

PUBLIC MEETING – APRIL 26, 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, Chief Civil Deputy County Attorney Mike Sehestedt, County Attorney Colleen Dowdall, County Public Works Director Greg Robertson and County Surveyor Chuck Wright.

Pledge of Allegiance

Public Comment - none

Routine Administrative Actions:

Commissioner Barbara Evans moved to approve Weekly Claims List (\$789,025.17). Commissioner Jean Curtiss seconded. The motion carried on a vote of 3-0.

Hearing (Planning & Zoning Commission)

Citizen-Initiated Zoning District #44 (Sleeman Gulch) – Amendments to District Boundaries & Zoning Standards.

Commissioner Bill Carey: We're missing some commission members, do we have quorum of this group? We have four, so yes we do. I'll recess the meeting of the Board of County Commissioners and convene the meeting for the Planning & Zoning Commission. We'll note the Greg Robertson and the three County Commissioners are here for this meeting. Now we'll have a staff report.

Tim Worley w/OPG: I'm here to present the ZD44 Amendment for the Sleeman Gulch area. Sleeman Gulch is located west of Lolo and is accessed by Highway 12. The original ZD44 was created in March 2003 and is approximately 1090 acres; the area of the proposed amendment is approximately 310 acres, this would be added to ZD44. The original ZD44 consisted of two regions: Region 1 has 10 acres minimum lot size and Region 2 has a 40 acre minimum lot size. The propose amendment would add four new regions subject to maximum density standard:
Region 3: 1 dwelling unit per 10 acres
Region 4: 1 dwelling unit per 20 acres
Region 5: 1 dwelling unit per 5 acres
Region 6: 1 dwelling unit per acre

Proposed amendments are shown in the staff report attachment, particularly if you refer to attachment A, you can see those amendments; they include: Addition of sand and gravel operations within ¼ mile of Highway 12 to permitted uses; Addition of a machine shop within ¼ mile of Highway 12 to permitted uses; Prohibition of placing structures within areas designated Special Flood Hazard Areas inundated by 100-year flood.

Staff recommends amendments to ZD44 that include: A note under space and bulk requirements distinguishing between minimum lot size that applies to Region 1 and 2 and maximum density that applies to Regions 3-6; The striking of language about the machine shop usage that is better addresses under a new nonconforming uses section (see section VII, Part 3), staff feels this is better addressed through a new nonconforming uses section; The addition of a history section at the end of the Part 1 zoning district.

Agencies notified for comment include the Health Department, County Public Works Department, the Floodplain Administrator, Fish, Wildlife and Parks and the Lolo Community Council. Per state law, posters noticing the requested amendments were placed in three locations in the district 15 days prior to this public hearing, there was also notice in the Missoulian regarding this project. Agency comment was limited. The Lolo Community Council did not support the changes to ZD44. Staff generally supports the proposed district standards with the

recommended revisions discussed previously and detailed in Attachment A in double-underline and strikethrough and the proposed changes to ZD44 from the citizens are in single underline. I'll be available for question that you may have.

Commissioner Bill Carey: Thank you, Tim.

Commissioner Jean Curtiss: Tim, could you clarify for me, are they proposing to change anything within the current 1 and 2 regions? Are they changing the number of dwellings/acre?

Tim Worley: Nothing changes with those existing regions.

Colleen Dowdall: Except for the uses. They are proposing changes in the uses.

Commissioner Jean Curtiss: For 1 and 2?

Colleen Dowdall: For the entire district.

Tim Worley: So what you see in underline, double underline and strikethrough would also, as Colleen says, apply to regions 1 and 2, which were created in 2003.

Commissioner Bill Carey: Do the petitioners have a presentation to make? Please step forward and give us your name.

Kathleen Stachowski: I'd like to thank you for this hearing opportunity today. I have written a letter that I'm going to read now:

Just over three years ago in 2003, the residents of Sleeman Gulch got together to institute citizen-initiated zoning for our neighborhood. The impetus to zone resulted from a then-absentee landowner who planned to erect an industrial-type building in our residential neighborhood. As we considered our options, we realized that the time was right to codify our covenants and implement the county's density recommendation of one house per 10 acres. Residents in the upper reaches of the gulch, where no county recommendation was designated, opted for wider spacing and ZD44 resulted with two distinct lot size regions. I was not involved in the formation of that district, other than as a supporting property owner.

