

**PUBLIC MEETING – March 22, 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 Assistant Public Works Director Chuck Wright and County Public Works Director Greg Robertson.

**Pledge of Allegiance**

**Public Comment**

None

**Routine Administrative Actions**

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted the past week and approve the weekly claims lists for the period 03/09/2006 to 03/22/2006 in the amount of \$1,058,758.82. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

**Hearing (Certificate of Survey): Henry 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 of COS 2646, located in the southeast one-quarter of Section 30, Township 15 North, Range 21 West.

Douglas M. and Misty M. Henry have submitted a request to create one parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 2.14 acres in size, located near Frenchtown, Montana. Douglas and Misty propose to create one approximately 1.03 acre parcel for transfer to Misty's mother, Rebecca Phillipi, for residential purposes and keep the remaining approximately 1.11 acre parcel for residential purposes as well.

The history of the parcel is as follows: COS 2644 was filed in 1981 creating Tract A as an occasional sale. A Deed of Conveyance was filed July 18, 2004, deeding the property to Douglas M. and Misty M. Henry.

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 and ask if there is a member of the family here to answer some questions. Would you give us your name for the record?

Misty Henry: Misty Henry.

Chairman Carey: Misty, thank you. We ask our Deputy County Attorney to ask certain questions on the record in order to assure us that there is not an attempt to evade subdivision review, which is a misdemeanor.

Colleen Dowdall: So the first question I have is, is it July 18, 2004 when – have you owned the property since then?

Misty Henry: That sounds right, yes.

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

Misty Henry: No.

Colleen Dowdall: Do you live on the property?

Misty Henry: Yes.

Colleen Dowdall: Where does your mother live?

Misty Henry: She lives on Mullan Road, on the other side of the elementary school, to be more specific.

Colleen Dowdall: In Missoula County.

Misty Henry: Yes.

Colleen Dowdall: Is she going to live on the property once it's transferred to her?

Misty Henry: Yes.

Colleen Dowdall: Is there a second house there?

Misty Henry: There is not. It's bare land right now.

Colleen Dowdall: Is she going to build a home?

Misty Henry: Yes.

Colleen Dowdall: Do you both intend to keep your parcels for at least the next year?

Misty Henry: Yes.

Colleen Dowdall: Have you talked to anyone at Missoula County, like the Planning office, about going through subdivision review?

Misty Henry: No.

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

Misty Henry: No.

Colleen Dowdall: You or your husband?

Misty Henry: No.

Colleen Dowdall: Are you attempting to evade subdivision review?

Misty Henry: No.

Colleen Dowdall: Do you understand that we are not reviewing this request like we would a subdivision to make sure that you have adequate access for emergency services or any of the other access issues?

Misty Henry: Yes.

Colleen Dowdall: Do you understand that you still, for the additional parcel, need to get other permits? This is just permission to divide the land?

Misty Henry: Right, yes.

Colleen Dowdall: So those may be floodplain permits, zoning compliance, maybe building permits.

Misty Henry: Yes.

Chairman Carey: Thank you. Any questions for Misty? This is a public hearing; does anyone care to comment on this proposal? Seeing no one. We'll close the hearing.

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

**Hearing: Petition to Abandon Two (2) Book 1 Roads (RBS Ranch – Frenchtown area)**

Chuck Wright: This is a petition to abandon a portion of two (2) Book 1 Roads, located in the southeast one-quarter of Section 7, Township 14 North, Range 20 West (see proposed RBS Ranch Subdivision plat). Portion to be abandoned (From-To): Book 1 Road – From Fred Lane north across COS 1549 to its terminus near northwest corner of subject property. Second Book 1 Road – From Interstate 90 East to its terminus along south boundary of Tract 6, COS 220.

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

Road Plat Book 1, Page 48, Sheet 118, shows both these roads. There is no petition information for either road. The road that corresponds with the frontage road and Interstate 90 was in existence in 1870 when surveyor W.H. Baker did the original GLO survey in this township and Baker notes and draws it on the plat as “Frenchtown to the Jocko Valley Road.” See Book 1 Roads Exhibit.

The reasons for the request are as follows:

1. The roads do not physically exist.
2. Property is being subdivided 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 Frontage Road and Interstate 90. There is sufficient existing public right-of-way provided.

The following landowners have been notified: E. Rasmussen, Sherrie Smith, Sidney and Jacquelyn Billington; Bryce E. and Kimberly A. Simpson; Richard and Carol Rashall; Antoinette Poulsen Trust; and Margaret M. Marty.

Chairman Carey: I’ll open the hearing. Does anyone wish to comment on this matter?

Ron Ewart: With Eli and Associates. We’re prepared to file the final plat of RBS Ranch but we have to vacate these two roads. One of them is on top of or parallels Frenchtown Frontage Road and the other is on the north property line. Both of them are definitely not needed. Some time I wonder whether the public has a right to walk on these roads if their public roads but they’re not on the ground. Can the property owner stop people from walking on them. some times I also wonder if it would be a good plan – for a little project that we just get rid of all the roads that we know we’ll never need instead of having to go through this process every time. Thanks.

Chairman Carey: Anyone else care to comment? This is a public hearing.

Commissioner Curtiss: I think that this is a good time to clarify that the law doesn’t allow the commissioners to decide we should abandon roads; it has to come from the people. That’s the way it is written.

Mike Sehestedt: Requirement is to abandon a road. You have to notify all affected property owners. I think we’d be in to a huge mailing and we would miss someone. Since failure of notice is a jurisdictional defect, we could bequeath this fight to our children. The other thing is it is hard to know when a road right-of-way is not going to be needed. We’ve vacated some that we’ve had regrets over in later years. I’ve been doing this for 30 years and generally they are like this and nobody knows and they don’t matter but occasionally we thought they didn’t matter and then discovered later that it would be nice to have it.

Chairman Carey: Thank you, Michael. Does anyone else care to say anything about this? Seeing no one. I’ll close the hearing.

Commissioner Curtiss: Leave it open until next week.

Chairman Carey: Oh, I have to leave it open to – I’ll recess the hearing. This hearing is recessed until – can we do it by next week? Is there any urgency to this?

Commissioner Curtiss: We already agreed that we wouldn’t put anything else on the agenda next week. I think it will have to go to the 5th.

Chairman Carey: To the 5th of April.

**Hearing: Proposed CMAQ/CTEP Projects in the Transportation Improvement Program (TIP) for FFY 2007**

Tim Elsea, Assistant Public Works Director, presented the staff report.

The Transportation Equity Act for the Twenty First Century (TEA-21) and its predecessor provide transportation enhancement funds for states. In Montana, the Community Transportation Enhancement Program (CTEP), which is part of the MDT, administers these Federal funds. Eligible projects must fit into specific categories, but include pedestrian and bicycle facilities, acquisition of scenic easement and historic or scenic sites, scenic or historic highway programs, landscaping and other scenic beautification, to name a few.

Each year, enhancement funds are allotted to Counties, Cities and Tribal Governments. Missoula County's portion can range between approximately \$153,000 to approximately \$200,000. In the past, several pedestrian walkways have been constructed using these funds, including recently, the A.J. Memorial Pathway along the Frenchtown Frontage Road.

An Advertisement has run in three consecutive weeks in the Missoulian requesting the "Public Nomination" of projects for inclusion into the Transportation Improvement Plan, and currently, one group has submitted a possible project, but others may be presented at the hearing.

The recommendation from the Public Works Department is to prioritize projects to be funded through the CTEP funding. There are no budgetary impacts at this time, but in the future, when an application is signed, a 13.42% match will be required.

Chairman Carey: I'll open the hearing. Is there anyone that wishes to comment on this item?

Sally Yarnall: Frenchtown is a fast growing community and the area has seen sharp increases in growth over the last decade but this increase comes more families. We need to be able to provide a safe route for our kids and community members to be able to walk, ride a bike or jog. Currently on the south side of the interstate between Hole Creek and the elementary school, there is at least five subdivision and two more in the works. The only thoroughfare is Mullan Road, which is a two lane road with absolutely no shoulder. As community members, we have watched some kids try to ride their bikes or walk to school with ever increasing safety concerns. As a parent, I will not allow my kids to ride their bikes to school because of the danger. The traffic count on this road for August 2005 was 570 vehicles per day with speeds in the 55 mph range at the posted 45 mph range. More and more community members are getting concerned. Another activity that occurs at least yearly is the 3rd Grade Bike-a-thon. The children ride their bikes from the grade school to the Frenchtown Pond via Mullan Road. This has also been a way to raise money. They do pledges every year to help pay for the bike path on the north side that we did before. Over the last month a group of concerned community members have gathered over 750 signatures. I have these with me here today. In support of nominating this project. We see this as a must do for the safety and well being of our community. The community is dedicated to seeing this project implemented. The north side project has been a great hit and is used a lot. We are united in this effort and are committed to raise whatever portion of the money that is needed. Some of the sources that we've already looked into include grant opportunities for Fish, Wildlife and Parks, the Missoula County Park Board, various groups, have put money aside for community projects like this. Fund raisers and local community members that have come forward and would like to donate to this project if needed. Our community also committed to implementing a game plan for ongoing maintenance of the pass. Ideas that have been discussed so far is "Adopt a Bike Path" where various community organizations would adopt mile-long segments and be responsible for the maintenance and upkeep. There are also some remaining funds in place from the north side project to use for maintenance. I want to thank you in advance for considering the approval of this project nomination.

Chairman Carey: Thank you, Ms. Yarnall. Some one else like to speak to this? No. Any questions or comments from the commissioners.

Commissioner Curtiss: I guess we'd ask for other projects, right.

Chairman Carey: I'll close the hearing then.

Commissioner Curtiss: Don't we need to ask if there's someone else that has any other projects.

Chairman Carey: Are there other projects to be brought forward today? Apparently not. So is there a time sensitive period that people can put in a nomination?

Tim Elsea: No.

Commissioner Evans moved that the Board of County Commissioners prioritize this as their next request for using CTEP money as funds become available. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Chairman Carey: Do we want to limit that to up to \$150,000 or available funds.

Tim Elsea: What I would recommend is that you put this as the next priority. We have projects that are already committed that have been in previous years. I would recommend that you prioritize the next one when funds become available.

Commissioner Evans: Before you leave – I don't see Mea here – I think it would be a good idea to let the press know that we've done this so that the folks in Frenchtown know that we've done it so that they can sleep a little easier.

**Hearing: Transfer of Three (3) County Parks to City of Missoula (Linda Vista area)**

Lisa Moisey, County Parks Coordinator, presented the staff report.

This is a request to approve the County Park Board's recommendation to transfer the ownership of Rainbow, Whitetail and Nicole Parks from the County to the City of Missoula.

Missoula County has received a request from the Upper Linda Vista Homeowners Association (ULVHOA) to transfer three County-owned parks to the City of Missoula for ownership and maintenance. The reason for the request is outlined in a July 8, 2005 letter from the Upper Linda Vista Homeowners Association and relates to funding issues. As per the standards outlined in the 2004 Master Parks and Recreation Plan for the Grater Missoula Area, Missoula City Parks and Recreation has agreed to accept the parks into their system. Since these parks are technically located outside of the City limits, the parks will need to be annexed as well.

Presently, there are nearly 18 acres of public park associated with the Linda Vista subdivisions. These parks are funded through RSID 913, which allows for a maximum of \$50 per household annual assessment. The funds are used to contract for mowing and maintenance; water costs associated with irrigation; and other expenses associated with the parks. RSID 913 has struggled to keep pace with the increasing costs of maintenance and water. The ULVHOA has submitted an RSID projection showing how this park transfer will impact their RSID funding. Dale Bickell, CFO for Missoula County, has reviewed the proposal.

The proposed transfer will move approximately 11 acres of public parks from County to City, thus leaving approximately 7 acres of County parkland requiring funding from RSID 913. The ULVHOA plans to contract with the City of Missoula Parks and Recreation for the care and maintenance of the remaining County parklands.

