

PUBLIC MEETING – December 21, 2005

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

Pledge of Allegiance

Public Comment

None

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the routine administrative items adopted the past week and approve the weekly claims list in the amount of \$753,471.43. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Hearing (Certificate of Survey): Lowe Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as the southwest one-quarter of the southeast one-quarter of Section 29, Township 20 North, Range 16 West, and Portion 'A' of COS 3560.

Lawson Lowe has submitted a request to create one parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 40.5 acres in size located near Seeley Lake, Montana. Mr. Lowe proposes to create one approximately 20.1 acre parcel for transfer to his wife, Marsha J. Lowe, for residential purposes and keep the remaining approximately 20.4 acre parcel for residential purposes as well. There is currently a lodge on the property rented out to the prior owners of the property. The lease will most likely continue and the Lowes will construct a recreational dwelling on the other lot.

The history of the parcel is as follows: COS 3560 was filed in April, 1988, for the purpose of relocating common boundaries between adjoining properties and adding 0.40 acres to this 40 acre tract. The property was transferred to Lawson Lowe in October, 2004.

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

COS 1106 03/09/1977 Boundary Relocation NE Sec. 28, T14N, R20W

Chair Curtiss: Are the Lowes here, or their developer?

Dick Ainsworth: For the record, my name is Dick Ainsworth with PCI, I'm here representing Lawson Lowe. I think Colleen explained the situation pretty well. My client, the claimant, is here and can answer questions if you have any, as I will be happy to also.

Chair Curtiss: Thank you Dick. We do like to ask the families on the record, so if Mr. Lowe could come forward to the mic please. If you could state your name.

Lawson Lowe: I am Lawson Lowe.

Chair Curtiss: We have a list of questions that we ask our Deputy County Attorney to ask you.

Colleen Dowdall: My records indicated that you've owned the property since October of 2004. Was that accurate?

Lawson Lowe: That's correct.

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

Lawson Lowe: No I did not.

Colleen Dowdall: Do you intend to transfer your portion of the land in the next year, or does your wife intend to transfer her portion within the next year?

Lawson Lowe: No we don't.

Colleen Dowdall: It doesn't look as if either of you will be residing on the property at this time.

Lawson Lowe: No, no, we live here in Missoula.

Colleen Dowdall: And will you be developing the property within the next year?

Lawson Lowe: No, we don't plan on developing it, just creating the lot.

Colleen Dowdall: Have you talked to anyone at the County about going through subdivision review to divide this parcel.

Lawson Lowe: No I have not.

Colleen Dowdall: Do you know if your wife has?

Lawson Lowe: She has not.

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

Lawson Lowe: No I am not.

Colleen Dowdall: Are you attempting to evade subdivision review?

Lawson Lowe: No.

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

Lawson Lowe: Yes.

Colleen Dowdall: Do you understand that we're reviewing this request only to determine whether you're attempting to evade subdivision review, but we are not reviewing it to determine if there's adequate access or whether you comply with zoning, septic permits or anything else?

Lawson Lowe: Yes.

Colleen Dowdall: If you are granted permission, it will be for dividing the property, but that's all.

Lawson Lowe: That's correct.

Chair Curtiss: Are there any other questions for Mr. Lowe? Thank you Mr. Lowe. This is a public hearing, I'll open the hearing for comments from anyone from the public. Does anyone want to make comment? Seeing no one come to the mic, I'll close the hearing.

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

Hearing (Subdivision and Rezoning): Hiett Development Park (36 lots on 60.26 acres) – Deschamps Lane

Chair Curtiss opened the hearing on the Hiett Development Park.

Tim Worley, Office of Planning and Grants, presented the staff report.

This is a proposal by Joseph and Deborah Fraser, represented by Ron Ewart of Eli & Associates, for 36 lots on 60.27 acres. The proposal includes a rezoning of a portion of the property from C-A3 (Residential) to C-I1 (Light Industrial). The area proposed for rezoning is approximately 40 acres. The property is located north of the Deschamps Lane/Roller Coaster Road intersection, southwest of the Wye on the east side of Deschamps Lane.

The area proposed for rezoning is within the Wye-Mullan West Area Comprehensive Plan, which was adopted November 16, 2005. The land use designation of the entire property is Light Industrial. The Plan recommends Light Industrial uses in areas on the western fringe of the Wye. Light Industrial uses recommended in the Wye Mullan West Area Plan include veterinary services, animal hospitals, kennels, mini-warehouses and light manufacturing. These are permitted uses in the proposed C-I1 (Light Industrial) zoning. Staff and Planning Board support the rezoning from C-A3 to C-I1, as the proposal complies with the goals and objectives of the newly adopted Wye Mullan Plan for this location.

The subdivision proposal is for 36 lots on 60.27 acres in two phases. Lot sizes range from 1.05 acres to 3.18 acres. Phase I includes Lots 1-6 and has a one year deadline, while Phase II includes Lots 7-36 with a four year plat approval deadline.

