

PUBLIC MEETING – JANUARY 4, 2006

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

Pledge of Allegiance

Public Comment

None

Routine Administrative Actions

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted the past week and approve the weekly claims list in the amount of \$480,641.27. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Consideration: Intent to Sell 1999 Chevy Truck to Hill County (Junk Vehicles)

This is a consideration of the intent by Missoula County to sell a used vehicle to Hill County. Pursuant to M.C.A. 7-8-101, the Missoula County Commissioners hereby give notice of preliminary intent to sell a 1999 Chevy model C6500 roll-off truck, currently belonging to the Missoula County Junk Vehicle Program, to Hill County, Montana, in response to a written offer for the vehicle from the Hill County Commission dated December 5, 2005, in the amount of \$27,000.00. Persons wishing to comment on this proposed action may do so at today's meeting. Further information concerning this proposed action may be obtained by contacting Jim Carlson, Director of Environmental Health, Missoula City-County Health Department.

Jim Carlson: For the record, I'm Jim Carlson. Among other things, I'm director of the Missoula County Junk Vehicle Program. The Junk Vehicle Program wishes to sell this truck and we've had an offer from Hill County to purchase it. We'd like to get a newer truck that's safer to unload and easier to unload vehicles, particularly, that don't have wheels. This truck doesn't have the power and steepness of the bed to safely get the vehicles back off once they're loaded. The Missoula County received an offer for the vehicle from Hill County dated December 5th, and the County Commission, pursuant to MCA 7-8-101, signed a Resolution of Intent to sell this vehicle on December 14th, and I believe it was considered at the December 13th meeting. Public Notice of Intent, as required by 7-8-101 and described in 7-1-2121, has been provided via legal ads in the Missoula Independent on December 22nd and 29th. I was the personal contact for those ads. Nobody has contacted me with any questions. We certainly want to have this open for public comment. Pending public comment, we would ask that you approve a resolution, I think you'll get tomorrow, a copy of, for signing to approve the sale to Hill County for this truck in the amount of \$27,000.

Mike Sehestedt: By way of a little bit of background. This is an unusual procedure. Generally, when we have property that is surplus to County needs; if the property is of a value of more than \$2,500, we are required to sell it at public auction. However, the statutes make an exception and allow us to transfer property of a value greater than \$2,500 to another governmental agency or a school district, but before we can exercise that power, we have to publish notice of our intention to do so and give the public an opportunity to comment and object. I think the purpose is to make sure that the taxpayers of this jurisdiction are not benefiting the taxpayers of another with some sort of sweetheart deal. Jim may be able to comment on what the estimated fair market value of the truck is.

Jim Carlson: We believe it to be pretty close to this amount. We bought the truck two years ago for \$30,000 and have hauled, literally, a couple thousand cars with this vehicle.

Chairman Carey: Thank you. Commissioner Evans.

Commissioner Evans: Has Hill County been over to look at the truck and they know what they are buying? And they're satisfied with it, obviously.

Jim Carlson: It's my understanding that they're in a situation like we were several years ago. They've got more vehicles to haul than they can with contracting to private haulers, so they are just in the beginning stages of getting into the business of hauling for themselves and don't have enough funds to buy a brand new vehicle.

Fortunately, we are in that situation now. We've accumulated enough money in the capital acquisition account for the Junk Vehicle Fund to do that.

Chairman Carey: Thank you. Does anyone wish to comment on this proposed action? Apparently not. Any questions? Is there a motion?

Commissioner Evans: Do I need to add anything about – we've met the rules and they are satisfied with the truck?

Mike Sehestedt: No. You're authorizing the sale because we've been through the jurisdictional prerequisites.

Commissioner Evans moved that the Board of County Commissioners approve the sale of the 1999 Chevy Truck to Hill County. Commissioner Curtis seconded the motion. The motion carried on a vote 3-0.

Consideration: Elk Creek Reserve (5 lots on 287.14 acres) – near Condon

Denise Alexander, Office of Planning and Grants, presented the staff report.

Ronald and Ross Iverson, represented by Professional Consultants, Inc., are proposing a 5 lot minor subdivision of land containing 264.57 acres. The property is accessed from Stoner Lake Road #9780 and Kraft Creek Road #561, six miles south and west of Condon.

The subject property is unzoned and located approximately six miles south and west of Condon, accessed by Glacier-Elk Road to Stoner Lake Road, Kraft Creek Road and Loon Flats Road. The property is outside of the Urban Growth Area, the Sewer Service Area and the Air Stagnation Zone. Proposed lot sizes vary from 40 acres (Parcel 4) to 68.78 acres (Parcel 1), with an overall density of one dwelling unit per 52.9 acres. The applicable amendments to the 2002 Missoula County Growth Policy for the property is the 1996 Swan Valley-Condon Comprehensive Plan Amendment which recommends a land use designation of Residential Low Density, one dwelling unit per 10 acres.

Kraft Creek Road, a County maintained road, provides off-site access to the subdivision for half a mile from Montana Highway 83. It is within a 66 foot County right-of-way improved to a surface width of 35 feet gravel. Kraft Creek Road becomes an on-site road forming the boundary between Parcels 3 and 4. It continues through the subdivision, providing access to private property to the west of this subdivision. The road meets surface width and right-of-way width, but is not paved. The applicant has requested a variance from paving and staff recommends approval.

Stoner Lake Road provides the boundary between Parcels 1 and 2 and part of the boundary between Parcels 1 and 3. The road is within a 66 foot public access easement improved to an approximately 15-18 foot gravel surface width. The applicant proposes improving this road to a 20 foot gravel surface width, but still less than the 24 feet required by the Subdivision Regulations. The applicant is requesting a variance from this requirement and staff recommends approval.

