

PUBLIC MEETING – APRIL 19, 2006

The Public Meeting was called to order at 1:30 p.m. by Chairman Bill Carey. Also present: Commissioner Jean Curtiss, Commissioner Barbara Evans, Deputy County Attorney Colleen Dowdall, County Public Works Director Greg Robertson and County Surveyor Chuck Wright.

Pledge of Allegiance

Public Comment

Ken Johnson: Live in 7389 Peregrine Court. I'd like to discuss a matter that involved a subdivision request in Country Crest, I think at the last public meeting. The issue that has come up is the RSID requirement of \$4700.00 that I am, as a homeowner, having to pay up front. I find this is unfair and it is quite substantial. There has to be other tools or options for collection of this RSID, maybe through the permit process? Mr. Roberts has indicated that permit board is going to be finalized in a couple of weeks, could be a month, could be three months. I don't know. But, he has indicated that before I got to final plat, I have to dish out the \$4700.00 x 3, which is a fairly significant amount change. I'm just an individual person going through this process at Country Crest and I'm just amazed at what I've had to go through in the last six months for this plat process. I deal with government contracts all day long and I am just frustrated with this effort. There has to be an easier process. But this RSID is really really upsetting me. I know initially when we went through this process, we sat down and they were going to try to do an RSID for individual lots at \$20,000.00, which was Greg's initial plan. We sat down with everyone and thankfully, you guys worked out a plan to reduce it, which was fair, through Country Crest of \$4700.00. But, I just hope that you can, in the future, take a look to see if there's another vehicle out there, instead of forcing us homeowners to have to pay with this RSID up front, because the sewer's not going to be used until I put in a house. So, I'd be paying up a fee for something I may not use for two or three years down the road. I'd like to just share this with you. Thank you.

Commissioner Bill Carey: Thank you, Mr. Johnson.

Commissioner Barbara Evans: I'd like Greg to explain that, because I've had a couple of phone calls it and I've discussed it with Greg, I think he should tell Mr. Johnson and put on the record the reason for it.

Greg Robertson: I just finished explaining it to Mr. Johnson. As far as these subdivisions go, as you will recall, during the public process that we went through to create the Mullan Sewer project, it was very clear from a lot of public input that we received that existing homeowners did not want to subsidize development. As a result of that, we changed our method of assessment. We treated it as an equivalent dwelling unit, which is the method of assessment that we used. We did not look at parcel size, mainly just whether there was a home on the parcel, regardless of size. We treated them all the same. We put language in the original RSID, which was 8474 for the backbone, to recover some of the costs on properties that were subject to this equivalent dwelling unit. There were parcels, some with one house on 20 acres, that could be further subdivided and Country Crest was one of those. In fact, it was the intent that those be subdivided at some point in time in the future. And the City has been collecting that through their sewer connection permitting process. Those monies are first being used to pay off the City's investment of a million dollars that was originally set up to buy down the cost and help things along. Once that's done, the monies are allocated to pay down the debt service, or remaining debt service, that the residents incurred as part of this project. Similarly, when we were meeting with the Golden West folks, as well as the Country Crest folks, that issue came up again. There were some that had no plans to subdivide and didn't want to subsidize the rest. So, that language was inserted. When these subdivision started coming through the public process, it was my assumption that they were going to be routed through the City. Indeed these were heading down

that path, but something happened during that process and the City decided not to run them through their process and run them through the County instead. Originally, what I was working on with the City was to amend the interlocal agreement and ask that they collect the reimbursement at the time of connection. It was a city requirement that we do an amended interlocal agreement to reflect that agreement to collect. I dropped it when I found that these were starting to come through the County process, it just didn't seem right to have the City collecting something on behalf of the County. Right or wrong, I just let it go for a while. I had also presumed at the time that I would have the building codes program up and running and we all know that is dragging on. When we have that program, we can collect the fee at the time of building permit, which is really the ideal time to do so. Because they're in need of the service at that time. However, right now the only tool that I'm aware of is to collect it at the time of final plat, and that's put some folks in a bind. Apparently Mr. Johnson, also. I've explained to the folks that once we have the building codes program in place we'd be happy to do it at that time and alleviate that, so if Mr. Johnson could hold off on recording his plat for a little while, while we work with the state to get this program running, that obligation would happen at the time of building permit rather than now.

Commissioner Barbara Evans: I need to understand, I think what he's concerned about is if he sells his pieces of land to someone else the ultimate buyer would pay for their own sewer use, right?

Greg Robertson: They would be required to connect to the City system and pay requisite city fees. The reimbursement to the RSID, right now, is being collected at the time of final plat. Once that goes, really no other clear permit process could account for that.

Commissioner Barbara Evans: And you apparently tried to find other ways to help?

Greg Robertson: Uh huh. I've asked the City again. I talked to Bruce Bender over at the city on Monday and he indicated a willingness to collect the money at the time of connection for the few that we have going through. While we're getting building permit stuff straightened out. I sent him a summary e-mail Monday morning after our conversation and I haven't heard back yet.

Commissioner Barbara Evans: I would suggest, Mr. Johnson, that you...

Greg Robertson: I've done everything that I think I can.

Commissioner Barbara Evans: I would suggest that you try and hold on until we can get our building permit program up and running.

Ken Johnson: If I understand you correctly, what you said was, the City is looking at the option and they said they would be willing to collect the fee?

Greg Robertson: When I asked them and got in a general verbal agreement, was that they would collect it on an interim basis until we have the building codes program in place. But I have not received written confirmation of that.

Ken Johnson: So that's a possible solution?

Greg Robertson: Yes it is.

Ken Johnson: So, is there someone I can follow up with on that?

Greg Robertson: That would be Bruce Bender, their Administrative Officer.

Ken Johnson: Well, it sounds like if that's a solution that Bruce Bender agrees to collect it on a temporary basis that would resolve this issue then. That's something I will pursue and I do

appreciate it. Also, to let you know through the process when the City was supposed to take over the Country Crest process....what happened there, was you had a hodge podge of ownerships there, so you had some homes that were going to be part of the City and some homes that were going to be part of the County and there was no understanding of who was going support the public services as police and fire. That was a real concern of the people in Country Crest and I still think that up in the air, but that has been held off through the annexation process, so I'm glad to see that happened. Thank you.

Commissioner Bill Carey: Any other public comment. None.

Routine Administrative Actions

Commissioner Barbara Evans moved to Approve Weekly Claims Lists of \$470,938.13.

Commissioner Jean Curtiss seconded. The motion carried on a vote of 3-0.

BID AWARD (Missoula County Airport Industrial District)

(Postponed to Thurs. April 20, 2006 Admin. Meeting)

Sewer Main Extension and Street Construction (Missoula Technology Dist. Phase 5C)

HEARINGS (CERTIFICATES OF SURVEY)

Fisher Family Transfer

Colleen Dowdall: The first Family Transfer is for Scott and Pamela Fisher who have submitted a request to create two additional parcels using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 21.85 acres in size located near the McClain Creek area, adjacent to Mackintosh Manor near Lolo, Montana. Scott and Pamela propose to create two approximately 7.30 acre parcels for transfer to their children, Conner Oliver Fisher age 11 and Olivia Kate Fisher age 9, for residential purposes and keeping the remaining approximately 7.25 acre parcel for residential purposed as well. The Fisher's do not reside in Montana and the don't have a home on the property. But they said in correspondence that they were hoping to keep the property and if it was sold, the funds would be deposited in trust of which they are the trustees for their children. They have previously used the boundary location.

The history of the parcel is as follows: COS 1218 was filed in August 1977 creating tracts of land 20 acres or greater. A Quit Claim Deed was filed in February 2003, deeding the property to Pamela and Scott Fisher. According to records kept by Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act except: COS 5436, 07/03/03, BR, SW Sec. 10 T11N R20W.

Commissioner Bill Carey: With that, I'll open the hearing on the Fisher Family Transfer. Is there a representative here?

Greg Martinsen: I'm the surveyor who's doing the project for them. I also did the previous boundary relocation.