Early in 2005 Sleeman residents heard of plans for a proposed RV park on our road at U.S. 12 at the entrance to the gulch. Again we were forced to consider the impact of a commercial venture on our residential neighborhood, this time one with the potential to bring with it serious safety concerns – namely, the presence of a transient population, U.S. 12 traffic issues, and above all, increased fire risk in an extremely dry, narrow valley with just one road for access and egress. Life in a steep-sided gulch is very different from a typical neighborhood with its network of streets. Where just ONE road exists, ALL residents are impacted by changes at the neighborhood's gateway.

Just as in the earlier case, we again considered the time to be right to codify the covenants and enact the county's recommendations for density in this unzoned, lower segment. Certainly the proposal of an RV park provided an impetus; however, it would be wrong to assume that this was the sole reason for our proposed amendment. Simply put, Sleeman residents hope to see development occur reasonably, responsibly, in keeping with the rural nature of the gulch, and in a manner sustainable to vital resources – including the availability of limited water in this semi-arid region.

The neighbor who began the exploration of our options was unable to continue and turned the task over to me. A group of 12-16 residents chose to be regularly involved and provided input for meeting with our county planner. It was our planner who suggested that the most straightforward manner to proceed would be amending ZD44 to bring the remainder of our neighborhood into the district.

Working with the county proved to be a daunting proposition characterized by misinformation, advice given and followed and later deemed wrong (rendering 2 ½ months and a great deal of effort wasted), unresponsiveness and delay. In an eleventh-hour move that offered us no

opportunity to respond, a change to the amendment language and an addition to our zoning document was made and I was informed of this only when the final staff report was nearly completed. This, in spite of the fact that the amendment language was in county hands for the previous 8 ½ months.

In the meantime, the proposed RV Park was abandoned and replaced with an eight-lot subdivision, Buffalo Trail Estates. It would be disingenuous of the developers and their supporters to suggest that Sleeman residents are focused on stopping this subdivision, which post-dates the advent of our zoning amendment by many months. Rather, we have unswervingly adhered to *the county's own recommendations* for proposed densities in the Community of Lolo Development Area.

Supports of this amendment include everyone whose primary residence is in the area to be added, as well as 80% of Sleeman property owners as a whole. This is a remarkable number by any standard. It is clearly our will to use the tool places at our disposal – citizen-initiated zoning – to create some measure of protection for our investments, our homes and the quality of our lives while sharing with others the same, even-handed property rights that we enjoy. Thank you for your time and consideration.

Commissioner Bill Carey: Thank you.

Christopher Barns: I'd like to thank you for the difficult job that you all have. I read in the paper this morning that you had a rather contentious meeting last night and perhaps today will be one as well. If I remember correctly, you have another meeting tonight? It is a heavy responsibility to be constantly called on to make decisions that affect citizens' quality of life. As Shakespeare wrote in Richard II, 'uneasy lies the head that wears the crown'. So however you decide today, I want to thank you for giving that part of yourself. I am sure there are times you feel the monetary compensation doesn't quite cut it. In the packet you have received there are two letters in opposition to this proposed zoning. I would like to correct the errors they contain. The first letter, from Matt Ulberg, is easy to address. Since he is new to the Gulch, it is understandable that he is not aware of the subdivision attempts, both successful and unsuccessful in the Gulch within the past five years. His main objection, also certainly understandable, was caused by the alarming typographical error which has been corrected and addressed in the OPG report. The other letter from the Lolo Community Council is of greater concern. It contains several errors, some so obvious my first reaction to it was that it must be bogus – that someone had gotten access to the letterhead and faked a comment. It should be noted that they came to their conclusions about our motives without ever having talked to any of the proponents of this zoning. While we are criticized for not informing the owners of one of the affected lots, they apparently feel exempt from taking a position on a matter of community development without hearing from, or even notifying, the majority of landowners. This letter states, 'This case appears to be an attempt to stop the Buffalo Trails sub.' If the Council had asked, they would have learned that, as you heard earlier, the citizens' zoning proposal started more than six months prior to announcement of those plans. This proposed subdivision covers only approximately five out of the 310 acres covered by this zoning proposal. More astonishing, this letter refers to what's going on here as 'rezoning.' Surely the Lolo Community Council must know, as we all do, that this land is currently Unzoned. If it were zoned, none of us would be here. Zoning is what we're trying to do. This brings me to the final, most glaring, error in this letter. It is patently false and lies at the heart of what we are doing here today. This letter implies that we are trying to change the recommended designations put forth in OPG's 2001 Proposed Land Uses for the Community of Lolo Development Area. IN fact, exactly the opposite is true. By this zoning, we have attempted to give these recommendations the weight of the law which they otherwise would not have. It is some of the affected development interests which would violate these recommendations. There are only two areas in the portion being considered under this zoning that do not conform to the 2001 density recommendations: First, the Chief Joseph subdivision. The plan calls for a density of one house per 10 acres. Our planner recommended that, since the areas have already been subdivided that we ask for zoning at its current, lower density of one house per twenty acres. Second, the portion immediately there – it is designated as 'Open and Resource' land, presumably because it is cited as being in an Area of Significant Flood Risk. We had heard that FEMA has reanalyzed the flood