Loon Flats Road provides the western exterior boundary of Parcels 4 and 5. It is improved to a 15-18 foot gravel surface width. Glacier-Elk Creek Road proceeds north within a 66 foot public access easement, improved to a gravel surface width of 15-18 feet. The applicant is not proposing improvements to Glacier-Elk Creek Road or Loon Flats Road. Subdivision Regulations require a surface width of 24 feet for both these roads. The applicant has requested a variance from the surface width and paving requirement for these two roads. Staff recommends approval of the variances for both roads based on findings of fact in the report. The covenants contain a section regarding standards for driveways in excess of 150 feet in length.

There are no sidewalks or pedestrian access facilities in the area near the proposed subdivision and the applicant is not proposing pedestrian improvements. Staff has recommended as a condition of approval that the final plat include a statement waiving the right to protest a future RSID for pedestrian facilities on the public roads within the subdivision. A variance is necessary from the Subdivision Regulations for pedestrian connections on Loon Flats Road. County Public Works supports the variance request given the rural nature of the subdivision and the large lot sizes.

The Swan Valley Rural Fire Department Station is approximately 7.5 miles from the subdivision. The Swan Valley Rural Fire Department provides structural fire protection as well as wildland protection in conjunction with DNRC and the US Forest Service under cooperative agreements. The applicant has included a Fire Protection Plan for

the Glacier Ridge and Elk Creek Preserve Subdivisions endorsed by the Condon Fire Department that requires the subdivider to install a dry hydrant under the bridge that crosses the Swan River on Kraft Creek Road; to provide financial contributions toward building a structure to house a truck within 5 miles of the property proposed to be subdivided; and that driveways permit fire vehicles and equipment with the necessary radius to mobilize efficiently.

The Fire Protection Plan for Glacier Ridge has not yet been approved by the governing body so staff recommends a condition of approval that the Plan be approved by the governing body prior to final plat approval. This property is within a Wildland/Residential Interface (WRI) area. The covenants include Wildland/Residential Interface standards from Missoula County Subdivision Regulations Article 5-3(5)(R-S) and Appendix VIII.

The proposed Elk Creek Preserve Subdivision is located within the Swan Valley between the Mission Mountain Wilderness to the west and the Bob Marshall Wilderness (Swan Range) to the east. The tract contains rolling hills and extensive riparian vegetation along drainages at an altitude of approximately 4,000 feet. Except for areas immediately adjacent to the drainages, the property was clear-cut several years ago by Plum Creek Timber Company.

The submittal includes an Area of Riparian Resource Management Plan that identifies riparian resources, generally confined to the lower elevations of the property, in a lot by lot basis. The Riparian Management Plan and Plan Map are included as an attachment to the Development Covenants.

The covenants require lot owners to maintain their lot in compliance with the Montana County Weed Control Act and the Missoula County Noxious Weed Management Plan and to revegetate any ground disturbance with beneficial species at the first appropriate opportunity after the disturbance occurs, restrict the construction of any structures within 100 feet of property boundary lines or roadway easements, and restrict tree cutting, thinning or removal of timber within 60 feet of roadway easements except for removal of dead standing trees or deadfall.

According to the 1996 Swan Valley-Condon Comprehensive Plan, the subdivision is just outside a grizzly bear migration corridor referred to as the "Grizzly Linkage Zone." Alan Wood, an Area Wildlife Biologist with Montana Fish, Wildlife and Parks (FWP), stated that white-tail deer, black bear, grizzly bear, mountain lion and elk frequently utilize the area. Mule deer, lynx and moose can also occur in the area on occasion, along with smaller native mammals, birds, amphibians and reptiles. The Elk Creek Preserve Subdivision covenants contain Living with Wildlife information provided by FWP. Staff recommends approval of the three variances and approval of the subdivision based on two conditions of approval.

Dick Ainsworth: For the record, my name is Dick Ainsworth, I'm with PCI and representing Ron and Ross Iverson, the owners and developers of this property. We'd like to thank Denise and Dale – well Denise Dundon started on this, then Dale and now Denise Alexander – would like to thank all of them for their assistance with this. As Denise mentioned this is immediately to the east of Glacier Ridge, which you folks approved a few months ago. The condition that deals with the Fire Protection Plan, that was originally included in the Glacier Ridge subdivision as a condition and we had suggested to the developers of that project and the developers of this one that they get with the fire department up there and develop a plan that is acceptable to them, which they have done. There is a copy of that in this submittal. We would like to get that – the condition here says that we need to get approved prior to final plat approval – or final plat filing, which we're a ways a way from on this one, but the Glacier Ridge one is actually in Colleen's office and we're trying to get it filed now. We need to get that plan approved and I'm not sure how to jump start that process because we've had that since August and we'd really like to get that plan approved in a timely manner; more for Glacier Ridge than for this one, but it is the same plan and the developers work together with the fire chief up there.

Commissioner Curtiss: Where is it at in the application, Dick? What color?

Dick Ainsworth: Well it's white but it's back towards the end; it's right in front of the Agency Review.

Commissioner Curtiss: Right behind the brownish pages?

Dick Ainsworth: Yeah. Somebody by the name of Rollie Matthew signed it. I don't know who that is.

Commissioner Curtiss: That's my brother.

Dick Ainsworth: I understand he's the fire chief up there. We would like to do what we need to do to get that plan approved. We're in agreement with the conditions. We do think that plan that's been submitted makes sense and

is workable for both of these developments, but we would like to get that approved by you folks as soon as we can. I'm here to answer any questions if you have any. Thank you.

Chairman Carey: Thank you, Dick. Is there anybody else who would like to speak to this? Any questions from Commissioners?

Commissioner Curtiss: Colleen, do you have – if you look at this fire plan, do you think that meets what we want to happen anyway?

Colleen Dowdall: Denise and I talked about this very recently. The plan does meet, apparently, what the Condon Fire Department wants. It is not the same as some other fire plans that we have asked for where water supply was addressed. It really is up to the Commissioners to determine whether this is what satisfies the condition. If you chose to delegate that to the planning staff or to the Condon Fire Department, than that's okay too. We talked about whether you could make that decision today on the Glacier Ridge subdivision. If you wanted to discuss it in terms of the substance of the plan, I think you would need to put it on your agenda for next week to do that.