The Missoula County Park Board is supportive of this proposal. At their October 13, 2005 meeting, the County Parks Board voted to recommend the transfer of Rainbow, Nicole and Whitetail Parks to the City of Missoula for ownership and management. For many years, the County Parks Board has been concerned about the numerous County parks located within the limits of the City of Missoula – in-holdings resulting from past annexation practices by the City of Missoula. While Rainbow, Whitetail and Nicole Parks are not technically "in-holdings," they are wholly surrounded by the limits of the City of Missoula; when the City annexed the Linda Vista area, the ULVHOA requested that the park areas not be included in the annexation.

In addition to County Park Board support, the 2004 Master Parks and Recreation Plan for the Greater Missoula Area identifies an implementation goal of transferring County Parks that are in the City limits to City ownership and management.

Based on the recommendation by the Missoula County Park Board, this request is to approve the Upper Linda Vista Homeowners Association request to transfer Rainbow, Nicole and Whitetail Parks from the County to the City of Missoula for ownership and maintenance. No net financial impact over the long term has been identified, except that the Upper Linda Vista Homeowners Association can begin to repay their RSID balance and the appropriate amount of funds to maintain the lesser acreage is now available as the City is infusing the funds to maintain the transferred parks.

Chairman Carey: If you would like to speak, please come up to the microphone.

Art Godell: I'm President of the Linda Vista Homeowners Association. Maryland Park is farther down Linda Vista and that is not part of the area that I represent but it was adopted or some how transferred to the City. There are several sections of land that Lisa could describe that make up that entire parcel of land.

Commissioner Evans: I thought Rayleen Park is a separate park and that there were some questions about that in the past. I know there was a developer interested in buying it; that's what sticks in my mind.

Lisa Moisey: I think we call that Maryland Park and it is next door to a piece of school property, which is next door to a piece of County land.

Commissioner Evans: Rayleen is separate from Maryland Park and it was identified as a park. So we can check on that later. It is still a question.

Chairman Carey: I'll open the public hearing for comment or questions. Any questions from the commissioners? No. I'll close the hearing. Is there a motion?

Commissioner Curtiss moved that the Board of County Commissioners, based on the recommendation of the Missoula County Parks Board, approve the Upper Linda Vista Homeowners Association's request to transfer Rainbow, Nichole and Whitetail Parks from the County to the City of Missoula for ownership and maintenance. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss: Mike, our motion doesn't need to say that we'll do the quit claim deed, that's just the way we carry it out.

Mike Sehestedt: That's the way that we execute the actual transfer.

**Consideration: Panorama Subdivision (4 lots on 80.4 acres) – off Rumble Creek Road, east of Highway 83, southeast of Condon**

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

This is a proposal by Kevin and Wendy Wetherell, William Troy and Cynthia Tack, represented by Bill Burnett of Professional Consultants, Inc., to divide an 80.40 acre parcel into four residential lots ranging in size from 15.1 acres to 25.2 acres. The proposal is located within the Swan Valley between the Mission Mountain Wilderness to the west and the Bob Marshall Wilderness (Swan Range) to the east approximately two miles southeast of Condon and is accessed from Rumble Creek Road.

Rumble Creek traverses the northern portion of the property from east to southwest and forms the boundary between Lots 1 and 2. The tract contains rolling hills and extensive riparian vegetation in two areas of the site – along Rumble Creek in the northern portion of the property and Lots 3 and 4 share a wet meadow complex at the southern end of the property. Except for areas immediately adjacent to Rumble Creek and the wet alpine meadows, the property was recently logged of marketable timber.

The property is within a Wildland/Residential Interface area. It is outside the Urban Growth Area, the Sewer Service Area and the Air Stagnation Zone. All lots will be served by individual wells and septic systems.

The 2002 Missoula County Growth Policy, amended by the 1996 Swan Valley-Condon Comprehensive Plan Amendment, recommends a land use designation of Rural Low-Density Residential, one dwelling unit per 10 acres. The property is unzoned and the proposal for 4 lots on 80.40 acres results in an overall density of one dwelling unit per 20.1 acres. According to the 1996 Swan Valley-Condon Comprehensive Plan, the subdivision is outside of the grizzly bear migration corridors referred to as the "Grizzly Linkage Zones." The proposed subdivision complies with the 1996 Swan Valley-Condon Comprehensive Plan's density recommendation.

The subdivision is accessed by Rumble Creek Road, a petitioned County road with a 40 foot right-of-way and 20 foot gravel surface. The right-of-way for Rumble Creek Road, established by Board of County Commissioners resolution, is not adjacent to the southern boundary of the subject property. Therefore, staff recommends a condition requiring the developer to establish legal and physical access. The Subdivision Regulations require Rumble Creek Road to have a 60 foot public easement and a 24 foot wide paved surface width, therefore a variance is required for easement width, surface width and paving for Rumble Creek Road. County Public Works supports the variance request.

The developer has petitioned the County to establish a 60 foot right-of-way for this portion of Rumble Creek Road, which will close the gap between the road right-of-way and the southern boundary of the subject property, thus providing legal and physical access.

Panorama Trail, a private on-site road, is proposed to have a 54 foot private access easement with a 16 foot gravel surface width. The Subdivision Regulations require private roads to be paved and have a 24 foot surface width, therefore a variance is required for surface width and paving for Panorama Trail. Swan Valley Emergency Services commented that roads within the subdivision are recommended to have a minimum 18 foot surface width, or if less than 18 feet, have turnouts every 300 feet. Staff recommends conditional approval of the variance request to permit an 18 foot gravel surface width or alternatively, to permit a 16 foot gravel surface width with turnouts every 300 feet, with road engineering plans reviewed and approved by County Public Works and Swan Valley Emergency Services.

The developer proposes Panorama Trail as a 1,527 foot long cul-de-sac. The Subdivision Regulations limit the maximum length of a cul-de-sac in a rural subdivision to 1,000 feet, therefore a variance is required. County Public Works supports the variance request. Swan Valley Emergency Services did not comment on the length of the cul-de-sac, but requested a second access route if feasible. Due to topography, a second access route is not feasible, but if adjacent properties to the west develop, a second access route may be possible in the future. Staff recommended as a condition of approval that an RSID/SID waiver statement be added to the plat for the construction of a future access route.

There are no sidewalks or pedestrian access facilities in the area near the proposed subdivision and the applicant is not proposing pedestrian improvements. The Subdivision Regulations require the provision for internal pedestrian connections in subdivisions with private roads, therefore a variance is required. County Public Works supports the variance request given the rural nature of the subdivision and the large lot sizes.

Staff recommends 20 conditions of approval.

1. The RSID/SID waiver statement on the plat shall be revised to refer to Rumble Creek Road.
2. The developer shall establish legal and physical access to the subdivision from Rumble Creek Road to Panorama Trail.
3. The developer shall amend the plat to show the correct easement width and easement location for Rumble Creek Road.
4. A road sign shall be provided for Panorama Trail. Plans for address and road signage shall be reviewed and approved by County Public Works and the approved address signage plan added to the Development Covenants.
5. The developer shall receive approval from the County Surveyor's Office to name the on-site road Panorama Trail.
6. The surface width for Panorama Trail shall be increased to 18 feet or, alternatively, to 16 feet with pullouts every 300 feet. Engineering plans for the road improvements shall be reviewed and approved by County Public Works and Swan Valley Emergency Services prior to final plat approval.
7. Driveways shall be a minimum of 12 feet wide and driveways in excess of 150 feet shall incorporate a turnaround for fire apparatus and shall be reviewed and approved by Swan Valley Emergency Services.
8. The Development Covenants shall be amended to move information regarding dead end driveways from Article V, Section 12, to a new section titled Driveway Requirements.
9. Information from the Swan Valley Emergency Services regarding driveway standards for emergency access shall be added to the new Driveway Requirements section of the Development Covenants.
10. An RSID/SID waiver statement for the construction of a future second egress route shall be added to the plat.
11. The developer shall receive approval from the Swan Valley Rural Fire Department for the source of water for fire protection and the method to access the water source including dry hydrant location and vehicle accessibility.
12. An RSID/SID waiver statement for a public water system for fire protection shall be added to the plat.

13. The Development Covenants shall be amended to require lot owners to control noxious weeds and maintain their lot in compliance with State and local regulations regarding weed control and append the Revegetation plan to the Development Covenants.
14. The Development Covenants shall be amended to require the Homeowners Association to control noxious weeds and maintain the road right-of-way in compliance with State and local regulations regarding weed control.
15. The Development Covenants shall be amended to append the Living with Wildlife brochure to the Development Covenants.
16. The Development Covenants shall be amended to revise the Living with Wildlife section to reflect statements in the Riparian Management Plan regarding fencing, which would prohibit fencing at the perimeter of lots unless the fencing is wildlife friendly and to add language about types of fencing required to keep wildlife out of gardens, etc., per recommendations from FWP.
17. The Development Covenants shall be amended to include the Wildland/Residential Interface standards as required by the Subdivision Regulations.
18. The Development Covenants shall be amended by revising the definition of Riparian Areas to be consistent with Riparian Resource Management Plan.
19. The Development Covenants shall be amended to delete reference to Stoner Lake Road and refer to Panorama Trail.
20. The Development Covenants shall be amended to reference all the sections which may not be changed or eliminated without governing body approval.

Staff recommends approval of the variance requests from: The requirement to install internal pedestrian connections; the maximum length of cul-de-sac standards for Panorama Trail; and the 60 foot easement requirement and 24 foot paved surface width requirement for Rumble Creek Road. They recommend conditional approval of the variance request from the requirement to install a 24 foot paved surface width for Panorama Trail. The staff also recommends approval of the subdivision, subject to the conditions and findings of fact in the staff report.

Chairman Carey: Thank you, Mary. This is a consideration and I would like to know if somebody would like to speak to this.

Dick Ainsworth: I'm with Professional Consultants. I'm here representing the owners and developers of this property. I feel like I moved into this room. I was here last night at Planning Board until 1:00.

Commissioner Evans: You're going to get the bill for rent soon.

Dick Ainsworth: Don't send it to me. As I got here at 7:00, Colleen was just going home. I guess I got the second shift. I would like to thank Mary for her assistance in reviewing this project. Basically, the developers are in agreement with all of the conditions as proposed. I'm here to answer any questions if you have any. I'll be very brief.

Commissioner Evans: I have a question but I don't know who to ask the question to and it has to do with the capability of the Swan Valley Emergency Services to perform these services we're asking for. Are they okay with it? Do they have the people to do it? Or are we just thinking it's a fine idea.

Dick Ainsworth: I think they're capable of doing it. Somebody might know the Fire Chief.

Commissioner Curtiss: Somebody might.

Commissioner Evans: It's Jean's brother.

Dick Ainsworth: I think they're getting up to speed up there. Their development is descending upon them.

Commissioner Curtiss: I think what we're asking them to do is to make sure the turn-around in the road is big enough of their equipment, right.

Dick Ainsworth: Yes.

Commissioner Evans: I just want to make sure that they're capable of doing it.

Commissioner Curtiss: I know Mary (inaudible) since I have.

Mary McCrea: These recommendations were their request from their review.

Chairman Carey: Anybody care to speak to this proposal? Yes, sir.

Jonathon Orndoff: In my brief study of the Swan Valley I've realized that Rumble Creek is pretty important as a wildlife corridor. I don't know the possibilities of regulations for this but perhaps increasing the riparian boundary around Rumble Creek a little would facilitate more wildlife conductivity in that area. Thank you.

Commissioner Curtiss: Maybe we could have Mary respond to how the riparian area was chosen. Was it based on vegetation?

