that would help either make connections or safety and intersection improvements to Highway 93. The other conditions are fairly standard. I think I've explained the subdivision for the most part and any gaps I've left, I think I'll leave for PCI or the public to point out and I'd be happy to answer any other questions. I would just mention, before I conclude, that the Planning Board recommended denial of Variances 1, 2, 3 and 5. They recommended approval of Variance 4 and that variance is to allow bike lanes on only one side of those three collector streets that I pointed out. They ultimately recommended approval of this subdivision. Staff is recommending approval of the subdivision but we are recommending approval of Variances 1, 2, 4 and 5, and denial of Variance 3. The conditions – as you get to a point of making motions, if you need assistance with the conditions, it gets very confusing especially with this number and complexity of conditions. The conditions in the staff report, there are the 5 that Planning Board modified and the 3 new ones that Planning Board modified. What I tried to give you today was staff's reactions to Planning Board's modified and new conditions. One condition that I did neglect to mention and wanted to mention just real quick, that Planning Board recommended, and I really didn't have a reaction to or a recommendation for you, is this subdivision be zoned, C-RR3 by the subdivider prior to filing Phase 1. That's a new condition that they would recommend for you. With that, I will conclude my staff report.

Commissioner Evans: Your comments about that?

Jennie Dixon: My comments, I didn't put any in writing, but that the subdivision is platted in such a way that C-RR3 meets the density, but it creates non-conforming lots in this situation. There is no County zone that meets the design of the subdivision and to zone it C-RR3 doesn't fit what they're proposing. It's probably the best County fit, but I don't know that zoning this gets you anything more or less than what you will get through this subdivision review.

Chair Curtiss: Thanks, Jennie. Is the developer's representative ready?

Becky Weaver: For the record, I'm Becky Weaver with Professional Consultants. I'm here representing the developer on O'Keefe Ranch Estates. We'd like to thank Jennie for all of her hard work. It's been a long road to get to the conditions we have. We feel that she's worked very well with us and we really appreciate that for this development. In terms of the recommended motions and conditions on this subdivision, it's a little confusing. We support staff's original recommendations on our variance requests including the denial on Variance 3. We feel that denying it and changing to a 6 foot sidewalk with a 9 foot boulevard is acceptable to us. We support the original recommendations on those 5 variances. We support most of the conditions as written in the original staff report. In terms of the ones that have changed, we also support Conditions 5, 8, 17, 18 and 19, including having the two paths going east and west as was originally in the staff report. I would like to address some of the new conditions that Planning Board has recommended, including the zoning. Like Jennie said, the recommended zone does not meet what we've proposed for this subdivision, so it would immediately be a non-conforming use in this zoning, and so we don't support zoning this for that reason. I think if there was appropriate County zone that we could put this subdivision into and be conforming, it would be okay with us but because there is no such thing, we would have to either do a Citizen Initiated Zoning District or have a non-conforming use. We do not support that condition. In Condition 27 as proposed by the Planning Board and modified with comments from MDT, I'd like to speak a little bit on the history of that. When we originally sent this subdivision out for review to the agencies, MDT wrote us a letter in July. In that letter, James Freyholtz recommended the RSID. His comment at the time was, they recognized growth and development in this area in that it would have impacts on the roads. They felt that it would be appropriate, particular since we are accessing onto a County road, that an RSID to allow this development and the people who buy lots in this development to contribute to whatever solution is planned for Highway 93 would be appropriate. That was where the original condition to have an RSID waiver on the plat for connections to 93. the Planning Board had a long discussion about how they didn't think that was enough of a solution and that they felt they should force a discussion here about what kind of connections should be – what

kind of solutions should be made on Highway 93. I had a conversation with James this week about what was going on in this area, including the Running W Subdivision, which as you know, is conditioned to do a traffic impact study for their development. MDT has requested that they include other developments in the area in their traffic impact study. They are currently evaluating whether they are willing to do that or not. We have offered to be part of their traffic study, to look at what our development is doing, particularly at Waldo Road and Highway 93. Part of their subdivision is the Cartage Road connection, but since we're not currently, and it's unlikely anytime in the future that we'll have connection there, it would be mainly the Waldo Road/Highway 93 connection. They're evaluating whether they want us to be part of the current ongoing traffic impact study. We're not opposed to participating in this solution. I think we've been saying this from the beginning. We recognize there are issues here. We want to be part of the solution, however, to put the solution disproportionately on this development would be financially difficult. This condition as written, we feel, does that. I think when James evaluated this condition, he was looking at it as this was what was proposed, and he says this in his e-mail that Jennie gave you that, MDT really feels all the developers in the area need to contribute to the cost associated with this. We don't disagree with that statement at all, which is why we didn't disagree with RSID waiver. However, the condition as written, we feel puts the entire responsibility, or a large portion of the responsibility, for that connection on this development, particularly a traffic signal on Highway 93 – and so we are opposed to this condition as written.

Commissioner Carey: Becky, excuse me, so you would be opposed, even if we struck the last sentence in this condition?

Becky Weaver: I feel it could be written better. I feel the condition is asking to participate in a traffic impact study and do an RSID waiver or some other type of ability to participate in the future improvements, but having a condition that says we need to come up with a solution before we can plat the first phase. Coming up with a solution out there is probably a long process. It's probably not a year process. I can only make guesses at how long it would take. If the solution is a traffic signal, then that could be 2, 5+ years. That's kind of the issues I have with this condition, even if the last sentence is struck.

Commissioner Evans: I would have a problem with it, Bill. The reason, I see it as a catch 22. It costs money to put in traffic signals, an awful lot of money. If we say to the developer, you can't develop until there's a traffic signal in, the project which would make the money to help to pay for the traffic signal – it's just a catch 22. If they can't build, they can't make the money to help put in the signal. I wouldn't be willing to do this. I'd certainly be willing on an RSID or something of that sort, but this condition, the way it's written, is not acceptable to me at all.

Commissioner Carey: I wonder if – Greg, what if we changed “installed” to something like “approved.”

Greg Robertson: My recommendation, I would have to side with the developer's rep on Condition 27. Currently, MDT is evaluating the 93 corridor and they're obviously looking at potential to growth, but they don't have a plan right now for what will happen with that segment of highway, from essentially the overpass over I-90 on out past Waldo Road. There's been discussion of a junior interchange in the vicinity of Jellystone Park as an option, which would eliminate the need, if designed properly, for signals at either Waldo or the other intersection whose name escapes me right now – Cartage. Thank you. That may include raising the grade and changing a number a things. I don't think that they've really thought that through nor do they have a real plan in place. I would feel more comfortable with, rather than putting the burden on this particular developer, that they contribute their proportionate share. I think that's a fair way of doing it. If we were to create an RSID for any sort of improvement that's based on proportionate share, cost versus benefit, that's how the method of assessment and allocation of assessments are determined – based on benefit. I think we need to keep that in mind. This is not an isolated development. There's another big one that just got approved on the east side that is going to have equal, if not more, impact to operational characteristics on 93 and they're not burdened with the same conditions. I am glad to see that the developer is stepping up to the plate and is willing to participate financially their proportionate share, but I don't think they should be asked anymore. Just the same as the developer across the way. This is a regional system and it's not unique to one development or the other. I think the RSID waivers in place are appropriate and will do fine when MDT has made a decision on which way to proceed with improvements to 93.

Chair Curtiss: Thank you. Did you have any other comments, Becky?

Becky Weaver: I'd like to make one last comment on Condition 7 about maintenance of the park. We have proposed a large area here as public park in response to both the developer wanting to create an area for this park area – a usable park area for the Wye area in general, and particularly the subdivision, as an amenity to the area. Also both City and County Parks Departments, who were both, I think, very happy with this proposal. This is a flat usable park area. We're posing improvements including basketball half court, a little picnic area, eventually a soccer and softball field-type area to be used. We have concerns about a condition that puts the

maintenance of this park on the developer until annexation into the City. Our concerns are based on the potential for having sewer extended out to this area without annexation into the City. As the condition is written, if that was to happen, this development, the Homeowners Association would be maintaining this park for public use for who knows how long. We understand that the County doesn't have the capacity to maintain the park right now and recognize that this is a dilemma. We feel that having it a burden on just these 200 homes to maintain a park that realistically will be used by the whole area, particularly with the improvements proposed by the developer, we feel there could be a better solution. I would like to – that is all we have for now. If you have any questions, we're here and available to answer them.