Lots 1-6 will have septic systems and all 36 lots will connect to City sewer at Phase II. A public water system is proposed for the subdivision. Condition 1 is a recommendation for rezoning approval prior to Phase I final plat approval.

Deschamps Lane provides access to the subdivision. Interior lot access is proposed through Mocassin Lane, Two Smokes Loop, Cold Fire Lane and Garrymore Lane. The initial proposal from the developer was to meet commercial road standards with 32 feet of pavement within 80 foot rights-of-way within and adjacent to the subdivision. A section of Deschamps Lane to the Mocassin Lane intersection was paved to 24 feet by an RSID. The developer proposes to leave this section as-is and to pave Deschamps Lane to 32 feet from Mocassin Lane to the southern boundary of the subdivision at Phase II. This would require approval of a new variance which has been included on a memo presented today.

On the first page of the blue memo is the possible new variance if the Board chooses to go that direction, plus findings to support approval of the new variance. The second page continues the findings to support approval of the new variance and it also has two amended Planning Board conditions for consideration.

County Public Works emphasized that the paving for Deschamps Lane adjacent to the subdivision be centered within the Deschamps Lane right-of-way, so that is recommended in Condition 4. The developer's representative noted at the time of Planning Board that the condition should reflect subdivision phasing, so alternative condition wording was included at that time. The blue memo goes on to specify the paving requirement of Deschamps Lane at Phase II in the event the variance is approved for the 24 foot wide portion of Deschamps Lane.

Neither Mocassin Lane nor Garrymore Lane can be constructed as through roads currently. A temporary off-site cul-de-sac is proposed for Mocassin Lane along the northern end of the subdivision and an easement is required for this cul-de-sac in Condition 3. Public Works noted that Garrymore Lane will need a temporary turnaround if this is not a through-road by the time of construction, so this is also recommended in Condition 3. Planning Board noted that the Mocassin Lane cul-de-sac might have to be on the subject property and struck a reference to it being off-site. This condition also requires a note on the plat for the temporary public access easements, requiring governing body review at the time the turnarounds are vacated.

In addition to proposed roadways, one additional access point is proposed on Deschamps Lane that would be shared by Lots 23 and 27. Condition 6 is a recommendation for this shared access to be constructed to 32 feet, with plans to be reviewed and approved by Public Works at the time of approach permit application.

The interior road design creates three through-lots (Lots 20, 21 and 22). These require a variance from the through-lot prohibition in the Subdivision Regulations. Public Works supports the request because the proposal facilitates smoother traffic flow for Lots 17-19 and promotes a limited number of Deschamps Lane accesses. Planning Board also noted that Lot 28 could be described as a through-lot, so this and the other three lots are spelled out in the variance request.

Public Works commented on the need for a signage plan for public safety reasons, which is in recommended Condition 8. Since proposed road names haven't been approved, this is recommended in Condition 9.

Six foot sidewalks are proposed on one side of the roadways with 16 foot boulevards in compliance with commercial sidewalk and boulevard standards. Street trees are proposed on 50 foot centers along the subdivision roadways, requiring a variance from the 30 foot standard. This is supported by Public Works as long as adequate site distance is maintained. Condition 17d requires Public Works and OPG review of the tree/landscape plan, as well as extension of the plan along roadways where it wasn't shown in the submittal packet. The developer's representative made changes to the covenants in accordance with advice from the Urban Forester.

Large swales are planned as part of the boulevard drainage design and will work in conjunction with retention basins on several of the subdivision lots. Easements will be required for these facilities as noted in Condition 10. This condition also requires maintenance responsibilities to be cited in the covenants, with final plans are to be approved by Public Works.

Commercial fire sprinklers are proposed for buildings in the subdivision. Curt Belts of Missoula Rural Fire emphasized that hydrants will also be required because of the proposed public water system. Condition 14 recommends that plans for hydrant locations and adequate fire flow be required for each phase prior to final plat approval.

An 8 inch high pressure gas line crosses the northern end of the property and is shown within a 50 foot easement. Based on NorthWestern Energy comments, staff recommends a right-of-way provision document be signed and returned to the utility, with a copy of the signed document to be recorded in the covenants. A note is also recommended on the plat for the gas line which requires that it be located and that NorthWestern Energy be contacted prior to activity on a lot, with reference also to the signed document (Condition 18). There is covenant language that indicates which lots are affected by the gas line and Planning Board recommended that one additional lot (Lot 2) be included in the covenant language that was originally omitted.

Routine conditions include the following:

- An RSID waiver on the plat in Condition 2 (See the changes on the blue memo that specify an RSID for dust abatement on Roller Coaster Road)
- An avigation easement plus a related note on the plat in Conditions 12 and 13
- Petitioning into the Missoula Urban Transportation District in Condition 11
- A plan for address signs in Condition 15
- Radon safety language in Condition 17a
- A reference to the avigation easement in the covenants in Condition 17b
- Covenant language about dead end driveways in excess of 150 feet in Condition 17c
- Revegetation Plan in Condition 19
- Sewer RSID language on the plat in Condition 20

Chair Curtiss: Thank you Tim. Colleen, just to clarify before the developer comes forward, we can do both of these actions today, zoning and subdivision. Is there a protest time for the zoning part?