Commissioner Bill Carey: Colleen, I know we have a letter from the Fisher's, how do you want to handle this? Do you want to ask Greg questions or read the letter into record?

Colleen Dowdall: I think the letter can be made part of the record, I could relate to you that the letter tells us that they don't intend to sell the property within the next year. They are not subdividers, they are teachers. They are not going to reside on the property and that they established a trust for their children and that they are the trustees. They state the reason for requiring the family transfer is to establish a trust for their children so that their family estate would be more manageable. If the property is sold, they will hold the money in trust for the

children until they are no longer minors. They also understand that a Family Transfer does not provide them with any services or a guarantee that they will get other permits.

Commissioner Barbara Evans: Does this letter qualify as a sworn statement?

Colleen Dowdall: No.

Commissioner Bill Carey: At least it's on the record.

Colleen Dowdall: The affidavit that they signed as an application for a Family Transfer is a sworn statement, but it does not include all of this information.

Commissioner Bill Carey: Greg, do you have anything to add to this?

Greg Martinsen: They came aware of this because the neighbor built a house on their property, a garage/house combination. Through the process of doing the relocation of common boundary for them and the neighbor, they asked me if there was a way that they could gift this to their kids. That's the process. We tried two or three times to work things out so they could be present, but they're high school teachers in California and they just couldn't make it.

Commissioner Bill Carey: Thank you.

Commissioner Jean Curtiss: I have a question for Colleen. Several times in the last couple of years we have held these off because they are unable to be here, but if I remember right, those are the ones that were almost always from spouse to spouse, is that correct?

Colleen Dowdall: I think that may be the case, I'm remembering the one up at the four corners area, highway 83 and highway 200. And another one closer to Condon. In this one, what I remember more as a uncommon element is that we have proceeded with some of them and not with others. It depends on your level of comfort.

Commissioner Bill Carey: This is a hearing, would anyone else wish to speak to this matter? Seeing none, I'll close the hearing.

Commissioner Barbara Evans moved to grant approval of the Fisher Family Transfer and that it does not appear to be an evasion of the Subdivision and Platting Act. Commissioner Jean Curtiss seconded. The motion carried on a vote of 3-0.

Scharf Family Transfer

Colleen Dowdall: This is submitted by Betsy D. and Glenning Robert Scharf III to create on parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 19.26 acres in size and is located near Clinton. Betsy and Robert propose to create one approximately nine (9) acre parcel for transfer to their daughter, Jessica Ann Scharf age 18 for a future homesite and to keep the remaining approximately 10.26 acres for their residence. I was not able to determine if their residence is on the property, but we will ask.

The history of the parcel is as follows: COS 4098 was filed July 1992 creating a tract of land as agricultural tract. A Quit Claim Deed was filed in December 1997, deeding the property to Betsy Scharf. Betsy filed a Quit Claim Deed in April 1999 deeding the property to her and Glenning Robert Scharf. In May 1999 the Agricultural Covenant was removed from the property at the request of Robert Scharf. According to records kept by the Missoula County Surveyor, the applicant has not previously used exemption to the Subdivision and Platting Act.

Commissioner Bill Carey: I'll open the hearing and ask a representative of the Scharf family to come forward.

Rob (Glennig) Scharf: I'm here with my wife. I believe the acreage is 9.9 and 9.3 for the split, that's a little different than what Ms. Dowdall said, but other than that that, everything else sounds right.

Commissioner Bill Carey: Thank you for coming Mr. Scharf. We ask our attorney to ask questions of the applicants for these family transfers, so that we can have your answers on the record. We just want to make sure there is not an attempt to evade subdivision review, which is a misdemeanor.

Colleen Dowdall: You say your name is Rob? And are you the same person that signed the affidavit....Glennig Robert Scharf?

Rob Scharf: Yes, I am.

Colleen Dowdall: I notice that your wife did not sign the affidavit...is that correct?

Rob Scharf: She should have, I know she went in to the Surveyor's office.

Commissioner Jean Curtiss: Her signature is on page eight, Colleen.

Colleen Dowdall: Okay, my copy does not have that, it just has his. Good and notarized?

Commissioners Jean Curtiss & Barbara Evans: Uh huh.

Colleen Dowdall: How long have you owned the property?

Rob Scharf: I think we bought it 1990.

Colleen Dowdall: And it was originally created as an agricultural parcel?

Rob Scharf: No, I don't think so...what happened is we....one of the neighbors, when we bought this, there was a half of an access lot of Spring Valley Acres. You can see to the right of that where it split up, it was originally something like 28 point something acres. One of the neighbors that lived in the Spring Valley Acre lot next to that had made a mistake and built some of their buildings on our property, so we did a boundary relocation that Greg Martinsen did and we (cough) that off, so that the neighbor wouldn't have to move anything. Then we were left with the piece on the left, I think it's called A1.

Colleen Dowdall: A1, correct. And these are both described as agricultural parcels.

Rob Scharf: They were.

Colleen Dowdall: Which means they're for agricultural use only, not....

Rob Scharf: They were, but that's been removed.

Colleen Dowdall: Right. So, this was filed in 1992, but what you're saying is that it was really just a boundary relocation?

Rob Scharf: Yes.

Colleen Dowdall: The certificate of survey says that the purpose of the survey was to create Tracts A1 and A2 as agricultural tracts. I'm not sure what the confusion is with your understanding, but what the records shows is that they were an agricultural covenant.

Rob Scharf: That may have happened in '92, but then after that we have the agricultural covenant removed.

Colleen Dowdall: Right, I'm just trying to get the history of the parcels straight and so in 1992 the parcel was created.

Rob Scharf: Okay (inaudible)

Colleen Dowdall: Was it family property, then from your wife or, she owned it with three other people? Or was that boundary relocation portion of it, the evrons?

Rob Scharf: I think, yes, her brother-in-law and sister were involved in it with us at one point.

Colleen Dowdall: When you acquired the property, you didn't intend to divide it?

Rob Scharf: No.

Colleen Dowdall: Do you live on the property now?

Rob Scharf: Yes.

Colleen Dowdall: How long have you lived on the property?

Rob Scharf: Uh 1998....

Colleen Dowdall: And in 1999 you removed the Ag covenant?

Rob Scharf: Then it was '99.

Colleen Dowdall: Okay. Do you intend to transfer your remainder portion in the next year?

Rob Scharf: No.

Colleen Dowdall: Does your daughter intend to transfer?

Rob Scharf: No, she's going to go to school here at the University and we'd like to build her an apartment, shop type situation on that other piece.

Colleen Dowdall: So, you know that you have to actually the real estate into her name?

Rob Scharf: Yes.

Colleen Dowdall: She intends to live on the property?

Rob Scharf: Yes. When we build, we probably won't build this year...I think she has to live in the dorm anyway for a year.

Colleen Dowdall: Does she live with you now?

Rob Scharf: Yes.

Colleen Dowdall: Have you talked to anyone at Missoula County about taking this through subdivision review? Instead of using the exemption?

Rob Scharf: No, I dealt with Eli & Associates and they said that this was okay.

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

Rob Scharf: I have built houses. I built the house I'm in and I built a house in Trout Creek. But no, I do gun work. I build my own stuff, my own carpentry stuff.

Colleen Dowdall: Are you attempting to evade subdivision review?

Rob Scharf: No. Just trying to give my daughter a start.

Colleen Dowdall: Do you understand that we are not reviewing this to make sure you have legal and physical access to the subdivision in all weather and that emergency vehicles can get to your place.

Rob Scharf: Yes, I do.

Colleen Dowdall: And you also understand this is not the only part of this process, you may be required to get a floodplain permit or a building permit or other permits.

Rob Scharf: It's my understanding that is being done.

Colleen Dowdall: By Eli?

Rob Scharf: Yes.

Commissioner Bill Carey: Thank you Mr. Scharf, any questions for Mr. Scharf?

Commissioner Barbara Evans: No questions, but just a comment. Mr. Scharf, I'd like you to know that while these questions appear very invasive, personally invasive, the law requires us to determine whether you are trying to evade the subdivision act and that's the reason they're asked. I apologize for them.

