

PUBLIC MEETING – MARCH 1, 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, Deputy County Attorney Colleen Dowdall, County Public Works Director Greg Robertson, County Clerk and Recorder/Treasurer Vickie Zeier and Assistant County Public Works Director Chuck Wright.

Pledge of Allegiance

Public Comment

None

Routine Administrative Actions

Commissioner Curtiss 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 \$929,296.57. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Hearing (PLANNING AND ZONING COMMISSION): Lake Inez Citizen Initiated Zoning District #26 (Zoning Standards Amendment)

Chairman Carey temporarily recessed the meeting of the Board of County Commissioners and called the meeting of the Planning and Zoning Commission to order. Members present were Commissioner Bill Carey, Commissioner Jean Curtiss, Commissioner Barbara Evans, County Public Works Director Greg Robertson, County Clerk and Recorder/Treasurer Vickie Zeier. Citizen Member Sylvia Weisenburger and Citizen Member Jack Sturgis were unable to attend.

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

Lake Inez is located north of Seeley Lake and west of Highway 83. Cabin sites are located around the lake. Access is from Highway 83 via Beargrass Lane and West Fork Clearwater Road. The zoning district also encompasses the Inez Forest Service Campground.

Citizen Initiated Zoning District #26 was adopted in 1969. The current standards are very basic and only address permitted and prohibited uses and variances. The property owners in ZD #26 have witnessed a dramatic increase in the recreational use of Lake Inez. The Lake Inez Homeowners Association requests revisions to the standards to provide better protection of the lake and its water and shoreline quality.

The requested amendments are shown in an attachment to the staff report and include:

- An expanded permitted uses section that permits single dwellings, guest dwellings, weekly, monthly or seasonal renting of dwellings, accessory structures including boathouses, boat ramps and docks, and mobile homes that comply with standards contained in the Missoula City Zoning Ordinance.
- A Prohibited Uses section that prohibits commercial uses, industrial uses, use of a lakefront lot as access to a non-lake frontage lot, gravel mines and batch plants and all other uses not listed in the Permitted Uses section.
- There is a space and density section that requires lake frontage lots to have a minimum of 200 feet of lake frontage and requires that lots without lake frontage meet the density of one dwelling unit per 10 acres.
- The last section contains general regulations and a provision for variances. The general regulations includes sections regarding legal non-conforming uses and dwellings and a prohibition of lot owners from granting an easement, license or permission to use a lakefront lot as an access to and from the lake from any other lot.

Agencies notified for comment included: County departments; Montana Department of Transportation; Montana Fish, Wildlife and Parks; Seeley Lake Fire District; Seeley Lake Ranger District; Clearwater Resource Council; Seeley Lake Community Council; and the Lake Inez Recreational Sites Homeowners Association. Per State law, posters noticing the requested amendments were placed in three locations within the District 15 days prior to this public hearing. Comments received were either not adverse or were in favor of the revisions.

Staff is recommending approval of the district standards amendments with recommended revisions found on Attachment A (lavender version) distributed today. These include:

- Revised wording regarding guest lodging to clarify that guest units do not contain a plumbed kitchen.
- That boathouses are not included as a permitted use because they are not permitted by the Missoula County Shoreline Regulations.
- That the mobile home standards be deleted.
- That the restriction of using a lot or easement across a lot to permit access to the lake by a non-lake frontage lot be deleted from the "Prohibited Uses" and only be addressed in the General Regulations.
- That the legal non-conforming sections be expanded to include a definition and treatment of a non-conforming lot or tract.
- That a Zoning Compliance Permit be required for any new use, change in use or new construction.
- That garbage, pet foods, agricultural grain products and stock feed be stored indoors or in bear-resistant containers to avoid human/bear conflicts.

Citizen Member Jack Sturgis submitted the following written comments: *"Dear Denise, OPG Staff, and Board of County Commissioners: First, let me apologize for not being in attendance. As a citizen member of the Planning and Zoning Commission, I had every intention of coming to the March 1, 2006 meeting, but I am a teacher in the Missoula County Public Schools and this is a very busy time in our school year. We have Parent/Teacher conferences next week and a week of "high stakes" testing the following week. My principal was not comfortable taking me out of the classroom for the afternoon. I am in complete support of the Lake Inez Citizen Initiated Zoning and urge the Missoula Planning and Zoning Commission and the Board of County Commissioners to approve this request. My wife Wendy and I own a small cabin on Findell Lane and have enjoyed canoeing, sailing and cross-country skiing in and around Lake Inez for many years. This lake needs to be protected from over-use and this proposed zoning is a start. Lake Inez is a small lake, only a mile long and less than one-half mile wide at its widest point. Fluctuations in lake level caused by the adding and removing of boards in the dam at the south end of the lake and the increasing use of "wake" boats have caused serious erosion and loss of aquatic habitat along the lakeshore. The thought of a major development at the south end of the lake and the increased pressure this would put on an already stressed lake is unacceptable. Thank you for your time."* –John T. T. (Jack) Sturgis

Wendy Sturgis: I probably should have passed you this earlier but my husband is Jack Sturgis who is a citizen member of the committee and he passed me a letter to send since he couldn't get out of school today to be here. I don't know if I can speak on his behalf on the committee or if I should just act as myself.

Chairman Carey: You're a member of the public; you can speak however you wish.

Wendy Sturgis: I'm in approval of all the recommendations too and I just have some questions for clarification and I didn't know if I should wait and see what other questions people have or just go through them.

Chairman Carey: It's up to you. You might wait and see if it's answered along the way if you would like. It doesn't matter to us.

Wendy Sturgis: They are mainly minor points that are things that could be just spelled out more clearly.

Chairman Carey: Let's go ahead and ask them now and see if we could answer them, as long as you're there.

Wendy Sturgis: Okay. I'll go quickly. In the language under Permitted Uses for guest houses, cottages and apartments, I understand that any of those wouldn't have a plumbed kitchen but we weren't sure about bathrooms, if they're allowed or not. I figured someone is going to ask and it would be great to tell them either yes or no.

Denise Alexander: Bathrooms are permitted.

Chairman Carey: Plumbed bathrooms.

Denise Alexander: Yeah, plumbed bathrooms. The reason for not having plumbed kitchens is because that is what we consider the definition of a fully appointed dwelling unit that could be rented out.

Wendy Sturgis: So it makes it a second dwelling unit.