Colleen Dowdall: Correct.

Ron Ewart: Good afternoon, my name is Ron Ewart, I'm with Eli & Associates. I'd like to thank Tim for all of his work on this project, it was a long haul, a lot of discussions and meetings and so on. We are in agreement with all the recommended conditions which would include the couple of minor changes listed on the blue memo. Just real quickly, the area out here, I don't know how well you can see this, but there's a red line that goes around and this is all the area that's recommended by the Wye-Mullan Plan for commercial and light industrial use. So you can see it sort of confines it to Deschamps Lane eastward, basically in this general area. So it makes sense to develop this property for Light Industrial uses. Joe Frasier is here. Joe is the owner of this property, he owns a company called Salmon River Wood. He first wanted to buy a piece of property in the Development Park; found it was quite expensive, so he got a piece out here in Racetrack Industrial Park, right next to the subdivision. One of things he wanted to do was create a nice looking Light Industrial park, somewhat like the Missoula Development Park, maybe not quite as upscale, but definitely something that's a lot better than what's out there now. We tried to upgrade it a little bit. One thing we do have people that live across the road. Again, we wanted to make this look nice. There's additional land in here that's vacant that could be developed into Light Industrial uses someday. I believe that Light Industrial uses bring in more tax revenue when you compare that with services, so that's a good thing. And there's definitely a market for it. Joe's been getting a lot of calls for some of these lots. Like we stated, it's proposed to be developed in two phases. Phase I would be the upper six lots, they would go onto drainfields. This way Joe could get back some of his money that put out to buy this 60 acres. And then the

rest of it would be developed when sewer comes. Now, we've been told that that project's probably going to happen next year, of course that's never known for sure until it actually happens. We have a four year phasing plan for Phase II. I guess one question I might have for Colleen, she can answer in a minute, whatever, if that's not enough, can we come back and ask for a longer period of time later on? Maybe we should have said six year, I don't know, but hopefully sewer will be next year and we'll have this all filed within a couple of years. Back to the concept a little bit, we do have six foot concrete walkways along one side, all along Deschamps Lane, trees on 50 foot centers, pretty good covenants. One of the things that we talked about at Planning Board was allowing Lot 23 to share an access with Lot 27. I sort of sketched out what it might look like, come in here off of Deschamps Lane, share with 27 and 23, and then that way you could drive all the way through on 23 to get up here to Garrymore. Lot 23 was made bigger so that maybe it could be a commercial plaza and that does fall in line with the commercial uses allowed in the zoning. Again, Mocassin Lane, there's been an overall transportation plan done where this could come right on in here and hook up with these roads over here, but again this is vacant. Garrymore, there is an easement that connects right up to Garrymore and then Garrymore, the pavement actually starts here again, so there's a little bit of a gap here, if that gap doesn't get paved, then there would be a cul-de-sac. This cul-de-sac, if Pat Haftner does not agree to allowing us to have it here, then we'll just put it on the property, but I think he's okay with this. Verbally he said he was okay with it. That's about all I have. I'd be glad to answer any questions that you might have. Thank you.

Chair Curtiss: This is a public hearing. Is there anyone else who would like to make comment? So when we had our Planning Status meeting, there were two issues that we discussed a little bit. One was with Deschamps Lane just having been paved to 24 feet up to Mocassin Lane, did we want to make them widen that for that approximately 150 feet. The other was the fire hydrant issues. Ron, have you had time to talk with Mr. Belts about that?

Ron Ewart: Well, actually, just talk about the fire plan a little bit. We're going to put in a small public system up here, with a water main that can readily connect up with Mountain Water and we were going to either put in a hydrant and hood it or else just have the fixture for a hydrant. So, these lots would not have a fire hydrant or water pressure out of the water main, but they would have interior sprinklers, at least for these six. Once the water system is up and running, hopefully Mountain Water will come out and this will part of a Mountain Water system. If not, we'd have to do our own water system and if we can't get the fire flows from the hydrants, from the pressure, then we would have to do interior sprinklers for all of them and I'm not sure if they're required anyway for industrial use. If they're required anyway, then they'll be required. But we are definitely proposing, for these first six, because we won't have the fire flows out of the water mains at that time.

Chair Curtiss: Okay, thank you Ron. Mr. Belts, would you like to talk to us about Light Industrial/Commercial developments and what your agency would like to see?

Curt Belts: Curt Belts, Missoula Rural Fire Assistant Chief. Well, naturally, we'd like to see hydrants everywhere, but we can live with that, that the first six lots be developed with interior fire sprinklers. But with any other development going on, and connection of public water, we'd have to have hydrants added to that. Light Industrial parks, in most cases, interior sprinklers are going to be required in most of the buildings anyway by the new codes, so you're pretty much going to be stuck with sprinklers no matter what. But they are a good thing.