Commissioner Curtiss: Or in one of our administrative meetings for the Glacier Ridge, right?

Colleen Dowdall: It depends on whether you want to do it there. You can do it at Planning Status; you could do it at the public meeting, whichever you decide.

Commissioner Evans: Is it different than what we determined when we did Glacier Ridge.

Colleen Dowdall: What we asked for in Glacier Ridge was for a plan for fire protection. I don't recall the findings that we made or what – it seems like it was outside the fire district; is that correct? Why we needed a fire plan? Remember why we needed a fire plan?

Dick Ainsworth: No, I don't.

Commissioner Curtiss: It's not outside the fire district.

Dick Ainsworth: No, we're not outside the fire district. We had attempted to get a hold of Rollie prior to your action on that and hadn't been able to and so the think was kind of hanging, and so I think that's why that condition was put in there. My clients actually went to, at least, three of their district board meetings that they had and discussed this thing with them. And then they go back and say, "change it and do this..." So they spent quite a bit of time working with those folks to try to get something that they were happy with. This represents that now. We would certainly hope that we could get that adopted.

Commissioner Evans: It would seem to me, Colleen, since that was part of a subdivision, that we've already advertised and had a public hearing on, that this is ancillary to that and the decision that we would make could be made in an Administrative Meeting that says it meets or doesn't meet the conditions that we set. I can't see that we would need to put that off.

Colleen Dowdall: I think you could certainly do it in an Administrative Meeting as long as it appears on the agenda, because it is an action item. It also – in many cases, the planning staff would review the report and determine whether it meets the condition. Their signature on the plat would indicate to you that all the conditions have been met and that you can sign the plat. So by virtue of your signature on the plat, you've approved the fire plan. This one is just a little more complicated because we have this other subdivision coming up on the heels of the approval of the other plan. I don't know how planning staff feels about the fire plan; if you're comfortable with it.

Commissioner Evans: It would seem to me that the fire folks are the ones that need to be comfortable with it.

Commissioner Curtiss: And the dry hydrant is their water source.

Dick Ainsworth: Yes.

Commissioner Curtiss: You don't have driveways and such shown on the plat?

Dick Ainsworth: No, we don't.

Commissioner Curtiss: So the turnaround part of #3 –

Dick Ainsworth: We did that on Glacier Ridge and had our hands slapped.

Commissioner Curtiss: I know you did. So the covenants will just say that you will have a turnaround?

Dick Ainsworth: Yes.

Commissioner Evans: We need to advertise that it's on our agenda and deal with it.

Colleen Dowdall: You don't need to advertise it. You just need to place it on the agenda. It really is – it's determining whether a condition of approval has been satisfied and there are no specific rules for that, how to do that. If the planning staff followed its normal procedure and determined that, yes, this met the condition of approval, then you could just sign off on the plat. If they had concerns when they look at it that this doesn't meet the condition of approval based on the findings of fact, then it would be your call to determine whether it does.

Commissioner Evans: I want the fire department to determine that.

Colleen Dowdall: The fire department has signed it. If they have signed it and you're happy with that –

Commissioner Evans: From our perspective, that's what it needs.

Dick Ainsworth: That was our thought. We thought, let's go to them and get something and we have done that.

Colleen Dowdall: This is just in – we have a wide variety of fire protection agencies throughout the County, so ultimately the decision, and the liability, rests with the County to decide whether the plan meets what it is that we're asking for. In this case, the Condon District is well organized and reviews subdivisions. If that satisfies you then –

Commissioner Curtiss: Then we would change Condition 2, right, if we decided that this –

Colleen Dowdall: Condition of approval for this one.

Commissioner Curtiss: Condition 2.

Denise Alexander: You can delete if that's what you want.

Colleen Dowdall: Yeah.

Commissioner Curtiss: Unless we need to add – the fire plan is in the packet.

Dick Ainsworth: Yeah, it's in the packet.

Colleen Dowdall: And then Denise would know when Glacier Ridge gets to her that she can just sign it and move it on.

Chairman Carey: Anything else? Somebody have a motion?

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(1)(I) and 3-2(3)(B) of the Missoula County Subdivision Regulations requiring a 24 foot paved surface width on Glacier-Elk Creek Road, Stoner Lake Road and Loon Flats Road, to allow a 20 foot gravel surface width for Stoner Lake Road and a 15-18 foot gravel surface width for Glacier-Elk Creek Road and Loon Flats Road, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(1)(G) of the Missoula County Subdivision Regulations requiring paved roads, to allow a gravel surface for Kraft Creek Road, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(8)(A)(iv) of the Missoula County Subdivision Regulations to not provide internal pedestrian connections on Loon Flats Road, based on the findings of fact set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Evans: Do we delete Condition 2 that has to do with the fire department, or leave it in here? Staff's recommended conditions of approval?

Commissioner Curtiss: I think we can delete it because their plan is in there; right, Denise?

Denise Alexander: Yes, I just wanted to make you aware of one thing in the plan that I just realized – to make sure this sounds alright with you compared to other approvals. These provisions will provide the necessary response time for the fire department to eliminate the need for any sprinkler systems to be installed in the individual residences. So, having the hydrant at the river and then eventually – well, contributing money towards building a fire department building to house a truck closer – those are the two provisions that the fire department is signing off here and not requiring individual residential fire sprinkler systems. I just wanted to make sure that you were aware of that.

Commissioner Evans: I don't need to add anything to motion, however?

Denise Alexander: Well, the motion – if you do indeed want to approve this plan then you just need to delete that condition.

Commissioner Evans: Condition 2?

Denise Alexander: I think so.

Commissioner Evans moved that the Board of County Commissioners delete Condition 2. Commissioner Curtiss seconded the motion.

Commissioner Curtiss: Knowing that in the second provision that the fire department signed off on says, they don't know exactly when they're going to be able to build this second building close, because they don't have land yet. Are they comfortable not having sprinklers in houses if houses are built before that happens?