potential, and the zoning proposal allows for development outside of a flood zone. As for the density of development, we asked our planner what would be customary when an area's designation was changed from Open to some acceptable level of development. His response was that the parcel would be designated at the density of the parcel with which it is contiguous – in this case, one house per five acres to the west of Sleeman Gulch Road and one house per one acre east of Sleeman Gulch Road. We do not oppose development of these parcels. In fact, when it was explained to us that the wording of this zoning proposal would not prevent all building there and alternate wording was proposed by the County to do so – you have a copy of that e-mail in your packet – we rejected that language. It is not our intent to preclude development. Our intent is to allow development that is in keeping with the nature of Sleeman Gulch and in conformance with the Community of Lolo Development Area Proposed Land Uses developed by Missoula County in 2001. I urge you to adopt this Citizens' Initiated Zoning. Thank you.

Commissioner Bill Carey: Thank you, Mr. Barns. Who would like to speak next?

Jeanette Zencrad: We're just so pleased with the zoning that we do have in our area and my husband and I 100% support this amendment to it. We can just see it as a win-win situation and I want to thank everyone who worked so hard on this proposal. We were away all through the planning stages and Kathleen had to take the time to fill us in, we so appreciate that. We hope you'll agree to it.

Ramona Holt: My husband and I are owners of region 5. When we said that we would support this change, it was our understanding that the gravel pit would be exempt, which it is. The other thing was that region 5 would be designation one dwelling per 2.5 acres. That is what has been designated in the development that we have done west of region 5 and we would like that so changed from five acres to 2.5 acres.

Matt Ulberg: You received my letter of opposition to the changes as read by your staff from OPG. He made a correction to region three, but in my copy region three reads one dwelling unit per 10 acres. That is not the region that needs to be corrected, it's region 2. It is my concern that region 2 be changed from one dwelling unit per 40 to the language one dwelling unit per 10 acres. That is my specific criticism. I also do have a bit of a criticism of the overall document that the language saying in section III 4B, no structure shall be placed in the portion of the zoning district that remains within an area designated as a special flood hazard inundated by 100-year flood. I understand that there is a flood inundation area designated for Lolo Creek, but this is Sleeman Gulch zoning district, zoning amendment, this will apply to all lots in regions 1-6 and as such it is a change to the zoning requirement. There is no 100-year flood designated for Sleeman Gulch, because the creek only runs for about 2000 feet of the 6800 feet of the Gulch. If this is included as language in this, when a zoning compliance permit is applied for, it'll be reviewed specifically. The County's people are very good about that and they will ask if your building site is within a 100-year flood and my question to you is, how do you prove that you aren't without an engineering study that's going to cost a significant amount of money to do so. So I am a little dubious about that language being included and possibly, if it's specifically directed to that already designated inundation area, that language should be somewhat modified to direct the amendment in that direction. I also sent another letter with co-signers; I don't know if you got it by Friday, it was basically the same issues. My neighbors have the same issues that I do about what is now known to be a typo. We all got pretty excited about it. I came in and talked with the County Attorney and he was very good to explain to me what I needed to do to take of what I needed to. I appreciate the county's staff time and support through that. I think there's been a lot of work put into this. I'm a newcomer to the Gulch; I look forward to meeting all of my neighbors. I apologize for all the construction; I am building right next to Kathleen. Other than that, I am not in support or opposition to the changes in the lower part of the Gulch, seeing as I have no history with that. My concerns are with what affects me directly and immediately. Thank you.