Mary McCrea: Per our regulations, the riparian area is defined by vegetation listed in an appendix in our subdivision regulations. This is what is proposed, Fish, Wildlife and Parks commented that one of the things they wanted to see and we've added is that wildlife fencing on the perimeter boundary be wildlife friendly so that we're not interrupting wildlife going across these properties. That's not to say that they can't have fencing to prevent wildlife from getting into garden areas or other things, but that it not be perimeter fencing that's not wildlife friendly. So that was one way we tried to address that.

Chairman Carey: Anybody else? Commissioners, any questions or comments?

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Section 3-2(8)(A)(IV) requiring internal pedestrian connections, so that installation of internal pedestrian connections on Panorama Trail is not required, based on the findings of fact in the staff report; conditionally approve the variance request from Section 3-2(1)(I) and 3-2(1)(G) requiring a 24 foot paved surface on Panorama Trail, to allow a 16 foot gravel surface with turnouts every 300 feet, or alternatively to allow an 18 foot gravel surface width for the entire length of the road, based on the findings of fact in the staff report; approve the variance request from Section 3-2(1)(I)(i)(a) limiting the maximum length of a cul-de-sac in a rural subdivision to 1,000 feet, to allow Panorama Trail to be 1,527 feet in length, based on the findings of fact in the staff report; and approve the variance request from Section 3-2(3)(B) and 3-2(1)(G) requiring a 60 foot public easement and 24 foot paved surface for Rumble Creek Road, to allow a 40 foot public easement and 20 foot gravel surface width, 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 Panorama Subdivision, based on the findings of fact and subject to the recommended conditions set forth in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Chairman Carey: Colleen, taking a look at our subdivision regulations, is it open to citizen input in terms of perhaps looking at a different way to word riparian areas? This is for the benefit of Mr. Orndoff.

Colleen Dowdall: I don't think we are in this phase looking at that, but I know Nancy Heil is working with the Clark Fork Coalition to look at different ways to define protection of areas that are adjacent to rivers and streams.

Chairman Carey: Mr. Orndoff, if you're interested in this, you might want to get a hold of the Clark Fork Coalition and have some input there.

### **Panorama Subdivision Conditions of Approval:**

#### **Roads and Driveways**

1. The RSID/SID waiver statement included on the preliminary plat shall be amended to waive the right to protest a RSID/SID for future road improvements to Rumble Creek Road, including non-motorized facilities, subject to review and approval of OPG, prior to final plat approval. *Subdivision Regulations Articles 3-2(3)(E) and OPG recommendation.*
2. The developer shall establish legal and physical access to the subdivision from the northern edge of the right-of-way for Rumble Creek Road to the southern edge of the subject property boundary for the private road and

utility easement of Panorama Trail, prior to final plat approval, subject to review and approval of the Missoula County Attorney's Office. *Subdivision Regulations Article 3-2(2)(D)*.

3. The developer shall amend the plat to show the correct easement width and location of the 40 foot wide public access easement for Rumble Creek Road, or alternatively, shall receive approval for the petition to establish a 60 foot public access easement for Rumble Creek Road, subject to review and approval of the County Surveyor, prior to final plat approval. *Subdivision Regulations Articles 3-1(1) and County Public Works recommendation.*
4. A signage plan for permanent road and address signs, as well as temporary (during construction) signs, conforming to the Manual on Uniform Traffic Control Devices (MUTCD), current edition, shall be reviewed and approved by County Public Works prior to final plat approval. The Development Covenants shall be amended to include the approved address signage plan, subject to review and approval of OPG, prior to final plat approval. This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations Articles 3-2(2)(F) and County Public Works recommendation.*
5. The developer shall receive approval from the County Surveyor's Office for the roadway name for the on-site road and the approved road name shall be referenced on the plat, prior to final plat approval. *Subdivision Regulations Article 3-2(12), and County Public Works recommendation.*
6. The surface width for Panorama Trail shall be increased to 18 feet, with 20 foot unobstructed and 13 foot 6 inch vertical clearance from Rumble Creek Road to the end of Panorama Trail or, alternatively, the surface width for Panorama Trail shall be increased to 16 feet, with 20 foot unobstructed and 13 foot 6 inch vertical clearance with pull-outs every 300 feet for fire apparatus, prior to final plat approval. Engineering plans for the road improvements shall be reviewed and approved by County Public Works and Swan Valley Emergency Services, prior to final plat approval. *Subdivision Regulations Article 3-2(1)(D) and Swan Valley Emergency Services recommendation.*
7. Driveways shall be a minimum of 12 feet wide. Driveways in excess of 150 feet in length shall incorporate a turnaround for fire apparatus at the terminus of the driveway and driveway plans must be approved by Swan Valley Emergency Services prior to building permit approval. *Subdivision Regulations Article 3-2(1)(I), 3-2(10) and Swan Valley Emergency Services recommendation.*
8. Article V, Section 12 of the Development Covenants shall be amended by moving the portion starting at the beginning of the second sentence addressing "Dead-end driveways ...." through the end of the paragraph into a new section titled "Driveway Requirements," subject to review and approval of OPG, prior to final plat approval. This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations Article 3-2(10) and Swan Valley Emergency Services recommendation.*
9. The following driveway requirements shall be included in the new "Driveway Requirements" section of the Development Covenants, subject to review and approval of OPG, prior to final plat approval: "The surface of the driveway shall be a minimum of 12 feet wide and engineered to support the weight of emergency equipment in all weather conditions. Driveways, bridges and turnarounds for fire apparatus shall be maintained for access for year-round entry. Keys or combinations for locked entrances shall be supplied to Swan Valley Emergency Services. Driveway plans shall be reviewed and approved by Swan Valley Emergency Services prior to building permit approval." This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations Article 3-2(10) and Swan Valley Emergency Services recommendation.*
10. An RSID/SID waiver statement shall be included on the plat waiving the right to protest a RSID/SID for the construction of a future second egress route, subject to review and approval of OPG, prior to final plat approval. *Subdivision Regulations Article 3-2(1)(E) and Swan Valley Emergency Services recommendation.*

#### **Fire**

11. The developer shall receive approval from the Swan Valley Rural Fire Department for the source of water for fire protection and the method to access the water source, including dry hydrant location and vehicle accessibility, and the approved water source for fire protection information shall be included in the Development Covenants, subject to review and approval of OPG, prior to final plat. *Subdivision Regulations Article 3-7 and Swan Valley Emergency Services recommendation.*
12. The following statement shall appear on the face of the plat, subject to review and approval of OPG, prior to final plat approval:

“Acceptance of a deed for a lot within this subdivision constitutes waiver of the right to protest a future RSID/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)*.

### **Weeds**

13. Article V, Section 16 of the Development Covenants shall be amended to require the owner of each lot to control noxious weeds and maintain their lot in compliance with the Montana County Noxious Weed Control Act, the Missoula County Noxious Weed Control Management Plan and the Revegetation Plan approved by the Missoula County Weed District appended by reference to this Development Covenant, subject to review and approval of OPG, prior to final plat. 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.*
14. Article II, Section 3 of the Development Covenants shall be amended to require the Homeowners Association to control noxious weeds and maintain the road easement in compliance with the Montana County Noxious Weed Control Act, the Missoula County Noxious Weed Control Management Plan and the Revegetation Plan approved by the Missoula County Weed District, appended by reference to this Development Covenant, subject to review and approval of OPG, prior to final plat. 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.*

### **Wildlife**

15. Article V, Section 22 of the Development Covenants shall be amended to require the Living With Wildlife brochure be appended by reference to the Development Covenants, subject to review and approval of OPG, prior to final plat. This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations Article 3-1(10) and OPG recommendation.*
16. Article V, Section 6 of the Development Covenants shall be amended as follows, subject to review and approval of OPG, prior to final plat. Revise the first sentence to state: “Fencing the perimeter of the Real Property in a manner that blocks the natural movements of wildlife is prohibited.” Add the following sentence at the end of this section: “Stronger and higher fences than those that are wildlife friendly are required to keep wildlife out of gardens and compost piles.” This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations 3-1(10) and OPG recommendation.*

### **Wildland/Residential Interface**

17. Article V, Section 12 of the Development Covenants shall be amended to include the Wildland/Residential Interface (WRI) standards per Missoula County Subdivision Regulations 5-3(5)(R) and (S), subject to review and approval of OPG, prior to final plat. This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations Article 5-3(5)(R) and(S) and OPG recommendation.*

### **Covenants**

18. Article I, Section 12 of the Development Covenants shall be amended to state: “Areas of Riparian Resource, No-Build Zones/No-Disturbance Zones,” subject to review and approval of OPG, prior to final plat approval. This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations Article 3-13 and OPG recommendation.*
19. Article I, Section 14 of the Development Covenants shall be amended to delete reference to Stoner Lake Road and refer to the County Surveyor approved on-site road name, subject to review and approval of OPG, prior to final plat approval. *Subdivision Regulations Article 3-13 and OPG recommendation.*
20. Article VIII of the Development Covenants shall be revised to state that the following sections may not be changed or eliminated without prior written consent of the governing body, subject to review and approval of OPG, prior to final plat approval: Included, but not limited to, the covenants dealing with the reclamation provision, garbage, animals and pets, bird feeding, wildlife, wood-burning devices, riparian resources and management plan, fire protection plan, weed control, radon, fire clearance measures, Wildland/Residential Interface standards, driveway requirements, addressing, fences, and amendments. This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations Article 5-1 and OPG recommendation.*

**Consideration: Milwaukee Acres West (2 lots on 12.10 acres) – north of Mullan Road on Snowdrift Lane**

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

This is a proposal by R. Kevin and Mary Jo Hammond, represented by Troy Monroe of DJ&A, to divide a 12.10 acre parcel into two residential lots. Lot 1, to the north, is 7.10 acres in size and contains an existing residence. Lot 2, to the south, is 5 acres and is currently pasture land. The property is Tract 7-A-1 of COS 3934, located on Snowdrift Lane adjacent to the Milwaukee Acres Subdivision. It is within the Air Stagnation Zone, but outside the Airport Influence Zone and the Urban Growth Area. Large lot rural residential land use characterizes the surrounding parcels with an elevated railroad bed and agricultural land to the north. All lots will be served by individual wells and septic systems.

The 2005 Wye-Mullan West Plan Area designates this area as Residential, with a recommended density of 1 dwelling unit per 5 acres. The proposed subdivision complies with the land use designation and the applicable goals and policies of the 2005 Wye-Mullan West Plan Area. The property is zoned C-A3, which permits a density of one dwelling unit per 5 acres. The C-A3 zoning district does not specify a minimum lot size. The proposal results in a density of one dwelling unit per 6.05 acres, and complies with the standards of the C-A3 zoning district.

The property is located 4 miles west of Missoula and is accessed from Snowdrift Lane to Milwaukee Court. Snowdrift Lane is a 24 foot wide paved County road without curb or gutter within a 60 foot public right-of-way easement, which meets Missoula County Subdivision Regulations standards for easement, surface width and paving. Milwaukee Court is a paved private road with a 14 foot surface width within a 60 foot wide private access easement. The developer proposes to widen Milwaukee Court to an 18 foot surface width. The Subdivision Regulations require a 24 foot surface width for Milwaukee Court, therefore a variance is required. County Public Works conditionally supports the variance request to permit an 18 foot surface width for Milwaukee Court with the following conditions:

- a. The Milwaukee Court road name shall be shown on the final plat, a road sign provided and the lot approaches and addresses shall be from Milwaukee Court, and;
- b. The 18 foot surface width for Milwaukee Court shall extend the entire length and end in a paved 35 foot diameter cul-de-sac bulb, with all improvements completed prior to final plat.

Staff has included County Public Works recommendations as conditions of approval.