Dick Ainsworth: Apparently so, yeah. They discussed that with them at the time. I think they hope to do this sooner than later.

Chairman Carey: Any further discussion? No.

The motion carried on a vote of 3-0.

Commissioner Evans: I would like to add to the record that the plan has been reviewed and approved by the fire department?

Commissioner Curtiss: Yes.

Colleen Dowdall: So we will revise the finds of fact before the letter goes out on this one to reflect the removal of that condition. I'm saying this on the record to remind us.

Commissioner Evans: The plat shall include a statement waiving the right to protest an RSID for future road improvements as listed here is part of the requirement, although not a separate motion. Is that correct?

Commissioner Curtiss: Right, that's one of the conditions.

Commissioner Evans moved that the Board of County Commissioners approve the Elk Creek Preserve Subdivision, based on the findings of fact set forth in the staff report and subject to the recommended conditions, as amended. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Elk Creek Preserve Subdivision Condition of Approval:

1. The plat shall include a statement waiving the right to protest an RSID/SID for future road improvements, including non-motorized facilities, to Glacier-Elk Creek Road, Stoner Lake Road and Kraft Creek Road. *Subdivision Regulations Article 3-2(3)(E) and OPG recommendation.*

Hearing: Country Crest 3B, Lot 38 (4 lots on 2.07 acres) – North side of Mullan Road, opposite Sunset Memorial Gardens

Chairman Carey opened the public hearing.

Elaine Hawk, Office of Planning and Grants, presented the staff report.

This is a request from Gregory Tabish to subdivide a 2.07 acre parcel into four residential lots. The property is located on the south side of Peregrine Court in the Country Crest No. 3B Subdivision, a County major subdivision platted in 1995. The development is located on the north side of Mullan Road, opposite Sunset Memorial Gardens. Future subdivision of the lots within this subdivision was anticipated at the time of the original plat (1995), predicted on the availability of sewer service in the area. The property is zoned C-RR2 (Residential – two dwelling units per acre). The 1998 Missoula Urban Comprehensive Plan Update is the applicable plan for this property. The recommended land use designation is Residential, with a maximum density of two dwelling units per acre. The density of this proposal is 1.93 dwelling units per acre.

Access to this subdivision is from Peregrine Court, a 24 foot wide paved County road within a 60 foot public right-of-way. The existing home shown on Lot 38-A accesses Peregrine Court via an existing asphalt driveway. Access to Lots 38-B through 38-G will also access Peregrine Court and the County Public Works Department will review applications for future driveway approach permits. The Mullan Road corridor is expected to experience significant growth with the extension of the Mullan Sewer project. As development occurs, it contributes incrementally to the need to provide traffic signals and improvements at intersections along the Mullan Road corridor. Two of these intersections are the Mullan Road/Flynn Lane intersection and the Mullan Road/Reserve Street intersection. A condition of approval requires the subdivider to contribute \$230 per new lot to assist in signaling the Mullan Road/Flynn Lane intersection and \$815 per new lot toward the improvement of the Mullan Road/Reserve Street intersection. County Public Works stated this condition will mitigate the impacts of this subdivision these two intersections.

The proposed plat contains an RSID/SID waiver for improvements to all streets within this subdivision. There are no streets within this subdivision and the lots in this subdivision will use the street system connecting to Mullan Road via Grassland Drive. The streets within the original Country Crest Subdivision may have met the requirements at the time they subdivided (in 1995); however, these roads do not meet all current County subdivision standards for curb, gutter and sidewalk at this time. Therefore, a condition of approval requires revising this RSID/SID waiver statement to include Peregrine Court and Grassland Drive.

Commissioner Evans: Explain something to me Elaine? It says that the proposed plat requires a waiver for improvements to all streets within the subdivision, but there are no streets within the subdivision. Would you like to explain that so the folks reading the minutes in the future will understand.

Elaine Hawk: Sure. As you can see on the plat, the four lots are the subdivision and of course, those are individual home, residential lots and there are no streets within that subdivision. In the major subdivision, Country Crest 3B, there are streets.

Commissioner Evans: Should we not then change the wording here?

Commissioner Curtiss: Maybe it should say no new streets, because they're going to be using that one street, but they aren't putting any new streets within the subdivision.

Commissioner Evans: I just think they're contradictory statements.

Elaine Hawk: The 'within this subdivision'?

Commissioner Evans: Yes.

Elaine Hawk: I think it's a confusing statement also, which is why I believe the new – how does the condition read.

Colleen Dowdall: The condition for this subdivision, Country Crest 3B, Lot 38, says: "... for improvements to Peregrine Court and Grassland Drive..."

Commissioner Evans: Then shouldn't we just simply say there'll be an RSID for that particular thing.

Elaine Hawk: Which I believe is what the statement is saying. Right.

Colleen Dowdall: In the findings?

Elaine Hawk: It is in the findings.

Colleen Dowdall: Okay, so the findings tell us what the original RSID waiver said, which is that they waive their right to protest all of the streets within the subdivision of Country Crest, and now this is a re-subdivision and we are reaffirming that, that this subdivision is waiving it's right to protest only Peregrine Court and Grassland.

Commissioner Evans: Then I'd like it to say that.

Colleen Dowdall: That's what the condition of approval says. I think the finding is just noting that the old RSID waiver – and I think there is some question of whether if we add this new RSID waiver, these four lots probably won't have to participate in an RSID for as much as some other lots might in the subdivision.

Commissioner Curtiss: Because it would be based on their benefit.

Colleen Dowdall: Right, if the original waiver says for all on-site roads.

Elaine Hawk: The original drainage plan for Country Crest 3B directed runoff along roadside swales and toward common areas designed to retain drainage. Section 3-2(7) of the Missoula County Subdivision Regulations requires curb and gutter to be installed in rural subdivision with lots that have an average street frontage of 175 feet or less. The lots in this subdivision have an average street frontage of less than 175 feet; therefore, curb and gutter is required along Peregrine Court. The subdivider requested a variance to not install curb and gutter along Peregrine Court. Planning Board recommended approval of this variance.