Chair Curtiss: Thank Curt. Any other questions for Curt? Okay. Is there anybody else that wants to make comment on this subdivision before we close the hearing. Seeing no one come to the mic, I'll close the hearing. Are there questions from the Commission?

Commissioner Carey: I have a, I think, slight wording change. I believe at Planning Status we proposed to change, on the second page of the blue memo, under Roads, 2, I think we said "and dust abatement on Roller Coaster Road, based on benefit," not "to Roller Coaster Road."

Chair Curtiss: All three of us picked up on that one.

Commissioner Carey: I guess I have a question for Tim. Are the Planning Board's recommendations in line with the staff's, or are there places where it differed.

Tim Worley: Yeah, I think we concurred with each other for the most part. There was some discussion as to whether Lot 23 should access off of Garrymore as opposed to there being the shared access, but I think Ron did a good job of selling Planning Board on the shared access, he has a really good schematic, I wish maybe we could have seen that closer up, but, yeah, I think Planning Board and staff pretty much concur.

Chair Curtiss: Any other questions? So, Colleen, for us for process, we vote on the rezoning first.

Colleen Dowdall: Right, and then approval of the subdivision is conditioned upon the rezoning actually occurring in 30 days after the protest period.

Tim Worley: Just a note on Condition 14 based on what Curt said and maybe, Curt you can correct me if I'm wrong on this, but Condition 14 could be changed to read: "Plans for fire hydrant locations and adequate fire flow shall be required of Phase II and shall be approved by County Public Works and the Missoula Rural Fire District, prior to final plat approval of Phase II." Is that okay Curt, or will that take the sprinklers out of the requirement if it's worded like that?

Chair Curtiss: I was wondering if we needed to add another condition then to clarify that the first six would be sprinklered.

Curt Belts: Yeah, I would want mention of sprinklers as part of the conditions.

Tim Worley: How about, "Plans for fire sprinklers at Phase I, plus plans for fire hydrant locations and adequate fire flow at Phase II shall be required and shall be approved by County Public Works and Missoula Rural Fire prior to final plat approval."

Chair Curtiss: Okay. So is fire sprinklers the proper way to say it, or do we say an interior fire suppression system. What do you like to call it?

Curt Belts: Fire sprinklers are fine.

Chair Curtiss: "Plans for fire sprinklers for Phase I" and then just put "and" and then as you've already read Number 14, corrected to be Phase II. The other question was the Commissioners directed staff this week to begin to – the State law allows us to have plats filed in one, two or three years and we decided we're just going to go for two, because then you won't have to come and ask for an extension. So would you like to have this Phase I have a two year time limit in case you need it?

Ron Ewart: Yes, that would be fine and then getting back to the other question, can we go for longer than four if the sewer is not out there, or should we ask for 6 on Phase II now, or – I just want to be safe.

Colleen Dowdall: If there's a phasing plan, and I believe that that is what we have here, you can go longer than the statutory three years, so, yes, they can go 6 years if they want to be safe.

Chair Curtiss: Where are those two things in here Tim – the final plat approval time? Is it just on the –

Patty Rector: It's on Page 5, right at the top, Plat Approval Expiration Date. It would be December 21, 2007 for Phase I and December 21, 2012 for Phase II, correct?

Chair Curtiss: Yes, that's correct. Is that agreeable with the Commission to do that?

Commissioner Carey and Commissioner Evans responded affirmatively.

Chair Curtiss: Sometimes these sewer projects take longer than we anticipate. So, I guess if there's not any more questions or discussion, we'll start with the –

Commissioner Carey moved that the property generally described as the west one-half of the west one-half of the southwest one-quarter of Section 28 in Township 14 North, Range 20 West, and more particularly described by the metes and bounds description in Attachment A of the staff report, be rezoned from C-A3 to C-11, based on the findings of fact contained in the staff report. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Article 3-3(1)(H) of the Missoula County Subdivision Regulation to allow Lots 20, 21 and 22 and Lot 28 to be through-lots, based on the findings of fact in the staff report. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Article 3-2(9)(A) of the Missoula County Subdivision Regulations requiring installation of boulevard trees on 30 foot centers, based on the findings of fact in the staff report. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the variance request from Article 3-2(3)(A) of the Missoula County Subdivision Regulations to allow a paved width of 24 feet for Deschamps Lane north of the Mocassin Lane intersection, based on the findings of fact as stated in the memo from Tim Worley dated December 21, 2005. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners amend Planning Board's recommended Condition 2 to read "... and dust abatement 'on' Roller Coaster Road" instead of "... and dust abatement 'to' Roller Coaster Road" Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners amend Planning Board's recommended Condition 4 to read: "Deschamps Lane pavement shall be centered within the existing 80 foot public right-of-way from the Mocassin Lane intersection to the southern boundary of the subdivision, subject to review and approval of County Public Works, prior to Phase II final plat approval." Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners amend Planning Board's recommended Condition 14, first sentence, to read: "Plans for fire sprinklers at Phase I and plans for fire hydrant locations and adequate fire flow shall be required at Phase II, and shall be approved by County Public Works and the Missoula Rural Fire District, prior to final plat approval of each phase." Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey moved that the Board of County Commissioners approve the Hiett Development Park Subdivision, based on the findings of fact in the staff report and on the memo from Tim Worley dated December 21, 2005, and subject to the conditions in the staff report and as amended on the memo from Tim Worley dated December 21, 2005. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Hiett Development Park Subdivision Conditions of Approval:

1. The rezoning for Hiett Development Park shall be adopted prior to Phase I final plat approval. *Subdivision Regulations Article 3-1(1)(B) and OPG recommendation.*

Roads, Transportation and Drainage

2. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision constitutes assent of the lot owner to waive the right to protest a future RSID/SID for improvements including, but not limited to, the installation of paving, drainage facilities, curbs and gutters, pedestrian walkways or bikeways to Deschamps Lane and all streets within the Hiett Development Park Subdivision, and dust abatement on Roller Coaster Road, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-2(3)(E), OPG, Planning Board and staff recommendation.*

3. The temporary public access easement for the Moccasin Lane cul-de-sac shall be shown on the Phase I final plat. If Garrymore Lane terminates in a dead-end at time of Phase II final plat review, it shall be designed with a turnaround within a public access easement to be shown on the Phase II final plat. The turnarounds shall be subject to review and approval by County Public Works and the Missoula Rural Fire District prior to final plat approval of the phase in which these roads will be constructed. A note shall also appear on the face of the plat that states the following:

"The temporary public access easements for the Moccasin Lane and Garrymore Lane cul-de-sacs shall remain in effect until such time improvements to these roadways are extended east. Vacation of the temporary public access easements shall be reviewed and approved by the governing body." *Subdivision Regulations Articles 5-1(4)(J), 3-2(6)(B), OPG and Planning Board recommendation.*

4. Deschamps Lane pavement shall be centered within the existing 80 foot public right-of-way from the Mocassin Lane intersection to the southern boundary of the subdivision, subject to review and approval of

County Public Works, prior to Phase II final plat approval. *Subdivision Regulations Articles 3-2(3)(A,G), 3-2(8)(D), County Public Works, Planning Board and staff recommendation.*

5. Approach permits shall be reviewed and approved by County Public Works prior to Zoning Compliance Permit submittal. The shared approach for Lots 23 and 27 shall be constructed to a minimum 32 foot width; plans shall be reviewed and approved by County Public Works at the time of approach permit application. *Planning Board recommendation.*
6. A 60 foot by 100 foot shared access easement along the common lot boundary between Lots 23 and 27 shall be shown on the Phase II final plat, to be reviewed and approved by County Public Works and OPG. *Planning Board recommendation.*
7. 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 County Public Works prior to final plat approval of each phase. *Subdivision Regulations 3-2(2)(F) and OPG recommendation.*
8. Proposed subdivision road names shall be approved by Missoula County Public Works prior to Phase I final plat approval. *Subdivision Regulations Article 3-2(12) and County Public Works recommendation.*
9. Drainage easements shall be shown on the Phase I and Phase II final plats, including a signed statement granting the easements. This statement shall be recorded in the covenants, which shall include drainage facilities maintenance responsibilities. Final drainage plans shall be reviewed and approved by County Public Works prior to final plat approval of the phase in which these the drainage facilities will be constructed. *Subdivision Regulations Articles 3-6, 3-4(3), 5-1(5)(K)(xi) and OPG recommendation.*
10. The developer shall petition the subdivision into the Missoula Urban Transportation District prior to Phase I final plat approval. *Subdivision Regulations Article 3-1(6) and OPG recommendation.*

Airport Authority

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

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

12. An avigation easement shall be recorded for this subdivision in compliance with the Airport Influence Area Resolution and subject to review and approval of the Missoula County Airport Authority prior to Phase I final plat approval. References to the existing avigation easement in Article I, Section 14 of the covenants shall be amended to reflect the recorded easement. *Subdivision Regulations Articles 3-1(2), 4-1(12) and Airport Authority recommendation.*

Fire

13. Plans for fire sprinklers at Phase I and plans for fire hydrant locations and adequate fire flow shall be required at Phase II, and shall be approved by County Public Works and the Missoula Rural Fire District prior to final plat approval of each phase. *Subdivision Regulations Articles 3-1(1)(B), 3-7(1) and Missoula Rural Fire District recommendation.*
14. Plans for address signs, including size and location, shall be reviewed and approved by the Missoula Rural Fire District prior to Phase I final plat approval and the approved design shall be incorporated into the covenants. *Subdivision Regulations Article 3-2(2)(G) and Missoula Rural Fire District recommendation.*