This subdivision is accessed from Milwaukee Court, a private road, to Snowdrift Lane, a County road. There are no walkways on Snowdrift Lane adjacent to the subdivision. The Subdivision Regulations require a system of pedestrian facilities be provided for public roads outside the Urban Growth Area. The plat shows a waiver of the right to protest an RSID/SID for improvements to Snowdrift Lane, based on benefit, which includes pedestrian walkways and bikeways. Milwaukee Court is a private road, proposed to be paved to 18 feet without walkways. The Subdivision Regulations require the provision for internal pedestrian connections in subdivisions with private roads, therefore a variance is required. Public Works supports the variance request.

Staff recommends 10 conditions of approval:

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.
2. Milwaukee Court shall be improved to a paved 18 foot surface width for its entire length and end in a paved, 35 foot diameter cul-de-sac bulb at its terminus, subject to review and approval by County Public Works.
3. A road sign shall be provided for Milwaukee Court. Plans for address and road signage shall be reviewed and approved by County Public Works and Missoula Rural Fire District and the approved address signage plan added to the Development Covenants.
4. The Development Covenants shall be amended to require Lot 2 to access off of Milwaukee Court.
5. Driveways in excess of 150 feet shall incorporate a turnaround for fire apparatus and shall be reviewed and approved by Missoula Rural Fire District.
6. The covenants shall be amended to include the driveway requirements as recommended by Missoula Rural Fire District.

7. An RSID/SID waiver statement for a public water system for fire protection shall be added to the plat.
8. Installation of interior residential fire sprinklers are required in each new home and plans for installation of the sprinklers shall be reviewed and approved by the Missoula Rural Fire District prior to Zoning Compliance Permit.
9. The Development Covenants shall be amended to include the interior residential fire sprinkler requirement.
10. The Living with Wildlife section of the Development Covenants shall be amended to include the recommendations from FWP.

Staff recommends approval of the variance request from the requirement to install internal pedestrian connections. They recommend conditional approval of the variance request from the requirement to install a 24 foot surface width for Milwaukee Court. Staff also recommends approval of the subdivision subject to conditions and findings of fact in the staff report.

Chairman Carey: Thank you, Mary. Is there anyone here that wishes to speak to this proposal?

Troy Monroe: I'm with DJ&A, P.C. and I represent the landowners, Kevin and Mary Jo Hammond. The Hammonds agree with all of the recommendations. They wanted me to point out the fact that they were surprised that Mullan Road and Flynn Lane (requirements) that notice came to us two weeks ago and that is required before final plat approval and it is hard for them to budget with those types of actions coming mid way. Other than that, they agree with all of the other recommendations and conditions and I'm available for questions.

Commissioner Evans: I have a question for Mary or Troy or the Hammonds. That is, when Snowdrift Lane was paved, it was done by RSID and everybody paid. It was my understanding that subsequent splits of the land would also contribute to that RSID to help ease the cost for everyone else who had paid for it when someone new is going to benefit from it. Did anybody check into that to determine --

Greg Robertson: The answer to your question is that at the time the RSID was created, that issue was discussed and it was problematic to collect the re-subdivision of property after the time of RSID creation and the matter was dropped at that time.

Commissioner Evans: Then it would seem to me, in the future maybe we want to look at the possibility of land splits and charge for the possibility of a land split so that the folks who live there aren't paying for future folks who don't have to pay.

Greg Robertson: I think at the time that matter was discussed. At my recollection at that time is a little on the fuzzy side right now but it was dropped because of some problems with collecting it.

Commissioner Evans: There was one other one that we did that was out toward the west that we determined and put in the record that in the future, any time within 10 years, the one developer who is taking advantage – the one homeowner that was taken advantage of everybody else paying for the road that they didn't pay for would have to pay for it if they developed at time within 10 years. It would seem to me the same kind of policy should be looked at so we don't have the folks who are living here today paying for the folks who come in later. End of speech.

Commissioner Curtiss: It sounds like you are in favor of impact fees.

Commissioner Evans: Nope. I knew you were going to say that and I will get you after this meeting.

Chairman Carey: She couldn't help herself.

Commissioner Evans: I will hold that against you.

Chairman Carey: Anybody else care to speak to this proposal? Okay. (END OF TAPE 1 SIDE A)

Chairman Carey: Are there any other comments or questions from the board? Is there a motion?

Commissioner Evans moved that the Board of County Commissioners approve the variance request from Article 3-2(8)(A)(iv) of the Missoula County Subdivision Regulations requiring internal pedestrian connections for Milwaukee Court, based on the findings of fact in the staff report; and conditionally approve the variance request from Article 3-2(1)(I) of the Missoula County Subdivision Regulations requiring a 24 foot wide surface width for Milwaukee Court, to

permit an 18 foot wide surface width, based on the findings of fact and conditions of approval 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 Milwaukee Acres West Subdivision, based on the findings of fact and subject to the conditions of approval in the staff report. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

### **Milwaukee Acres West 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.*
2. Milwaukee Court shall be improved to a paved 18 foot surface width for its entire length and end in a paved 35 foot diameter cul-de-sac bulb at its terminus, subject to review and approval by County Public Works, prior to final plat approval. *Subdivision Regulations Article 3-2(1)(I) and Public Works recommendation.*
3. A road or street sign identifying Milwaukee Court for emergency response shall be provided and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), current edition, subject to review and approval by County Public Works, prior to final plat approval. Plans for address signage for each property and road signage shall be reviewed and approved by County Public Works and Missoula Rural Fire District prior to final plat approval. The Address Signage section of the Development Covenants shall be amended to include the approved address signage plan, subject to review and approval of OPG, prior to final plat approval. This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations Article 3-2(2)(F), County Public Works and Missoula Rural Fire District recommendation.*
4. The Development Covenants shall be amended to require that the owner of Lot 2 shall access off of Milwaukee Court, subject to OPG approval, prior to final plat approval. This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations 3-3(1)(G)and County Public Works recommendation.*

#### **Fire**

5. 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.*
6. The Private Roadways and Driveways section of the Development Covenants shall be amended to include the following, subject to OPG approval, prior to final plat approval: "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. The driveway must provide 20 feet of horizontal clearance and 13 feet-6 inch vertical clearance the length of the driveway. The surface of the driveway must be engineered to support the weight of emergency equipment in all weather conditions. All new driveways must pave 20 feet back from the edge of pavement or the right-of-way boundary, whichever is longer." This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations Article 3-2(10) and Missoula Rural Fire District recommendation.*
7. 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).*
8. 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 3-7(1)(E) and Missoula Rural Fire District recommendation.*
9. The Development Covenants shall be amended to include the following, subject to OPG approval, prior to final plat approval: "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. 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 3-7(1)(E) and Missoula Rural Fire District recommendation.*

### **Development Covenant**

10. The Living with Wildlife section of the Development Covenants shall be amended to add the following sentence to the end of current subsection “f. Pets”, subject to review and approval of OPG, prior to final plat approval: “Keeping pets confined also helps protect them from predatory wildlife.”

### **Hearing: Country Crest No. 3B, Lot 59 Subsequent Minor Subdivision – (2 lots on 1 acre) – off Mullan Road**

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

This is a request from Bill Holt to subdivide a 1.00 acre parcel into two residential lots. The property is located on the south side of Grassland Drive 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. Access to the subdivision is from Grassland Drive, a 24 foot wide paved County road within a 60 foot public right-of-way.

The property is zoned C-RR2 (Residential – two dwelling units per acre). The recently adopted Wye-Mullan Comprehensive Plan recommends a land use designation of Suburban Residential, with a maximum density of two dwelling units per acre. The density of this proposal is one dwelling unit per half acre.

The subdivider is requesting a variance from the requirement to install boulevard sidewalks on Grassland Drive. Staff recommends approval of the variance request. A variance is also being requested to not install curb and gutter along Grassland Drive. Staff also recommends approval of this variance request. Both curb and gutter and sidewalk improvements are included in the waiver statement conditioned for the plat.

Staff recommends the following conditions of approval:

- A condition that requires the subdivider to contribute to the Mullan Road/Flynn Lane intersection and to the Mullan Road/Reserve Street intersection mitigation fund.
- A condition that requires the RSID statement to refer to streets in Country Crest No. 3B for improvements along Grassland Drive.
- A condition requires the Missoula Rural Fire District to review and approve plans for installing residential fire sprinkler systems to Zoning Compliance permit submittal and that the subdivider file a development covenant that includes the requirement for residential fire sprinkler systems.
- A condition requires a statement on the final plat waiving the right to protest a future RSID/SID for a community or municipal water system for fire protection purposes.
- Other conditions require that the applicant present evidence of petitioning into the Missoula Urban Transportation District and that a development covenant be filed that addresses weed control and revegetation, radon mitigation systems and prohibition of wood burning stoves.

This proposal went before the Planning Board on March 7, 2006. They recommended approval of the two variance requests and that the Country Crest No. 3B, Lot 59 Subdivision be approved for a preliminary plat approval period of two years, based on the findings of fact and testimony heard at the public hearings, and subject to the recommended conditions of approval.

Chairman Carey: At this point I will open the hearing for public comment. Is there someone who wishes to speak to this?

Bill Holt: I’m the subdivider and the landowner of Lot 59. If you have any questions or if anybody brings anything up, I’m here to answer any questions.

Commissioner Evans: I have a question and that is for whomever. I do not believe that we have required – Curt, you’re going to want to come up here and smack me – I don’t believe that we have required fire sprinkling systems in the other parts of Country Crest, did we? We did.

Chairman Carey: The answer is yes.

Commissioner Evans: I just don't want to do one house out of a whole subdivision. That wouldn't seem fair to me. Thank you.

Chairman Carey: Anybody else? Seeing none. I will close the hearing.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Section 3-2(8)(A)(ii) requiring installation of concrete boulevard sidewalks, so that sidewalk installation on Grassland Drive is not required, based on the findings of fact in the staff report. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Section 3-2(7) requiring installation of curbs and gutters, so curb and gutter installation on Grassland Drive is not required, based on findings of fact in the staff report. 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 Country Crest No. 3B Lot 59 Subdivision, based on findings of fact and subject to the recommended conditions of approval in the staff report. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Chairman Carey: Thank you, Dale.

Commissioner Curtiss: And congratulations to Mr. Holt for doing this subdivision himself.

### **Country Crest No. 3B, Lot 59 Subdivision Conditions of Approval:**

#### **Roads and Access**

1. The subdivider shall contribute \$230 per new lot to mitigate the impact of additional development by assistance in signaling the Flynn Lane/Mullan Road intersection and \$815 per new lot mitigate the impact of additional development on 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 County Public Works recommendation.*
2. The following note shall appear on the face of the plat:  
  
"Lots within this subdivision are subject to the RSID/SID waiver on the face of the Country Crest No. 3B plat."  
*Subdivision Regulations 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) and MUTD recommendation.*

#### **Fire**

4. Plans for installing NFPA 13D standard residential fire sprinkler systems in all new dwellings in the Country Crest No. 3B, Lot 59 Subdivision shall be reviewed and approved by the Missoula Rural Fire District prior to submittal for a zoning compliance permit. This language shall also be included in a development covenant and shall not be deleted or amended without governing body approval. *Subdivision Regulations Article 3-7(1)(6) and Missoula Rural Fire District recommendation.*
5. 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) and Missoula Rural Fire District recommendation.*
6. 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 and shall be included in a development covenant prior to final plat approval. *Subdivision Regulations Article 3-2(2)(G) and Missoula Rural Fire District recommendation.*

#### **Weeds**

7. 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) and County Weed District recommendation.*

#### **Radon**

8. 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) and City-County Health Department recommendation.*

#### **Other**

9. 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) and City-County Health Department recommendation.*

### **Hearing: Ridge Over Rock Creek Subdivision (Plat Modifications and Condition Amendment)**

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

Mike Barnes, represented by Paul Druyvestein of DJ&A, is requesting approval of modifications of the Ridge Over Rock Creek Subdivision plat, as well as requests to vary from road grad and cul-de-sac length standards for Grayling road and private road standards for access to Lots 13-15. The proposal requires amendment of three conditions of subdivision approval and addition of eight new conditions.