Subdivision Regulations require 5 foot concrete boulevard sidewalks with 7 foot to 10 foot landscaped boulevards in all subdivisions located within the Urban Growth Area. The subdivider is requesting a variance from the requirement to install boulevard sidewalks on Peregrine Court. Planning Board recommended approval of the variance request.

It should be noted that the required amount of parkland dedication for this subdivision erroneously states .053 acres. The parkland dedication required for this subdivision is 0.2 acres. The subdivider has requested a variance from the parkland dedication requirement. Planning Board recommended approval of this variance. When the original Country Crest Subdivision was recorded, more than twice the common area required at that time was set aside. The County Parks Coordinator supports the variance request since it appears that the common area set-aside from the original subdivision will provide adequate open space for the four lots proposed with this current subdivision.

The Missoula Rural Fire District serves the property and the Missoula Sheriff's Department provides law enforcement. Fire protection for new dwellings is proposed to be provided by residential sprinkler systems. A blue memo has been distributed with suggested amendments to the Planning Board recommended conditions of approval regarding fire sprinkling systems. As a result of discussions at the Planning Status meeting on January 3, 2006, the suggested amendments include a new Condition 4 which requires the Missoula Rural Fire District to review and approve plans for installing residential fire sprinkler systems prior to Zoning Compliance Permit submittal. Condition 5 requires the subdivider to file a development covenant that shall include the requirement for residential fire sprinkler systems.

Missoula City sewer will serve the lots. Individual wells will provide water service. Public water is not available in the area at this time. Subdivision Regulations require that if no community or municipal water system with 1,000 gpm fire flow is provided, an RSID/SID waiver statement shall be required stating that at such time a community or municipal water system is available, the property owner shall be required to participate in the RSID/SID. A condition of approval requires a statement on the final plat waiving the right to protest a future RSID/SID for a community or municipal water system.

The Missoula Consolidated Planning Board, with six members present, conducted a public hearing on this request on Tuesday, December 20, 2005 and voted unanimously to recommend approval of the subdivision based on staff's recommended conditions.

Commissioner Evans: Yesterday at Planning Status we discussed this, but I'm still having some concerns about it. The condition requiring the fire district to review and approve plans for installing residential fire sprinkler systems prior to Zoning Compliance Permit submittal. It was my understand that you asked for zoning compliance before you go for a building permit and before you start building a house. Is that not so?

Colleen Dowdall: The way it happened traditionally, before the donut area went away, was when you brought in your building plans, they were sent to the planning office for zoning compliance, so they would review them to determine whether you complied with zoning and with the approval of the subdivision. At that point, there would be an inquiry into whether they had residential sprinklers if that's what is required by the conditional approval of the subdivision. It always occurred in that you sent your building plans in and they went to planning, the Building Permit Division routed them to OPG for their review. Now that we don't have building permits in the County, at this point, they just go in for Zoning Compliance Permit.

Commissioner Evans: It would seem to me that before you began designing a building or a lot plan or whatever, you're going to go get your zoning compliance.

Colleen Dowdall: It typically occurred at the time you were requesting a building permit. Once we have our building permits up and running, my guess is that's how it will go again, because the zoning compliance checks to determine whether your building meets the proper setbacks, whether they're square footage problems with improvements, building height and all those kind of things for zoning compliance that you can't determine until you have the building plans.

Commissioner Evans: Okay, I feel better about it. It would seem to me that if I were going to build something, I'd want zoning compliance to make sure that what I plan to build, one house on one acre or whatever, met zoning compliance. At that time I might not have a plan done yet.

Colleen Dowdall: I think that approving the subdivision, we are stating that you have zoning compliance for that lot – to build a house on that lot. We make a finding that you comply with zoning to create this lot; that meets a minimum lot size or a density requirement. Then it is just how the house fits on a lot and that requires the building plans.

Commissioner Evans: If you say so.

Chairman Carey: Thank you. Does the developer or representative wish to speak to this?

John Kellogg: Thank you Chairman Carey. For the record, I'm John Kellogg with Professional Consultants and we're representing Greg Tabish, who's here in the audience. I want to thank Elaine for these seemingly simple subdivisions that were pre-planned with the original Country Crest Development, but seem to encounter a lot of complicated twists and turns along the way. We've been meeting with various committees and agencies along the way to try to iron these issues out. There are two other Country Crest owners that are present in the audience and this is the first of many of these re-subdivisions that will be coming before you. What this means is, although we're requesting a waiver of the requirement for sidewalks, curb and gutter, that these will undoubtedly be installed in the near future when there's a tipping point in the number of owners or in the demand for the curb, gutter and sidewalk to be installed throughout Country Crest. This plan seems to be what the City Engineer and the County Engineering office are agreeable to, because it then can be done uniformly so that the drainage plans and the design of the curb, gutter and sidewalk are uniformly done throughout the development. Greg has reviewed these proposed conditions and he's in agreement with them. You have a unanimous recommendation of approval from the Planning Board. We would encourage you to approve the subdivision as proposed. We've also gone over the recommended amendments that Elaine has passed along to us just a little while ago regarding the sprinkler system. Greg is agreeable to that. I think we would like to go on record to say that in the event that Mountain Water Company extends their water service to this area, it's very likely that we may come back to you requesting an amendment to that condition requiring the sprinklers, if there are fire hydrants in the neighborhood. Thank you very much.

Chairman Carey: This is a public hearing. If there's anybody else that would wish to speak.