Denise Alexander: Exactly.

Wendy Sturgis: But the bathroom does not. I think all of these will be that quick. In the language about boat houses and boat ramps; I read the letter in the back that was attached about shoreline regulations and it looked like they disallow boat ramps. I am wondering why the boat ramps stayed in as allowable uses; something about them being within a few miles of a public boat ramp at the camp grounds.

Denise Alexander: Right. I talked with Todd Klietz our floodplain administrator and shoreline regs administrator and the reason that we didn't delete that is because it may be possible that there could be another boat ramp because the distance is measured across the lake or by shore miles.

Wendy Sturgis: Road miles.

Denise Alexander: Road miles and we weren't absolutely certain if someone couldn't meet that standard but it would be reviewed through the Shoreline Permit to see whether or not it would be possible.

Wendy Sturgis: Okay. So would someone ask permission to build a boat ramp if they aren't already in –

Denise Alexander: They would need to go through a Shoreline Permit.

Wendy Sturgis: The ones that are in now, if they don't meet that would be legal non-conforming so you just deal with it case by case.

Denise Alexander: Yes.

Wendy Sturgis: Okay. Under Prohibited Uses; nothing commercial and I'm all for no commercial use but I wondered, could a person cut and sell their wood since there is so much firewood up there. Is that considered a commercial use or not?

Denise Alexander: It is not considered a commercial use. It's considered a recovery of mineral or growth or natural resource maintaining your property. We cannot restrict that kind of use in this kind of zoning district.

Wendy Sturgis: I figure if I know these things when people ask, it will save you a lot of phone calls. I thought the part – it's under General Regulations and Variances, conforming or nonconforming structures. I didn't quite understand and may be I need an example of when a nonconforming use could be enlarged or not. I was trying to think of an example and apply it. I wonder if this about the size of the footprint if something is already not conforming – I just made up an example of a mobile home that is too small because it says they should be at least 1,000 square feet. Let's say right now that someone had a real small mobile home, it looks like it would be legally nonconforming now, as of passage of this but could someone then bring in a bigger one or build on it? It says that you can't enlarge a greater area of land than was occupied before. I am just curious about people wanting to enlarge a cabin or a home. Can they only go up but not change the footprint of their house?

Commissioner Curtiss: Mrs. Sturgis, do you have the purple copy that we talked about today that we changed some of that language? Denise, if you would like to, you could probably address what we changed that I think addresses what she is saying.

Denise Alexander: I just want to add that we're considering these changes. If I could read those and ask later if I need to.

Commissioner Evans: I think it takes care of your concern.

Commissioner Curtiss: That came up on Monday and we talked about the fact, what if somebody has a small trailer and a tree falls on it, can they replace it. That's why it's being proposed today; that we take out the mobile home description of 1,000 square feet and then it allows somebody to fix it back up.

Denise Alexander: Okay. And then is there language – I didn't see language. That was just addressing nonconforming structures so structures that conform now would still need to get a building permit and go through the regular process if they were going to add or change what's already conforming.

Wendy Sturgis: Okay. Just two more quick things. In the last part of the General Regulations with the human and bear conflicts; I liked a lot of the language that was recommended in that attachment at the back and I'm just curious why not put in requiring people to remove garbage from the premise when they are not there. I know I've had bears on my house that actually chewed through the wood work and into the house to get the dog food. If people aren't there for six months at a time, why not just spell it right out in zoning and say that you have to remove all your garbage and food that might attract bears. The other thing is about feeding wild animals, burning food and camp fires. There's quite a list there; fertilizers, weeds and all that. I thought that language was great and I didn't know if there had been some history or reasons why that was not in there.

Commissioner Curtiss: I believe we moved it because our council told us that those shouldn't be in zoning; that those additional things should be in covenants that they couldn't be in zoning. Is that correct, Colleen?

Wendy Sturgis: Okay.

Colleen Dowdall: I'm having one of those moments when I can't remember what I said. My understanding that once you zone that takes over the covenants or recommendations for how people should be neighborly and do the right thing but the zoning is what's actually enforceable and why not enforce those things if they're really that much of a problem. I'm curious about that. People get confused whether their covenants or what they need to follow or the zoning.

Commissioner Curtiss: Actually both but you enforce your own covenants; the Homeowners Association enforced the covenants upon each other. I guess if legal could give us –

Denise Alexander: I thought that all that information was really good too but the other difficulty with it is how much of that is enforceable by the OPG or by Planning Staff.

Wendy Sturgis: We don't really want to pay in our taxes to make sure all that happens.

Denise Alexander: I sort of condensed it down to what seemed like at least one of the most important things.

Wendy Sturgis: So the Homeowners Association could take those recommendations and then update their covenants just so people have some guidelines and education.

Chairman Carey: I think that's the way it is supposed to work.

Denise Alexander: I was hoping that that would happen once you saw what the different agencies recommend.

Wendy Sturgis: The last question, the question about the Forest Service property being zoned on the map where it was all in pink. I wondered that myself. Can you zone the Forest Service campgrounds? What turned out with that?

Chairman Carey: Michael.

Mike Sehestedt: The answer is; we can zone it. The reality is; Forest Service under the Supremes Clause and the constitution is free to do as they wish. The benefit of zoning it is that it may have some impact on the Forest Services land use decisions. Here where it's an established campground, it is probably not a big deal so it will probably continue to be campground. It comes up another context, for example, we had zoning up Pattee Canyon on Forest Service owned ground that was instrumental or at least a component in defeating a request for a land use permit for a commercial sledding and tubing area, maybe 15-20 years ago. My preference is to do the zoning covering the entire area. Need to recognize that our zoning can't be enforced against the Federal Government. Frankly, the zoning of State owned property by local government creates a requirement that prior to the use of that property in some manner and consistent with the zoning there be a public forum but it is not enforceable against the State as well.

Chairman Carey: Thank you, Michael. Is that –

Wendy Sturgis: I think so. Would people in the campground be provided with a copy of zoning so when they come there and haven't been there before they have at least some education about what the behavior is around in that area? Posted or printed.

Mike Sehestedt: I believe – yeah, the regulations of activities in the campground is the matter for the Forest Service where it's a Forest Service campground for the State in the case of this one.

Wendy Sturgis: So it would be up to them to make sure that campers there know what the zoning is.

Mike Sehestedt: Right. The thing is, if they don't – say this is a regulation of use of our campground, we couldn't enforce the zoning anyhow.