Commissioner Bill Carey: Thank you. Colleen?

Colleen Dowdall: Could you please clarify what you said about the mistake in the zoning in regions 1 and 2?

Matt Ulberg: My copy of the amendment in section 3, number 5(a) reads 'region 1 one dwelling unit per 40 acres.' Section 3, 5(b) reads 'region 2 one dwelling unit per 40 acres.' That is what I am in opposition to, that is a typo and it should agree with section 3, 1(b) region 1 is the change. I live in region 1, I get those two regions confused (1 and 2). So in region 1 the 40 acres should be changed to 10 acres.

Commissioner Bill Carey: So both region 1 and 2 are 10 acres?

Colleen Dowdall: Region 1 is 10 acres.

Commissioner Jean Curtiss: Two is 40 acres.

Matt Ulberg: They just align with the minimum lot size in section 3 number one. For those top...one small point is that in talking with my neighbors, when I was excited and really upset, they all said this has nothing to do with regions 1 and 2, why are you so upset? It has been told that this is just to add the zones in the bottom of the Gulch. We all signed it know that this would not affect regions one and two, because we don't want to open up that can of worms again. We don't want to have anything to do with it; we don't want to go to the meetings. Obviously, there's been some rather interesting blood pressure rising over the past six years or so, but I said 'look this does change it', because the language that isn't contained in it will affect you and these are why. The error that we're correcting with that language change and the 100-year flood could potentially change it. There could be other language that does affect them and I guess that anytime you do an amendment, it's good to get the support of the neighbors and think about the wording. I know that Chris is totally set in his mind and I think he's justified, thinking that this doesn't affect region 1 and 2, but I think it could be interpreted as affecting them, because it does have the additional language. My beef isn't with Chris and Kathleen, they've worked really hard to put it together, my beef is with the application of this document and making sure it's done right.

Commissioner Bill Carey: I guess what's confusing me Tim is the handout you gave us today is different from what we find in attachment A.

Commissioner Barbara Evans: What we got today is...

Colleen Dowdall: I think the one you gave them today, you talked about the new regions and instead of starting with region 3, you started with region 1.

Tim Worley: Right, I labeled those incorrectly.

Commissioner Bill Carey: Oh, okay, that helps.

Commissioner Barbara Evans: Yes, very confusing.

Colleen Dowdall: The other was a document that should not have gone to the public, that the last speaker had, that was just a proposal that OPG considered recommending, so that is resolved. We are now at a minimum lot size for regions 1 and 2, region 1 10 acres, region 2 40 acres and then the rest are all density recommendations.

Matt Ulberg: So did you just strike the density recommendation on regions 1 and 2, then?

Colleen Dowdall: It was never proposed to be that way; the document that you got was a working document that should not have had that one there. It was something that OPG, in attempting to guide the process.....

Matt Ulberg: So that was meant to guide the process. So 5a and 5b do not exist anymore as I'm reading them on the document I have?

Colleen Dowdall: I can't find...

Commissioner Jean Curtiss: Our 5a and 5b don't say anything that yours does.

Matt Ulberg: Would you like to see mine.....okay, mine's dated the 10th of August 2005 and it's addressed to the Commissioners from the residents of Sleeman Gulch.

Colleen Dowdall: But that was altered by planners as a possible proposal that they would recommend to the Planning and Zoning Commission and the Commissioners to change. So that document was handed out, instead of the one with the proposal from the applicants, which is what I have. If you don't have a copy of that....

Matt Ulberg: I would like to get a copy of that, if possible for my records.

Colleen Dowdall: I have an extra here.

Commissioner Barbara Evans: Since all these numbers have me thoroughly confused, I'd like to ask Ramona.....Region 5, did you want that 1 per 5 acres or 2.5 per 5 acres?

Commissioner Jean Curtiss: 1 per 2.5 acres.

Ramona Holt: Yes.

Commissioner Barbara Evans: Thank you. It helps if we understand what we're doing. So, Colleen, region three would be one per 10 acres, region four would be one per 20 acres, region five, if Ramona wanted it and we were correct in what she wanted, it would be one per 2.5 acres and region six would be one dwelling unit per acre, is that correct?