The Ridge Over Rock Creek Subdivision was approved on August 11, 2004, and the developer was subsequently granted an extension to allow for an August 11, 2006 plat approval deadline.

This is a request to modify the final plat, pursuant to Section 4-2(1) of the Missoula County Subdivision Regulations which allows the governing body to approve a plat which has been modified to reflect improvements in design since the time of the preliminary plat review and approval.

Changes to the plat are necessary due to the current proposal to change primary access to the subdivision from the existing road on the east edge of the subdivision to a new extension of Grayling Road on the west edge of the subdivision, based on the preference of the adjoining landowner. Approved septic locations have also required the lot, building site and driveway locations to be adjusted in some locations. The developer's representative also proposes elimination of the Fire Safety Zone. The request requires amendment of three conditions of subdivision approval and addition of eight new conditions.

The proposed modifications to the plat include the following:

1. Relocate subdivision access 1,200 feet to the west to a 20 foot paved roadway called Grayling Road. Cutthroat Road was the 20 foot paved roadway originally approved as the primary entrance for the subdivision within an easement granted to the landowner, the Forest Service, Plum Creek and PPL. This gravel roadway is now intended as a secondary access route in emergencies.
2. Alteration of lot, building site and driveway locations. Approved septic locations have required some shifting of lot, building site and driveway locations as indicated in Attachment A of the staff report. Changes include a shared driveway proposed to serve Lots 13, 14 and 15. The original proposed design had Lots 14 and 15 sharing a driveway at the end of a cul-de-sac road, with Lot 15 having its own driveway access.
3. Elimination of the Fire Safety Zone shown on Supplemental Data Sheet 2 of 6, dated August 10, 2004. This was intended as a refuge area during a wildfire with access to a fire hydrant. The fire hydrant is proposed to remain with the secondary access being used in lieu of the fire safety zone.

Based on Planning Status discussion, one additional new condition is proposed, that plans for relocation of Grayling Road from the location shown on the modified preliminary plat shall be reviewed and approved by County Public Works prior to final plat approval and that the approved location be shown on the final plat.

Staff recommends approval of the variance requests: 1) to vary from the 8% maximum grade standard for Grayling Road; 2) from the 24 foot road standard for access to Lots 13-15; and 3) to exceed the maximum cul-de-sac length for Grayling Road.

Chairman Carey: Thank you, Tim.

Commissioner Curtiss: I have one question. Are these going to be private or public roads?

Tim Worley: These will be private roads.

Commissioner Curtiss: Okay. I was going to ask Greg opinion on guardrails.

Greg Robertson: Generally, if you want my opinion, I will give it to you unsolicited. On rural roads like this, the standards that are adopted nationally do not apply to lower volume roads such as this. The general break point is 400 vehicles per day as the threshold when guardrails are needed or not. If there is a specific hazard that they are trying to avoid, there are warrants for that type of thing.

Commissioner Curtiss: So you can pull 399 out of the ditch everyday but the 400 just puts you over the top.

Greg Robertson: That will do it.

Chairman Carey: I'll open the hearing at this point. It's an opportunity for public input. Does the project's representative wish to say anything?

Paul Druyvestein: I'm with DJ&A and I represent Mr. Barnes on this project. I think everything has been covered real well by OPG and I appreciate Tim's effort. I'm available for any questions that you may have regarding the proposal.

Chairman Carey: Thank you. Any other public comments?

Bruce Hover: I'm one of the people that is next to this road. Mine is a septic system that encroaches on the easement way. All I was concerned about is that the system is old and it wasn't technically done legally in the first place. By shifting your road over to miss that, would that include a replacement area designated so that when this system does go that it could be fixed. If it isn't along with low area and on the other side of me is the other neighbor's access road. The well is right there. I'm not sure there is a replacement area without getting into the pipe line issue. That's all I would do is take (inaudible). Please consider me.

Chairman Carey: Paul, maybe you could address that.

Paul Druyvestein: Without knowing all the specifics – I know which way the gradient of the ground water is going because we did a study on the upper part and I know it's going towards Missoula. Anything I said in regards to where the replacement area would be is probably pure speculation. If they had to replace it they would have to fall under the current standards. They're going to have an extremely difficult time because of the high ground water in the area to do – that's why we didn't want to replace and why we wanted to move the road because we don't want to get into a situation where they would have to put in a new drain field. I don't think there is going to be a lot of difficulties for that. I would assume they're going to be the same difficulties for replacement area. We are moving it to the east so if they put a replacement area for it directly to the south of it, towards the interstate, probably no problem because all of our roads being shifted towards the east. If you want I can also bring up a diagram to show that some more if you have confusion on that.

Chairman Carey: Did that help?

Bruce Hover: As long as that would work it's fine with me. The pipe line is right there so it's just my concern if that's doable.

Chairman Carey: Sounds like it is from what Paul said.

Bruce Hover: Can that be approved by the sanitarian so when that time does come we know what we're talking about.

Chairman Carey: Tim, do you want to speak to that?

Tim Worley: Yeah, that's a health issue that I don't know about. I think you would have to go through a full review for that to even be known.

Chairman Carey: From DEQ?

Tim Worley: From local health.

Chairman Carey: Local health, okay. Colleen?

Colleen Dowdall: I was wondering if a new condition regarding the siding of the road and that this siding isn't necessarily the one that would occur. Is that going to help?

Tim Worley: It definitely should help I just think there is some question as to whether there could be replacement area on the developers parcel. Is that correct? Or an easement, a drain field easement or replacement on the developer's ground?

Paul Druyvestein: That would happen since that line has been established; it's like 10 feet out the door. Essentially the entire drain field is on the wrong side.

Commissioner Curtiss: The current drain field is not on your lease land, right; it's on Mr. Ekstrom's land.

Paul Druyvestein: Yes.

Colleen Dowdall: But not on the subdivision?

Paul Druyvestein: It's where that road goes. The road is actually out of the way. All I'm concerned is that – I realize that it's on the wrong part but it's been there for 30 years. It's really a good location, I would think, other than the pipe line issue.

Colleen Dowdall: It isn't in the subdivision, the drain field, and I don't think the Health Department would allow the replacement drain field to be in the subdivision or off the site.

Commissioner Curtiss: They still allow them off-site.

Colleen Dowdall: Do they? Okay. Do you have to create an additional parcel for it?

Commissioner Curtiss: No, they have to have an agreement. It's not the favored way to do it, however.

Colleen Dowdall: I know in some subdivisions we require that they create – well, I guess that's for shared drain fields. Really what we're concerned about is that we don't build a road over a drain field. We don't allow road to be built over a drain field. Other than that, I don't think this subdivision review can impact any of that.

Commissioner Evans: Or make promises.

Chairman Carey: Any body else wish to comment?

Commissioner Curtiss: I have a question for Paul. Greg might be able to answer it too. Paul, what would be the difference in approving a drain field with the regulations now in high water, what would they have to do different? Just kind of generally.

Paul Druyvestein: Probably like a mound system. Basically, they need, I think its 4 feet of separation, between the lower lateral and ground water. If ground water out there is 2 feet below the surface then they build up a mound so those laterals will have that separation.

Commissioner Curtiss: Okay. That's why you're saying that this one probably wouldn't meet it now.

Paul Druyvestein: Yeah, it would be difficult. That's why our developers are concerned; I think that's why Dan is concerned. We just want to work with the people out here. We don't want to say, "You got to move your drain field, it's not on your property." I want them to be able to maintain the one they have.

Chairman Carey: Anybody else?

Dan Ekstrom: I'm the landowner out there I could probably shed a little light on this drain field issue. I put it in years ago. A friend of my grandmothers had a trailer house there that's still there and he decided to move out towards the road farther. At the time we put the drain field in for him, there wasn't enough room on the ground that he had got. It's all Burlington Northern lease ground. There wasn't quite enough room to finish the drain field on his property so I ran it into my hay field. You know, 30 years ago I wasn't thinking about all of this stuff. As far as replacement on that side, there wouldn't be any room anyway. It would have to go to the west. There would have to be a long line or something that goes across that other road for the neighbors there but it's a doable situation on the west side. It's not possible, that I can see, on the east side. It wouldn't have ever been changed anyway, whether the road was there or not. I wouldn't have allowed it.

Chairman Carey: Thank you, Mr. Ekstrom. Mr. Hover.

Bruce Hover: I just – looking at my sewer (inaudible) the only thing I could see is what's drawn here isn't what's there. I realize that it was put on the wrong part and I see exactly where it is now but on my sheet that I thought was there doesn't seem to be right.

Commissioner Curtiss: Does this drawing shows that it is on your property line and it actually beyond what's listed there as property line east side number three.

Bruce Hover: That's what I've gotten out of this. Is the paper?

Commissioner Curtiss: Right. That's the one we're looking at too.

Bruce Hover: It doesn't appear like it is that way.

Commissioner Curtiss: Another words, this property line east side number three, is that where Mr. Ekstrom's property begins?

Bruce Hover: No, actually it's just about 1 foot off from where the septic tank is drawn. It isn't quite proportionate there. In fact, I can show you on one of those slides where that would go. The entire drain field of the 40 feet happens to be across that line. It's not what's here.

Commissioner Curtiss: Okay, this isn't accurate. So all of the drain field is on Mr. Ekstrom's property. I don't actually know where the true line is but I know a lot more where it is not than where I did.

Commissioner Evans: Is there anything we can do legally on this issue with the matter that's before us?

Colleen Dowdall: I don't believe that there is.

Greg Robertson: I think that the appropriate thing to do is exactly what the developer's rep is proposing to do and that's to move the road further east to avoid conflict. Whatever issue that Mr. Hover has with the existing drain field and its location is between him and his neighbor.

Chairman Carey: Would somebody else like to speak to this?

Scott Hicks: I'm an adjacent landowner. We had – did you get our letter?

Commissioner Evans: Yes, we have it.

Scott Hicks: I would just like to highlight the three concerns that we have. The first is that there are several concerns I have about the road changes being proposed to this subdivision. The first concern is the new road being built on a very steep hill face. I might as well read the whole thing. That's an issue for us. The second point that I would like to make is that the new road proposed would go in and out of an area with several homes and driveways already present. This would only add confusion and congestion to this part of Bonita Road. The third point is, cutting up the high visibility hill face to build this road would leave a very negative impact on a scenic vista of this area. It's going to affect a lot of the neighbors – this whole road movement. Thank you very much.

Maria Freeman: Did you get my letters that we sent in, and the pictures? Okay. A couple of question that we have is the only reason that we've heard for moving the original entrance to this subdivision was because it was a few feet less of an area to be developed that the original entrance that's been there for quite a while. Is there any other reason that that original proposed entrance is not going to be used?

Chairman Carey: Do you want to speak to that too?

Greg Robertson: I guess our biggest reason for supporting this is that it provides a second way out. Originally there was only one way out of this that has the significant number of Ponderosa Pine trees and there was always a wildfire risk issue that we considered with the original proposal. We thought that a second way out would mitigate that particular issue.

Maria Freeman: Right. But it was approved with only one entrance?

Greg Robertson: Correct.

Maria Freeman: My other question is, this new entrance. You have to cross a Burlington Northern piece of land. How are you going to get that permission?

Greg Robertson: Generally speaking, the way that's done is either through a license or an easement. That will be up to the developer to obtain.

Maria Freeman: Has the developer made a letter from Montana Rail Link available to you denying access across this land and mentioning BNF not granting this?

Greg Robertson: No, we haven't received anything to that affect? That's the developer's representative's burden to supply that information to us. If we don't get that affirmation they won't get their modification.

Maria Freeman: I have this letter in my possession, would you like to see it?

Chairman Carey: Sure you could show it to the Board. Is that a copy that we can keep, Mrs. Freeman?