Roger Hobbs: Good afternoon, members of the Commission. My name is Roger Hobbs, 2215 Raymond Avenue, Missoula. I've been a member of the community and a property owner for 25 years. I own the Smith Drug building downtown for about 15 years, now it's the Red Rooster. I'm real proud of that and we're now remodeling what's known as the Ma and Pa Second Hand Store at 500 North Higgins. We are most interested in doing what's right. When I looked at this property, and it's a privilege to work on this property with Mr. and Mrs. Johnson, I talked to Dick Ainsworth about my vision and I said, really what I want to do is a walkable, sustainable, smart community and you do that by starting out with open space. It was a requirement of mine to say that I want to have a park. My kids went to Hellgate Elementary and there were not enough soccer fields or baseball fields and I thought it was in the best interest that it be a community park versus a private park. In addition to that, I wanted to have curvilinear streets and I wanted to have walkability, I wanted to have a buffer from the freeway, which we did. Although we could have considerable more housing here by the land use plan, I said I want to have something that would be economically viable that would probably generate \$60-\$70 million dollars worth of revenue out there over the next 5 to 10 years. I think we've really done a good job. I give credit to Dick Ainsworth and his staff and Becky, and then the Planning Department, I think, has been not only very supportive, but I think they really like this vision, because I'm not just a home builder, I'm a community builder. Having said that, the traffic mitigation is important to this area. I do believe that the waiver is appropriate for the SID. I did also say to Dick that I didn't want the community – outside of our community or this subdivision – to be responsible for traffic mitigation because we're bringing in the new community and I don't think it's appropriate that the people that live there now are required to participate in the signal, even though it mitigates traffic in that area. That was one of my suggestions. In working through the park issue, public versus private, generally, in a community like this, we build the park and we give it to the homeowners. We dedicate it to the Homeowners Association. The unique challenge here is that the original concept was that it be a community park, but there is no mechanism to support the maintenance of the park. I think there needs to be a mechanism that it is a private park initially and it's a Homeowners Association maintained park, and there may be a mechanism wherein that if it's annexed or if the County wants to take it over, there's a mechanism that it can be conveyed to the County or the City. We don't know how to make that really happen. I think it initially it needs to be a private park. Now I say a private park, you have public streets, so people can access it from the community. It won't have a sign that says this is a private park. Well, I don't know that – maybe the Homeowners Association might determine that. Anyway, having said that, we met with the Mahlums a number of times, the Johnson's have been very supportive of the project. We appreciate the staff's recommendation. We're in agreement with a few exceptions and I would like to introduce Dick Ainsworth now to talk about those and clarify those. Are there any questions of me?

Chair Curtiss: I have one. We also have been, since we were briefed on this on Monday, trying to figure out the park. When we met with the County Attorneys this morning, as we always do on Wednesdays, we talked about what mechanism could we use. The idea that we came up with was to create an RSID for park maintenance – this is just basic park maintenance; this is water, grass getting mowed, that kind of thing, before the final plat approval, so that the maintenance RSID is in place before all the lots are sold. But in a proposal to do such a thing, you can request or propose that there not be assessments for the RSID until the park is built. We thought that that might be a mechanism that gets the maintenance in place, but doesn't start charging you until there is really a park there to be built and some lots.

Roger Hobbs: That seems equitable.

Chair Curtiss: Maybe we can help figure out how to do that in a little bit.

Roger Hobbs: Any other questions? Thank you.

Dick Ainsworth: For the record, my name is Dick Ainsworth. I'm with PCI and I'm here representing the developer of this property. I guess really only a couple of things that I would add to what Becky and Roger said. One thing – and I'd like to thank Jennie also, we've spent a lot of time working on this and I think we've come up with a nice plan here. One thing that I don't think maybe has been emphasized enough here, is the existing Comprehensive Plan that's out in that area. From Waldo Road to the south and surrounding the Wye is the Wye-

Mullan Plan that was adopted, I think, in 1979, if I remember right. It shows this area, starting up in the northwest corner and tapering as you go down towards the Wye, at being between 2 and 18 units to the acre. We're about 2-½ to the acre, so we're at the very bottom end of the density that's proposed by the Wye-Mullan Plan. It's not zoned that way, but that's the Comprehensive Plan that's in place. I'm sure you'll hear from a lot of folks that are here tonight, because we heard from a lot of them from our neighborhood meeting and at the Planning Board meeting, primarily that lives to the north of Waldo Road that's outside of that Wye-Mullan Plan, that they think this is too dense and is not an appropriate density. It does meet that plan and is really at the bottom end, density-wise, of that plan. Most of those folks, at least that were at the neighborhood meeting when I pulled out the Wye-Mullan Plan and held it up and showed them what the plan was, were all astounded that any such plan even existed for that area and had no idea that the County had planned that area for densities that high. Again, another thing that's a little misleading about the plan is the scale of the map and the size of the piece of property. We heard, particularly at the Planning Board meeting, a lot of people that referred to this as being another project similar to what Perry Ashby has done out by the airport. These lots are between two and three times the size of the lots that are in Canyon Creek, I guess that one's called. This isn't that type of a development. The density out there is about three times the density that we have here. It's a big piece of property on a small map and so the lots all look like postage stamps, but they're all 8,000 to 9,000 to 10,000 square foot lots, they're nice size lots. They're not at all the kind of development – I'm not saying that there's anything wrong with the kind of development at Canyon Creek – but it's something that the folks out there said, boy we don't want to see another one of those. This isn't another one of those. It's not intended to be that way. Roger addressed the park, I will also a little bit. We're giving over three times the amount of park area here that is required by the regulations. Roger also said up front that – he repeated that tonight or today – that he wanted to get the park kicked off, if you will, and let it start to be a park. As you know, many of the County parks are kind of weed patches because the developer is only required to set aside the land and no improvements are done and you don't have the department or the funding to improve those. So Roger went to the expense of hiring a landscape architect, Kent Watson, said would you design us something in here that would be something that would get this park started for the community, and he's willing to pay for that at the point in time that that piece of park is dedicated or created as a common area, however it gets done. He's kind of gone the extra mile to really try to create a centerpiece to this community out here and I think that is something that didn't get mentioned enough. I thought of something as I was talking and it fledged through there and it's gone. It may come back. I think Becky did a good job of going through the rather confusing conditions that you have before you, as did Jennie. I guess as you get into considering those, we'll be happy to discuss them with you or answer any questions that you might have.

Chair Curtiss: Thank you, Dick. This is a public hearing, is there anyone else who would like to make comment?

Tom Mahlum: Commissioners. Tom Mahlum and I'm representing the Jellystone Park and the Mahlum Meadows Homeowners Association. Just one thing to put on record, that our neighbors, Larry and Laura Johnson, are great people and I wish them all the luck in this development. I do have a couple of issues that I'd like to have addressed. One is one that looked like it was a rather hot topic, which are the road issues. I think there's really no great solution to that right now, but I would like to make sure that underneath the condition of approval, that somehow we get something resolved with access, either possibly Interstate access or possibly access on that Merit Drive or any other logical choice, to somehow get to the Interstate or US 93. They have a good plan of getting out of the park, but unfortunately, both of those roads or all three of those roads will end up at the same corridor, which is Waldo Williams Road, particularly this summer. I'm actually involved with the Frenchtown Fire Department and we talked about this the other night, with the wildfires that we had on the Interstate, and that was an issue that was actually brought to our attention. There is no access road except for those Waldo William Roads, to get out of there in case a fire did come down off the Interstate, like it did happen this past summer. There's got to be another access that we could have an easier access in and out of that project, to prevent any problems. I feel for Greg and the Montana Department of Transportation, because it is an issue. I really think that underneath the conditions of approval, something has got to be written in there solid, that will take care of those issues 2 to 3 to 4 or 5 years down the road, particularly if this gets build out all the way to its existence. That's a major issue and you'll hear the rest of it, I'm sure, later on, there will be some other people commenting on that. The other issue is, I like the surroundings around that lagoon, Jennie, but the problem is – you might be able to answer this question – is it built up? Is it a berm or is it just – how high is that berm around that lagoon?

Jennie Dixon: To my knowledge, it's not bermed, but I would have to confirm that with the subdivider at a later time.