Wendy Sturgis: Thank you. I appreciate all the answers.

Chairman Carey: You're welcome. Thank you. Anyone else wish to speak to this or ask questions? This is a public hearing and we're open to public comment. Yes, sir.

George Glory: I have a cabin on Inez Lake. You'll have to forgive my voice, I sort of lost it. The only part that I don't like in this is the Permitted Uses section, too, where they're allowed to rent your cabin. It says, "Weekly, monthly fees, no renting of single dwelling homes." Does that mean all year around?

Chairman Carey: The answer seems to be, yes. Colleen?

Colleen Dowdall: I actually don't know the history of that one – of that restriction. So maybe one of the neighbors or the attorney for the applicants could clue us in. I think it means that you can rent out your property.

George Glory: Year around?

Colleen Dowdall: Year around.

Commissioner Curtiss: But if it says "seasonal" does that mean you can only rent one season at a time?

Colleen Dowdall: I think it says, "Weekly, monthly or seasonal." You could do a month-to-month rent; weekly and monthly doesn't necessarily mean that you only rent for one month or one week but that you pay your rent monthly and weekly. A seasonal rental would be for which ever season you're thinking of.

Chairman Carey: Does anybody in the audience have an answer to this one? Yes, Dr. Helms.

John Helms: Two things regarding this. One, we sent out questionnaires to everyone on the lake for the period of time that we were involved in this process. We had several concerns that people couldn't do this and this has been going on with the previous zoning from 1969, had been to mainly prohibited commercial use. During that period of time, people had been renting their cabins either weekly or monthly to help defer costs, taxes and that sort of thing. There was concern that with this language that that might be prohibited. We didn't want to have this zoning change anything that had been going on. It's been a practice up there, the president has been there. If we (inaudible) from changing it, I think the language about the outbuildings not having plumbed kitchens pretty much makes it so people aren't going to be able to develop a lot with multiple rentals on it. That's kind of where that came from.

Chairman Carey: Thank you. For the record, that was Dr. John Helms. Yes, sir.

George Glory: The rental that has been going on has been going on in the north end of the lake. I'm on the south end of the lake and we don't have any rentals there. It's sort of in our code that we don't rent. It's like all the rest of the rules, there is really no enforcement for it but I'm against the rentals especially I'm against renting them. I interpret this to mean year around. I'm defiantly against that.

Chairman Carey: Okay. Thank you. Anybody else?

Commissioner Evans: I'd like to ask Colleen a question. Colleen or Michael, is it legal for us to tell people they can't rent their property?

Mike Sehestedt: We were just discussing it. I believe the answer is, no. We can characterize how a person renting or leasing a piece of ground can use the ground. Zoning regulates use. In my opinion is that you can't prohibit rental for permitted purposes through zoning. If we could I'm sure the University homeowners would have zoned out rentals in the University area some time ago.

Chairman Carey: Thank you, Michael.

Commissioner Curtiss: I have another question for Mike. Should we then not have this language in here as a permitted use?

Mike Sehestedt: I think that it may be surplusage but by specifying that is a single dwelling home, I think you do gain some limitation on – what I understand this is aimed at is each lot is going to have one resident's cabin on it with the possibility for auxiliary sleeping corridors in the form of a guest cabin if they wish. I think this would help make this clear and helps to reinforce that distinction. I would leave it.

Chairman Carey: Mrs. Sturgis, did you have another question?

Wendy Sturgis: I just wondered if adding language there for rentals maybe a provision for making sure that the homeowner requires their renters to understand the zoning and rules, make sure that it is in their cabin or posted. So they're taking a responsibility for recognizing zoning and enforcing that even if they have renters in there that they're responsible for their behavior in some way out of consideration for their neighbors.

Mike Sehestedt: I'm concerned about direct enforceability that if there's a violation to the zoning then we will go after the property owner because the property is not being used consistent with the zoning. I would expect that after about one occurrence of that they develop some real fervor on the part of the property owner in making sure that their renters know what the rules are on the zoning. Frankly, I would expect any landlord to be issuing rules on use of premises that are considerably more stringent than anything we're going to have in the zoning regulations.

Wendy Sturgis: Perhaps we can add that to the covenants as well to make sure that people realize that's expected of them.

Mike Sehestedt: I don't know whether you'd even want to bother to do that. What you put in the covenants is entirely up to you. Maybe I've lived in too many student rentals where the landlords by experience developed quite a list of things to do and things not to do in my renting days. I would expect any standard residential lease will cover anything – lease or rental agreement will cover anything that's going to be covered in this, would be my guess.

Chairman Carey: Thank you. If there's no further public comment I will – yes, sir.

George Glory: If we do leave the rental part in there, that I assume we're going to do, can we put how many people could be at this cabin because I've noticed at places where they rent to maybe 2 or 3 people for a weekend, they're too many people there and nobody in the cabins around there can park. Can you limit the amount of people that could be at a cabin?

Chairman Carey: I'll venture a guess that it ought to be in the covenants if it's going to be anywhere.

Mike Sehestedt: This has been the burning issue on occupancy standards. I gather from this that the existing stock around the lake is variable sizes, from very small one bedroom, perhaps trailer, to fairly substantial cabins. I don't see how we could do a one-size-fits-all regulation in the zoning. Some parking regulation might be possible but that would be separate and apart from the zoning. Essentially we just result assume people parking on the particular rented premise. I would be hesitant to put that in zoning because kind of like raiding the kegger, how many are we going to catch when OPG shows up with their badges.

Chairman Carey: Does anyone else wish to comment or ask questions? Seeing no one come forward. I'll ask for a motion of some kind. I'll close the hearing.

Commissioner Evans: This include Greg and Vicky as well?

Chairman Carey: That's right. We did have recommended motions from staff.

Commissioner Curtiss moved that the Planning and Zoning Commission amend Attachment A (on the lavender color paper) to add the language suggested on the handout presented today by Denise Alexander, under the zoning compliance permits, at the bottom of page 3. The first sentence will be changed to read: "A zoning compliance permit from the County Zoning office shall be required for any proposed new use, change in use or new construction." Commissioner Evans seconded the motion. The motion carried on a vote of 5-0.