Rob Scharf: OH, that's fine.

Commissioner Bill Carey: Is there anyone else who would care to speak to this? Seeing none, I'll close the hearing.

Commissioner Barbara Evans moved to approve the request for the Scharf Family Transfer and that there does not appear to be an attempt to evade the Subdivision and Platting Act.

Commissioner Jean Curtiss seconded. The motion carried on a vote of 3-0.

Block Family Transfer

Colleen Dowdall: Warren and Darlyne Block have submitted a request to create two additional parcels using the Montana Subdivision and Platting Act. The current parcel is approximately 4.06 acres in size and is located near Harper's Bridge Road off of Levoy Lane and John Deere Rd. Warren and Darlyne propose to create on approximately 1.5 acre parcel for transfer to their son, James Block, for residential purposes and to create one approximately 1.06 acre parcel for transfer to their daughter, Michelle Block, for residential purposes, keeping the remaining 1.5 acre parcel for their personal residence. Michelle intends to sell her parcel to owners of a mobile home, who are long time renters of the tract.

The history of the parcel is as follows: William and Lois Kinney deeded an 11.32 acre parcel to Warren and Darlyne Block in 1971. In 1976 the Blocks created a parcel by use of the mortgage exemption, they had a mobile home on the property and they created the mortgage parcel so they could build their house. Their home is still located on that parcel. In 1997 the Blocks created a tract for transfer to their son Brian and they adjusted the boundary of the parcel created by mortgage exemption. Brian built a house and resides there with his family. According to records kept by the Missoula County Surveyor, the applicant has previously used the exemptions to the Subdivision and Platting Act listed: COS 881, 6/76, MTG EXEMPT, SW Sec 31 T14N R20W and COS 4745 12/97, BR GIFT REM, SW Sec 31 T14N R20W. The proposal would divide the remaining 4.06 acres into three parcels.

Commissioner Bill Carey: Thank you, Colleen. I'll open the hearing and ask if there's a member of the Block family here?

Dick Ainsworth: With PCI, I'm here representing the Blocks. The Blocks are also here. I think the only thing that I will add that Colleen didn't mention; this is part of an area that was rezoned in December from CA3 to CRR1 and the Blocks were involved in that rezoning process. One of their main goals in pursuing that rezoning was so that could create a parcel to sell to these folks that have the mobile home that they've been renting from them for years. Other than that, I'm here to answer questions and the Blocks are as well. Thank you.

Commissioner Bill Carey: Thank you, Dick. I think we'd like to ask some questions of the Block family member.

Warren Block:

Colleen Dowdall: Was my information in regard to how long you've owned this property accurate?

Warren Block: Yes, 35 years.

Colleen Dowdall: If you bought it with the intent of dividing it, you've been patient.

Warren Block: No, we did not intend that.

Colleen Dowdall: Do you or...other than what I have indicated, do you or your son intend to transfer your parcels in the next year?

Warren Block: No.

Colleen Dowdall: Is your son going to build on his parcel?

Warren Block: I really don't know if he will or not.

Colleen Dowdall: Have you talked to anyone at the County about going through subdivision review instead of this process?

Warren Block: Yes, we did think about that to some degree. After the property was rezoned, we had thought about splitting that up, to give some of this to our children. As a result, as well, the Ross's would finally be able to build there, so we had talked and thought about that, but the neighbors didn't seem to be very happy with a subdivision of any size and so this is way we deemed necessary to go.

Colleen Dowdall: So, when you transfer the property to your daughter, she will then sell it?

Warren Block: Yes she will.

Colleen Dowdall: To the Ross's.

Warren Block: Right.

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

Warren Block: No.

Colleen Dowdall: Are you attempting to evade subdivision review?

Warren Block: No, I'm not.

Colleen Dowdall: You understand that we are not reviewing the property for adequate access, like we do a subdivision. We're just reviewing the division of land.

Warren Block: Yes.

Colleen Dowdall: And that you will need other permits such as zoning compliance, floodplain or permits for septic systems?

Warren Block: Right.

Commissioner Bill Carey: Any questions for Mr. Block?

Commissioner Jean Curtiss: Yes. Will this proposal meet the current zoning?

Warren Block: Yes. That is one acre now.

Commissioner Jean Curtiss: Will the proceeds of selling that parcel go to Michelle?

Warren Block: Yes.

Commissioner Bill Carey: Anyone else here to speak to this?

Jennie Dixon: Planner with OPG. I just wanted to let you know that I am the case planner that the Block's had a pre application meeting with regarding the subdivision. I can verify for you that at that time the subdivision was for seven lots and from our initial discussions, the Blocks indicated that two of those lots were to be given or transferred to their children and the rest was for subdivision. That proposal has now been abandoned. Just wanted to give you that information.

Commissioner Bill Carey: Thank you Jennie, anyone else to speak to this? Seeing none, I'll close the hearing.

Commissioner Barbara Evans moved to approve the Block Family Transfer request and there does not appear to be an evasion of the Montana Subdivision and Platting Act. Commissioner Jean Curtiss seconded. The motion carried on a vote of 3-0.

HEARING

Petition to Abandon a Portion of a Road Plat Book 1 Road (Marion Creek Area)

Commissioner Bill Carey: Open hearing and ask for background.

Chuck Wright: With Public Works Department, Surveying division. I've looked at this road with a representative of Andi McDowell and I had no problem with this one at all. It's a road that goes up there and just kind of stops. There's a road to the north of it, I think it's called the Marion Creek Rd. and there's another road to the south of it. The one thing I'd like to mention before we go to the field, I'd like to show you a map on the computer downstairs, so we can see it, because it's quite interesting. I believe the Forrester that's here is going to talk about that. I'd like to get her to come down and look at the map as well.

Commissioner Bill Carey: Is there someone here to speak to this matter?

Judy Barker: I'm the Forrester and the land manager for the property. We've requested to abandon the road because it's an old wagon trail road that doesn't go anywhere. It's not even clear where it is, actually. The property all around the road is owned by the same landowner and as I said it doesn't really go to any public access. It does come off the nine mile road, but it's surrounded the private land owner who owns all the property, so there is no impact to anyone.

Commissioner Bill Carey: Thank you, anyone else? I'll close the hearing then....actually I'll recess the meeting until May 24th. We will view the road on May 1.

HEARING

Acceptance and Adoption of Preliminary Engineering Report for Lolo RSID 901 Phase 2 Improvements.

Commissioner Bill Carey: Opens hearing...representative?

Greg Robertson: Director of Public Works Department. Before you is phase 2 of the Lolo RSID 901 plant expansion. In early 2000, a capital facilities plan was adopted to serve the Lolo urbanized area. We completed phase 1 improvements in 2003. We're currently working off a little bit of increased capacity we were able to achieve with that expansion. Primarily those were permit related improvements. This next planned improvement is for capacity primarily. HDR has a...Dan Harmon and Matt Gough have a short presentation to give to summarize the preliminary engineering report that was previously circulated to you. In late 2005 you authorized me to pursue grants to pay for it, we've submitted our request for STAG EPA monies and this preliminary engineering report is necessary for treasure state endowment as well as DNRC renewable resource grants. One of the provisions is that we have an adopted plan, so this is the hearing. There's a draft resolution that I have given you in the packet for it.

Commissioner Bill Carey: Thank you, Greg. Dan?

Dan Harmon: Yes, I'd like to introduce Matt Gough. Greg told me to make this quick, between five and ten minutes, so I'm going to go through a few things quickly and then we'll let Matt talk. Matt came on board with HDR about six to eight months ago, his expertise is in a particular type of process that's actually going to be recommended for Lolo, so that's why I hope he can take over for me. It's been a while since we've been at this, we went through the original planning process in 2000, and as part of that we came up with about three or four phases on what do to out in Lolo. The first phase being just to fix some of the critical problems that were out there with the existing facilities, and do it ASAP which we did do. We have showed you a few photos of the work that has been done out there. As the plants been performing over the last few years, it looks like what we did out there is actually working pretty well. That's good news. What we found out was that after making those improvements, we were able to take a look at the facilities and re-rate it. We went to DEQ and said we think you should be able to increase the rating of the plant from a quarter of a million gallons a day up to .34 million gallons a day. Greg, do you remember when that was done? About a year ago?