Tom Mahlum: I would recommend, as I'm out there quite a bit at Jellystone Park, unfortunately those houses that back off into that lagoon, their backyards and their upper view windows will look right into that lagoon, unless there is a large berm established along the perimeter of that lagoon. I can see what will happen to me when these houses are built – and I'm assuming they will be very nice houses – and they were going to be nice house

we're assured – but I don't want them coming to me and complaining to me about my lagoon. I think it would be underneath a condition of approval to make sure that the berms are adequate around those facilities, those water treatment facilities. Berm #2, if you look at Mahlum Meadows – when you come into Mahlum Meadows right off the Frontage Road – and I go with Dick on this deal, I developed this 3 or 4 years ago and I had to fight to not have 6 to 7 houses per acre. I said, no, I'm going to put my name on it and we're going to put one acre lots because I'm not going to get harassed by the neighborhood. It was a tough issue. They want high density out there. There's no if, ands or buts. We're in the same Wye Comprehensive Plan, but we went with one acre to go with the rest of the estates out there and make it look great. We've got some beautiful homes going in out there. To protect the integrity of those homes, I would also recommend that on that boundary line between the proposed estates – O'Keefe Creek Estates and the Mahlum Meadows, that there is some sort of a berm that will be established along the length of the perimeter – right there, when you turn, there's Mahlum Meadows and there's the proposed development right next to it. They are just backed right into each other. This berm would be established. They'll have a tremendous amount of soil to work with because they are going to be doing a lot of cut and fill out there to put their roads in. Issues of bringing in material would not be an issue. They would have enough material to make those berms. Those berms I would recommend would be not just a clump of dirt. I know Roger wouldn't do that, they would be in there first class because he just acknowledged that landscaping is a huge issue and he will do that. I would recommend that those be planted with trees and either put in there with some sort of native soils and then put in some resistance grass in there for the boundaries. I would recommend right in there, just to cut that boundary down. The other one that I mentioned earlier is a lagoon system, which is right in there. There are houses right on the corner of that lagoon, right there. So I'd recommend that a berm be established around the whole perimeter of that lagoon, so that when the people come knocking on our door and say – how the heck did that thing get here – they won't have to worry about looking at it. That's my recommendations on the set up for the berms. Point #3, the last thing I have – this has been a long meeting, but I just have to make sure you guys know this, is that for the last 10 years at Jellystone, every late fall and early spring, there is a ritual. It's called the "Gun Club." I want to make sure that those guys realize that there is always be shooting on Tuesday, Wednesday and Thursday. I just get a little bit of it because we're closed, but believe me, they come running down to the office thinking that we got a World War going on. It is right across the street – the Gun Club is right over here and the development is right there. I just would make sure that the developers would acknowledge that in the Buy-Sell, that there could be some potential evenings of arrest. I appreciate the opportunity to talk to you guys. Thank you.

Commissioner Carey: Mr. Mahlum, while you're there, can I ask you a question? What about the new Condition 26, establishing a 64 foot wide public right-of-way extending Dufferin Drive for future road connections to Highway 93. What's your reaction to that?

Tom Mahlum: Well, we have not – we have talked to them, but as of right now, basically, we would not go forward with that. So in my eyes, Merit Drive is a dead-end. Merit Drive is right there, that's one of your access points to get out to 93. That's one of your key points to get out, to get somewhere besides the Frontage Road.

Jennie Dixon: Were you going to clarify? I think Bill was asking – Dufferin, which is up by your sewage lagoons.

Tom Mahlum: Oh, Dufferin. I have not seen anything –

Commissioner Carey: Condition 26 –

Tom Mahlum: I don't have the conditions of approval on that.

Chair Curtiss: So it's proposed as a future access point, if and when the property on your side of the fence decides to change its use and the lagoon may go away. So it wouldn't ever be used until that point.

Tom Mahlum: No, like I said, I have not had a chance to look at Condition 26 on that, to see where that is going.

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

Scott Garr: Hi Commissioners, my name is Scott Garr. I'm a land owner to the north of the subdivision and I was at the last meeting and we have – there were some things brought up and some things have been brought to my attention since then. One of the things that seem to bother me more than anything else is water usage out there. We are in an area of – and I know people are going to say, well we're working on this alluvial fan and the Missoula Aquifer – but just a real simple – if those houses in there, were 200 of them in there and they use only one gallon of water an hour, it would be 5,600 gallons a day, if they only used one gallon. I know my kids flush the toilet a heck of a lot more than that and we have an agrarian community out there with multiple water wells

that we do work on our places. We're in the areas of larger acreages. This is down stream from us so I do know that if you take 100,000 gallons of water a day out of anything, it's going to be degradation. My concern on that is, first of all is the water quality. Also, their well is below the lagoon at Jellystone Park. I'm a little bit worried about that for potentials down the road. I know a little bit about geology. I'm certainly not a hydrologist, but that really concerns me. School impact, putting 200 families in this – I got to say this right, I don't mean to come across wrong, but in a financial situation we're putting 1,000 square foot homes, there's going to be 2.4 kids, American dream, hitting the Frenchtown School system. My report that I heard was, this isn't going to adversely impact the school system. I know when you impact a school system with a family, it makes a change. I know the school system is overburdened and this year the school bus system alone has added three new buses just in our area. That and the road condition and all of these things are working together here, I don't believe this has been well thought out enough yet to really pay attention to, not only the family and the degradation of our size of properties out there, but the safety factors. I think the safety factors – I've been a practicing physician for 31 years and water quality is very, very, very important to me and being able to use – we have horses and cows and all kinds of things in that community out there – taking that kind of water out of there, it really does concern me and I would really like to see some report factors and some checks. I understand that 272 gallons a minute is what the well produced; the first hole was dry, so that's part of the thing. And then, also, I don't really consider the big – I'm not knocking the plan at all – but a 10 acre underground lagoon called a "drainfield" and that becomes a park, to me is really not benevolence – I'm going to gift this park to you when that is going to be the sewer system for all of these 200 homes. I've got pages and pages, but I'm not going to waste your time. I just think that this thing really needs to be thought out a little bit higher. I applaud you and your program, Dick and Tim and everybody else who has been working on this thing, but there are some concerns there and I think they're real concerns and I think I speak for a lot of people that I've talked to out there too. Okay. Thank you very much.

Chair Curtiss: Just so you know, the State law specifically states that we are not allowed to make a decision based on impact on schools. It's a goofy thing in the law, but it does say that.

Commissioner Carey: Or water.

Chair Curtiss: Or water. We don't make the decisions based on water, that's DEQ in the Health Department. The other thing that we've found in the subdivisions that we have been approving in the last several years is, while we would like to think there are 2.4 kids per house, that just isn't what's happening right now. Any other comments?

Larry Burg: I'm Larry Burg. I'm representing the Meadows West Homeowners Association. The Homeowners Association has approximately 166 members in it, north of this proposed subdivision. We do not want to be involved in any RSID. We have one already – two already – going for O'Keefe, Toookie Trek and the others and homeowners – they're going into effect next year. The Association does not want to be involved in any, whatsoever, RSID. None. We already have people moving out of the area because they can't afford what's going in right now. The other thing, I understand that you can't regulate the water and stuff out there, to these subdivisions, but I – taking that kind of water out of that end of the valley is going to hurt a lot of people up at the other end. I know houses up there, north of this right now, that are just barely squeaking by. Then you got Inderland right across the road, people don't even have water in their houses. You're talking about the density. You've got houses or roads in there where people don't even have a place to park their car on the road. I think that this proposed subdivision, it says, squeak in all the houses we can. That's all I got to say. The Association does not want to be involved in any RSID's. None. We've got what we want and the Association won't be involved in any others.

Chair Curtiss: Thank you, Mr. Burg. Anyone else?

Mark Brown: My name is Mark Brown. I live in the Mahlum Meadows development and I do have some serious concerns about this project. Density issue – O'Keefe Ranch Estates are planning to build 200 homes on 46.8 acres of buildable land, which equates to 4.3 homes per acres. Many lots are less than 100 feet by 100 feet. An example of a lot size is 66 feet by 88 feet or 5,808 square feet lot. The only possible outcome is a cluster of tall row houses set on top of one another. I do believe that there can be some comparisons drawn between this development and the Canyon Creek Development off Expressway. The lot sizes at Canyon Creek are 46 by 101 for 4,500 square feet per lot. This type of development in the country is not appropriate for this area. Issue of infrastructure and public safety – Waldo William Road is a narrow road with no shoulders, sharp curves, dips and rises, which makes visibility an issue. It is a dangerous road presently, that sees a high rate of accidents. There is a need for right and left-hand turn lanes and bus pullouts. Waldo Williams is a major bus route for the Frenchtown School District. There is also the issue of Waldo Williams and Highway 93. The O'Keefe Ranch Estates claims they will impact Waldo Williams Road with an additional 1,600 vehicles a day. Presently, there is