Commissioner Curtiss: I move to correct the numbering because there are two No. 3's. Colleen's favorite number this week is No. 3; to correct the numbers as they should be. I don't know if that needs to be a motion. Hearing that the folks in the Lake Inez area want to amend their regulations, I think they've been done well. I would recommend that we adopt the new zoning district regulations.

Commissioner Curtiss moved that the Planning and Zoning Commission correct the numbering in the amendments to the District Regulations of the Lake Inez Citizen Initiated Zoning District #26. Commissioner Evans seconded the motion. The motion carried on a vote of 5-0.

There being no further business to come before the Planning and Zoning Commission, its meeting was adjourned.

Chairman Carey reconvened the meeting of the Board of County Commissioners.

Commissioner Evans moved that the Board of County Commissioners accept the recommendation of the Planning and Zoning Commission and approve the amendments to the District Regulations of the Lake Inez Citizen Initiated Zoning District #26. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Hearing: Petition to Abandon a Portion of Book 1 Road and GLO Road (Highway 200 East)

Chuck Wright presented the staff report.

This is a petition to abandon a portion of that certain County road specifically described as:

Book 1 Road and GLO Road, located in NE 1/4 S.9 and NW 1/4 S.10, T13N, R17W, Proposed plat of BLACKFOOT ACRES. From: South boundary of Tract 1, COS 3654 and West Boundary of Tract 2A, COS 5282. To: East boundary of Tract 2, COS 3055.

And further described in the Road Book of the Missoula County Department of Public Works Surveying Division as:

Book 1 Road: Road Book 1, Page 23, Sheet 93, "Blackfoot Road" petitioned and accepted as a public road in Commissioners Journal D, page 440 on April 16, 1889.

GLO Road: GLO surveyors McEroy & Henselwood, in 1901 in both survey notes and plat show and refer to an existing road as a "county road."

The reasons for the request are as follows:

1. The roads do not physically exist and as shown by Missoula County records may pass through the Kenworthy house.
2. Kenworthy's are subdividing their property and Missoula County Public Works recommends they abandon or alter the "old county road."
3. The roads are not needed. These roads have evolved into the existing US Highway 200. There is sufficient existing public right-of-way provided by Highway 200 and the Blackfoot River.

The following landowners have been notified: Christian R. Kenworthy; Shelli Kenworthy; Eric L. Norris; Randolph D. Bradley; Charlie H. Sehorn and Hirohik Sakamoto.

Chairman Carey: I'll open the hearing. Is there any public comment on the proposal? Seeing and hearing none, I'll close the hearing. Any questions from the Commissioners?

Commissioner Curtiss: Do we close it or keep it open?

Chairman Carey: You're right, we keep it open. We assigned somebody to – it might be my turn.

Commissioner Evans: I think it's your turn.

Commissioner Curtiss: We've already looked.

Chairman Carey: By law, a Commissioner and a member of the surveyor staff has to visit the site and determine that it fact it will run through the Kenworthy house if it was ever built. We'll go ahead and schedule that and resume the hearing perhaps a week from today. Are we going to be able to do that?

Patty Rector: Yes.

Chairman Carey: We'll do that then. That would be the 8th.

Hearing: Petition to Abandon a Portion of 29th Avenue (near Strand Avenue)

Chuck Wright presented the staff report.

This is a petition to abandon a portion of that certain County road specifically described as:

29th Avenue, located in Section 30, Township 13 North, Range 19 West, in Oak Addition from the south right-of-way line of Strand Avenue to the north right-of-way of North Avenue, adjacent to the west boundary of Lots 3 and 4 of Oak Addition (606.41 feet).

And further described in the Road Book of the Missoula County Department of Public Works Surveying Division and shown on the attached Exhibit as:

30 foot public right-of-way, created and dedicated by the filing of the Oak Addition plat in 1956.

(For more information, please see petition on file in the Clerk and Records Office at 200 West Broadway, 2nd Floor)

The reasons for the request are as follows:

1. The existing house at 2841 Strand was built in 1927. The Oak Addition plat, filed in 1956, created 29th Avenue. The developers and County officials failed to note that the house at 2841 Strand encroached 8 feet into the 29th Avenue right-of-way and Mrs. Keogh was given clear title to the property at 2841 Strand in 1957. Abandoning the right-of-way in this area would solve this problem. Mrs. Keogh wishes to convey this property and the abandonment would enable her to do so.
2. The neighbor at 1910 – 29th Avenue currently uses a gravel driveway coming off of Strand Avenue, which encroaches onto DNRC land. DNRC is unable, according to their policies, to grant an easement across State land since legal access already exists from North Avenue and Strand Avenue. A new driveway will be constructed on what will be a portion of abandoned 29th Avenue, from the intersection of 29th Avenue and North Avenue, north to the south edge of the existing driveway. Once suitable legal access is developed for 1910 – 29th Avenue, the State trust land boundary will be fenced. Representatives of the Keogh's, Sparks' and the DNRC were all in agreement on these issues.
3. 29th Avenue has never been built from Strand Avenue south 636 feet to North Avenue. The DNRC property to the west can continue to be accessed via Strand Avenue and North Avenue. The DNRC is in favor of abandoning 29th Avenue as long as the new access to 1910 – 29th Avenue is completed in a timely manner, preferably by the spring of 2006, and a notice of completion of the new access and verification of ceasing of trespass on State trust lands be sent to Jean Crow at the DNRC.

The following landowners have been notified: Edith Keogh; DNRC; and the Estate of Roberta G. Sparks.

Chairman Carey: I'll open the hearing. Is there public comment or questions about this particular hearing? Seeing and hearing none. I'll recess the hearing just like we did the one before. Should we do the same – is it in range of doing both.

Commissioner Evans: We already decided –

Commissioner Curtiss: We already voted that through. You shouldn't leave the room.

Chairman Carey: We'll take a look at that and then resume the hearing on March 8th.

Mike Sehestedt: Given access issues, just to note for the resumed hearing, we probably need to confirm or make vacation contingent on resolution of the access issue for the non-petitioning homeowner.

Chairman Carey: How do we do that?

Mike Sehestedt: We'll just do it when we take action.

Chairman Carey: Okay.

Hearing (Certificate of Survey): Sardot Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer for that parcel described as Tract 8 of COS 5679, a tract of land located in Section 34, Township 11 North, Range 19 West, P.M.M., Missoula County, Montana.