Greg Robertson: Yes.

Dan Harmon: So, it gave you a little bit more ability to bring more customers on. Right now we're seeing about 200 thousand gallons a day on an average basis coming into the plant. This means you still have a little bit remaining capacity. Of that roughly 5-600 connections, Greg's been doing quite a sales pitch out there, because they seem to be lining up and I think you've committed to about 400 of those connections? Thus all the developments that you've probably seen come forward. I guess, there is a need to start thinking about the second phase and that's really what our report has done. I'm going to hand this over to Matt and have him run you through it real quick. The reason for bringing this forward now, is that we need to finish this report in time to get it in front of the funding agencies to try and see if we can get some grant help. Obviously, we're not going to be able to do anything beyond what the folks out there can afford, we think with this report, we have at least a good chance of trying to bring home some funding help for those folks.

Matt Gough: As I'm going through this, if you have any questions, please ask. I know Craig was here about a month and a half ago and presented this to you, so if I'm repeating some of what he presented, I apologize. There are four main areas that are going to require improvement during this next phase. We evaluated some potential options. The first one is a standby power; currently the facility doesn't have backup power. The disinfection system is nearing the end of its capacity and some regulatory changes that are coming down the road may influence some changes there. The influent pumping station currently only has one pump that can handle the full capacity, so we need to add some redundancy there. The big one is the biological and secondary treatment train. It has a capacity of about 340 thousand gallons per day, right now it's at about 200 thousand, with the additional homes that are going to come online here in the next year, it'll be pretty close to its max capacity. So, we need to look at options for expansion on that. The first one that we looked at was the standby power; we have to evaluate the no action alternative. DEQ actually requires that all of these facilities have some sort of standby power, so that really wasn't further considered. We looked at bringing in another power line, unfortunately the cost for that made that an unfeasible option. And we looked at two generator options, either a portable generator that could be taken to another site, if need be or an in place generator. Greg has recently purchased a portable generator for the water system, so there wasn't much of a need for another portable one and the cost for the in place made more sense. What we did was we looked at the items that were absolutely necessary to keep the plant in operation and then at those that they would like to have also. We looked at the difference in cost between a generator that would operate one set of processes vs. the complete piece, was just about five or six thousand dollars. It didn't make sense to go with that, so we went ahead with the bigger generator, it's about 81 thousand...that's in place with engineering. The generator itself is not very expensive; I want to say it is right in the 60 thousand range. So construction is really very straight forward. The next piece was the disinfection system. As I mentioned, the capacity on this system is about 3 to 340 thousand gallons a day, DEQ is currently working on some requirements that are going to require full year-round chlorination. Right now, only chlorination is required for part of the year. They are also going to require de-chlorination. So, if you add those two together, it creates quite the project. So we looked at retaining the gaseous chlorine system and adding de-chlorination, we looked at going to a liquid chlorine system and de-chlorination and then we looked at two different types of UV disinfection, open channel and closed pipe. The reason we wanted to get away from gaseous chlorine is just from a safety standard. Most municipalities are getting away from gaseous chlorine; it just makes a lot of sense. So, really the two that came to the front were the liquid hyper-chlorite system and the UV disinfection, they're pretty much about the same price. Advantages to going UV are mainly from an operational standpoint and long-term cost standpoint, you don't have to buy liquid. It's also significantly a less complicated system to operate. De-chlorination typically is a bit finicky and you have to have some pretty smart controls to make the system work correctly. Our recommendation is to go with an open channel UV disinfection system. The closed pipe system may come down in price, before we actually get to the point of designing and in the report; I've kept that one as an option. It's one we'll reevaluate in about a year. One of those two makes the most sense for this and we can actually just retrofit the current chlorine channel and fit those in that same spot. Then we come to the 'big daddy', the biological and secondary treatment alternatives. Again, this is getting close to the end of its capacity. Back in 2002 we constructed a new secondary clarifier, which

increased the capacity to the 340 thousand gallons per day. However, if we continue with a similar system as its being used now, it actually requires a redundant secondary clarifier. So, we looked at going with a conventional biological system, which is very similar to what they have now, and adding a secondary clarifier. We looked at doing a biological system and adding a membrane filtration. The membranes actually replace the secondary clarifier, or we looked at doing a biological system with a fixed fill medium. We could talk about the nuances of these all day, but basically the third one is adding these plastic squares that have a bunch of holes in them and you put them in your bioreactor and by doing that, you actually increase the capacity of the tank without actually adding volume. So, we thought it might be a nice fit; we could get more capacity out of the existing system without having to build new structures. All of these three that we've presented here, I've included the cost for filtration (in the slide presentation). The reason I did that, I wanted to compare apples and apples. If the DEQ does bring down the TMDL in the Bitterroot that we think they're going to, most likely it's going to require filtration to get out some of the phosphorus. So, of the 3.6 million for the conventional system, approximately one million dollars of that is to add filters. If you were to take the filters out, it's really about a 2.6 million dollar expansion, which makes it less than membrane filtration. However, you need to compare apples to apples, if the TMDL comes out with a total phosphorus limit less than one, we have to filter. It makes sense to look at these on an equal playing field. The membrane filtration does a couple of nice things; one it allows a much smaller footprint for the biological system, there's some nuances to it that allows a much smaller footprint, which allows for more expansion in the future. One of the things I don't like to do is tie all the land, so that 20 years from now what do you do? We have no idea how Lolo's going to grow, but lets say it continues to grow at the rate that it is, 20 years from now, a different set of people are all in here talking trying to figure out what to do and now there's homes all around that treatment plant and you don't have any land to expand. This alternative leaves some room there for further expansion. It also has a much lower cost from a standpoint of a 20 year net present worth, that's actually because it uses less chemical and it's simpler to operate is actually a less expensive system to operate. If you have more questions on the membrane later, I can touch back on that. The membrane system is also very phasable...what we can do is build some of the tankage now and in the future, just add membranes. It's a little bit easier to swallow, especially if growth is going to be funding most of this, which in this case it would be. You like to have growth funding growth, so it makes it much more palatable if we can break this off into smaller chunks. I've said in 2010 by the time it's online and you take a chunk of about 3.2 million and then in 2015, you're only taking a chunk of about 500 thousand and then 100 thousand. Again, it just makes that phasing a lot easier as opposed to building it out to 20 – 25 years and then just letting it fill up and having to fund all of it now. In summary, we've got 81 thousand for the emergency power, about 252 thousand for disinfection, an additional 20 thousand just to replace a pump in the influent pumping system, about 3.2 million for the membranes for a total cost of about 3.6 million dollars. This would take flows up to, everything except the membrane system, up to 2010 and then with that additional 500 thousand, it would take it up to 2015. So, funding goals; how are we going to pay for this? We've set up this report to try to allow us to get greatest chance of winning some grants. The first thing is we obviously would like to do this without having to raise rates. The second goal is to obtain a TCEP grant and the maximum amount you can get for that is about 750 thousand. DNRC has a grant program that will supply about 100 thousand and then Greg has applied for a STAG grant for about 1.5 million. This results in a difference of about 1.2 million and if I'm not mistaking, Greg, by the time this gets ready to go, you'll have some reserves to pay for it of about 1 million dollars. So, best case scenario, 257 thousand would need to be funded probably through connection fees, most likely. You might have to take a loan out for it initially and then pay it off through connection fees. But it only equals 185 connections, so that's fairly reasonable. Worst case scenario; let's say that none of the grant funding is available. Again, we still have the 1 million dollars in the County reserve, which leaves us with about 2.6 million that has to be now financed. It requires 25% debt coverage, so about 3.2 million would have to be financed. That amount, over 20 years at 4.5% results in a current increase of about \$23 per month. Well, that pushes us over the target rate, which is set at about \$49 per month. Lolo has a target rate set about \$77, which is both the water and the sewer...if you take the water rate out and just do sewer, it comes out to about \$49.75 a month and this would push it over that, so this is all good

news from a grant standpoint. The TCEP folks and the DNRC folks are going to look at that. The first thing that they'll want to see is that you're over your target rate. In our report, we highlight this because this is really important. But again, this is the worst case scenario, if nothing happens and it has to be financed, this is the way it would have to go. Again, that 3.2 million can be brought down through connection fees and if this were the case, this would be something where we would want to sit back down with Greg and revisit those connection fees to see if there's another way of bringing that more in check. Thank you.