not the proper infrastructure to handle this increase in traffic. Also there is no secondary entrance or exit out of the subdivision. You presently show only one in and out and that is on Waldo Williams Road. Do the developers have an easement or have they secured land to have an exit onto Highway 93? There are public safety concerns with traffic flow in and out of this development. Do the fire and police department have concerns with only one entrance and exit? Can they respond quickly if there is an emergency? I think these are questions that need to be answered. Water and sewer issues – Have the developers filed an application for beneficial water use? How will it affect our wells? There are some serious concerns about water in our area. There are several neighbors in the Meadow West area that have lost their water. The County has its own well, which is located in the Meadows West Development, that serves 44 homes up at Fred's Lane. O'Keefe Ranch proposal implies that the test wells verify an adequate source of water for their development's public water system. The well log for the first test well drilled out at this site was at 200 feet deep; reported no usable water encountered. The second test well was 280 feet deep; reported 30 gallons per minute. O'Keefe Ranch Estates plans on using 277 gallons per minute to sustain their subdivision. The draw made on the water table to supply this subdivision has the potential to negatively affect all current residents in this area. From the well log description, the available water in the test well is from 157 feet to 238 feet, a level that supplies the majority of wells in this area. The Park RSID for surrounding land owners – those of us with acre or multiple acre lots have invested a large amount of time and money into landscaping our own property. We at Mahlum Lane have our own subdivision park to develop and maintain. It would be grossly unfair to include my area, or any area in the area, in an RSID for the creation, maintenance and liability of a park I will not use, nor can I afford. In summary, I know the developers will stretch their requests to the maximum of the law. We only have to look no further than the Mullan Road, and all its subdivisions, to see time and time again, when leap-frog development causes problems and concerns. It's too much. It's too fast. It's too soon. It's too far ahead of the infrastructure like roads, water and sewer. You, the County Commissioners, have the discretion to adjust this development to suit this area. Allow one home per acre. Protect our existing country atmosphere. Protect the groundwater. Protect us from an unfair park RSID. Let's have the proper and appropriate infrastructure in place before they develop. Thank you very much.

Commissioner Evans: I'd like to ask you a question. I'd like to ask you folks who don't live in this proposed subdivision where you get the idea that you might be included in an SID for this park. Where did you come up with that idea?

Jeannie Brown: Jennie sent us a memorandum, by certified mail, that filled everybody in that there could be an RSID, that the developer suggested an RSID for all of the Wye West residents to help maintain and pay for the park.

Chair Curtiss: If we approve an RSID with this subdivision, it only applies to the subdivision. In the future, if there's things that happen along there, like improving Waldo Road and different things, you could be asked to join, but you have a right to protest at that time.

Jeannie Brown: Okay, thank you.

Chair Curtiss: Anyone else who wants to make comments? Go ahead.

Jeannie Brown: I just wanted to ask the planners, could they tell us exactly what the smallest lot size is? We were looking with a magnifying glass on that plan, and it's 66 by 88, I believe. When they say 2.5 homes per acre, isn't it in fact, on the bottom left corner where it says, lotted land is 48.6 acres, correct. So that would be 4.3?

Chair Curtiss: When we do density, it's based on the total land involved.

Jeannie Brown: I see. Okay, thank you.

Chair Curtiss: Dick or Becky, would you like to respond to the question about smallest lot size.

Dick Ainsworth: Dick Ainsworth. I'm going to have to go up and look at the map up there. We don't have one that has the lot sizes on it, with us, that's large. I believe our smallest lots are right in here. That one is 6,900 square feet and I might be mistaken because – here's a 6,400 square foot. These lots, I might mention, are original design on this. These were some of our larger lots. We had a couple of cul-de-sacs that came in here and served these. The Park Department asked us to redesign this area, because they wanted to have more street frontage on this park, and so they asked us to get rid of the cul-de-sacs. We added some length to this street. We made these lots smaller than they were, they were probably all 10,000 or 11,000 or 12,000 or

something like that. We redesigned this at the Parks Department's request. Some of these, I see a 6,900 and I see a 6,400 square foot. Those appear to me to be the smallest ones. I might have missed one.

Commissioner Carey: Dick, for the record you are referring to those dozen or so lots that are south of, what is it, Bedstraw Loop?

Dick Ainsworth: South of the park, Lots 74 through 85, I think are the smaller ones; 145 is about 6,400 square feet in round numbers.

Chair Curtiss: Thank you, Dick. Dick, do you know anything about the question that Mr. Brown asked about beneficial use permit for water?

Dick Ainsworth: I'll let Becky answer that. Becky's our geologist.

Becky Weaver: For the record, Becky Weaver, Professional Consultants. I'd like to address the water issues that have come up. I was involved in the initial investigations we did on this site. I am a hydrogeologist; that's my background, so I do have a little bit of experience in that area. A lot of the comments we've received from the neighbors today have centered about – they think we're going to impact their wells, there's wells going dry. We did drill two wells as Mr. Brown stated. He gave you what we got; one was dry. It was drilled up by O'Keefe Creek. In response to both our general knowledge of the area and also comments from the Water Quality District, Mr. Jon Harvala, we drilled closer to the highway, the Interstate, which is farther south, and the reason we did that is because the Missoula Aquifer, which is a very prolific aquifer, following the river, the south portion of the property we knew would be closer to that aquifer. It was our hopes, that when we drilled the well, to hit that aquifer. We hit about 30 gallons per minute in our test well. I think someone said that we said that we said that we got 272 gallons, that's not true. We never have claimed that or intended to claim that. We feel we can get enough water from properly developed production wells in that area to meet the needs of this subdivision. We understand and are fully aware of the process we need to go through, including water rights, the process that the DNRC has including their new rules, which when you look at water rights, looks at impacts on the adjacent area to the production wells, including how much – they have rules that allow you to draw down neighboring wells by a very small amount, I think it's less than a foot, it might even be a tenth of foot. We will go through that process if we develop production wells on this site. We know we have to go through it. We did what we felt was adequate investigation of water resources on this site, to make sure that we are comfortable that we could do this development and still, and not impact or not be in that low yield aquifer that all the neighbors are to the north. We feel comfortable with what we've done, that is true, knowing that this will all be evaluated by the appropriate State agencies, the DEQ and the DNRC, in that process. I think someone mentioned a concern that we had put our wells down-gradient of the lagoon. The location of our wells is going to be significantly south of the lagoons. I don't think they're down gradient of the lagoons. I haven't looked at the water flow direction in this area in detail, but my guess is it's to the west, and we don't feel that's a problem. Again, we will go through a source water assessment when we develop this public water supply. As part of that, the DEQ will evaluate up-gradient contaminate sources, including the lagoons. Water quality – there is very little chance that a subdivision located down-gradient of wells will impact water quality up-gradient, so our drainfields will be located down-gradient of those people's wells, who spoke here today, including the ones in Mahlum Meadows. The chance is very small of us impacting their wells, either by our public water supply system or our initial proposed drainfields. Mr. Garr said that we are going to have a 10 acre underground lagoon. I'm not sure where he gets that idea. A drainfield is a very different system from a lagoon. The level of treatment is different, how sewage enters the system is different, the treatment at various phases are different. In addition, we will not have a 10 acre parkland lagoon. The drainfield – and I haven't done the exact numbers – my guess is probably a third of the park area, and that's both primary and replacement numbers in there, so it's not – what we show as proposed drainfield, wouldn't be 100% drainfield, 50% of that would be drainfield. If you have any other questions on water quality, I'd be more than happy to answer then.

Chair Curtiss: Becky, could you just clarify. You're planning to have a community water system, you will have community wells that serve the folks, not each individual house will have a well?

Becky Weaver: Correct. We are proposing a community water system to serve all 200 of these; however, we are also designing our system to Mountain Water Company's design standards, including hydrants, so that if their system is extended to this area, we can connect. We feel we're comfortable with what we've done, that we can develop a system just for this development. However, we are also open to either connecting to their system without developing wells, or developing our wells and adding our wells to their system, if they choose. That remains to be worked out. The discussions are ongoing in that, how that would work, to this area.

Commissioner Carey: Does the same hold true for a public sewer when that comes? Are you going to be prepared to hook up to that as well?

Becky Weaver: Yes. Our first four phases are designed for on-site septic and the collection system is designed so that when sewer comes out – the current plan for that area, it's just a plan, has a lift station located either on our property or potentially, if Gallatin Estates joins the sewer district, on their property. We have designed all of our sewer mains to basically drain to an area where a lift station could be put in. So it would just be a very simple matter of connecting, in the park area, those systems to a future collection system to a lift station.

Chair Curtiss: Thanks. Any other questions for Becky? Thank you. Is there any other public comment?