Covenants

15. The covenants shall be revised to state that sections regarding paving, drainage, land use and building types, driveways, address signs, radon, maintenance, landscaping, the 8 inch high pressure natural gas line, living with wildlife and weed control shall not be amended or deleted without governing body approval. *Subdivision Regulations Article 5-3(5)(T)(x) and OPG recommendation.*
16. The covenants shall be amended as follows:

- a. Include a provision advising property owners of the Health Department recommendation that all new construction incorporate radon-resistant construction features. The language of the provision shall be subject to review and approval by OPG prior to Phase I final plat approval.
- b. Article I, Section 14 of the covenants shall be amended to refer to the avigation easement for Hiatt Development Park.
- c. Dead-end driveways in excess of 150 feet in length shall have approved turnaround for fire apparatus. A turnaround shall be located within 150 feet of the building. A minimum unobstructed width of not less than 20 feet and an unobstructed vertical clearance of 13 feet 6 inches shall be provided for any driveway over 150 feet. The opening through a gate should be 2 feet wider than the road. Final design shall be approved through the Missoula Rural Fire Department.
- d. Article I, Section 8 of the covenants shall be amended to include tree planting responsibilities along lots that front Garrymore Lane, west of Two Smokes Loop. This section shall also be amended to include OPG and County Public Works in review of the tree plan/landscape plan.
- e. The third sentence of Article I, Section 13 of the covenants shall be amended as follows: "An 8 inch high-pressure natural gas line within a 50 foot utility easement across Lots 1 and 6, and corners of Lots 2 and 5. *Subdivision Regulations Articles 3-1(1)(D), 3-1(2), 3-2(10)(E), 3-2(9) and Planning Board recommendation.*

Health and Safety

17. A signed copy of the NorthWestern Energy Right-of-Way Development Provisions shall be returned to the utility, and a copy of this signed document shall be recorded with the subdivision covenants. The following note shall be shown on the final plat and reference the 8 inch high-pressure gas line:

"Approximate location of 8 inch underground gas line (Book 201 Deeds, Page 361). Prior to any construction near the gas line, the lot owner(s) shall locate the 8 inch natural gas transmission line and contact the utility company for the exact location of the gas line. See Right-of-Way Development Provisions document in covenants for any applicable rules and guidelines concerning the gas line." *Subdivision Regulations Articles 4-1(11)(C)(i), 3-1(2) and NorthWestern Energy recommendation.*

Weeds

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

Sewer

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

"Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public sewer systems, based on benefit. The lot owner shall connect to public sewer within 180 days of when the public sewer main is available to the subdivision. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land." *Subdivision Regulations Article 3-1(1)(D), City-County Health Code and OPG recommendation.*

Hearing: Determination of a Qualifying Technology Based Business

At this time, Barb Martens, Projects Coordinator, and Ann Mary Dussault, Chief Administrative Officer, joined the meeting.

Ann Mary Dussault presented the staff report and described the visual aids posted.

Missoula County has, by Ordinance, created a Tax Increment Technology Infrastructure District for the purpose of encouraging the location and retention of technology development projects in Missoula County. The goals of the District include improving the economic vitality of the County, creating quality jobs and creating a high quality community asset while achieving economic and market goals.

The District is just over 35 acres in size and is located within the Missoula Development Park, west of Missoula between Interstate 90 and the Missoula County International Airport.

Missoula County issued a Request for Proposal (RFP) from qualified and interested persons or businesses wishing to locate a Qualified Technology Based Business of sufficient size and significance within the Technology District in order to anchor the District. This request was advertised in the Missoulian on December 11, 2005 and December 18, 2005, with responses due on December 20, 2005.

One proposal was received. The proposal is from the Missoula Area Economic Development Corporation (MAEDC) on behalf of DirecTV Customer Services, Inc., who proposes to establish a customer service and technical support facility on approximately 12 acres of land within the District.

This project will employ over 800 individuals within Missoula County. It is expected that the average wage is about \$12 an hour. A livable wage in Missoula is just over \$9 an hour and the minimum salary at DirecTV will be \$9.50 an hour, including benefits. That has been determined to be of significant advantage to Missoula County. The facility and on-site improvements are about \$12,400,000 in projected construction costs. The intent is for DirecTV to lease the land from Missoula County, to build the facility. Missoula County when then purchase the facility from DirecTV and lease it back to them. The Tax Increment District will be made whole by a beneficial use tax to be paid by DirecTV in order to satisfy any of the Tax Increment bond requirements for the District. The lease payments by DirecTV will satisfy the Board of Investments loan to the project and that loan could be up to \$9.6 million.