Aldo Sardot 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 40.23 acres in size located near South Bitterroot, close to the Ravalli County line. Mr. Sardot proposed to create one approximately 20.12 acre parcel for transfer to his daughter, Tova Sardot, for residential purposes and keep the remaining approximately 20.11 acre parcel for residential purposes as well.

The history of the parcel is as follows: COS 2061 was filed in 1979 creating parcels of land, each being 20 acres or greater in size. COS 5679 was filed in March, 2005, which included a retracement of Tract 8, a remainder of COS 2061. A Quit Claim Deed was filed September 23, 2005, deeding this parcel to Aldo Sardot.

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 5600	09/09/2004	Boundary Relocation	NE NW Sec. 34, T11N, R19W
-----------------	------------	---------------------	---------------------------

Chairman Carey: Thank you for coming here, Mr. Sardot. We ask our Deputy County Attorney to ask some questions on the record in order to indicate that there is no attempt to evade subdivision review, which is a misdemeanor. She'll ask you some questions and we'll proceed from there.

Aldo Sardot: Can I say something?

Chairman Carey: Sure.

Aldo Sardot: What we would like to do, we'd like to exchange (inaudible) getting family transfer to my daughter another property near Frenchtown. She decided instead of getting that piece she would like to get the other piece. We'd like to exchange. Give away that for exchange for the other one.

Colleen Dowdall: So you previously had had approved a family transfer in the Frenchtown area.

Aldo Sardot: It never went through with you guys approve it; we never went through with this.

Colleen Dowdall: You never filed the survey? So we will withdraw that approval. I think Carol may have already taken care of that. This is for the same daughter –

Aldo Sardot: The same daughter, the same thing, except different parcel.

Colleen Dowdall: How long have you owned this land?

Aldo Sardot: They own it almost – this July is going to be 2 years.

Colleen Dowdall: When it was quit claimed to you –

Aldo Sardot: It was under my LLC, then put in to my name, yes.

Colleen Dowdall: Was it in the ranch's name – a ranch name prior to that?

Aldo Sardot: When they bought it, it was on a big ranch.

Colleen Dowdall: When you bought the property did you intend to divide it?

Aldo Sardot: No, not at that time but my daughter decided that she liked to be – they're going to build, over here, their own home. She decided to be close to use. That's the reason she switched.

Colleen Dowdall: Do you know if she or do you intend to transfer parcels in the next year?

Aldo Sardot: Do you mean the remaining parcel? No.

Colleen Dowdall: Does she have any intent that you know of, of selling the parcel in the next year?

Aldo Sardot: No. She got married a year ago and she wants to build over there.

Colleen Dowdall: Are you intending to put houses on both properties?

Aldo Sardot: She's going to on one parcel. I don't know what I'm going to do with the remaining, not for now.

Colleen Dowdall: Will your daughter be residing on the property then?

Aldo Sardot: Yes.

Colleen Dowdall: When does she live now?

Aldo Sardot: She's in school in Los Angeles. She's going to finish school shortly.

Colleen Dowdall: Did you talk to anyone at Missoula County about taking this through subdivision review?

Aldo Sardot: No.

Colleen Dowdall: Are you in the business of dividing land or building homes?

Aldo Sardot: No.

Colleen Dowdall: Are you attempting to evade subdivision review?

Aldo Sardot: No.

Colleen Dowdall: Do you understand that we aren't reviewing your request for adequate access or legal and physical access like we would if you were going through subdivision review?

Aldo Sardot: As a road coming right to the property and there's power right through the property so everything is right there right now.

Colleen Dowdall: You understand though that we don't have to look into that at all. That's all within your review. We are also not reviewing this for compliance with other regulations such as floodplain or septic.

Aldo Sardot: Um-hum.

Colleen Dowdall: I think the property is unzoned; is that correct?

Aldo Sardot: Unzoned.

Colleen Dowdall: Okay.

Chairman Carey: Thank you, Colleen. Any questions from Mr. Sardot.

Commissioner Curtiss: I just have one in looking at the map, do you actually access this even though it's close to the Ravalli County Line, and do you go up Miller Creek; is that how you get there?

Aldo Sardot: No, you got through ??Upper Woodchuck?? 8-Mile Creek. You go from the south up.

Commissioner Curtiss: Oh, okay.

Chairman Carey: Thank you, Mr. Sardot. I'll close the hearing if there's nobody else that has any comments or questions?

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

Commissioner Curtiss: Colleen, do we have to take any official action to send them a letter on the other one that we approved before that he never filed?

Colleen Dowdall: Have you received a letter on the other one? Withdrawing the approval of the other one. Okay. I'll make a note to Carol to do that so that it's on file at the Clerk and Recorder's office.

Chairman Carey: You'll be getting a letter in a couple of weeks from the board formally saying what we did today. Thank you for coming. You're free to go if you'd like.

Aldo Sardot: Thank you.

Hearing (Certificate of Survey): Brownlee Family Transfer

Colleen Dowdall presented the staff report.

This is a consideration of a request to create a family transfer parcel for that parcel described as Parcel 5 of COS 1853, located in Section 33, Township 15 North, Range 14 West.

Shannon Brownlee 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 20 acres in size located near Clearwater Junction. Shannon proposes to create one approximately 10 acre parcel for transfer to his wife, Cheryl Marie Brownlee, for residential purposes and keep the remaining approximately 10 acre parcel for residential purposes as well.

The history of the parcel is as follows: COS 1853 was filed in 1979, creating nine parcels of land twenty acres in size or greater. A Quit Claim Deed was filed in May, 2001, deeding the property to Shannon Brownlee.

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

Chairman Carey: Thank you, Colleen. With that I'll open the hearing. Is there a member of the Brownlee family here or a representative.

Shannon Brownlee: I'm Shannon Brownlee.

Chairman Carey: Thank you for coming, Mr. Brownlee. We'll go ahead and ask Colleen to ask you the same questions she asked the former applicant bearing in mind that we ask her to ask these questions on the record in order to indicate that there's not an attempt to evade subdivision review, which is a misdemeanor.

Colleen Dowdall: How long have you owned the property?

Shannon Brownlee: You said 2001 but 2005. I believe it closed – I think I made an offer in September and it closed November 2nd, I believe, when it was officially deeded to my name.

Colleen Dowdall: Oh, okay. So you have owned it for a few months?

Shannon Brownlee: Yeah.

Colleen Dowdall: When you bought the property did you intend to divide it?