Dale Mahlum: For the record, my name is Dale Mahlum. I only have a couple comments to make. Becky was talking about the lagoon system and their water system. Becky, I can assure you that our lagoon system, when it was built, it had a special heavy duty liner put into it. That liner has another 25 years guaranteed and there's not a cup of water that comes out of that lagoon system. So you can put your well any place you want and you won't have to worry about it. It won't degrade your water system at all. The other thing that I would like to bring up – and in all probability, it probably can't happen – but I would like to ask Mr. Hobbs, I'd like to ask Mr. Ainsworth, if it would be possible to make the lots a little larger from Lot 52 through 63. These are the lots that go right along Mahlum Meadows, if you can see up there; 52 down to 63. What I'm talking about there is, you have awful small lots and the lots this is adjacent to, Mahlum Meadows, are all full one acre lots, and it would be aesthetically pleasing to the people who live in the one acre lots, if they didn't have that real small lot right behind them. If there's some way they could make those few lots a little larger, for the comfort of the people who would be living on the one acre lot. I don't know if that's possible, but I would like to put that in their mind. Thank you.

Chair Curtiss: Thank you.

Jeannie Brown: Jeannie Brown. This, too, is probably something that can't be – just asking. Is there any way to be assured, through the testing that they said they have to go through to the State for the water rights, to make sure this does not affect senior water right holders? Is there any way to be sure that all of that testing is done before they start any of this development? From what I've heard, Fred's Lane was started, the Sunset West Division, without that water system, a real guarantee in place, and we ended up with the well on George Cates – which I lived on just seven months ago – with a well that the County put in to pump water up to Sunset West. I hate to see that happen again. I just was asking if there's some way that that could be – before anything can be started, that that well is guaranteed. I don't know if that's a process or not.

Chair Curtiss: We'll have them answer that question too.

Dick Ainsworth: Dick Ainsworth again, with PCI. Maybe to answer Dale's question first, from just a brief conversation with Roger, I guess, we can see, going along that one boundary that you spoke of – maybe taking 2 or 3 lots out of there and making the rest of them – if we dropped 2 or 3 lots around here and expended the other ones. I wasn't sure and I was going to address – Tom talked about a berm along here. We had not proposed a berm. We had proposed to buffer that with a lot of landscaping and trees. It shows in our landscape plan that's in our submittal. I think that that would serve as well as a berm and we would do the same right along here.

Commissioner Evans: Right along where?

Dick Ainsworth: Well, I'm not sure exactly, because I couldn't see where Tom was pointing. I know he was talking right here.

Chair Curtiss: So all along the common area between –

Dick Ainsworth: This is the lagoon here, buffering that is certainly – we intended to do that with trees, yes, certainly. Dale was just pointing to this line and if you build a berm along there, by the time you berm the back of that you're going to reduce the usability of those lots significantly. Again, I think we can do trees and buffer along here and would be willing to do that, as well as, let's say, taking 2 or 3 lots out there and making them larger. A berm, particular here, isn't very practical. We intended to buffer this always with landscaping. We show that in our landscape plan that's been included.

Commissioner Evans: So let me ask Roger and Dick a question. Around the lagoons, where the green area is and further on that kiddiwampas area, I would personally like to see it bermed and landscaped so that the folks don't have to look at the lagoons. Trees – some of them live and some of them die, you can see through them. I

would prefer a berm around it. If you're willing to do that, I would make that part of my conditions before I would approve.

Dick Ainsworth: Part of the problem that you get to, particularly over here, there's a drainage that runs down through the lagoons and then down through the park like this, so the lowest part of this entire piece of property is right there. These lots here are up on a bench, they're elevated above this common area and above this lagoon. You could build a 5 or 6 foot high berm right here and from a house over here, you're going to look right over the top of it and see the lagoon anyway.

Commissioner Evans: 30 foot fence!

Dick Ainsworth: Of course there's already a fence there. One thing I was going to say, when I was listening to Tom talk, and it doesn't mean that people might not call up and complain about looking at the lagoon, but the lagoon is there today. When I go out and buy a lot or a house out there and stand on it, I can look right there and see the lagoon, so it's not as if their lagoon came along later and I could say, "I had no idea there was going to be a lagoon here when I bought this house." If that's the case, you didn't look out the back window. It's there today so when you buy the house, if you are looking at those houses and don't like them, because the lagoon is there, then you shouldn't buy that house. Along here a berm, Barbara, really isn't going to do you any good because of elevation.

Commissioner Evans: And I didn't realize that it was elevated.

Dick Ainsworth: I realize that. That's kind of the case here too. This road is probably – of course, the lagoon is kind of in the low spot – this road is probably 6 or 8 feet above the lagoon, so I'm not sure that a berm along here is going to serve the purpose that you're trying to accomplish there. That's why we were going to landscape it. Our thought was with Spruce trees or something that all the leaves don't fall off of, so that it's a screen year around, instead of just when there's leaves on it.

Jennie Dixon: By the topo(graphic) map, it appears that the road is about 10 feet higher than the lagoon.

Dick Ainsworth: It seems like there was another question.

Chair Curtiss: There is. The one about, will the water issues be addressed before the work starts on the subdivision.

Dick Ainsworth: Oh, yes, absolutely. The process with a subdivision is – the review process of any subdivision is sort of two-fold. It's the County subdivision review, which is what we're doing now, and then there's the DEQ review, that reviews health issues and it reviews them from a sanitation point of review and treatment of sewage and it reviews it from a water quality and quantity point of view. In a case of a community water system, we have to – as Becky indicated – we have apply for and get a permit for water rights. Any well that takes over 35 gallons a minute, requires you to get a permit to get water. All of those things have to be – we have to have DEQ approval before we can file a plat, before we can build house #1 out there. We have to go get all of those approvals and completely design the septic systems, completely design the water system, have done all of those test wells, have pump tested them, have submitted all of that information to DEQ and have all of those approvals in place and their written approval, before we can file Phase 1 of this plat and build any houses out there. So the cart doesn't get ahead of the horse.

Commissioner Evans: I have one other question for Greg and for Dick. Where it's suggested that there could, at some point, be a road, but there isn't now and may never be, are you planning to put a turnaround of some sort there?

Dick Ainsworth: Isn't there a condition in there, Jennie, I don't remember the number, I believe there's a condition in there that one be provided.

Jennie Dixon: It's the first one or two.

Commissioner Evans: There is one.

Jennie Dixon: Condition 2 – Merit Drive shall not terminate in a dead-end and would have a sufficient turnaround reviewed and approved by Public Works.

Commissioner Evans: Okay, that takes care of my concern there.

Dick Ainsworth: A little bit more explanation maybe on the proposal for an extension of Dufferin here. The Planning Board thought, and probably rightfully so, that Jellystone Park probably won't be there forever. Some other use may come in there. Or if the City Sewer comes out there, they may decide to get rid of their lagoons and connect to City sewer. It's a long time, but the plan for the future, we need to plan a long time ahead. So the Planning Board had thought we ought to have a road that would come in here somewhere, potentially to connect. What we had thought, since Dufferin is going to be a collector that would go through over here through Gallatin Estates, that maybe we should make a potential connection right there and it would be one of those easements that happens only if the lagoons go away and/or Jellystone Park goes away or both and would be an opportunity for that collector to go through and connect through the Mahlum property into whatever goes on over there. That was a proposal that was made after the Planning Board and we discussed that with Jennie and she thought it made sense. We probably should have thought about it originally, because it does make sense, to us anyway.

Commissioner Evans: So are you suggesting an easement?

Dick Ainsworth: That's a condition that's in here.

Commissioner Evans: Okay, what number is that?

Jennie Dixon: 26 on Page 3.

Chair Curtiss: In the one that you handed out today?

Jennie Dixon: Yes.

Chair Curtiss: Anything else that you wanted to add Dick?

Dick Ainsworth: No, I don't think so, unless you have some other questions.

Commissioner Evans: The other point I would like to ask you about is, are you planning to do something to let the folks, perspective buyers, know that it's a noisy place out there from the Gun Club, so that somebody doesn't purchase unaware. I see Roger shaking his head, yes.

Dick Ainsworth: Yes.

Roger Hobbs: Madam Commissioner. Roger Hobbs. We will put a condition, not only in the CCNR's for disclosure, but also in the Purchase and Sales Agreement for that. We're more than willing to add a condition that would state that we would appropriately screen the lagoon with a berm, landscaping and/or both. We're pleased to do that. Again, we look at it as each homeowner and each lot, we want to have the best lots we can and therefore, if it's appropriate to screen or buffer, either for noise or for odor or for what might be bright lights, we orient the project that way, including solar orientation, I didn't mention that. We looked at solar orientation in this too for the house that –

Commissioner Evans: Do we ever get any sunshine here? I'm sorry Roger, I couldn't resist.

Roger Hobbs: That's alright. It's just part of my training.

Commissioner Evans: Sorry.

Commissioner Carey: I have a question for Jennie. Fish, Wildlife and Parks was concerned about runoff into O'Keefe Creek; they sent a letter to that effect. Did you deal with that?