Bill Holt: I'm not here to oppose, propose or do anything. My name is Bill Holt and I have a lot in this subdivision. What these people do here is going to affect what I do here in about 24 hours or whatever, because I have to split my lot and do this. So whatever they do, I'm stuck with. The whole thing, when I looked at it, when I started out is, the original plan was that we did this subdivision and it was done right, and then when we got the sewer, we wouldn't have to go through all this silliness again and spend all this cost. So we've got our sewer in and we're ready to go. I don't have any argument. I understand that this subdivision has got to go through; mine's got to go through because I'm going broke and I have got to get that lot sold and go on from there. When we keep adding these fire sprinkler rules and all these things that can keep changing, adding roads and streets, it is news to me that we're going to have curbs and gutters out there. Once we get the variance, we're not going to have curbs and gutters. I don't think we need curbs and gutters. I think if we have sidewalks, they'll go through in the commons areas and it will be a lot better and we won't have to spend a lot of money. There are other ways to do this. My question here is – to keep it simple and not be a nuisance because I'm trying not to ambush the planning people because they are working with me – once you say this one is approved, I'm going to be doing mine exactly the same way and that might be wonderful, but it might not be so good. Back in the original covenants of this subdivision, it says, once you got so many houses and you put your well in and get the fire department approve it and you'd have your water system, you'll have public fire protection. If everybody was going to subdivide at the same time that's the way we'd do it. That's not going to happen. I don't want to stop his subdivision because I want mine to go through, but if it goes through too expensive, then I've got to abandon the lot, I can't afford to build on it; I can't afford to put fire sprinklers in, I'd rather put it in insulation or something like that. I don't know what their covenant is for fire sprinklers. My only question right now is, how is that covenant going to read for fire sprinklers. Is it going to leave an option? If we put the community water system in Country Crest, can we have the covenants say "either/or"? So, when you get ready to build, if you've got a community water system, you don't have to put fire sprinklers in? And can you go ahead and build now if you put fire sprinklers in? (End of Side A) – covenant was in there and I haven't had a chance to visit with anybody about it because everybody went on holiday after the planning meeting. I don't know how the covenant reads now. I think I may have been changed. That's a pretty important covenant to the ones of us that are still going to follow.

Chairman Carey: Thank you, Mr. Holt. Can somebody answer his question? Does anybody know what's in the covenants right now? John can you?

John Kellogg: I believe what Mr. Holt is referring to is not necessarily the covenant, but the condition requiring sprinklers. You're talking about the requirement that the Planning Board looked at and passed along to the Commissioners here, requiring sprinklers to be placed in all the newly constructed houses within this subdivision. That condition is going to follow along with the subsequent subdivisions. My understanding of what you're approving today is that the sprinkler systems are going to be required in each new residence. Curt is going to be reviewing the plans for that prior to, or at that time of, zoning compliance permit. I don't know what is going to happen when the building permit process is then instituted in the County. That will probably – I don't know. At any rate, that condition is going to remain, as I understand it, for any new homes that are constructed in Country Crest, unless we come back before you and say, for instance, if Mountain Water extended mains out to this area and fire hydrants came along; then we would come back to you and say, we have fire hydrants in the neighborhood. We'd like to amend the condition and say that sprinklers are not going to be required. Curt doesn't agree with this because he would like sprinklers anyway. That's my understanding. I don't think that it has to do with the covenants only in that there's a covenant to be drawn up – development covenants be included with our plat.

Chairman Carey: Thank you, John. Colleen.

Colleen Dowdall: In the original covenants filed for Country Crest, it may be what Mr. Holt is referring to. It says, "at such time as houses have been constructed on 38 of the lots, which are subject to this declaration, the association shall install a well on the common areas for the purpose of supplying fire fighting and irrigation water." Below that it says, "the well shall meet the requirements of the Missoula Rural Fire District and other fire agencies with jurisdiction over the property." That would be paid for by the homeowners. I assume there's an issue as to whether they have to do both. This is in the Country Crest #1, which was filed in 1992.

Commissioner Curtiss: Do we know whether there are 38 lots that have been developed?

John Kellogg: I do not. I didn't do the math to see if that was done. My understanding is – I know enough about this to be dangerous – in talking to Mr. Kaufman, who handled the initial review of this proposal, I think he came back to the City Fire Department – City or Rural Fire Department – maybe Curt could enlighten me. My understanding was that they did not want the well and the hydrant in the common area, and so I don't know how

that worked through the required condition, only that I think the issue of placing a well in the common area then was abandoned at that point.

Commissioner Evans: Did we ever do any official abandonment of that?

John Kellogg: I do not know that.

Commissioner Evans: It was always my understand – sorry, Curt, if I misunderstand this – that we would require sprinklers if the response time of the rural fire would be excessive and people might lose their homes. I didn't think that the sprinklers were being added on top of fire protection from the fire services. If I'm misunderstanding that and everybody is of a mind that we're going to ask sprinklers for every house that's developed from here on out, I'd like to have a clear understanding of that, because that wasn't my intension at all. We talk about affordable housing and we're talking anywhere from \$3,000 to \$5,000 for every house that has to have a sprinkler system depending on the square footage and whoever you hire. That certainly wasn't my inclination when we decided to do sprinklers – that every house from now on would have them. I would ask Curt to address that.

Curt Belts: Curt Belts, Assistant Chief, Missoula Rural Fire. When we initially did sprinklers, they started out as response time issues and water supply issues. In County Subdivision Regulations, residential sprinklers are an option listed in the County subdivision standards. They have a requirement to provide water supply for fire fighting; one of the options. In my letters to them, they have an option of providing the 1,000 gpm municipal water system or they can provide residential fire sprinklers. I don't care which option they take. If they want hydrants; love them. If anybody here wants to put hydrants in; we're fine with that. I have a responsibility to protect the citizens that the district hires me to protect. Residential fire sprinklers, and fire sprinklers in general, are the number one life saving suppression system used in the United States, or anywhere in the world, that saves lives. The United States has the single highest fire death loss of any industrialized nation in the world, and it's because we tolerate it. Because is the newspaper, we get a little blurb that says, family of five dies in a fire and that's as far as it goes. In Japan, if a family of five dies in a fire, the builder, the architect, are taken to task because they did not provide proper safety precautions. We tolerate it in the United States. My job is to protect the citizens. The builders are done with the house once they're done. It's the citizens that live in it that I'm concerned about; not the builder, not the developer, but the people that I am tasked to protect. Residential sprinklers save lives. In a response time of four minutes, I can lose people's lives. In less than four minutes, those sprinklers will keep the fire in check, keep the family safe and on the street outside their home until the fire department gets there. There's far less water damage, far less damage to fire, and people's lives have been saved. What we have done, where they will not provide or unable to provide a viable water supply for fire fighting, we have requested residential sprinklers in their place.