Shannon Brownlee: Not at that time of purchase. After we went out there a few times and walked around it we decided that it was more property than we needed for one dwelling.

Colleen Dowdall: What are you intending to do with the remainder parcel that would remain in your ownership?

Shannon Brownlee: In the future, probably in the next few years, we'd like to build on one of the 10 acre parcels. At this time my mother is 78 and lives about 4 miles from us and she is in very good health, very independent, still drives. Besides shoveling the snow on the sidewalk and keeping the grass mowed; that's about all the help she needs. Some day that may not be the case. I'd like to be prepared and if we build it would be nice to be able to have a house next door for my mother to move into.

Colleen Dowdall: So you would build a house for your mother on the other 10 acres?

Shannon Brownlee: That would be the plan someday, if she chose to.

Colleen Dowdall: That property would remain in the ownership of your wife?

Shannon Brownlee: Correct.

Colleen Dowdall: Neither of you intend to transfer these properties within the next year?

Shannon Brownlee: No.

Colleen Dowdall: It isn't for sale currently?

Shannon Brownlee: No.

Colleen Dowdall: If the property – so you're not developing the property in the near future either?

Shannon Brownlee: No.

Colleen Dowdall: Both lots will remain undeveloped? Where does your wife reside now?

Shannon Brownlee: She resides at 462 Ashbury Lane between Florence and Stevensville.

Colleen Dowdall: Where do you reside now?

Shannon Brownlee: At that residence.

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

Shannon Brownlee: No, I have not.

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

Shannon Brownlee: No, I'm not.

Colleen Dowdall: Are you attempting to evade subdivision review?

Shannon Brownlee: No.

Colleen Dowdall: Do you understand that by going through an exemption that you are missing some review process where the County determines whether you have legal or physical access to the subdivision in all weather for all vehicles, those kinds of things.

Shannon Brownlee: I wasn't aware of that process.

Colleen Dowdall: So this process just allows you to divide the land. We aren't reviewing it for anything else.

Shannon Brownlee: Okay.

Colleen Dowdall: So you still need to get septic permits when you develop the land. There may be floodplain permits required. This is just permission to divide the land.

Shannon Brownlee: I understand.

Chairman Carey: Thank you, Mr. Brownlee. Any questions? No. I'll close the hearing then.

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

Hearing (Certificate of Survey): Tulk 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 Tract A-3-B-1 of COS 5727, located in the southeast one-quarter of Section 20, Township 15 North, Range 21 West.

Jill T. Tulk 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 11 acres in size located near Frenchtown, MT. Jill proposes to create one approximately 3.63 acre parcel for transfer to her father, Tony Sarver, for residential purposes and keep the remaining approximately 7.38 acre parcel for residential purposes as well.

The history of the parcel is as follows: COS 5648 was filed in January, 2005, A-3-B being the remainder. COS 5727 was filed in July, 2005, for the purpose of relocating common boundary lines. This parcel was deeded to Jill Tulk in September, 2005.

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

Chairman Carey: Thank you, Colleen. I'll open the hearing on the Tulk family transfer and I'd ask Ms. Tulk to step forward and identify yourself. As we have the last two applicants we'll ask our County Attorney to ask you the same questions on the record in order in indicate that there's not an attempt to evade subdivision review, which is a misdemeanor.

Colleen Dowdall: Do I have the right ownership date for you, September of 2005?

Jill Tulk: Yes.

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

Jill Tulk: No.

Colleen Dowdall: Do you intend to keep the property or transfer it within the next year, your portion of the property?

Jill Tulk: No.

Colleen Dowdall: You intend to not sell it?

Jill Tulk: No. I do not intend to sell it.

Colleen Dowdall: That was my fault. I put an "or" in there. Does your father intend to keep his portion?

Jill Tulk: Yes.

Colleen Dowdall: Where does your father live now?

Jill Tulk: Colorado.

Colleen Dowdall: Will he be residing on the property?

Jill Tulk: As a second home.

Colleen Dowdall: So he'll be building a home in the near future?

Jill Tulk: Yes.

Colleen Dowdall: Where do you reside?

Jill Tulk: On the property.

Colleen Dowdall: So there's an existing home on the property?

Jill Tulk: Correct.

Colleen Dowdall: Have you talked to anyone at Missoula County about going through subdivision review in order to do this division of land?

Jill Tulk: No.

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

Jill Tulk: No.

Colleen Dowdall: Are you attempting to evade subdivision review?

Jill Tulk: No.

Colleen Dowdall: Do you understand that we are not reviewing this to determine whether you have legal or physical access to the property? Those are things that we would do if it was going through subdivision review but you have to make sure of those things yourself.

Jill Tulk: Yes.

Colleen Dowdall: Okay. When your father develops his portion he's going to have to get other permits like septic permits, determine whether it's in the floodplain, zoning and those sorts of things and comply with those regulations.

Jill Tulk: Yes.

Colleen Dowdall: This is just permission to divide the property.

Jill Tulk: Okay.

Chairman Carey: Thank you, Colleen. Any questions for Ms. Tulk?

Commissioner Curtiss: I do have one question. It says that the parcel history that there was a COS filed in January 2005 with this being a remainder; was that a family transfer that we did too?

Jill Tulk: The property was owned by Joslin, I can't recall his first name. I don't know what he did with the property before we bought it. I don't know. He owned quite a bit of property up there and he himself had sold off 4 acres here and 4 acres there that I'm aware of. If he did any family transfers I wasn't aware of that.

Commissioner Curtiss: Okay, thank you. Do you have any record, Colleen?

Colleen Dowdall: I'm looking for the history.

Commissioner Curtiss: I just wondered if it was one that slipped passed us. Not that it would be your fault.

Colleen Dowdall: Oh, yes. This was a family transfer of parcel. The Joslin's – that it was requested in April of 2004. This was a fellow who told us he was going to sell the property. He was dividing it to transfer a portion to his wife who was undergoing heart surgery and he needed to sell a parcel in order to pay for that. I do remember Carol telling me this now.

Chairman Carey: Thank you. Any other questions? I'll close the hearing. Is there a motion?

Commissioner Evans moved that the Board of County Commissioners approve the request by Jill T. Tulk to create one parcel by use of the family transfer exemption base on the fact that it does not appear to an attempt to evade subdivision review. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Jill Tulk: That Joslin family member, that doesn't have anything to do with me, right?