Commissioner Barbara Evans: I've got a problem with \$50 bucks a month for folks.

Matt Gough: It would be \$53.86 a month, for just sewer.

Greg Robertson: That's presuming we don't have anything in the way of additional grant money.

Commissioner Barbara Evans: So, tell me what happens if the people have a cow over this?

Greg Robertson: I don't think they will. The reality that I'm seeing, presuming that we're going to get grants, what I've been seeing in terms of expansion of the district has actually been driving rates down. Even though our incremental costs have increased, there are more people to pay for it. So, the overall cost goes down. I'll give you an equivalent. In the City of Missoula for un-metered water and sewer service, say at my house, I pay a little over 1000 dollars a year for that service. The same resident in Lolo is paying about \$200 a year. BIG difference.

Commissioner Barbara Evans: Right.

Greg Robertson: We continue to keep those costs as tight to the vest as possible and one of the things that I'm seeing is that our increase in the amount of our dollars that are available through development fees, it's going to be adequate to match, presuming we get our DNRC, our STAG and TCEP funds. I don't see any reason why not.

Commissioner Barbara Evans: Do the people have the power of protest over this?

Greg Robertson: I don't see why they would, because....

Commissioner Barbara Evans: I'm just thinking worse case scenario, if they don't like the money.

Greg Robertson: My plan right now is to not ask them for more money. Using the development fees that we're generating by new development to pay the mats (???) requirement for the grants and not have to go through and create a new construction RSID. But, there are benefits also, to this type of system to the existing residents. The TMDL (total maximum daily load) is about to be established down the Bitterroot and we've attended the numerous meetings with DEQ about this and they've held close to the vest about what they're going to do, so we're trying to guess at what they're limitations are. So what we're doing, theoretically, could completely take us out of the river, in other words we would have no discharge to the river, we could land apply. As an example our affluent.

Commissioner Barbara Evans: So are we planning to build this even if we're not sure we'll get the grants?

Greg Robertson: We have available capacity right now and when that capacity expires, we will stop issuing additional permits. We will be forced at some point in time in the future, regardless, to address the TMDL standards that are heading our way. That included disinfection and the like. So, some sort of project will have to happen. We're trying to take our best guess and we think we have a very realistic opportunity to do this at minimal cost to the homeowners.

Commissioner Barbara Evans: Thank you, Greg.

Dan Harmon: To add to Greg's answer...I kind of sidelined Greg a little because I asked Matt to add the worst case scenario. Really, I think the plan is to shoot more towards this concept, the idea being any shortfall would be taken up by the connection fees and not asked for an increase in rates. But I have, having going through the Mullan Rd. thing, I learned that even though we scalped at first, when you bring bad news...generally, I like to be honest and show people this is the worst case. I think the reality is that, from what we've heard from Greg, he wants to go after this scenario and go after it hard. That's what we presented to the Board out here, certainly if we're not successful with the grants, we're probably going to have to re-collect ourselves and take a second look.

Commissioner Barbara Evans: Thank you, it's all I wanted to know.

Commissioner Jean Curtiss: Just to clarify...the cash reserve that you referred to are cash reserved in the RSID 901, not the County general fund.

Dan Harmon: Yes, and I make this about every chance I can, that maintenance RSID is by far away the best financially operated utility that I run into here in this state on a small size. It's always been extremely healthy. That's good for Greg and Dave Haverfield.

Commissioner Bill Carey: Thank you. You didn't have a question about the filtration system?

Commissioner Barbara Evans: I really wanted to go into depth, but I knew we had to leave soon.

Greg Robertson: I'll be happy to go over that with you, Barbara.

Commissioner Bill Carey: Are there any further questions or comments about this? Thank you for your presentation. Okay, I'll close the hearing.

Commissioner Jean Curtiss moved to adopt the preliminary engineering report for Phase 2 Wastewater Improvements to Missoula County RSID 901 as presented. Commissioner Barbara Evans seconded. The motion carried on a vote of 3-0.

Commissioner Jean Curtiss: And there's an official resolution for us to sign later.

Greg Robertson: Yes.

Commissioner Jean Curtiss: I'll make sure this is in the CEDS for our area so that we can have lower match for federal grants.

Commissioner Bill Carey: Greg, I'm just curious, it seems like with economies of scale this City would be \$200 and Lolo would be \$1000 a year.

Greg Robertson: Primarily, most of that is Mountain Water...they're rates are whew....

Commissioner Jean Curtiss: Because sewer's like \$150, isn't it?

Greg Robertson: Yes, its \$150 annually and I pay close to \$75 a month flat rate, plus irrigation for water and it works out to a little over \$1000 a year between the two, it's significant.

Commissioner Barbara Evans: And the Lolo sewer and water RSID was initiated a long time ago, those fees were remarkably low. Every time it goes up, I'm concerned, because that's one of the reasons people live there is because of the lower cost.

Greg Robertson: Well the rates have not been going up, they've been tracking mostly with utility costs and just operation type things. We have not taken a big chunk or a jump, we've been trying to do it programmatically.

Commissioner Barbara Evans: And there was not criticism implied.

Greg Robertson: I understand.

HEARING

Country Crest 3B, Lot 48 (Subsequent Minor Subdivision – 3 lots on 1.77 acres) – Peregrine Court.

Commissioner Bill Carey: Mirtha please brief us on this.

Mirtha Becerra: This is a request from William and Barbara Biggs to subdivide a 1.77 acre parcel into three residential lots. The property is zoned C-RR2 (Residential 2 du/1 acre) and the Wye-Mullan West Comprehensive Area Plan recommends a land use designation of Suburban Residential, with a maximum density of two dwelling units per acre. The density proposal for this is one (1) dwelling unit per .59 acre. Access to this subdivision is from Peregrine Court, a 24' wide paved County road within a 60' public right-of-way.

The subdivider requests two variances: 1. From the requirement to install curb and gutter along Peregrine Court. 2. From the requirement to install boulevard sidewalk on Peregrine Court. Both curb and gutter and sidewalk improvements are included in the waiver statement conditioned for the plat. Staff recommends approval for the variance requests. Staff also recommends nine conditions of approval and these nine conditions are the same conditions that have applied to all the previously adopted Country Crest subdivisions, I'd be happy to read them to you, but I thought I'd give you the option to not here them.

Commissioners: That's fine with us.

Mirtha Becerra: I'll pass around a memo that reflects an additional condition that was placed on Lot 42A regarding the RSID 8486.

Commissioner Barbara Evans: We'll probably need advice on that, Colleen, based on what Greg said and what Mr. Johnson said.

Colleen Dowdall: I've been made aware of the issue and I am....after hearing the explanations I have a better understanding now of what the issue is. But I have not come up with a solution, if the City decides they can't do the collection.

Mirtha Becerra: The recommendation is based on conversations that I've had with the City. It was my understanding that one of the RSID's, they collect the money for it at the time of connection, the other one is the County's responsibility to collect the money. So, what you have in front of you now is essentially what you adopted for the previous Country Crest, except that I took at the RSID that is City related, the one that the City is collecting for. We only have one RSID here.

Commissioner Jean Curtiss: So there are two in this subdivision. One is the backbone, which the City can collect for and the other is for the sub-district.

Mirtha Becerra: Right, this is the Country Crest collector system.

Commissioner Bill Carey: Thank you. I'll open the hearing, would anyone like to speak to this?

Commissioner Jean Curtiss: Since Dick is unavailable, maybe we should just ask the homeowners if they agree with the conditions as proposed.