Commissioner Evans: Thank you for refreshing my memory.

Commissioner Curtiss: Curt, I have a question. Could we amend – I don't know if you've seen the blue sheet today that talks about the fire sprinklers – to say, 'or community water system with a minimum of 1,000 gpm' or whatever that number is.

Commissioner Evans: I appreciate that thought.

Commissioner Curtiss: So the Homeowners Association decides to put in a well for water –

Curt Belts: If the water supply and the hydrant system can be supplied, then I am certainly acceptable to hydrants. It will be water supply and hydrant spacing at 500 feet per the National Fire Code.

Commissioner Curtiss: The covenants for the first subdivision talk about a well for water supply. It doesn't say anything about hydrants but you need hydrants or you can't hook up to them.

Curt Belts: That's correct. I'm unaware of what the original – that was not my job at that time and there was someone else in that office. I was still riding an engine then.

Bill Holt: I was mistaken on the water supply thing. I thought that if the citizens got together out there and put a well in, put a big tank or something pumped out of it; that's what I thought was going on there. I have one other question. Mr. Belts, do you have water supply at your fire station out there?

Chairman Carey: Come on up, Curt. He'll address that question.

Commissioner Evans: Do you mean as a pumper truck; is that what you're asking?

Bill Holt: I wondered if they have a well and a water supply like – at the station itself.

Curt Belts: No, we don't. We have our own engine and water tender and we have a hydrant system there, of course, at El Mar Estates. Right at our fire station, no, there is no water supply.

Chairman Carey: Thank you. This is a public hearing. Do you have something to add Mr. Holt?

Bill Holt: The other thing that came up at the planning meeting was that – I just thought that it was kind of an interest – they're asking \$230 for each lot for Flynn Lane and \$815 for each lot on Mullan Road as extra cost. I thought it was quite interesting that the two City subdivisions out there don't require that. I thought it was –

Commissioner Evans: We found that pretty interesting too.

Bill Holt: It seems to be a little bit strange and I don't know how to approach that. I think I'm just about done. There are some develop covenants that are going to go with this subdivision; one of them is on weeds. I thought it was overkill, we already have a weed covenant in our covenants. There's also, in the covenants, you're supposed to go to the County Weed, whatever that is. You're also supposed to plant your lawn as quick as you can so we're required to do a – this subdivision they're asking if they would do that and I thought that was a little bit of overkill. Radon is good and the others (inaudible) but the weed covenants and we already did the fire covenant. Like I said, the weed covenant is no big deal so we don't have to worry about that.

Commissioner Evans: I think the weed covenant is based on State Law.

Bill Holt: I would like if there was a fire covenant on my mine, I'd like it to say this "either/or" thing and I guess we've already covered that. I assume that's what will happen.

Chairman Carey: I think we'll have a suggestion to amend that.

Bill Holt: I don't think there will probably be an "or" now. If we have to put the hydrants out there, that won't happen.

Chairman Carey: This is a public hearing, does anyone else have anything to say or offer? Seeing no one step forward; I'll close the hearing.

Colleen Dowdall: I would like to propose that we amend the language in Condition #2 for the RSID waiver for Peregrine Court and Grassland Drive and instead require a statement on the face of the plat that says, "Lots within this subdivision are subject to the RSID waiver recorded on the plat of Country Crest #3B found in Book 19, Page 77 of the records of the Missoula County Clerk and Recorder."

Commissioner Evans: That does the same thing?

Colleen Dowdall: It clarifies it so that this one isn't limited to just Peregrine Court and Grassland. But also then provides good notice to these four lots that there is an RSID waiver underlying the subdivision.

Commissioner Curtiss: Could you read that again, Colleen?

Colleen Dowdall: "Lots within this subdivision are subject to the RSID waiver recorded on the plat of Country Crest #3B found at Book 19, Page 77 of the records of the Missoula County Clerk and Recorder."

Chairman Carey: Is there a motion to adopt that language?

Commissioner Evans moved the Board of County Commissioners adopt the amended language for Condition 2. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Chairman Carey: Any further motions?

Commissioner Curtiss: I was looking at Condition 4 trying to figure out exactly how to word it to give – I agree with Mr. Holt that what we do here today is going to set precedence for what happens to future ones and future subdivisions may be closer to having some sort of community system. It would be nice to give them that option if

they can meet that. Maybe we should preface Condition 4, as shown on the blue sheet today, to say, "Future dwellings should be served with a community water system with 1,000 gpm fire flow including hydrants or a sprinkler system." Then say, "Plans for sprinkler systems would have to be reviewed." Does that meet it?

Colleen Dowdall: What we've done in other subdivisions, where the source of water has not been determined at this point, is a condition that says that prior to final plat approval, the source of water for fire suppression will be reviewed and approved by Missoula Rural Fire District.

Commissioner Evans: Without stating the "either/or"?

Colleen Dowdall: There is actually a list of four sources of water. At least one of those is not appropriate in this subdivision – ponds and lakes. I closed my regulations, but one is – so if we just say that it follows the regulations or that the water supply does meet the requirement, then at the point when this is ready to have a plat filed, perhaps we'll have a better understanding of whether they will be a source of water. It sounds like if there is a source of community water or public water, it will be Mountain Water. But it's a long ways off.

John Kellogg: John Kellogg, PCI. We expect to file this plat in very short order. Mountain Water is not going to be there prior to that time. There are not going to be wells in the common area in this time frame either.