The proposal asserts that the Project is a Qualified Technology Project as required by the RFP as follows:

- A. It must be a technology project where at least 50% of the sales of the business occur outside of the State of Montana, or if the business is a manufacturing company, with at least 50% of its sales going to other State companies that have 50% of their sales occurring outside the State (a "Qualifying Technology Project.")
Staff concludes the Project meets this requirement.
- B. It must be a technology project that consists of the activities authorized by 7-15-4288, MCA, including, but not limited to: the acquisition, construction and improvement of streets, roads, curbs, gutters, sidewalks, parking lots and off-street public parking facilities, sewer lines, natural gas lines, electrical lines, telecommunications, including, but not limited to, communication/data lines, public buildings, items of personal property to be used in connection with aforementioned improvements, and other related improvements (A "Technology Infrastructure Development Project.")
Staff concludes the Project meets this requirement.
- C. It must be a technology project that creates quality jobs based on relevant factors including, but not limited to: the jobs are newly created full time jobs, the nature and quality of the jobs, the wages and benefits associated with the jobs, the suitability of the jobs for the District, and the projected sustainability of the jobs (a "Qualifying Job.")
Staff needs further detail to conclude the Project meets this requirement.
- D. To qualify as an Anchor Project, at least 300 Qualifying Jobs must be created within three (3) years of the beginning of the operation in the District.
Staff concludes the Project meets this requirement.
- E. The Developer must be an entity qualified to do business in the State.
Staff needs further detail to conclude the Project meets this requirement.
- F. The Developer must be willing to enter into an agreement with the County specifying the obligations and responsibilities of the County and the Owner/Developer with respect to the construction, development and financing of the Project (the "Development Agreement").
Staff needs to clarify submission, but believes there is intent to satisfy this provision.

The Proposal responded as follows to the following questions:

- A. The name and address of the Developer, and if not an individual, the legal designation of the Developer and the State under which it is organized.
Staff needs clarification of this response.
- B. Proof that the Developer is an entity qualified to do business in the State of Montana.

Staff needs clarification of this response.

- C. The type of technology business proposed at the site with sufficient information to demonstrate that it is a Qualified Technology Project as outlined in III. A. and B.
Staff concludes the response is sufficient.
- D. Parcel information including the size, desired location and configuration needed for the proposed Project.
Staff concludes the response is sufficient.
- E. Whether the parcel is intended to be purchased or leased.
Staff concludes the response is sufficient.
- F. A description of the proposed on-site improvements, including estimated costs of construction (inclusive of architectural and engineering design fees). Preliminary site plan drawings of the proposed Project must be included.
Staff concludes the response is sufficient.
- G. Whether or not the on-site improvements are intended to be constructed and owned by the County and leased to the Project; to be constructed and owned by the Developer; or constructed by the Developer and purchased by the County.
Staff concludes the response is sufficient.
- H. The number of full time employees expected to be employed at the Project at the end of 3 years, specifying the number of people employed and the average annual salary for each job type, including benefits.
Staff needs to clarify submission, but believes there is intent to satisfy this provision.
- I. The earliest date and the latest date by which the Developer desires to occupy the Project.
Staff concludes the response is sufficient.
- J. A description of proposed financing options for the Project, including the use of governmental grant and loan programs, capital provided by the Developer and any proposed relationships with Missoula County.
Staff concludes the response is inclusive, but details need to be clarified.
- K. A list and cost estimate of equipment and other personal property that the Developer proposes to locate within the Project.
Staff concludes the response is sufficient.
- L. A draft Development Agreement between the Developer and the County.
Staff needs to clarify submission, but believes there is intent to satisfy this provision.
- M. Proof of financial capability to carry out the Development Agreement.
Staff concludes the response is sufficient.
- N. Proof that the Developer will use local labor and pay prevailing wage as set out in Section 90-5-114, MCA.
Staff needs to clarify submission, but believes there is intent to satisfy this provision.

It is recommended that the Board of County Commissioners direct staff to work with MAEDC and DirecTV in order to clarify the necessary provisions indicated and bring to the Board a completed Development Agreement between the parties, to be executed by the Commissioners.

Chair Curtiss: Thank you Ann Mary. This is a public hearing. Is someone from MAEDC or DirecTV wanting to tell us their side of the story?

Dick King: Thank you. My name is Dick King, president and CEO of the Missoula Area Economic Development Corporation and just want to take a few quick moments to thank the County and the staff for the thorough process. We look forward to working with the staff to finalize the information here, clarify the points that Ann Mary summarized. We're delighted that we've been able to work with DirecTV and bring this project to a point where we think this is going to be a first class show facility for Missoula and Montana. As Ann Mary discussed, the jobs that will be created meet all of the minimum standards, and exceed them by quite a bit, many of the jobs by a

whole lot. There's a lot of managerial and IT types of employment that pay very, very, very well, in addition to the Customer Service Representative, which exceeds the minimum substantially. The benefit package that Ann Mary alluded to is a real welcome addition to our economy, so from several aspects, we think the overall project has a very strong, beneficial impact and we appreciate your role, the County's role in this project is the foundation for the whole thing to happen. We have Ed Simon and Mike Curry here from DirecTV if you have questions on the facility itself, what it will consist of, and how the process will work. We can ask Ed to step up and answer those questions, but, other than that, we just look forward to following Ann Mary and staff recommendation to provide this additional information, work out a couple of clarification details and bring the final Development Agreement to you for your execution.