Colleen Dowdall: Correct.

Commissioner Barbara Evans: Thank you.

Commissioner Bill Carey: Tim, would you or Greg care to speak to the concern about the floodplain designation?

Greg Robertson: I really don't know the history behind this particular requirement. Generally, I don't see requirements such as these put in zoning regulations. We have a floodplain set of regs and maps that we deal with that are not related to this and controlled development within designated special flood hazard areas. I do know that FEMA, as part of their update of their maps into a digital format, are studying certain reaches. I believe one of them is Lolo Creek. I don't know that the adjoining reaches such as Sleeman Creek that dump into Lolo Creek are part of that study. I think they're just doing the main channels. That's about all I know.

Colleen Dowdall: I gave all members of the Planning and Zoning Commission a memo that should be purple, on the second page, I address the floodplain issue. We discussed this at planning status with Todd Klietz and so I give you a range of options. Part of which depends on what it was the applicants were trying to accomplish. I think one of them spoke to that, what the purpose was in designating this area as no-build. But you might, future speakers might address that is it to protect the area from development for reasons other than flood hazards? If that is the case, then the language as written would need to be tweaked a little to say that we're referring to the floodplain as it exists now. This was recently revised by a letter of (inaudible) revisions and a map amendment. If we don't want to have not building in the floodplain, then we need to state that. I have expressed my concerns in that part of the memo with doing it that way. We could

eliminate all reference to the floodplain and leave it up to the discretion of the Floodplain Administrator. He had originally recommended that we have language that there be no fill allowed in the floodplain as a zoning standard and I was not comfortable with regulating fill, providing fill in zoning.

Commissioner Barbara Evans: It seems to me this is a conflicting idea. We have certain rules that allow building in the floodplain, if they meet certain conditions.

Colleen Dowdall: Correct. That would be, for instance providing fill, to raise the elevation. What Todd said was that if the reason was that you just didn't want any building in that area, then you would want to restrict, by zoning, the addition of fill. So the options are yours, there are three or four of them there for floodplain.

Commissioner Bill Carey: Any additional testimony?

Sally Cummins: I live almost three miles up the Gulch, which puts me in that zone 2. I'm very relieved that we're not in any disagreement with what's going on in that zone. We like it at 40 acres. I just wanted to make two brief comments about the public interest that I know you, the Commissioners, have to decide here. The two reasons that I so strongly support the zoning amendment are: 1. Sleeman Creek Rd. meets Highway 12 on a curve and it is the only, the one and only way, anyone living in Sleeman Gulch can enter or leave the Gulch. The other way you first come to a locked gate, which leads you to Forest Service road and the road has been deliberated bermed so that you can't pass. So the curve in itself, I think is one of the strongest reasons for not allowing the two things that this amendment tries to keep from happening – commercial development of that area at the mouth and high density development – in either of those cases, commercial or high density, you'd be affecting the safety and increasing the possibility of accidents to everyone that goes up and down Highway 12, not just those of us in Sleeman Gulch. And for all of us who have to slow down on what is almost a blind curve, especially from the west before we make a turn, that affect would be even stronger. Furthermore, because it's the only way out, we have been visited by the Fire Department on more than one occasion in bad fire seasons, reminding us of that fact and telling us we have to be ready for quick evacuation. Again, high density or commercial development at the very point where we need to be getting out of the Gulch and on to Highway 12, which is also, I'm told, the direction any fire is most likely to come up our fairly steep gulch, could actually make the difference of whether everyone gets out or doesn't. So I hope you will agree that this zoning amendment is indeed in the public interest. Thank you.