Colleen Dowdall: So we need sprinklers in this one?

John Kellogg: I believe that the way it is stated currently, in this case, is going to be adequate to cover this situation. What I had mentioned about coming back to you would be in the event that someone purchased one of these lots, hadn't built on it yet, Mountain Water came along with a main and extended into Country Crest, then those new owners might come back to you and say, can we amend this because there's a hydrant in front of my house.

Commissioner Curtiss: So wouldn't putting that language in here give us a little bit more ability to do that if they did come back.

Colleen Dowdall: Well then they probably wouldn't have to come back. Part of it is a question of what we do at final plat. At final plat is when we would want to approve if it's going to be a public water supply. An individual owner is not going to be required to put in a public water system at Zoning Compliance Permit. That's when they will be required to put in a sprinkler system. It's my advice always in subdivisions to look at each one individually. While this one will probably serve as the model for other subsequent splits of lots in Country Crest, each subdivision will have its own examination and conditions of approval. In this subdivision, I think we want to require sprinklers. I don't think the developer of this subdivision is opposing that. When the next subdivisions come in, we'll be looking at those and any developer of future subdivisions is welcome to make arguments similar to Mr. Holts.

Chairman Carey: So we can leave the language in the blue memo as it is. Is that your recommendation?

Colleen Dowdall: Yes.

Commissioner Curtiss: Mr. Holt can remind us of our discussion when we get to his.

Chairman Carey: Anything else? We better prepare to make a motion here.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Section 3-2(3) and Section 3-2(8)(A)(ii) requiring installation of concrete boulevards sidewalk, to not require sidewalk installation on Peregrine Court, based on the finding of fact. Commissioner Evans seconded the motion. The motion carried on a vote 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Section 3-2(7) requiring curb and gutters, to not require curb and gutter on Peregrine Court, based on the findings of fact. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Section 3-8(6) requiring parkland dedication, to not require parkland dedication or cash-in-lieu, based on the findings of fact. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve Country Crest No. 3B, Lot 38 Subdivision, with a preliminary plat approval period of two years, based on findings and fact and testimony heard at the public hearings, and subject to the recommended conditions on the memo from Elaine Hawk dated January 4, 2006 presented at the hearing, and as amended. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Country Crest No. 3B, Lot 38 Subdivision Conditions of Approval:

Roads and Access

1. The subdivider shall contribute \$230 per new lot to assist in signaling the Flynn Lane/Mullan Road intersection and \$815 per new lot toward the improvement of the Reserve Street/Mullan Road intersection. Payment of this contribution shall be verified prior to final plat approval. *Subdivision Regulations Article 4-1(12).*
2. The following statement shall appear on the face of the final plat:

“Lots within this subdivision are subject to the RSID/SID waiver recorded on the plat of Country Crest #3B, found at Book 19, Page 77 of the records of the Missoula County Clerk and Recorder.” *Subdivision Regulations Article 3-2(3)(E).*
3. The subdivider shall present evidence of petitioning into the Missoula Urban Transportation District, prior to final plat approval. *Subdivision Regulations Article 3-2(6).*

Fire

4. Plans for installing NFPA standard residential fire sprinkler systems in all new dwellings shall be reviewed and approved by the Missoula Rural Fire District, prior to Zoning Compliance Permit submittal. *Subdivision Regulations Article 3-7(1)(6) and Missoula Rural Fire District recommendation.*
5. The subdivider shall file a development covenant to state the following, subject to review and approval by the Missoula Rural Fire District, prior to final plat approval: “Plans for installing NFPA standard residential fire sprinkler systems in all new dwellings in the Country Crest No. 3B, Lot 38 Subdivision shall be reviewed and approved by the Missoula Rural Fire District, prior to Zoning Compliance Permit submittal.” *Subdivision Regulations Article 3-7(1)(6).*
6. The following statement shall appear on the face of the final plat:

“Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a future RSID/SID for a public or community water system for fire protection, 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 3-7(2).*
7. All residences within this subdivision shall post address signs visible from public streets in all light conditions. Plans for visible addressing shall be reviewed and approved by the Missoula Rural Fire District, prior to final plat approval. *Subdivision Regulations Article 3-2(2)(G).*

Weeds

8. The subdivider shall file a development covenant requiring lot owners to revegetate any ground disturbance with beneficial species at the first appropriate opportunity after the disturbance occurs, subject to review and approval by the Missoula County Weed District, prior to final plat approval. *Subdivision Regulations Article 3-1(1).*

Radon

9. The subdivider shall file a development covenant advising property owners of the Health Department recommendation that all new construction incorporate passive radon mitigation systems. The language of the provision shall be subject to review and approval by the Health Department, prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B).*

Other

10. The subdivider shall file a development covenant which includes the following statement, subject to review and approval by the Health Department, prior to final plat approval: “The Missoula City-County Air Pollution Control Program regulations prohibit the installation of wood-burning stoves or fireplaces. Pellet stoves that

meet emission requirements or natural gas or propane fireplaces may be installed. Pellet stoves require an installation permit from the Health Department.” *Subdivision Regulations Article 3-1(1)(G)*.

Chairman Carey: Thank you. Is there any other business to come before this Board?

Dale Jensen: Commissioners, I guess I'm the only one that hasn't said anything here. Dale Jensen, I'm property owner of Lot 45 in Country Crest Subdivision 3B. I have PCI doing a three lot subdivision for me. I just want to identify myself so you think I'm not a spy, I'm down here to become informed. I might mention that the fire department's comment on inside house sprinkler system was kind of an eye opener for me. It sounds like the right way to go. As far as I'm concerned, I would be agreeable to that if that becomes the case, and it sounds like it is going to. Thank you.

Commissioner Curtiss: I know that the fire department has copies of a video that would make us all believers in why we want sprinklers at our house.

Commissioner Evans: I have them in mine, at a terrible cost.

There being no further business to come before the Board, the Commissioners were in recess at 2:45 p.m.