Jennie Dixon: They sent their letter 12 weeks past the deadline for agency comment and I received it on the date of Planning Board. I've had the discussion with them about lateness of comment and how I can use that in the review, but in talking with the subdivider and looking at the comments from Fish, Wildlife and Parks and discussing it with them, they felt that it was sufficiently addressed in the project proposal.

Commissioner Evans: Greg feels the – I see him shaking his head, yes.

Commissioner Carey: Thank you.

Chair Curtiss: Greg nodded yes. Any other public comment?

Laurie Frasier: Hello. I'm Laurie Frasier and I live off George Cates there, 9890 Lees Lane. We did get together a petition and maybe this will help Dick and Jennie and Becky and the Johnson's and the Commissioners, to understand exactly where we're coming from on this. Maybe it will just help everybody to meet each other half way and to see what we could do to help each other out, because we are neighbors there. I personally, the last five years, have loved the five years I have been on Lees Lane and I would like to keep the integrity of that neighborhood and the people out there are amazing. It's just been wonderful to raise my children there. I do have a problem with the Frenchtown Frontage Road, it doesn't have any shoulders on it, very narrow. About everybody here has a grandkid or a teenage driver and I just cannot imagine what this is going to do to that with my high schoolers driving to the high school. I mean, there was three accidents last week in that area and I am very concerned about that. Any ideas would be greatly appreciated.

Chair Curtiss: Would you like to highlight some of the things that you have in the petition there, for the record?

Laurie Frasier: Sure. The first one is the Frenchtown Frontage Road, also known as Waldo Road, is the only entrance or exit to the development. Public safety on this over-used road is a serious concern. We feel a secondary road is not the only answer to this problem. Number 2, the development is not in harmony with the surrounding areas. Number 3, at the MCPB hearing October 4, 2005, PCI should not say how the park would be maintained. One idea was to RSID the properties. I guess that you already said that we would not be RSID'd, so we could cross Number 3 off. Number 4, PCI does not have their water supply finalized. To date, there have been only two wells drilled. One well is dry and the other has 55 gallons per minutes. The water output for this development could drain the aquifer. There is also the issue of wells being at the tip of the aquifer. These are some of our water concerns. Like the two people that live behind me, their wells have gone dry. Living in an area where the wells have gone dry is very, very scary for people. I hope that they can understand where we're coming from there. The water out there is not as prolific as what they may think. Number 6, we feel the developers need to have the road, water and sewer totally approved before going any further with the project. That would be great for our peace of mind. Number 7, we also feel there wasn't enough sound information about the impact on the schools, fire department and police department. Number 8, we appreciate the fact that MCPB suggested the subdivision should be zoned for permits and review. We do appreciate that. That does help our peace of mind. Is there any way that we could follow that, as homeowners in that area. Could they send out a newsletter, even to one of the people in the subdivision, so that we could all hear if that's being followed.

Chair Curtiss: I think the one thing that was pointed out is the zoning doesn't really fit this proposal. What Missoula County has now added is building code enforcement, that, by the time they start to build, should be up and running. There will be some oversight of how houses get built.

Laurie Frasier: Okay. That would be wonderful.

Chair Curtiss: So if you would like to hand one to the secretary. Thank you. Any other comment? Don't be shy because I'm going to close here pretty quick if you don't come to the mic. Alright. We'll close the public hearing and start the Commissioners' discussion.

Commissioner Evans: I'd like to ask, in regards – and if it's here, I'm sorry, I haven't found it – in regards to the 10 acre park, what kind of irrigation are you planning to put in? Underground irrigation that will be put in with the park? Roger shakes his head, yes. Thank you.

Chair Curtiss: Dick is coming to the mic to answer.

Dick Ainsworth: Dick Ainsworth with PCI. We are proposing to put in improvements only in a portion of the park. The little piece that sits right in here, which is a couple of acres. Yes, that's going to be installed at the time we do those improvements. It's going to be underground irrigation. There's a park plan in the submittal. The rest of that park, we are not planning to do anything with at this point in time. We're going to do some leveling so they can play football or soccer or something out there, but we're not planning to put an irrigation system in there. We're not planning to do anything with the rest of the park, other than some weed control.

Commissioner Evans: The concern I have is, this is being presented as a very nice 10 acre park, all kinds of green and everybody will be real happy with it. But, you know, it's been my perspective that unless there's irrigation, pretty soon it's just nothing but dry weeds. At what point and how are you proposing that the remainder of the park will be watered and grassed. Are you suggesting that the Homeowners Association will do that?

Dick Ainsworth: That's correct. We're giving them about a 2-½ acre jump start over and above what's required by the regulations. Regulations don't require us to do zip.

Commissioner Evans: And will the covenants – is that how you will see to it that that's done? How will you see that it gets done?

Dick Ainsworth: It's up to the Homeowners Association. If the Homeowners Association decides that they want that to stay in weeds, it could stay in weeds. There is nothing presently in the covenants that requires the Homeowners Association to improve that park or, it would be a common area, actually, if it's homeowner maintained.

Jennie Dixon: This has all along been presented as a public park, so if that is changing, I guess I would like the opportunity to react to that. I think that the Parks Department is very interested in keeping this as a public park. The proposal for maintenance is a waiver of the right to protest an RSID on the face of the plat. Then it becomes somebody's responsibility to create that SID. If it's just this area, then if there are waivers, then it's not likely to fail and that would be means to maintain the park. If, for whatever reason, the RSID fails, staff has a Condition 7 that requires the subdivider to maintain that park until it's annexed into the City, at which point the City Parks and Rec(reation) Department is planned to take over maintenance.

Commissioner Evans: Colleen had some thoughts about that this morning and I'd like to understand what you proposed today.

Commissioner Carey: Are you talking about the park?

Colleen Dowdall: Knowing that the Parks Department, both City and County, are interested in having this as a public park, and also listening to arguments the developer has made about having an RSID within the subdivision, that requires the subdivision to maintain a County park and there are problems with that, we have talked about creating an RSID for maintenance at a level that is consistent with the appreciation of the subdivision, for the appreciation of their property values, just for having that large green space there. So an RSID could be created just for the water and the mowing and that sort of thing, and then as the park gets improved, or if it gets improved – many of the City parks in Missoula are supported, their improvements are supported, by user groups, for instance, Little League Baseball maintains the Tower and Spurgin Complex; Westside Little League at Playfair Park; Mount Sentinel and Southside Little Leagues maintain a portion of the park and the City maintains the portion that is used by the general public. In order to accomplish all of that and to make this – and knowing that this is not going to be the major part of the park in terms of sizes, is not going to be installed or dedicated until Phase 5.

Jennie Dixon: It's intended to be a public park at Phase 4, is when that part of the park goes in.

Colleen Dowdall: So what we thought of doing was creating an RSID for maintenance as a condition of approval of Phase, we thought it was 5, but if it's 4, so that the applicant can make sure that that RSID for maintenance is created, and we would not necessarily assess anything until a park is in to maintain. But the assessment would then be determined at the time there is something to maintain.

Commissioner Carey: Would it work, then, to Condition 7 reflecting those comments and agreement with the developer and OPG and so on, prior to the approval?

Colleen Dowdall: I think we could leave the condition pretty general, giving the subdivider an idea that this is what we're looking for. I too had thought that the irrigation and such for the whole 10 acres was offered by the developer. Dick is right, we can't compel it, and I don't know if a maintenance RSID can pay for the installation of those kinds of improvements. I don't know that off the top of my head.

Jennie Dixon: The subdivider has proposed, and it is Condition of Approval 6, to install the improvements that they have proposed in their plan.

Chair Curtiss: That's in the smaller park, right? The smaller portion?

Jennie Dixon: Yes. There may be some things that they're going to install with Phase 5, they're not nearly to the degree as the Phase 4 part, but the subdivider's proposed, and staff's made it a condition, to install the improvements, which included irrigation in at least the Phase 4 part of the park.

Dick Ainsworth: It had never been our intention to install irrigation in the entire park as an up front expense of the developer.

Chair Curtiss: From the discussions we had this morning, we talked about requiring you to create an RSID before final plat approval. So that would be to create the RSID, but the assessments wouldn't have to happen to Phase 4 or 5, whenever there is a park, that you can have that as part of the RSID proposal, but make sure that this maintenance thing is in place before you even start selling lots. Are you opposed to that?

Dick Ainsworth: I think that's okay.

Chair Curtiss: Therefore, I think that what we'd want to do is take Condition 7 and basically strike what's there. I don't like having a reference to being annexed to the City. We don't know what the City's plans are. Just change Condition 7 to read: "The subdivider shall create an RSID for park maintenance before final plat approval of Phase 1."

Dick Ainsworth: That's okay.