Maria Freeman: Yeah. (Inaudible-microphone off) That was a letter that was sent denying access that Montana Rail Link has said no to any more easements across their land. There is an easement just a few feet west of this that already intersects Hover's land and is the only entrance to the Hick's property. By creating another easement, you have an easement and then you have a home and then you have another easement. They are completely surrounded by roads. Burlington Northern has again said that they are not going to grant any easements on their land. I've been in contact with Burlington Northern. They say that they aren't going to do a permit system and they're not going to grant an easement.

Greg Robertson: Then I would say that this whole modification is moot because if they can't obtain their necessary legal and physical access then they'll either have to drop kick and go back to the original proposal or work something else out with Burlington Northern. The burden is on the developer not us.

Maria Freeman: Right. The only way that it's going to come back to you is that they're going to call it a county road because Burlington Northern will address recommendations from County Commissioners from County agencies to grant a county road and that is the way that they can get it done, I understand. It would be up to the County.

Greg Robertson: I'm not interested in pursuing that.

Maria Freeman: So regards to the easement that's there, the one that you're already proposing, the pictures I have sent with seven other driveways intersecting this area, we're looking at a safety issue, school bus, mailboxes, we're looking at a lot of problems. There are other ways to access the area that they're trying to get to. Would you like to see this picture? It shows it a little bit better. That's an overhead that was taken. It shows the entire ridge, the trees that will be affected and the draw in the middle of that field that they are actually trying to access. I don't understand why they would make an easement so far to the west if they're trying to get to – can you see the natural depression in that hill. I would like DJ&A or somebody to draw me a line on that picture showing how much hillside they're going to have to remove – the entire hillside – to cut to get to that natural depression, a 90 degree type turn to access their subdivision. Why don't they just go straight across the field to access that?

Chairman Carey: I'm going to ask Mr. Druyvestein to come up and speak to that.

Paul Druyvestein: The main purpose was is that this was all approached to us by Mr. Ekstrom and that particular entrance that she is talking about would split his field into two pieces and he was not interested when I approached him with that because it makes the most sense to put it on the one side of his field so he still has that usable field. That's where we placed this road. As far as to address the Burlington Northern concerns, while I'm up here, we've

been talking with them also. Basically, we have an easement across where the original easement is and they're looking at whether it was a non-descriptive or descriptive easement. For this piece of property they could relocate the easement to any location that we wanted. That's kind of what we're pursuing because we do have access into our property –actually two pieces of property. It's our burden to get that easement. It's nothing to do with the County.

Chairman Carey: Thank you, Paul.

Marie Freeman: So I also hope you saw the existing road that's on the other side of the mobile home. By putting another road, you can see what you're doing to their property. How much of this hillside is going to be removed to get to this area. I understand that Mr. Ekstrom wants to farm his Montana Rail Link leased land but there's other ways to access this sub-development without putting another road across there, cutting the whole hill side out, making a 90 degree turn and accessing it. He can get his tractor across a road. He can also access this sub-development on the other side of his property right in back of the cabins and it would still have access to his entire Montana Rail Link lease.

Chairman Carey: Paul, would show us on Mrs. Freeman's photograph what you're going to do to the hillside.

Commissioner Evans: Or if we have PowerPoint picture that would show everyone in the audience that would be nice.

Commissioner Curtiss: That one that has the trees maybe.

Marie Freeman: This is the only picture that's going to show the trees affected in the spring, what the field looks like. That one is a little hard but whatever you can do.

Commissioner Evans: Are the trees on your land?

Marie Freeman: No, they're on – there's a little snippet that might belong to Dan Ekstrom but most of it is on Montana Rail Link, I believe.

Paul Druyvestein: To build this road, we'll have to do a large cut on the slope that you're looking at. We're going to punch a hole right through those alder trees and –

Commissioner Evans: Would you use the pointer and show us so that we know what we're looking at.

Paul Druyvestein: Right in this area, I'm being approximate, this area here, they were going to be removed. Our road was going to circle up here and then come in around here. We're basically doing a through-cut for about a 22 foot wide roadway. We'll basically be backing in to this area, I believe anywhere from 20-25 feet. You'll have that back slope basically a road going through here and then you'll have your back slope. Our whole point was to basically do a through-cut so that none of the fill would come in and destroy any of these trees because they make such a natural barrier for what we're trying to do up here. It should also be noted too that if we were to go back to our original layout, that hillside there is much, much steeper and much, much taller than this hillside. I think – when we're right up here we were cutting about 10 feet so it is a 10 feet deep through-cut to give you some perspective.

Commissioner Curtiss: How far back into those trees do we have to cut to get the slope (inaudible)?

Paul Druyvestein: Back off the top, I believe it was 20-25 feet. I did some road plans and you can see our construction limits and where they go up there.

Marie Freeman: I live across the road and basically this is just another logging road. No matter how they try to plant grass; you're going to have erosion, you're going to have rocks. It's going to be an ugly entrance to this subdivision. The original entrance was a good entrance. It was semi-private. There were no other driveways, traffic problems to deal with. By moving it to the Far East, you're affecting three other places, six other driveways – a lot of congestion right there. I just think that this is the wrong way to get to that subdivision. There are two other possible ways that would be easier to do it.

Chairman Carey: Thank you.

Commissioner Evans: May I ask a question? Paul or Mr. Ekstrom, would someone explain to me why you want to do what it is that you want to do. If it's to make farming better for you, I need to know that. If it's for safety of the people in the subdivision, I need to know that so that I have a clearer picture.

Dan Ekstrom: I'd like to comment on it to start with and Paul probably can too. Originally when we sold this piece of ground up there we were led astray by the realtor not the developer. There was to be 8-10 beautiful summer homes up there. The reason that this was not the first proposed road was that reason. I figured, well, there was already a road up there. We didn't have a clue what the County was going to require for a road. Some of these country places just have dirt roads to them. We weren't aware of what the impact would be. My biggest concern at the time was to have two easements in there, especially with the wildfire situation. The hill on the east end is a heck of a lot steeper than this one. It's going to impact just as bad only it won't be where these neighbors can see it; it will be where the other neighbors can see it. It's a long road. It's a long road in there and it's going to cause some other problems with some roads that we have to our fields. If we would have ever thought that there was going to be 21 or 20 units up there, this would have been the only access that we would have proposed. The other one could have been an emergency like you're wanting to do now. As far as the safety issue, this road here is going to be a heck of a lot safer for the county road than if they come out east of there. We have trouble all the time with the Bonita Ranger Station and the people who live above speeding down the road. At least, when they come in there they are just barely off the overpass and they're going to be turning in there so they're not going to be speeding. As far as the bus, that's no problem whatsoever. Access, just have another access there, there's no difference. This ground that we're talking about is all Burlington Northern ground anyway.

Commissioner Evans: So this is going to be a county road?

Chairman Carey: No, it's a private road.

Dan Ekstrom: But it will hook right onto the county road. The ground over there that we're speaking of is the original Northern Pacific Railroad. They have a 400 foot strip through there. They own 59 acres on the side – that's abandoned right-of-way. To tell you the truth, they are absolutely holding us up. They claim they can't sell it or anything else. All we can do is lease it from them and every time you touch it, they charge us more money for it. It's highway robbery. They are just harder than hell to deal with. You try to do something it takes forever but that's another issue. What I did want to say is if we would have known exactly what was going on up there in that hill, this would be the easement or they wouldn't have it.

Mrs. Ekstrom: (Inaudible-microphone off) – access was going to be previous to the proposed one is in a big field that we do a lot of farming and stuff. The access into there where they had to go above the house and turn in to the road there was going to be a problem splitting off part of the land where we do farm – where we do pasture animals, horses. It was becoming a real problem that we hadn't dealt with to begin with is that road coming into that field with the animals that we put in there for winter pasture is how that was going to have to be fenced. There was a major problem that turned out as far as the farming and that part when to us so when we got to thinking about it and talking about it, that that other entrance is a lot better that way having both an entrance and an exit on that mountain that could be a problem for fire.

Chairman Carey: Thank you, Mrs. Ekstrom.

Commissioner Evans: Let me understand, (END OF TAPE 1, SIDE B) are they willing to do this road?

Paul Druyvestein: It is Burlington Northern land; the Montana Rail Link has a long-term lease over it. The ultimate decision rests with Dennis.

Commissioner Evans: Is this a moot question, are they going to let you do this if we agree this? If not, there is no point of us doing this.

Chairman Carey: That's directed to Paul, I think.

Commissioner Evans: To Mr. Ekstrom, or Paul, I don't care. Somebody answer the question.

Paul Druyvestein: We've been talking with them. We've talked with the head person at Burlington Northern and we're meeting next week to go over the specifics of what it is that we want to do to get this easement. We are hoping to get it. It's unfortunate that it takes a long time with them to get some of these things resolved so I wish it was resolved by now. As of right now, we have not gotten that permission but we are working on that.

Maria Freeman: I have one more thing that I would like to add because we as residents feel we have nothing to lose at this point. We've gone through this process. (Inaudible) regarding a bridge over Rock Creek, the subdivision has been a give and take since the beginning. All the residents of the Bonita Ranger Station Road know full and well how it will affect their lives, privacy and general way of living. The increase use of natural resources strain our local

services as well as concerns about water and sewer impact on existing wells, increase traffic, noise, lights, barking dogs and security issues are all things that we as existing residents will have to deal with. To add additional strain on residents, a new subdivision is also proposed directly across the freeway from the Ridge Development by the same out of state developer; 37 homes with a 5 acre lake. If both of these developments happen at the Rock Creek Exit, we will be living with this for the rest of our lives. To add insult to injury, the Ridge Development wants to change its main entrance. This change will put the new entrance directly affecting three residents. The original entrance only affects the residents the sold the land and started this development in the first place. Stated in letters written to the Commissioners on two previous meetings, the original approved entrance is the only and best proposed. Why are the concerns of one out weighing the concerns of many? How do you expect the neighbors to absorb? Do you really want your cake and eat it too? We're also aware that you as commissioners need to make decisions based on facts and existing regulations and laws. We're not opposed to someone developing his or her land. We are opposed to the disregard for the Comprehensive Plan of 1 house per 40. The simple rule is ignored. I guess we cannot go back and argue this point, it did not work the first time or the second. We just wanted to state for the record because we feel these developers are doing what they want, as we as residents are left to live with it. I hope in the future that Montana and its County Commissioners will see that this is a problem and start zoning to protect our lands. Out of state developers as well as instate are taking advantage of our liberal zoning laws. Our agricultural land is disappearing at an alarming rate. (Inaudible) developments are popping up everywhere. Please be as reasonable as possible about this problem and keep in mind that it's residents and present future all want the same thing; equal voice with regard to development. Change is hard and inevitable but change as one-sided is a tough pill to swallow. We feel that this whole change has come across because the original owner does not want this entrance next to him. It doesn't cause that big of a problem. It's a very small little corner of land and it's going to be a big ugly hillside when they are done with that.

Commissioner Curtiss: I have a question from Mr. Druyvestein. I know that you have said that Mr. Ekstrom doesn't want to have the road moved over further and cut through the middle of the hay field but won't there be a lot less cuts to the hill if you could go straight across the hay field to the hill as Mrs. Freeman suggested and then go up the belly.

Paul Druyvestein: It's my belief that the impacts would be similar. I can show you up here. I believe what they are suggesting that we do is come in here and try to go up the existing road. You can see that this is the lowest property on the bank and then this all gets higher as you go up to here. This road right here, I believe, is like at 18%. For us to do the same thing, we're still going to end up going up a big chunk of this hillside and then try to bring it back up. What's nice is we have summer (inaudible) here because there is kind of a natural swale so when we kind of come back up in here then there not as much elevation as if I started here. I come up here and I'm already up almost 9 or 10 feet trying to cut through that and back in. So that's what's difficult. The one that would probably work the best is to actually split it right in here and then run it up here and run it along this. Of course that has its own impacts but this is the lowest point, so I don't have to go as far up the hill as I would go up to a much higher point here.