Commissioner Curtiss: No. Correct. I was curious. We ask all these people on the record just like we asked you and I was just curious if somebody got rid of the property when they told us they weren't going to. It was just a curiosity thing. It wouldn't have held you back.

Consideration: Council View Estates (5 lots on 10.02 acres) on Council Way, east of Cote Lane, south of Mullan Road

Mary McCrea, Office of Planning and Grants, presented the staff report.

This is a proposal by Ed Johnson, represented by Ron Ewart of Eli and Associates, to divide Tract I of COS 32 into five lots. The 10.02 acre parcel is located adjacent to Golden West Subdivision, east of Cote Lane on Council Way, about one mile south of Mullan Road.

The property consists of a bench adjacent to Council Way and a steep bench slope of about 70 feet leading down to a low flat area that is within the Clark Fork River floodplain. The applicant is requesting to create five lots with the buildings sites located on the bench above the steep bench slope and the floodplain. Lot 1 is 1 acre in size and has an existing residence. Lots 2, 3 and 4 are each just over a half acre. Lot 5 is 7.45 acres.

All lots will be serviced by individual wells. The current home is served by sewer that is located on Toby Way at the intersection with Council Way. The City Sewer Service Committee approved a contract for extension of sewer to serve new homes on Lots 2 through 5. It is within the Air Stagnation Zone and the Urban Growth Area.

The 2005 Wye-Mullan West Comprehensive Area Plan designates this area Residential, with a recommended density of one dwelling unit per acre, and Open and Resource. Areas with slopes greater than 25% have been designated No Build Zones due to steep slopes (NBZ-S), where no structures are permitted. The low area to the east has been designated No Build Zone Low Area (NBZ-L), where residential structures are not permitted and agricultural structures are subject to floodplain permitting.

The proposed subdivision complies with the land use designation and the goals and policies of the 2005 Wye-Mullan West Area Plan. Rural Residential land use characterizes the surrounding parcels, which are all zoned C-RR1. The C-RR1 zoning district permits a density of one dwelling unit per acre, but does not specify a minimum lot size. Five lots on 10.02 acres results in a proposed density of one dwelling unit per 2 acres. The proposal complies with the standards of the C-RR1 zoning district.

Council Way serves all five lots. It is a County road without curb or gutter, paved to 24 feet, within a 60 foot public right-of-way, which meets Missoula County Subdivision Regulations standards for easement and surface width. The Subdivision Regulations require curb and gutters for roads fronting rural subdivisions where the lots have an

average street frontage of 175 feet or less. The applicant is asking to vary from this standard. Public Works supports the variance request.

The plat shows a waiver of the right to protest an RSID/SID, based on benefit, for the upgrading of Council Way, including paving, curbs and gutters, street widening, pedestrian walkways and drainage facilities. The existing home on Lot 1 has driveway access off of Council Way. Lots 2 and 3 will share a driveway access and Lots 4 and 5 will share a separate driveway access. The applicant has included a shared driveway maintenance section in the Development Covenants.

There are no walkways on Council Way adjacent to the subdivision. The Subdivision Regulations require concrete boulevard sidewalks along roads fronting rural subdivisions where the lots have an average street frontage of 175 feet or less. The applicant is asking to vary from this standard. Public Works supports the variance request.

Staff recommends ten conditions of approval:

- Condition 1 requires the developer to contribute \$230 per new lot to the Mullan Road transportation system fund for signaling the Flynn Lane/Mullan Road intersection and \$815 per new lot to the fund for improving the Reserve Street/Mullan Road intersection, prior to final plat approval.
- Condition 2 requires driveways in excess of 150 feet in length to have a turnaround for fire apparatus at the terminus and that driveway plans must be approved by the Missoula Rural Fire District.
- Condition 3 requires a waiver statement of the right to protest an RSID/SID, based on benefit, be placed on the plat for a public water system for fire protection, prior to final plat approval.
- Condition 4 requires installation of interior residential fire sprinklers that meet NFPA 13D standards in each new home for the purposes of fire protection and plans for fire sprinklers reviewed and approved by the Missoula Rural Fire District.
- Condition 5 requires that the Development Covenants be amended to include the information regarding the residential fire sprinkler requirement.
- Condition 6 requires the Development Covenants be amended to include additional language regarding the Revegetation Plan for Disturbed Sites.
- Condition 7 requires the Development Covenants be amended to correct a typo and reference Article (1)(15) "Revegetation of Disturbed Sites Plan."
- Condition 8 requires the floodplain notation on the plat be amended per the Floodplain Administrator's recommendation.
- Condition 9 requires the Living with Wildlife section of the Development Covenants be amended per Montana Fish, Wildlife and Parks recommendations.
- Condition 10 requires the Amendments section of the Development Covenants be amended to include all sections of the covenants which may not be changed or deleted without governing body approval.

Staff received four public comment letters on this subdivision proposal, three are included in the submittal packet and one was distributed today. Staff received one letter from the owners of the subject property is attached to the staff report. In conclusion, staff recommends approval of the variance requests and approval of the Council View Estates Subdivision, subject to the 10 conditions of approval contained in the staff report.

Chairman Carey: Thank you, Mary. This is a consideration and we're certainly willing to hear from anyone who has something to say about this proposal.

Ron Ewart: With Eli and Associates. I would like to thank Mary for her work on this proposal. We're in agreement with the recommended conditions of approval. It's also good to see Missoula Rural Fire to come out to these meetings and make comment on these subdivisions. Thanks.

Chairman Carey: Thank you, Ron. Yes, Mr. Robertson.

Greg Robertson: Director of Public Works. I just wanted to put on the record a couple of things about this particular subdivision that aren't reflected in the staff report but are engraved in my mind from several years of dealing with the Mullan Sewer Project. This parcel, when it was assessed for the backbone system, it was treated as one EDU or equivalent dwelling unit. Additional parcels pursuant to the – that are now being created – pursuant to the interlocal agreement with the City will be required to pay an unsubsidized EDU to pay down the debt service for all those that participated in it. Additionally, when we were digging away on Council Way to install the sewer mains, we discovered that this property, the existing residence, was connected to the original sewer collection system put in by Golden West. However, it was never part of the Golden West District. I think in order to reconcile that – in other words, these folks have been getting sewer service at no cost to them. The same reimbursement agreement applies to the sub-district that was created to remove the existing sewer lagoons and that one particular parcel, the existing residents, will be subject to that reimbursement also as part of their process.