Chair Curtiss: Colleen, do you think that we need to – if you understand that you wouldn't have to have assessments in that?

Dick Ainsworth: I don't know if we can write that into the RSID when you create it.

Greg Robertson: Generally, the way the petition process works is that the enabling resolution, when you sign, outlines exactly what the district is to be used for and level of maintenance. Assessments are established annually by you and spread annually. But we have to announce –

Chair Curtiss: So if there's nothing to maintain, there wouldn't be anything –

Greg Robertson: No, there wouldn't be any need for assessments. It would be simpler to do it now since it is one parcel rather than having to notice everybody up, create boundaries and go through the drill of that.

Chair Curtiss: That's why we're thinking of doing that one.

Greg Robertson: It would be very simple for us, but assessments wouldn't kick in until there's a park.

Chair Curtiss: That could be just that one sentence.

Commissioner Carey: Are you ready for some motions?

Chair Curtiss: Sure.

Commissioner Carey: Are you ready, Barbara, to have a go at this?

Commissioner Evans: Yes, please do.

Chair Curtiss: Jennie and Colleen and other staff please help us –

Commissioner Evans: We closed the public hearing, but Mr. Burg wants to say something.

Larry Burg: Larry Burg representing West Meadows. We're still not going to get involved in this RSID. This is all theirs, right?

Commissioner Carey: Yes.

Commissioner Evans: Bill, when you make your motion I would like you to include that they will delete four of the lots that back up to Mahlum Meadows. That would be –

Commissioner Carey: Okay, where would that be a good place to –

Jennie Dixon: A new condition.

Commissioner Carey: A new condition. Okay.

Chair Curtiss: We have a whole bunch of hands waiving at us.

Commissioner Evans: I'm looking at it, just every other lot.

Dick Ainsworth: We'd offered 2 or 3, you leaped to 4 all the sudden.

Commissioner Evans: I like the number 4.

Dick Ainsworth: You know what those lots are worth, I know, because you built a home fairly recently.

Commissioner Evans: I do, but you know I'm looking at here – I think four lots out of it is not too much to ask to make the folks behind it happy, and it cuts down on requiring a berm that the lots aren't big enough to allow. So Roger, how about four?

Dick Ainsworth: And no berm. Four between where?

Commissioner Carey: Did you say, Dick, that you were going to do landscaping along there?

Dick Ainsworth: Yeah, we were going to screen that, yes, definitely.

Commissioner Carey: I could go with 2 or 3 if it's going to be landscaped.

Commissioner Evans: I would settle for three.

Chair Curtiss: We're in negotiations here. Okay, that will have to be a new one, so let's go ahead and start.

Commissioner Carey: I would move that we accept the staff's first five recommended variances.

Chair Curtiss: It's to approve 1, approve 2, deny 3, approve 4 and approve 5.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Section 3-2(14) of the Missoula County Subdivision Regulations requiring a road surface width of 36-44 feet, to allow Waldo Road to remain at 24 feet wide, based upon the findings of fact; approve the variance request from Section 3-2(3) of the Missoula County Subdivision Regulations requiring Victoria Drive, Dufferin Drive and Merit Drive to be constructed to 36 feet wide, to allow a 32 foot paved width, based upon the finding of fact; deny the variance request from Section 3-2(9)(A) of the Missoula County Subdivision Regulations requiring 6 foot wide boulevard sidewalk on Victoria Drive, Dufferin Drive and Merit Drive, to require a 6 foot wide sidewalk and a 9 foot wide landscaped boulevard, based upon the findings of fact; approve the variance request from Section 3-2(8)(D) of the Missoula County Subdivision Regulations requiring bike lanes on both sides of Victoria Drive, Dufferin Drive and Merit Drive, to allow bike lanes on one side of Victoria Drive, Dufferin Drive and Merit Drive, based upon the findings of fact; and approve the variance request from Section 3-2(2)(A)(ii) of the Missoula County Subdivision Regulations establishing the maximum block length, to allow the blocks as proposed, based upon the findings of fact. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve Conditions 1, 2, 3 and 4 as presented by staff. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners accept Condition 5 as amended by the Planning Board, and supported by both staff and the applicant. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners accept Condition 6 as presented by staff. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners amend Condition 7 to read: "The subdivider shall create an RSID for basic park maintenance prior to final plat approval of Phase 1." Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners accept Condition 8 as amended by the Planning Board, and supported by both staff and the applicant. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners accept Conditions 9, 10, 11, 12, 13, 14, 15 and 16 as presented by staff. Commissioner Evans seconded the motion.

Chair Curtiss: The one question that I have on Condition 10 is – are we changing who's going to be responsible yet? We aren't to that yet, right.

Jennie Dixon: No, we're not there yet.

Chair Curtiss: So my question is, if we're going to consider, which we will in a minute, the homeowners being responsible for maintaining those walkways, why would we ask them to put up a fence.

Jennie Dixon: This is not adjacent to the common area walkways; it's adjacent to the public park. But then the second part of that condition states that if you're adjacent to the common areas, that you can't have a fence higher than 4 feet, because they're only 20 feet wide.

Chair Curtiss: So you don't have to put them up, but they can't go higher than 4 feet.

Colleen Dowdall: Right exactly.

The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners accept Conditions 17, 18 and 19 as presented by staff. Commissioner Evans seconded the motion.

Commissioner Evans: I'll second it just for the purposes of seconding it, but I've seen these kinds of things and they become weed patches, the neighbors don't think it's theirs, and for the purpose of approving the subdivision, I'll say okay, but I think it's a mistake.

Chair Curtiss: I have a question for Jennie too, but go ahead.

Jennie Dixon: I wanted to make sure it's clear that once it's seeded by the subdivider, the Homeowners Association is required to maintain those common areas.

Chair Curtiss: On Condition 19 – I confused myself at one point – so if we add the other, the Dufferin Drive, then do we take any of those out?

Jennie Dixon: No, we are recommending that you keep them both in, because they are a sufficient distance away to warrant ped(estrian) connections.

The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners accept Conditions 20, 21 and 22 as presented by staff. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey: I guess we had no problem with 23 from the staff's recommendation, right?

Chair Curtiss: Right, or 24.

Commissioner Carey moved that the Board of County Commissioners accept Conditions 23 and 24 as presented by staff.

Commissioner Evans: Before I second it, Colleen, is Condition 24 one that we want the County Commissioners to be the ones to decide whether they change a sign?

Colleen Dowdall: I think it's just to make sure – they can't change the covenant that says that they have to have address signs, because the fire department wants address signs.

Commissioner Evans: Right, but I can't image anybody not wanting an address sign.

Colleen Dowdall: We won't be approving what the signs look like or anything like that, they just can't change the condition that say everyone will put up reflective address signs so the fire department can find them.

Commissioner Evans: To explain to the audience what concerns me, we have, in the past, been parties to covenants and when someone wanted to change and have a barbeque in his back yard, they had to come down here and have us say okay. There are some things I don't think we have ought to have to determine for them, and I felt this might be in the same category. But I'll say okay, since I'm told I'm wrong.

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

Commissioner Carey moved that the Board of County Commissioners not accept Conditions 25, 26 and 27 as recommended by the Planning Board. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve a new Condition 25 to read as follows: "The plat shall be revised to show a 64 foot wide public right-of-way extension of Dufferin Drive for future road connection to the eastern property boundary between this subdivision and Portion A of COS 4639 (Jellystone Park), subject to review and approval of OPG and Public Works, prior to final plat approval of Phase 3. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve a new Condition 26 that three lots be deleted between Lots 52 and 63. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: Do we need to add anything about the landscaping?

Jennie Dixon: You mean the buffering?

Chair Curtiss: Right, so they already have that in there.

Jennie Dixon: It's in a plan, but it is not enforceable for this subdivision.

Chair Curtiss: If we want it to be enforceable, we'd need to add a condition? Just something as simple as, the subdivider will provide landscaping buffers –

Jennie Dixon: – as shown on the site map, sheet 2 of 2, of the preliminary plat.

Commissioner Carey moved that the Board of County Commissioners approve a new Condition 27 to read as follows: "Landscaping shall be provided within the common areas, as shown on sheet 2 of 2 of the preliminary plat."

Chair Curtiss: Was there some additional along those Lots 52 through 63?

Commissioner Evans: That's what they offered to do and I'd like it as part of the motion.

Chair Curtiss: It's not shown here.

Commissioner Carey amended his motion to include that comparable landscaping also be provided along Lots 52 through 63. Commissioner Evans seconded the motion. The motion carried on a vote 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the O'Keefe Ranch Estates Subdivision, based upon the findings of fact and testimony heard at the public hearings and subject to the recommended conditions of approval and the amended conditions of approval. Commissioner Evans seconded the motion.