Chair Curtiss: Thank you Dick. Mr. Simon, Mr. Curry, did either one of you want to make any comments at this time?

Ed Simon: It's good seeing you all again. Ed Simon, I'm vice-president of Facilities and Administration, DirecTV, and we're very excited about getting this project started. There's a group of people that are already in town meeting with some of the local contractors to try to get to the first step here right after the holidays. We're well under way in our planning and look forward to starting the project here, very, very quickly. Thank you.

Chair Curtiss: I have one question for you Mr. Simon, we always talk about how many total employees you may have. Do you plan to have any part time employees?

Ed Simon: I'm not part of, actually, the call center management team, but there will be some part time employment, we have that in our other in-source call center and what I was able to bring with me, and I'll share with Ann Mary after the meeting, that we have a staffing profile here and we have in the neighborhood of about 50 support people that Dick touched on and that'll be the management staff, that'll be IT, that'll be training, the facilities, administrative staff. So they'll be there to support the agent population which should be somewhere in the 800 to 900 person range. We have a predicted staffing profile here that really tries to get us to approximately 949 employees in about a 12 month period, so we'll be very aggressive in hiring. We're also going to be looking at properties that we could set up well in advance of our opening where we can start the recruiting and the training activities, so I'll be touring some facilities tomorrow to see if they meet those requirements. Hopefully that answered your question.

Chair Curtiss: If you do have part time employees, do they get a comparable wage and do they get any benefits or partial benefits?

Ed Simon: They would get comparable wage. I'm not exactly sure where the cut off is for full benefits, I don't know if that's an employee that's 24 hours or more – I just don't know the answer to that question, but there is a cut off period where you would be part time but could get full coverage and there's a period where you don't meet that, you would get a lesser compensation in the benefit side, I just don't know what that is.

Chair Curtiss: But these part time people will be a small percentage of the total employees.

Ed Simon: They'll be the smaller percentage, they may just fill in, in some gap periods.

Chair Curtiss: Thank you. Any other questions for Mr. Simon? This is a public hearing. Is there anyone from the public that would like to make comment?

Commissioner Evans: I have one question for you. Will you let me know when you're going to dig the first shovel full of dirt, because I want to be there.

Ed Simon: Okay. Actually, the schedule I brought with me that I was going to share after the meeting, we're hoping to do that 12/27/05, but it's probably – and Mike Flanagan is meeting with some people right now and I don't know, maybe it's probably more reasonable to think it will be the first week of January, but we'll certainly let you know. But our schedule is showing the 27th.

Ann Mary Dussault: I was extremely remiss by showing you those pictures in that I failed to acknowledge, first of all, the staff team that has worked on this project to date, including Mike (Sehestedt) and Dale (Bickell) and Barb (Martens), Greg Robertson, Cindy Wulfekuhle, Cindy Klette and Mae Nan has been an integral part of the – Mae Nan Ellingson from Dorsey and Whitney, our Bond Counsel – has been an integral part of what we consider the staff team working with Dick (King) and his staff, Eric and Chella, and then with the staff from DirecTV that I'm just getting to know, most of the original discussions with DirecTV were with Mike and Dale. I just want to

acknowledge that from my perspective, this is an extraordinarily important project for Missoula and Missoula County and with that, need to be just a little bit cautious about – we need to wait to turn the spade until we have the land lease done – but I’m a stickler for those kinds of details.

Chair Curtiss: Anyone from the public that would like to make comment? So we did only receive one proposal and staff believes that it meets qualifications but there are some clarifications they need to make.

Ann Mary Dussault: Yes, that is correct.

Commissioner Evans: So we don’t do anything today.

Ann Mary Dussault: Other than if you would direct us to do what I asked you to direct us to do, so that we might continue to clarify the information and then we will actually do two things. We will bring then to you at one of your Administrative Meeting, a Resolution, if you will, certifying that this is a qualified technology project and secondly, then, entering into what we’re now calling the Development Agreement. We might want to talk a little bit about changing the title of that, based on Mae Nan’s recommendation, but, in essence, I showed you this morning the draft of that development agreement and you’re, I think, quite familiar with terms of that.

Commissioner Evans moved that the Board of County Commissioners direct staff to work with MAEDC and DirecTV in order to clarify the necessary provisions indicated in the discussion and bring a completed “Development Agreement” (or whatever it may be called) between the parties, to be executed by the Board of County Commissioners, as soon as possible.

Chair Curtiss: Did I officially close the hearing? Okay, I’ll close the hearing before the vote.

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

Chair Curtiss: I think that, on the record, we should say that under “A” – 50% of the sales outside of the state – that’s in the statute, that’s where that comes from.

Ann Mary Dussault: Correct, many of these were statutory requirements that needed to be met and that’s why we’re kind of being really careful about certifying that each of the provisions have been met.

There being no further business to come before the Board, the Commissioners were in recess at 2:30 p.m.