Commissioner Curtiss: If that was the best choice, you're not going that way because?

Paul Druyvestein: This was why I was saying – I wasn't saying that they whole spilt from here; I was saying the split here. It makes two fields.

Commissioner Curtiss: But if that is the best way though, you're not proposing just because you don't want to split the field.

Paul Druyvestein: I had to satisfy a landowner that was willing to give us – they still, as the lessee, have to give us permission too. He also owns a piece of property that you don't see on this but there is also a string of property that we have to go through of his too so he has to grant us this easement. We have to satisfy where he wanted to have the road also. I gave him both options and this was the option that agreed with him more and that he was willing to give us permission to go through.

Commissioner Curtiss: Thank you.

Commissioner Evans: I'm still not clear, Paul, why Mr. Barnes wants to do this. I'm sorry if I'm coming across as (inaudible).

Paul Druyvestein: No, that's a good question too. As you can see, this road here won't be built. This is the road that will be built. We already had a road coming to here so this instead of this makes a lot of economical sense. All of these people become more sellable lots because they have a second entrance out if that was one of their concerns. It makes for a safer subdivision because we had to do a lot to get this approved because we didn't have a second way out. Now we've come up with a second way out and a lot of people were very concerned. How can

you grant a subdivision without a second way out? Now we have that. We thought that it was a kind of a win-win solution for everybody. I don't believe the neighbors think that but that's what we tried to do.

Chairman Carey: Thank you. This is a hearing. It's still open. Does anyone else wish to speak to this?

Maria Freeman: This road right here, the original entrance, is already there. I have one record from 1979. This road has been there. It's used by the pipe line. It's used by several agencies that have to monitor lines, logging and all of that. They're going to be taking logs out of here pretty soon because they are logging this area. This road has been here for – established. It's a gravel road and it's a good road. If this is going to be a secondary road with a gate and the residents are going to have keys, who else is going to have keys? All of the people that have easements and rights to go through this, how are they going to manage that?

Chairman Carey: Let's ask Paul.

Paul Druyvestein: All of the people that have current easements would be granted keys. Right now, they are basically left open on the good graces of Dan. He did have to put a lock here so they would have had to have those keys to access it all winter. We're really not trying to change what they have to do, there is probably still one more gate here and then there is also another gate here. All of those folks would be – I have talked briefly with Plum Creek about what we're doing and the YPL folks. We have not – I don't think there was too many other – can't remember off the top of my head who else – but we would have to contact them and give them a set of keys to access the property.

Commissioner Evans: I'd like to ask Mr. Ekstrom; do you get a benefit out of doing this or are you just being kind?

Dan Ekstrom: Well, I suppose there is a benefit to me, yeah. This other road that Mrs. Freeman is speaking of is a very, very narrow logging road and it's going to impact a whole bunch of my field to put 24 foot paved road in there. That's another big problem because there is no other place to put the road going into my fields. There's no place – the water system that we have on that side would have to be moved. There are just a lot of things that weren't considered when I sold this property. As far as the easements, there's only one company that has an easement through there and that's Plum Creek. Yellowstone Pipe Line was here today, they have no easement through there. We've only just granted them permission to go up and check their line. The Montana Power – Northwest Energy has no easement through there. Bonneville Power has no easement through there. We just granted the Merrs to go up and look at the power lines, they were never established an easement through there. There are two locks on our gate and that's it. The rest of them have to ask permission.

Chairman Carey: Thank you, Mr. Ekstrom.

Maria Freeman: Just one quick note. The Yellowstone Pipe Line is not drawn right on your maps. It goes right through this new proposed road that they want. If they moved it to the middle, there's no pipe line there. They marked it in the field – it's marked across the field. I don't know what that new line is but when Yellowstone came out they marked it clear across the field.

Chairman Carey: Thank you. This is a hearing and it is still open.

Colin Brown: Probably the only landowner adjacent to this is really not too affected. I sympathize with Dan, this slipped by you in the beginning. I'd like to see the road go right where it is. This existing road is a good road. I feel bad for Mr. Hover. The pipe line the way it is, he's got some preexisting issues with his septic system and I feel bad about that. For him to relocate his septic system, which unfortunately is your problem later I'm sure, the pipe line is right there at his shed. He's got some issues. He's going to have to solve them himself. (Inaudible) of course, they're going to be affected by the road. I hate to see another road built on the side of that hill. I think we all do. There used to be a day when I could say that I was the youngest person in the meeting but that may not be true anymore. I realize that my 20-30 years left on the face of this earth and they are going to go quick. Same with all of us so I would like to propose that we keep the road where it's at because Mr. Ekstrom himself is going to quit ranching some day and when that happens – and unfortunately your children aren't going to take over your ranch, I understand. So we have this road going back through here along the edge of a hay field.

Chairman Carey: Next to the east of the proposed subdivision.

Colin Brown: That's the existing proposed road. It's at the bottom of the mountain; it's at the edge of his hay field. I'm not sure what affect it's going to do to his irrigation system. Sooner or later when Mr. Ekstrom is gone, this is a wonderful hay field over here; 160-200 acres, I'm not sure, it's a large field. That's going to sell, it's probably going to be subdivided possibly by Mr. Burns, I'm told – neighborhood gossip that he has the first right to buy. I don't know

if that's true but somebody will buy this field in 20-30 years. They'll subdivide it and put 100 homes in there. When that happens, it would be nice if we didn't have a whole bunch of roads coming off the Bonita Ranger Station road, we could maintain this existing road coming through the base of this mountain. It could also feed all of the homes going into this new unproposed subdivision in this hay field. We could have one bus stop. We could have one mail spot for 200-300 people. We could have your BFI refuge containers sitting over here. It would cause a lot less congestion in the road. There would be a lot less easements. This road could feed all of these people. I think down the road many years that is the better way to go and with some foresight that would take care of these people. It wouldn't hurt my neighbors. It wouldn't be good for Mr. Ekstrom. Mr. Barnes has already got enough money in his budget to put this road in. I say, let's not let him take any short cuts and put this one here that's a temporary fix for the County and the people in this subdivision. Let's make him spend his money and do it right and take care of the next people as well so we won't have another easement across Burlington Northern. I think we can take care of a lot of things down the road of 10-20 years. I would suggest that we stay with what we have. Thank you.

Chairman Carey: Thank you. Anyone else? Okay. At this point I will close the hearing. Any questions or comments from the commissioners, staff?

Commissioner Evans: It strikes me that it is really nice for folks to try and tell someone else what to do with their land. the person who owns the land has some unalterable rights in my mind and the person who has to go before the Burlington Northern Santa Fe and get approval for whatever it is they want to do will be at the mercy of Burlington Northern whether they agree to do it or not. I remember when we looked at this subdivision before, I was very unhappy as was everyone that there wasn't two ways out of there. We look at other areas that don't have two ways out and we wish that we would have been smart enough, or that somebody would have been smart enough, to put in two ways out because it's dangerous when there isn't. This is a forested area, there are dangers of fire. I'm not willing to say to the Ekstroms, "I'm sorry, we don't care what you want on your land." I'm not willing to say to Mr. Barnes who owns the land, "I'm going to let the neighbors tell you what to do with it." I can't vote to do that. I'm going to vote to allow these proposals knowing that they still have to get through the Burlington Northern. That's where I'm at.

Chairman Carey: Commissioner Curtiss, anything?

Commissioner Evans: Let me finish one other thought. I would hope that there would be some way to improve the visual area if and when this road is put in so that the people who look at it don't have to look at an unsightly cut in the hill. I understand their concern about that but I also understand the rights of people to do with their land what they want to do; it's theirs. If we don't want them to do it, we ought to buy it.

Commissioner Curtiss: I guess my concern in looking at this nice photo that Mrs. Freeman brought in today is a huge road cut in the side of a hill. Ever since we've had this subdivision come in front of us, any time I drive past this area I always look over at that hill and try to picture what it's going to look like with 20 houses on it. I know that there were a lot of concerns from neighbors. It's hard to understand that we don't require the minimum lot size so they get to count that big hill as part of the acreage. I do have a real concern about cutting a big road because I know if we had a way that we could hide road cuts in Montana, people wouldn't care about logging roads. But they do and they stick out like sore thumbs. I have a concern about that.

Chairman Carey: I thought that this was too many houses on that hill in the first place and didn't support that number but you must also know that under current Montana law, counties are administrative arms of the state and therefore we have to follow the state laws. The state laws basically say that unless a subdivision is going to threaten public health and safety, you folks have to approve it. I don't know if I'm exaggerating, Colleen, but it kind of comes down to that.

Colleen Dowdall: As long as it is the review criteria that the legislature as defined to identify public health and safety.

Chairman Carey: Right. So they don't give you much to modify projects. Do we have a motion?

Commissioner Evans: Before we do a motion, I guess I would like to ask Paul, who is the representative for Mr. Barnes, what you think could be done to ease the visual problems that cutting this road would cause.

Paul Druyvestein: The one big design element that I did was the through-cut so that I could save as many of those alders in the front as possible. The other thing is that the owner does not want a – he's going through the effort of wanting to do some nice things with this property and one of those things are is that he will hydro-seed all of the cuts so that hopefully it will be reseeded quickly. It's hard for me to speculate what more he'd be willing to do on that hillside as far as maybe some tree plantings. But from his benefit, those might be beneficial to him but I can't promise those to you at this time. All I could say is that I tried to do a through-cut there so I would not have fill

coming onto the – that’s the other part; you see the through-cut but what about the fill on the down hill side. You also see that. I don’t have that on this design that I have currently. I’ve tried to the best of my abilities, from a design standpoint, to minimize that. When you drive by the highway, you’re going to see a big cut. There’s no doubt about it. Hopefully in time it will grass over and it will look similar to what you see now but it won’t.

Commissioner Evans: It’s just going to be a gravel road?

Paul Druyvestein: No, it’s paved.

Commissioner Evans: Paved. Colleen, Paul can’t promise that but my question is; can we require tree plantings to help ease the visual impact of this road?

Colleen Dowdall: We certainly have required things like that in the past. They are difficult to enforce because they are private improvements on private land. I think that if you’re planting trees along side a roadway you have to be careful about where you put them so that they don’t become obstacles to cars. It’s not an easy proposition.

Chairman Carey: I was thinking the same thing. They’re going to build the road before they build the houses so would there be some way to tie a condition to that after the road is built and then trees would be planted to mitigate the unsightliness of the road?

Colleen Dowdall: I haven’t been on the site but we could ask Tim or Greg.

Greg Robertson: Well I’m kind of into the paving side of the development not the green side. I’m sure that that’s very practical to do something along those lines to work it in. There’s probably some other engineering techniques that could be employed in the road design to minimize the amount of cuts and fills. As an example, to limit the uphill side or downhill side by crowning the road simply to one side, eliminating the ditch on one side and pitching it to one. That can significantly, especially in the case of sliver cuts and fills, significantly reduce the amount of impact to a road. I would have to work with Paul on what options are available to do that but there are certainly some things that can be done.

Commissioner Evans: So, Colleen, you indicated that we’d have a difficult time enforcing it. I’m wondering if we made conditional approval of these – conditioned upon letter of agreement or an improvements bond or something to see that these things are done. What would you recommend?

Colleen Dowdall: We typically don’t – and I don’t think we are authorized to get improve guarantees or bonds for private improvements. They are authorized for public improvements. If it could be timed so that the road is put in and the trees are planted and the engineering is done such to minimize the view, it’s possible that we could do something. Perhaps what the added condition could be that the road be designed, landscaped and whatever – just designed and landscaped to minimize the visual impact. That would be subject to the review of Public Works and OPG.

Chairman Carey: That sounds good. What condition would that be then? I guess it would be Number 10.

Commissioner Evans: New Condition 10. Before we do that I want to know whether the folks who are presenting this can live with that. Paul, Mr. Ekstrom.