Chair Curtiss: Before we go on, did we miss anything?

Jennie Dixon: Unless you want to do anything about the traffic impact study?

Chair Curtiss: I think they said that they are willing to work with them.

The motion carried on a vote of 3-0.

O’Keefe Ranch Estates Conditions of Approval:

Roads and Driveways

1. The short courts shall be relabeled as “Private Access and Public Utility Easements,” subject to review and approval by Public Works, prior to final plat approval of each phase. *Subdivision Regulations Article 3-2 and 3-6.*
2. If Merit Drive and Dufferin Drive terminate in a dead-end at the time of final plat review, these roads shall be designed with turnarounds, subject to review and approval by Public Works and the appropriate fire jurisdiction, prior to final plat approval of the phase in which these roads will be constructed. *Subdivision Regulations Article 3-2 and 3-6.*
3. A signage plan in conformance with the Manual on Uniform Traffic Control Devices, including provisions for temporary signage during construction, permanent signage and cost of installation to be responsibility of the subdivider, shall be reviewed and approved by Public Works, prior to final plat approval of Phase 1. *Subdivision Regulations Article 3-2(2)(F).*
4. The RSID/SID waiver shown on the plat shall be amended to include the intersection of Waldo Road and US Highway 93 or other connector to US Highway 93. The amended language shall be reviewed by the County Attorney’s Office and shall appear on the final plat of each subdivision phase. *Subdivision Regulations Article 3-2(3)(E) and 3-2(14).*
5. The covenants shall be amended to state that all driveways must be paved and changes to this section of the covenants may not occur without governing body approval, prior to final plat approval of Phase 1. *Subdivision Regulations Article 3-1(1)(D).*

Parks/Common Areas

6. The subdivider shall either file an improvements guarantee or install park improvements, consistent with the subdivider’s proposal contained in the Master Parks Plan for the O’Keefe Ranch Estates, to occur in Phases 4 and 5, and the appropriate Parks Department shall review and approve the parks improvement plans prior to final plat approval of the phases in which the improvements occur. *Subdivision Regulations Article 3-8.*
7. The subdivider shall create an RSID/SID for basic park maintenance prior to final plat approval of Phase 1. *Subdivision Regulations Article 3-8.*
8. The triangle of park space next to Lot 32 adjacent to Victoria Drive shall be designated as common area or lotted area, subject to review and approval by the appropriate Parks Department and OPG, prior to final plat approval of the phase in which this land is located. *Subdivision Regulations Article 3-8.*
9. The landscaped median at the entrance to the subdivision, where Victoria Drive and Waldo Road intersect, shall be labeled as common area and shall be maintained by the Homeowners Association. *Subdivision Regulations Article 3-8.*
10. The covenants shall be amended to require lot owners to install fencing where it is adjacent to public park, subject to review and approval by OPG and the Parks Department, prior to final plat approval of Phase 1. The covenants shall also be amended to include the following: “Fencing along the borders of the 20 foot wide common area greenway trails shall not exceed 4 feet in height.” *Subdivision Regulations Article 3-8.*

Fire

11. The developer shall contribute, as mitigation for the impact on fire service, \$530 per new lot to the Frenchtown Rural Fire District. Payment shall be verified prior to final plat approval of each phase. *Subdivision Regulations Article 3-7(1).*
12. Plans for residential fire sprinklers shall be incorporated into the covenants and shall be reviewed and approved by the appropriate fire jurisdiction, prior to final plat approval of each phase. *Subdivision Regulations Article 3-1(1)(B) and 3-7(1).*

13. Plans for fire hydrant locations shall be required of each phase and shall be approved by Public Works and the appropriate fire jurisdiction, prior to final plat approval of each phase. *Subdivision Regulations Article 3-1(6)*.
14. Plans for addressing buildings so that address signs are clearly visible from the street shall be reviewed and approved by the appropriate fire jurisdiction and included in the covenants, which may not be changed or deleted without governing body approval, prior to final plat approval for Phase 1. *Subdivision Regulation Article 3-1(1)*.
15. Prior to final plat approval of Phase 1, the covenants shall be amended to include the requirement that plans for driveways in excess of 150 feet shall be reviewed and approved by the appropriate fire jurisdiction. This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations Article 3-2(10)(E)*.

Pedestrian Facilities and Non-Motorized Transportation

16. The subdivider shall construct 6 foot wide boulevard sidewalks on both sides of Victoria Drive, Dufferin Drive and Merit Drive, subject to review and approval of OPG and Public Works, prior to final plat approval of each phase. Landscaped boulevards may be reduced to 9 feet wide. *Subdivision Regulations Article 3-2(1)(I)(ii), 3-2(1)(I)(vi)(e) and 3-2(8)*.
17. The subdivider shall seed grass and install a 5 foot wide asphalt path and commercial irrigation system in the 20 foot wide common area strips that break up the blocks between Dufferin Drive and Conterra Drive, Conterra Drive and Covenant Drive, and Covenant Drive and Gratton Drive, subject to review and approval by OPG and the appropriate Parks Department, prior to final plat approval of each phase. *Subdivision Regulations Article 3-8(8)(D)*.
18. The subdivider shall seed grass and install a 5 foot wide asphalt path and a commercial irrigation system in the 20 foot wide common area strips that extend off the end of Palmdale Court, Sandy Pond Court and Winterset Court and between Lots 68 and 69, subject to review and approval by OPG and the Parks Department, prior to final plat approval of each phase. *Subdivision Regulations Article 3-8(8)(D)*.
19. The plat shall be revised to show 20 foot wide public sidewalk easements located along the western block (generally between Lots 110 and 111) and along the eastern block, placement in the approximate location between Lots 166 and 173, subject to review and approval by OPG and the Parks Department, prior to final plat approval of the phase in which these lots are located. *Subdivision Regulations Article 3-3(2)(A)(iii)*.
20. The subdivider shall extend the 5 foot wide paved walkway along Waldo Road to the western edge of the property. Plans for timing, location and construction specifications of this portion of sidewalk along Waldo Road shall be subject to review and approval by OPG, the Parks Department and Public Works, prior to final plat approval of Phase 1. *Subdivision Regulations Article 3-2(14)(D)*.
21. The subdivider shall provide school bus pullouts within the subdivision. Plans for such pullouts shall be subject to the recommendation from the Frenchtown School District and review and approval by OPG and Public Works, prior to final plat approval of Phase 1. *Subdivision Regulations Article 3-2(8)(C)*.
22. The subdivider shall present evidence of petitioning into the Missoula Urban Transportation District prior to final plat approval of Phase 1. *Subdivision Regulations Article 3-2(5)*.

No Build Zones

23. In addition to the No Build Zone along O'Keefe Creek and Waldo Road, the Interstate 90 "Buffer Zone" shall be relabeled as a "No Build Zone – Residential Structures." A map of all No Build Zones and the following definition of the No Build Zone shall be incorporated into the covenants, prior to final plat approval of Phase 1, and may not be changed or deleted without approval of the governing body. "The 'No Build Zone' adjacent to Waldo Road shall be defined as being kept open and free of structures, including, but not limited to, buildings, mobile homes, garages, carports, fences, roads, driveways and parking areas. A walkway along Waldo Road is permitted. The 'No Build Zone' adjacent to Interstate 90 shall be defined as being kept open and free of residences." *Subdivision Regulations Article 3-1(5), 3-1(9), 3-3(H)*.

Covenants

24. Prior to final plat approval of Phase 1, the covenants shall be amended to include the following statement:

"Covenants related to Weed Control, Wildlife, Radon, Driveways (paving and turnarounds), Fencing Along the Park, Residential Sprinklers and Address Signs shall not be changed or deleted without governing body approval." *Subdivision Regulations Article 3-1(10)*.

Miscellaneous

25. The plat shall be revised to show a 64 foot wide public right-of-way extension of Dufferin Drive for future road connection to the eastern property boundary between this subdivision and Portion A of COS 4639 (Jellystone Park), subject to review and approval by OPG and Public Works, prior to final plat approval of Phase 3.
26. The plat shall be revised to delete three lots between Lots 52 and 63.
27. Landscaping shall be provided in the eastern common area adjacent to Portion A of COS 4639 (Jellystone Park Wastewater Treatment Lagoons) as shown on the Site Map of the Preliminary Plat, Sheet 2 of 2. Comparable landscaping shall also be provided along the eastern property boundary adjacent to the Mahlum Meadows Subdivision. Landscaping shall be installed prior to final plat approval of the phase in which these areas are located, subject to review and approval by OPG.

Chair Curtiss: 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 4:10 p.m.