Will Biggs: I live at 7402 Peregrine Court. I guess I don't have any problem, but I don't have a copy of those conditions. (Mirtha gave him a copy)

Commissioner Jean Curtiss: The only thing different from the Planning Board is the number 10 condition.

Commissioner Bill Carey: Didn't they strike the language about review from the Health Department.

Commissioner Jean Curtiss: They did strike that language.

Will Biggs: So this number 10, that's what my neighbor Ken Johnson was talking about. Either we delay actually doing the plat, or waiting until the County's permit program is up and running. At that point, then we could pay as we built.

Commissioner Jean Curtiss: The reason for that is we've done everything we can with the building permit, but there's apparently some things going on at the State level and in the department of labor, just some internal.....

Will Biggs: But it does look like it's going to happen, sooner rather than later.

Commissioner Jean Curtiss & Bill Carey: Right, it does, yes.

Commissioner Jean Curtiss: We think we followed all of the rules.

Commissioner Bill Carey: Thank you. I'll close the hearing.

Commissioner Barbara Evans moved to approve both variances. 1. From the requirement to install curb and gutter along Peregrine Court. 2. From the requirement to install boulevard sidewalk on Peregrine Court. Both curb and gutter and sidewalk improvements are included in the waiver statement conditioned for the plat. Commissioner Jean Curtiss seconded. The motion carried on a vote of 3-0.

Commissioner Barbara Evans moved to approve Country Crest 3B, Lot 48 with the inclusion of the Planning Board recommended conditions of approval and the new number 10, understanding that when we get our building permit system up that they can pay their connection as they build. Commissioner Jean Curtiss seconded. The motion carried on a vote of 3-0.

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 signalizing the Flynn/Mullan Road intersection and \$815 per new lot to 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. *Missoula County Subdivision Regulations Article 4-1(12)*
2. The following note 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 improvements to Peregrine Court, including, but not limited to, paving, the installation of drainage facilities, curbs and gutters, pedestrian walkways or bikeways, 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." *Missoula County 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. *Missoula County Subdivision Regulations Article 3-2(6)*

Fire

4. Plans for installing NFPA 13D standard residential fire sprinkler systems in all new dwellings in the Country Crest No. 3B, Lot 45 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. *Missoula County Subdivision Regulations Article 3-7(1)(6)*
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." *Missoula County Subdivision Regulations 3-7(2)*
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. *Missoula County Subdivision Regulations Article 3-2(2)(G)*

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. *Missoula County Subdivision Regulations 3-1(1)*

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. *Missoula County Subdivision Regulations 3-1(1)(B)*

Other

9. The subdivider shall file a development covenant which includes the following statement:
"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".
Missoula County Subdivision Regulations 3-1(1)(G)
10. The newly created lots shall contribute to sewer RSID 8486 in the amount specified in the resolutions, prior to final plat approval. If the Missoula County code enforcement program is in force, payment will be due at time of permit issuance.

III. INTRODUCTION

William and Barbara Biggs, represented by Professional Consultants, Inc., propose to subdivide a 1.77 acre parcel into three residential lots. The property is located on the north side of Peregrine Court in the Country Crest No. 3B Subdivision, a County major subdivision platted in 1995. The development is located on the north side of Mullan Road, opposite Sunset Memorial Gardens. Future subdivision of the lots within this subdivision was anticipated at the time of the original plat (1995), predicated on the availability of sewer service in the area.

IV. SUBDIVISION FINDINGS OF FACT

A) ZONING AND COMPREHENSIVE PLAN COMPLIANCE

Findings of Fact:

a Zoning Compliance

1. The property is zoned C-RR2 (Residential 2 du / 1 acre).
2. The intent of the C-RR2 zoning district is to promote a single family residential environment in areas served by an adequate water or sewer system, and promote a residential density consistent with the availability of public facilities and with the physical limitation of the land.
3. The area of subdivision is 1.77 acres. The applicant is proposing to subdivide the property into three residential lots, with a resulting density of 1 dwelling units per .59 acre.
4. Setbacks in C-RR2 district are 25' for front yard, 15' for side yard and 25' for rear yard. Accessory structures may be located within 3' of side and rear lot lines. Maximum building height is 30' and minimum lot width is 100'.
5. All existing structures on Lot 48-B meet the setback requirements of the zoning district with the lot lines as proposed.

b Comprehensive Plan Compliance

6. The 2005 Wye Mullan West Comprehensive Area Plan was adopted by the governing bodies in November of 2005 and it is now the applicable plan. The Wye-Mullan West Comprehensive Area Plan recommended land use designation is Residential, with a maximum density of two dwelling units per acre.
7. The Wye-Mullan West Comprehensive Area Plan states that the recommended land use designation of two dwelling units per acre "recognizes land where the residential pattern is one of uniform lot sizes with urban services. It functions as a transitional area and recognizes existing land use patterns or the possibility of redevelopment. The recommended density may be clustered to allow open spaces between developments" (Page 7-6).
8. Development in vicinity of the proposed subdivision is suburban-style single family residential development.

Conclusions of Law:

1. The proposal complies with the C-RR2 (Residential) zoning and the land use designation of the 2005 Wye-Mullan West Comprehensive Area Plan.

B) PRIMARY CRITERIA COMPLIANCE

CRITERION 1: EFFECTS ON AGRICULTURE AND AGRICULTURAL WATER USER FACILITIES

Findings of Fact:

1. The property is not currently used for agricultural purposes.
2. The soils are classified as Grass Valley silty clay loam, 0 to 4 percent slopes, which is classified as Farmland Soils of Statewide Importance by the *Inventory of Conservation Resources, Missoula County, Montana*.
3. There are no irrigation ditches contained within or adjacent to the property.

Conclusions of Law:

1. This subdivision will result in the loss of potential farmland, based on soil classification. However, this property is not within active agricultural production, and its zoning and proximity to urban services make it appropriate to consider residential development at least to the scale proposed by this subdivision and the previous development.
2. No impacts to agricultural water users or agricultural water user facilities are anticipated.

CRITERION 2: EFFECTS ON LOCAL SERVICES

Roads

Findings of Fact:

1. Access to this subdivision is from Peregrine Court, a 24' wide paved County road within a 60' public right-of-way.
2. The existing home shown on Lot 48-B accesses Peregrine Court via an existing asphalt driveway.
3. This subdivision is expected to generate an *additional* 16 trips per day assuming 7 – 10 trips per household per day.
4. The Missoula County Subdivision Regulations require mitigation of identified impacts in Section 4-1(12), and MCA 76-3-608 (4) and (5) state,
“(4) The governing body may require the subdivider to design the subdivision to reasonably minimize potential adverse impacts identified through the review required under subsection (3). . . .”
“(5) (a) In reviewing a subdivision under subsection (3) and when requiring mitigation under subsection (4), a governing body may not unreasonably restrict a landowner’s ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat.”
5. Section 3-1(14) of the Missoula County Subdivision Regulations states that the governing body may require the subdivider to “pay or guarantee payment for part or all of the costs of extending capital facilities related to the public health and safety, including but not limited to public roads and transportation facilities.” MCA 76-3-510 further states that, “The costs must reasonably reflect the expected impacts directly attributable to the subdivision.”
6. The Mullan Road corridor is expected to experience significant growth with the extension of the Mullan Sewer project. As development occurs, it contributes incrementally to the need to provide traffic signals and improvements at intersections along the Mullan Road corridor. Two of these intersections are the Mullan/Flynn Lane intersection and the Mullan/Reserve intersection.
7. A condition of approval requires the subdivider to contribute \$230 per new lot to assist in signaling the Mullan/Flynn intersection and \$815 per new lot toward the improvement of the Mullan/Reserve intersection which is the proportionate share of the cost of those improvements based upon current traffic counts and taking into account the impact from existing vehicle trips. County Public Works states this condition will mitigate the impacts of this subdivision on these two intersections.
8. Glen Cameron, (acting) Engineering and Projects Manager for the Montana Department of Transportation commented that MDT is concerned about current and future traffic volumes on Mullan Road and strongly recommends alternative ways such as impact fees to fund needed transportation improvements in this area.
9. Staff recommends a statement be placed on the final plat waving the right to protest a future RSID/SID for improvements to Peregrine Court including but not limited to curb and gutter installation.
10. Steve Earle, General Manager of the Missoula Urban Transportation District (MUTD) commented that the proposed development is very near the Missoula Urban Transportation District which is currently served by Route #10 and recommends the property owners petition into district. A condition of approval requires the subdivider to present evidence of petitioning into the Missoula Urban Transportation District prior to final plat approval.