Paul Druyvestein: All of those impacts, of course, impact Mr. Barnes the developer. Unfortunately, he couldn’t make it today but those are the things that he would have to address. The biggest concern that I’m sure he’ll have and most developers have is, what kind of effort that’s going to require on his part to do. We’re leaving it up to not a standard but probably to somebody’s decision and that always makes it hard. I wish I could say that we would put 10 first seedlings on that cut slope. I’m sure that’s something that he could live with but it always gets harder from their standpoint. If there’s a criteria that he has to follow then that makes it easier.

Dan Ekstrom: My suggestion on that is if you disagree with what everybody has arrived at, you always have the right to appeal to the commissioners.

Commissioner Evans: I would want to make it clear from my perspective that when you say “first seedlings” or whatever it was that you said, they’re not to be this tall, which is about 6” for the minutes. I would want them to be trees that would be actually helping the visual impact.

Dan Ekstrom: I would like to make one other statement. If they’re going to hydro-seal the top side of that cut, I can guarantee you – I’ve lived on that property for five generations now and there’s enough pine trees around there that

that thing will seed itself so fast that you'll be thinning it. All you have to do is tear the ground up there and the minute the seeds hit the ground they grow. If it's hydro-sealed they will stay right there and grow. It will be covered with trees.

Commissioner Curtiss: My concern would be also that if you're doing a cut on a road it's for drainage so the dirt doesn't tumble down on the road. I know that Greg's department likes to cut those trees down so I don't know if we really want to sign –

Greg Robertson: We need more snow actually.

Commissioner Curtiss: So putting trees on that slope might not be the best thing anyway. They'll end up down the road.

Commissioner Evans: It depends on how far back from the road that you put them. I understand their concern about a visual impact. I also understand the concern of the landowner. I'm trying to find a compromised solution here that – well, it doesn't make the developers too unhappy. It isn't going to make the citizens too happy. A compromise is equal dissatisfaction for everyone. I'm trying to find something that satisfies their visual concerns and still allows the developer to do with their land what they chose to do based on state law.

Chairman Carey: Did we have wording for that new Condition 10? Do you have that Patty?

Paul Druyvestein: I've composed something that might work. Grayling Road shall be constructed so as to minimize visual impact along the slope; including but not limited to seeding or reseeded and tree planting to be reviewed and approved by County Public Works prior to final plat approval.

Commissioner Evans: I think that is satisfactory wording from my perspective.

Chairman Carey: At this point would you move to adopt that language for Condition 10?

Commissioner Evans moved that the Board of County Commissioner add a new Condition 10 that reads: "Grayling Road shall be constructed so as to minimize visual impact along the slope, including, but not limited to, seeding and tree planting, to be reviewed and approved by County Public Works prior to final plat approval." Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss: We have to add this Condition 9 before Condition 10 probably as presented on this –

Chairman Carey: Mr. Brown, did you want to say something else?

Colin Brown: Mr. Ekstrom is right. That is a very dry hillside, pine trees. Fir trees would probably die and pine trees are going to flourish. The Aspen trees – side note to inform everybody – they are not Alder trees. I think Alders grow with your back turned. Aspen trees – the last time Aspen trees – the conditions were perfect in the state of Montana for Aspen trees to reseed and rejuvenate was the last ice age. Now how an Aspen tree – this doesn't really have a lot to do with this subdivision it's just a little information. The last time an Aspen tree got going was the ice age. The only other way to get an Aspen tree going is to burn an Aspen grove. They tend to grow from the inside out. You never see an Aspen tree seedling going from the inside slope. So if we burned that aspen grove it would grow. You could plant them, of course, but in order to get them to come from themselves (inaudible) they just keep growing and can be thousands of miles long in their broadness. Whatever is going to happen there will happen there. We will probably end up with some aspen trees out of the deal. This gentleman in the yellow shirt, I'm sorry I don't know your name; you mentioned that if it had to be a county road you would be opposed to putting that easement in there. I think that this is where this whole thing is going to come to a halt. I believe that in order for that easement to go across Rail Link land to the county has to approve it to be county road. If it is going to be a county road and even if Mr. Barnes agrees to maintain it, for his tenure in there. The rest of Missoula County is ultimately going to be responsible for all liabilities, all injuries and all the maintenance on it soon after this conversation is forgotten. If that's where we have to go, speak to the people in Frenchtown, Lolo, Seeley Lake and other people in Missoula County that are unaware of this, they do not want to have more liability added to their plate. We have a lot of issues just to deal with as a County. Roadways not something we're all interested.

Chairman Carey: His name is Greg Robertson and he's our Public Works Director and he's on the record as saying that he doesn't want this as a county road. Are we ready for any motions yet?

Commissioner Evans: I'm not clear whether we have to do 13 and 14 as well as 9 and now the new 10.

Commissioner Curtiss: To support Condition 9.

Commissioner Evans moved that the Board of County Commissioners approve the new Condition 9, supported by the findings of fact, as contained in the memo from Tim Worley dated March 22, 2006. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss: Just so the public knows what the finding of fact is; it all states to make sure that Mr. Hover's septic system or drain field wouldn't be affected or his outbuilding by location to that road.

Commissioner Evans: I'd like to stress one more time for the folks who don't own the land, we are very limited in our power to say yes or no on things. The Legislature pretty well has told us that if there's a question you have to give the developer the opportunity to mitigate your concerns and then you fall off on the side of the developer. That's the choices that we are given.

Chairman Carey: Okay. We need a motion for the entire –

Commissioner Evans moved that the Board of County Commissioners approve the revisions to Conditions 2, 3 and 4 of the original subdivision approval as shown on the Request for Commission Action. Commissioner Curtiss seconded the motion. The motion carried on a vote of 3-0.

Commissioner Curtiss: So there are three variance requests, is that what we're approving?

Commissioner Evans: I thought that's what we did.

Commissioner Curtiss: We added a new Condition 9 but there's still variance request because there's an 8% grade on Grayling Road and the road is not 25 feet. It's on page two.

Commissioner Curtiss moved that the Board of County Commissioners approve the variance request from Section 3-2(1)(l) to vary from the 8% maximum grade standard for Grayling Road, based on the findings of fact; approve the variance request from Section 3-2(1)(l) to vary from the 24 foot road standard for access to Lots 13-15, based on the findings of fact; and approve the variance request from Section 3-2(1)(l)(i)(a) to exceed the maximum cul-de-sac length for Grayling road, based on the findings of fact. Commissioner Evans seconded the motion. The motion carried on a vote of 3-0.

Chairman Carey: Just a clarification; did the new Condition 10 get approved?

Commissioner Evans: Yes.

Chairman Carey: That's all we need to do, huh?

Commissioner Evans: Is that it?

Commissioner Curtiss: Yeah, well if you look at our agenda it just says, "Plat modifications and condition amendments," so that's all we're doing. We're amending a subdivision that was already approved.

#### **Ridge Over Rock Creek Subdivision Plat Modifications Conditions of Approval:**

1. Proof of legal access to the subdivision across Tract 2 of COS 5268 and Burlington Northern Railroad right-of-way shall be provided prior to final plat approval, subject to review and approval by the County Attorney's Office. *Subdivision Regulations Article 3-2(2)(D), 3-6 and OPG recommendation.*
2. Any easements or rights-of-way of record adjacent to Ridge Over Rock Creek Subdivision, including, but not limited to, a Yellowstone Pipeline easement and Burlington Northern right-of-way shall be shown on the final plat, to be reviewed and approved by County Public Works prior to final plat approval. *Subdivision Regulations Article 5-1(4)(J), 5-2(3)(M) and County Surveyor's Office recommendation.*
3. Guard rails shall be installed along Grayling Road. Plans for location and installation of the guard rails shall be reviewed and approved by the Clinton Rural Fire Department and County Public Works prior to final plat approval. *Subdivision Regulations Article 3-1(2), 3-2(1)(J) and Clinton Rural Fire District recommendation.*

4. A shared driveway maintenance agreement for the shared road/driveway serving Lots 13-15 shall be included in the Development Covenant, subject to review and approval by the County Attorney's Office, prior to final plat approval. *Subdivision Regulations Article 3-2(1)(I)(iii) and OPG recommendation.*
5. A road maintenance agreement including lot owners in the Ridge Over Rock Creek Subdivision shall be recorded for the secondary access that joins Midge Court between Lots 2 and 5. Plans for gate access for all subdivision lot owners shall be reviewed and approved by the Clinton Rural Fire Department. The road maintenance and gate access plans shall be included in the Development Covenant, subject to review and approval by the County Attorney's Office prior to final plat approval. *Subdivision Regulations Article 3-2(1)(I)(iii) and OPG recommendation.*
6. Plans for road construction across the Yellowstone Pipeline shall comply with Yellowstone Pipeline Company (YPL) Encroachment Guidelines and shall be reviewed and approved by YPL prior to final plat approval. If required by YPL, a signed and executed Encroachment Agreement shall be returned to the utility. A copy of the Encroachment Guidelines shall be recorded with the subdivision covenants prior to final plat approval. *Subdivision Regulations Articles 4-1(11)(C)(i), 3-1(2) and Yellowstone Pipeline Company recommendation.*
7. The following note shall be shown on the final plat and reference the 10" high-pressure petroleum line:  

"Approximate location of 10" high-pressure petroleum line. Prior to any construction near the line, the developer or lot owner(s) shall locate the 10" high-pressure petroleum line and contact the utility company for its exact location. See covenants for any applicable rules and guidelines concerning the petroleum line." *Subdivision Regulations Articles 4-1(11)(C)(i), 3-1(2) and Yellowstone Pipeline Company recommendation.*
8. The developer shall submit a Riparian Resource Management Plan, including a site map, for review and approval by OPG prior to final plat approval. The plan shall require mitigation and restoration of Areas of Riparian Resource disturbed by Grayling Road construction. *Subdivision Regulations Article 3-13 and OPG recommendation.*
9. Plans for relocation of Grayling Road from the location shown on the modified preliminary plat shall be reviewed and approved by County Public Works, prior to final plat approval. The approved location shall be shown on the final plat. *Subdivision Regulations 3-2(1)(E) and OPG recommendation.*
10. Grayling Road shall be constructed so as to minimize visual impact along the slope, including, but not limited to, seeding and tree planting, to be reviewed and approved by County Public Works prior to final plat approval.

*(Modification of existing Conditions of Approval shown in underline/strikeout. All other conditions remain as approved with the preliminary plat).*

2. The applicant shall have annexed into the Clinton Rural Fire District those portions of the subdivision designated as the Active Use Common Area and as residential lots on the ~~revised August 4, 2004~~ preliminary plat approved on March 22, 2006, prior to final plat approval.
3. All lots shall have a designated building envelope, as depicted on the Revised Supplemental Data Sheet 2 of 6, dated August 10, 2004 approved on March 22, 2006. The approved building envelopes shall be clearly defined on-site by staking, prior to final plat approval. ~~The Supplemental Data Sheet 2 of 6~~ shall be modified to reflect the approved sites and referred to in and attached as an exhibit of the covenants. A note shall be placed on the face of the final plat referring to the Building Envelopes and the restriction against structures outside of these designated areas.
4. The applicant shall provide one fire hydrant ~~located in the safety zone area depicted on revised Supplemental Data Sheet 2 of 6 dated August 10, 2004. The fire hydrant shall~~ with have a delivery of 350 gpm for a minimum of one hour. The location of the hydrant must be approved by the Clinton Rural Fire Department. The developer shall be responsible for installation of the fire hydrant and the water supply for fire protection prior to final plat approval and shall be responsible for maintenance of the system until such time as it is transferred to the property owners association. The covenants shall include provision for maintenance of the system, including a mechanism for assessing fees for maintenance, upkeep and repair of any part of the system.

There being no further business to come before the Board, the Commissioners were in recess at 3:40 p.m.