Commissioner Evans: Help me understand this. They never paid, they got sewer service free but they're also qualifying for a refund –

Greg Robertson: No, no. They will be required to pay into the RSID sub-district that was created to remove the lagoons and reclaim the site, equivalent of what everyone else was paying.

Chairman Carey: Because they benefited from that?

Greg Robertson: Yeah, correct.

Commissioner Evans: (Inaudible) not paying and then getting money back.

Greg Robertson: We found two parcels while we were digging in the road right-of-way that were of similar nature.

Commissioner Curtiss: But had good shovels in the middle of the night. So they'll need to reimburse the Mullan Sewer Backbone Project and the Golden West RSID?

Greg Robertson: That's correct. I just wanted to –

Commissioner Evans: Do you have the numbers for that so that Ron will be aware of those numbers?

Greg Robertson: I believe the – no, I've done my best to exercise my memory of all salient facts.

Commissioner Curtiss: But they will pay the same amount any other dwelling units.

Greg Robertson: Yes, correct.

Commissioner Curtiss: So it was less than \$1,000 at the end wasn't it?

Greg Robertson: Yeah, I think it was like \$900.

Chairman Carey: It would have been as though they had to service.

Greg Robertson: Correct. All subdivisions that are now being created out in the Mullan Road area, where there are new lots being created are subject to the same thing.

Commissioner Curtiss: So they paid for the one house, they'll be paying for the four new?

Greg Robertson: Yeah, correct.

Chairman Carey: Thanks for putting that in the record.

Commissioner Curtiss: Do we need to make a condition on that?

Greg Robertson: No. I just wanted to put it on the record.

Chairman Carey: Any other comments or questions? Okay. Is there a motion?

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Article 3-2(7) of the Missoula County Subdivision Regulations requiring curbs and gutters on Council Way, based on the findings of fact in the staff report; and approve the variance request from Article 3-2(8)(A)(ii) of the Missoula County Subdivision Regulations requiring boulevard sidewalks or walkways on Council Way, based on the findings of fact 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 Council View Estates Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Chairman Carey: Thank you. Is there any other business to come before the board? Thank you.

Council View Estates Subdivision Conditions of Approval:

Roads and Driveways

1. The developer shall contribute \$230 per new lot to the Mullan Road transportation system fund for signaling the Flynn Lane/Mullan Road intersection and \$815 per new lot to the fund for improving the Reserve Street/Mullan Road intersection. Payment of this contribution shall be verified prior to final plat approval. *Subdivision Regulations Article 4-1(12) and Public Works recommendation.*

Fire

2. Driveways in excess of 150 feet in length shall incorporate a turnaround for fire apparatus at the terminus of the driveway and shall be approved by Missoula Rural Fire District, prior to Zoning Compliance Permit approval. *Subdivision Regulations Article 3-2(10) and Missoula Rural Fire District recommendation.*
3. The following statement shall appear on the face of the plat:

"Acceptance of a deed for a lot within this subdivision constitutes waiver of the right to protest a future RSID or SID for a public 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).*
4. Installation of interior residential fire sprinklers that meet NFPA 13D standards are required in each new home for the purposes of fire protection. Plans for installation of interior residential fire sprinklers shall be approved by the Missoula Rural Fire District prior to Zoning Compliance Permit approval. *Subdivision Regulations Article 3-7(1)(E) and Missoula Rural Fire District recommendation.*
5. Section 2 of the Development Covenants shall include the following statement: "Failure to install residential sprinklers in any new home may subject the entire subdivision to the cost of installation of a shared water source for fire fighting purposes." This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations Article 3-7(1)(E) and Missoula Rural Fire District recommendation.*

Weeds

6. The Revegetation Plan for Disturbed Sites in the Development Covenants shall be amended to include the following, subject to review and approval by OPG, prior to final plat approval: "The grass species contained in the plan are not turf species, but species intended for reclamation purposes and are not suitable for maintained turf or lawn use." This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations Article 3-1(1)(B) and Missoula County Weed Board recommendation.*
7. The Weed Control section of the Development Covenants shall be amended to reference Article (1) (15) "Revegetation of Disturbed Sites Plan," subject to review and approval by OPG, prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and OPG recommendation.*

Floodplain

8. The floodplain notation on the plat shall be amended to state: "CLARK FORK RIVER/EDGE OF 100-YEAR ZONE AE FLOODPLAIN PER FEMA PANEL 1190 EFFECTIVE AUGUST 16, 1988," subject to review and approval by the Floodplain Administrator, prior to final plat approval. *Subdivision Regulations Article 3-1(2) and Floodplain Administrator recommendation.*

Development Covenant

9. The Living with Wildlife section of the Development Covenants shall be amended, subject to review and approval of OPG, prior to final plat approval, as follows:
 - a. Separate the subsection on Garbage into two sections. Section "c" retains the first two sentences as the "Garbage" section as follows:

"c. Garbage should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, dogs, etc. It is best not to set garbage cans out until the morning of garbage pickup."

New subsection "d" is a separate paragraph beginning with the sentence:

"d. Do not feed wildlife or offer supplements (such as salt blocks), attractants, or bait for deer" and continues to the end of the current subsection "c".
 - b. Re-letter the succeeding subsections, so that they end with section "k. Apiaries..."
 - c. Add the following sentence to the end of current subsection "e. Pets must be confined...": Keeping pets confined also helps protect them from predatory wildlife.
 - d. Add the following subsection at the end of the Living With Wildlife section:
 - I. Purchasers of lots within this subdivision must recognize the subdivision is located near the Clark Fork River and public access to the river, where lawful waterfowl hunting and the associated discharge of shotguns could occur from early morning until sunset and the season can run from September into January.
10. Add the following sections to the Amendment section of the Development Covenants, that may not be changed or deleted without prior written approval of the governing body, subject to review and approval of OPG, prior to final plat approval: wood burning stoves, no-build zones, driveway construction, address signs, garbage, pets and animals, revegetation of disturbed sites plan, and amendment. *Subdivision Regulations Article 3-1(1), 3-1(1)(B), 3-1(2), 3-1(10), 3-2(10)(E), Missoula Rural Fire District, Missoula City-County Health Department, Montana Fish, Wildlife and Parks, and Missoula County Weed District recommendation.*

There being no further business to come before the Board, the Commissioners were in recess at 2:35 p.m.