Drainage

11. The proposed subdivision is within Country Crest No. 3B subdivision. The original drainage plan directed rainfall runoff along roadside swales and toward common areas designed to retain drainage.

12. According to the Drainage and Grading Report, the small amount of storm water generated by this subdivision and all increased storm water will be retained on site through landscaping and overland flow.
13. Section 3-2(7) of the Missoula County Subdivision Regulations requires curb and gutter to be installed in rural subdivisions with lots that have an average street frontage of 175 feet or less. The lots in this subdivision have an average street frontage of 124 feet; therefore curb and gutter is required along Peregrine Court.
14. The subdivider requests a variance to not install curb and gutter along Peregrine Court. Staff recommends approval of this variance.

Conclusions of Law:

1. Access to the subdivision and drainage meets the standards of the Missoula County Subdivision Regulations if the variance is approved and the recommended conditions are adopted.

Pedestrian Access

Findings of Fact:

1. The Missoula County Subdivision Regulations require 5' concrete boulevard sidewalks with 7' to 10' landscaped boulevards in all subdivisions located within the Urban Growth Area.
2. The subdivider is requesting a variance from the requirement to install boulevard sidewalk on Peregrine Court. Staff recommends approval of the variance request.
3. County Public Works commented that they do not oppose the variance request from providing boulevard sidewalks on Peregrine Court where these roads abut the subdivision.
4. Missoula City-County Health Department stated, "As this part of the valley becomes more developed, safe pedestrian/bike routes become important" and recommends at a minimum that waivers of the right to protest these improvements should be placed on the face of the plat.
5. Staff recommends a statement be placed on the plat waiving the right to protest a future RSID/SID for improvements to Peregrine Court including but not limited to the installation of non-motorized facilities.
6. The City Bike/Pedestrian Program Manager did not have any comment on this proposal.

Conclusions of Law:

1. If the variance request is approved, the proposed subdivision will meet the required standards for non-motorized pedestrian facilities.

Water and Sewer Systems

Findings of Fact:

1. The existing home on proposed Lot 48-B is currently served by an existing well.
2. Water is proposed to be provided to Lots 48-A and 48-C by individual wells.
3. The subdivider received approval for sewer service from the City of Missoula Sewer Service Review Committee on May 23, 2005.
4. The lots within this subdivision are proposed to connect to a wastewater collection system now under construction within RSID #8486. This collection system in turn connects to the City sewer via a gravity sewer trunk main located within the right of way of Mullan Road.
5. Sanitation will be reviewed under the Sanitation Act by state and local agencies.

Conclusions of Law:

1. Review of water and sewer systems is under the jurisdiction of state and local health authorities under the Montana Sanitation in Subdivision Act.

Solid Waste

Findings of Fact:

1. BFI will provide disposal service to the subdivision.

Conclusions of Law:

1. Solid waste disposal is available to the subdivision.

Parks and Recreation

Findings of Fact:

1. No parkland is being proposed for the subdivision.
2. The applicant has requested a variance to the requirement of parkland dedication. Based on a new interpretation of the requirements for subsequent minor subdivisions as per SB 116, this subdivision is exempt from the requirement to dedicate parkland or cash-in-lieu of parkland, so a variance is not required.
3. Missoula County Subdivision regulations require subdivisions be reviewed as a second or subsequent minor subdivision if the subdivision is a division of a tract of record which has previously been created by minor subdivision review. Under the current Missoula County Subdivision regulations parkland dedication is required for a second or subsequent minor subdivision.
4. The proposed subdivision is not a second or subsequent minor per current Missoula County Subdivision regulations.
5. SB 116, adopted April 19, 2005 with an immediate effective date, amended the definition and expanded the number of subdivisions that require review as a subsequent minor subdivision. A subsequent minor is defined as a division of a tract of record which since 1973 has been divided more than five times by use of exemptions from the Montana Subdivision and Platting Act or the original tract of record has been previously divided through subdivision review. Under SB116 the proposed subdivision is defined as a subsequent minor because it is from an original tract of record that has been previously divided through subdivision review.
6. The change in state law does identify this subdivision as subsequent minor subdivision which may be reviewed in whatever manner Missoula County adopts in their local regulations, however, new state law does not allow Missoula County to require the dedication of parkland for subsequent minor subdivisions.
7. When the original Country Crest subdivision was recorded, more than twice the common area required at that time was set aside in anticipation of future lot divisions.

Conclusions of Law:

1. The subdivision is a subsequent minor subdivision pursuant to SB 116 for which parkland dedication is not required.
2. The subdivision is not a second summary subdivision under Missoula County Subdivision Regulations so dedication of parkland is not required.

Schools

Findings of Fact

1. The subdivision is expected to result in approximately 3 additional school age children being added to Hellgate Elementary School in the Hellgate district and Big Sky High School in the Missoula County Public School district (based on an assumption of 1.5 children per new household).
2. Rachel Vielleux, Missoula County Superintendent of Schools, had no comments on this subdivision.

Conclusions of Law:

1. No adverse impacts on schools requiring mitigation have been identified.

Fire Department

Findings of Fact:

1. The property is served by Missoula Rural Fire Station No. 6, located approximately 1.5 miles from the property over paved roads.
2. There is no public water system serving this area. Staff recommends a statement be placed on the final plat waiving the right to protest a future RSID/SID for a public or community water system for fire protection.
3. The proposed method of fire protection is individual on-site wells supplemented by residential sprinkler systems in homes.
4. Curt Belts, Assistant Fire Marshal/Chief for the Missoula Rural Fire District, commented that residential fire sprinklers are an acceptable water supply for fire fighting as long as they are installed to NFPA 13D standards. The Missoula County Subdivision Regulations state that the requirements of installation shall be included in an agreement with the governing body to be filed with the plat, and this is recommended as a condition of approval.
5. Curt Belts commented that all properties must be properly addressed with address signs clearly visible from the street in all light conditions. A condition of approval requires plans for visible addressing to be reviewed and approved by the Missoula Rural Fire District prior to final plat approval.

Conclusions of Law:

1. Fire service is available to the subdivision. Safety could be improved if the recommended conditions are imposed.

Law Enforcement

Findings in Fact:

1. The subdivision is located within the Missoula County Sheriff's Department's jurisdiction.

Conclusion of Law:

1. Missoula County law enforcement services will be available to the subdivision in a manner consistent with its distance from services and ease of access.

CRITERIA 3 AND 4: EFFECTS ON THE NATURAL ENVIRONMENT AND WILDLIFE AND WILDLIFE HABITAT

Findings of Fact:

1. There is no critical wildlife habitat located on or near this subdivision. Small birds and mammals common to the area can be found on the site.
2. There are no riparian areas identified on the property.
3. Fish, Wildlife and Parks commented that the covenants which are currently in place for the parent subdivision were reviewed last year and should help homeowners in this new subdivision avoid potential problems with wildlife.
4. The existing covenants address Noxious Weed Control but fail to address revegetation. Staff recommends a condition that a development covenant should require lot owners to revegetate any ground disturbance with beneficial species at the first appropriate opportunity after the disturbance occurs.

Conclusions of Law:

1. No adverse impacts to the natural environment and wildlife habitat have been identified as a result of the proposed subdivision.
2. Potential impacts to the natural environment will be minimized if the development covenants are enforced and the recommended conditions are adopted.

CRITERION 5: EFFECTS ON PUBLIC HEALTH AND SAFETY

Findings of Fact:

1. The Missoula Rural Fire District serves the property and the Missoula Sheriff's Department provides law enforcement services.
2. Missoula City sewer will serve the lots. Individual wells will provide water service.
3. No portion of the property is within a FEMA designated floodplain.
4. The proposed subdivision lies to the southwest of the Airport Influence Area boundary.
5. Missoula City-County Health Department commented that 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. A condition of approval requires the subdivider to file a development covenant reflecting these regulations.
6. Missoula County has a high radon potential, and the Missoula City-County Health Department recommends that all new construction incorporate passive radon mitigation systems. A condition of approval requires the subdivider to file a development covenant advising property owners of the Health Department recommendation that all new construction incorporate passive radon mitigation systems.
7. Public water is not available in the area at this time. The Health Department comments that the Missoula Valley Water Quality District supports development served by public sewer.

Conclusions of Law:

1. Emergency services, water, and sanitation are available to the subdivision.
2. If conditions of approval are imposed, effects on public health and safety will be minimized.

C) COMPLIANCE: This subdivision complies with:

1) SURVEY REQUIREMENTS

Findings of Fact:

1. The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with part 4 of M.C.A. 76-3.

Conclusion of Law:

1. This proposal meets the survey requirements.

2) SUBDIVISION REGULATIONS

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision regulations provided for in Part 5 of M.C.A. 76-3.

Conclusion of Law:

1. The developer has submitted a plat which complies with the requirements of local subdivision regulations, variances have been requested, or conditions have been required to bring the plat into compliance.

3) REVIEW PROCEDURE

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in Article 4 of the Missoula County Subdivision Regulations.
2. Notice of a public hearing on this subsequent minor subdivision was published in the Missoulian on March 19, 2006 and March 26, 2006. Certified letters were mailed to adjacent landowners on March 17, 2006. On March 20, 2006, a poster including the date, time and location of the public hearings was placed within 300 feet of the proposed subdivision.

3. The Missoula Consolidated Planning Board held a public hearing on the subdivision on April 4, 2006, passing on its recommendation to the Board of County Commissioners.
4. The Missoula County Board of County Commissioners held a public hearing on the subdivision on April 19, 2006.
5. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty (30) days of such decision. The application shall specify the grounds upon which the appeal is made. An appeal may be made by the subdivider, a contiguous landowner, an owner of land within Missoula County who can establish a likelihood of material injury to property or its material value, or the Missoula County Board of County Commissioners. In order to file an appeal, the plaintiff must be aggrieved by the decision, demonstrating that a specific personal and legal interest, as opposed to a general interest, has been or is likely to be specifically and injuriously affected by the decision.

Conclusion of Law:

1. This subdivision plat proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Article 4.

D) PROVISION OF EASEMENTS FOR UTILITIES:

Findings of Fact:

1. An existing 15-foot wide public utility easement is located along the front of all proposed lots. A 20-foot wide sanitary sewer easement and a 15-foot public utility easement are located along the north end of the proposed subdivision (at the rear of the lots).
2. The proposed subdivision will be served by Northwestern Energy, Missoula Electric Cooperative, Qwest telephone and AT&T Communications.

Conclusion of Law:

1. Utility services will be available to this subdivision.
2. The proposal meets requirements for utility easements.

E) PROVISION OF LEGAL AND PHYSICAL ACCESS:

Finding of Fact:

1. Physical and legal access will be provided to the subdivision from Peregrine Court.
2. The County Public Works Department will review applications for driveway approach permits off of all public roads.

Conclusion of Law:

1. The proposal meets physical and legal access requirements.

VARIANCE REQUESTS

1. **A variance request from Section 3-2(8)(A)(ii) of the Missoula County Subdivision Regulations requiring installation of concrete boulevard sidewalk on Peregrine Court.**

RECOMMENDATION:

The Office of Planning and Grants recommends **approval** of the variance request, based on the following findings of fact:

FINDINGS:

- A. **The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.**
This subdivision is proposed as a rural subdivision within the Urban Growth Area with an average lot frontage of less than 175'. Therefore, Missoula County Subdivision regulations require 5 foot wide boulevard sidewalk and 7 foot wide landscaped boulevard be installed on Peregrine Court. The original Country Crest subdivision was

approved without sidewalk and instead the street shoulders slope down to drainage swales. There are no sidewalks in the vicinity to connect to.

County Public Works supports approval of this variance request, commenting that there are no existing facilities in this area and requiring a few hundred feet at a time with no guaranteed adjacent improvements is unreasonable. The Missoula City-County Health Department supports this variance request contingent on a RSID/SID waiver for improvements, including pedestrian facilities, being noted on the face of the plat.

The granting of this variance should not result in a threat to public safety, health or welfare or be injurious to other person's property since this subdivision is already developed with one residence, and only three more are proposed.

- B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.**

The conditions upon which the request is based are not unique to this property.

- C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of these Regulations are enforced.**

The road section consists of a 24' wide paved road within a 60' right-of-way, resulting in 18 feet on either side of the paved road. Currently, there are drainage swales occupying this area. There appears to be enough room for drainage and pedestrian facilities. Although there are no land-based conditions presenting a hardship to the owner to construct sidewalk, to require improvements that are not part of a comprehensive plan and may need to be modified at a future date would present a hardship to the owner to comply with the regulations. The conditions upon which the request is based are not unique to this property.

- D. The variance will not in any manner violate the provisions of the Missoula City Zoning Ordinance, the Missoula Urban Area Comprehensive Plan, or the master plan for the area.**

Approval of the variance will not violate the provisions of the Missoula County Zoning Resolution, the Missoula Urban Area Comprehensive Plan, or the master plan for the area.

- E. The variance will not cause an increase in public costs.**

A condition of approval requires a statement on the face of the plat waiving the right to protest a future RSID/SID for installation of non-motorized facilities on Peregrine Court; therefore, no increases in public costs are foreseen with the granting of this variance.

- 2. A variance request from Section 3-2(7) of the Missoula County Subdivision Regulations requiring curb and gutter on Peregrine Court.**

RECOMMENDATION:

The Office of Planning and Grants recommends **approval** of the variance request, based on the following findings of fact:

FINDINGS:

- A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.**

This subdivision is proposed as a rural subdivision within the Urban Growth Area with an average lot frontage of less than 175'. Therefore, Missoula County Subdivision regulations require curb and gutter to be installed on Peregrine Court. The original Country Crest subdivision was approved without curb & gutter and instead drainage swales run along the lot frontage on Peregrine Court. There is no curb and gutter in the vicinity.

County Public Works supports approval of this variance as Peregrine Court is an existing County-maintained road with roadside swales that function well for drainage. The Missoula City-County Health Department supports this request contingent on a RSID/SID waiver for improvements being noted on the face of the plat.

The Grading and Drainage Report indicates a relatively small amount of surface drainage resulting from this subdivision. The granting of this variance should not result in a threat to public safety, health or welfare or be injurious to other person's property since this subdivision is already developed with one residence, and only two more are proposed.

B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.

The conditions upon which the request is based are unique to this property. The property is along an existing County-maintained road tied into an existing drainage system of roadside swales; curb and gutter wouldn't function without extensive off-site improvements.

C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of these Regulations are enforced.

The road section consists of a 24' wide paved road within a 60' right-of-way, resulting in 18 feet on either side of the paved road. Currently, there are drainage swales occupying this area. There appears to be enough room for curb and gutter to channel overland drainage flows. Although there are no land-based conditions presenting a hardship to the owner to install curb and gutter, to require improvements that are not part of a comprehensive improvements plan and may need to be modified at a future date would present a hardship to the owner to comply with the regulations.

D. The variance will not in any manner violate the provisions of the Missoula City Zoning Ordinance, the Missoula Urban Area Comprehensive Plan, or the master plan for the area.

Approval of the variance will not violate the provisions of the Missoula County Zoning Resolution, the Missoula Urban Area Comprehensive Plan, or the master plan for the area.

E. The variance will not cause an increase in public costs.

A condition of approval requires a statement on the face of the plat waving the right to protest a future RSID/SID for installation of drainage facilities and curb and gutter on Peregrine Court; therefore, no increases in public costs are foreseen with the granting of this variance.

There being no further business to come before the Board, the Commissioners were in recess at 2:40 p.m.