Drake Lem: I'm glad I don't live up Sleeman; it sounds like one of the most hazardous areas in the county. I've lived up Lolo Creek for about 25 years now in very close proximity to this proposed land. I am partners in the land that abuts Highway 12 and that Sleeman Creek Rd. bisects. They have an easement through our property to get up there, so that's my area of concern. The just under six acres on highway 12 that we, my partner and I, are proposing an eight lot subdivision on. I think you have a copy of our plat. We've been working on developing this property for several years now; we've got over \$60,000 put toward this project at this time. When Sleeman Gulch and the surrounding property was initially subdivided in 1978, by Sherman and Cleo Denton, Ramon Holt's parents, their covenants called for a minimum lots size of 1.5 acre parcels. I thought I would throw that out because the density that is being proposed is substantially higher than that. Also, there's several subdivisions in this area where the density is not only up the creek, but down the creek, where the density that is under construction at this time, is higher than the proposed amendment density that we're looking at today. One of my big concerns, I was gone for a couple of weeks, and when I came back...if we weren't in the process of developing this land, I would have no idea about this amendment on zoning. We have an engineer, or surveyor, that reads the Sunday paper and she reads the legals. But it wasn't for her and our development in progress, I wouldn't have even known about this. It sounds like maybe the Lolo Community Council wouldn't have known about it either. So, I know there are state regulations that address this, but it is a concern that maybe you can look at it and if you have any

way of dealing with that process...make sure all the affected landowners are notified. I think that would be a worthwhile thing to look at. Our proposal, right on Highway 12, is an eight lot subdivision. I don't blame the residents of Sleeman Gulch for wanting to keep density low, I do too. I live on 14 acres that I could subdivide, but I'm not going to. But, our eight lot subdivision won't affect the quality of life of the people who live up Sleeman Creek at all. It'll take them three or four seconds to drive through our 300-350 foot area of land. Once you get through our proposed subdivision, and around the corner going up Sleeman Gulch, you can't see our subdivision. They won't see it at all, they'll drive through it for a few seconds, and hopefully that won't cause them too much grief. I'm going to address the floodplain a little bit because this is something my partner, Russ Dexter and I had to deal with. When we bought this land initially, the floodplain area, and we dealt with OPG at the time, we brought the planner onsite and we went through that whole process with FEMA. It's very difficult to get floodplain designations changed, my personal feeling, when floodplains are designated they paint it with a pretty broad brush. And there weren't any benchmarks on our property, any landmarks even, they didn't even shoot grade to determine what the relationship was of our land to the landmarks that they did have that they could locate floodplain with. So, I think it was just kind of a broad brush and they were pretty receptive at OPG about changing it and FEMA was a little more of a struggle, but they did too. So the change was made and everyone seemed fairly satisfied with that. I think that's all I have to day. I just want you to know that we've been working on this quite a while and I've lived up the creek for 25 years, it would've been easy to notify me, as opposed to me just keeping throwing money in this project when the possibility could present itself that I was wasting my time and a lot of money. We had planned on submitting this subdivision last week for preliminary approval, but of course with the situation at hand, we chose not to do that until after this hearing. Thank you.

Commissioner Barbara Evans: Mr. Lem...we received a letter, I don't know if it was from you, but I want to clarify the information I got in that letter, which was the owners of the land....

Drake Lem: You didn't receive a letter from me, but it could've been from my partner Russ Dexter.

Commissioner Barbara Evans: And, did it say that you had originally doing an RV park, but when you found out the neighbors were not supportive, you changed your mind?

Drake Lem: Yes we did. No, not really, I've done enough subdivisions and developing in my life that I knew the neighbors weren't going to support it and I knew they wouldn't support probably anything and you guys run into that frequently. The reason we changed our mind on the RV park, and this might just be the only reason, we were concerned about traffic coming down the creek and then needing to make a left hand turn into our property. You've got big trucks, semi's, logging trucks coming down the creek there and it's a straight stretch all the way through there until you come to that corner and I just....it was going to be a traffic hazard. So Russ and I talked about it and we didn't want to create that kind of a hazard. The traffic coming up the creek we felt pretty comfortable with. It's obviously going to increase traffic and it could cause some situations that we would prefer not to have as far as a safety issue. But coming down the creek, we just thought that was too much of a hazard, so we decided to drop it and proceed with this subdivision.

Commissioner Barbara Evans: Thank you for clarifying that question.

Commissioner Jean Curtiss: Mr. Lem, is your property in completely in number 6?

Drake Lem: I'm not sure, Becky could you tell me....

Becky Weaver: It's in 5.

Commissioner Jean Curtiss: It's in 5? Okay, so 5 is proposed one per five...so which one is....

Colleen Dowdall: That's where the floodplain is.

Commissioner Jean Curtiss: In the yellowish color?

Commissioner Barbara Evans: That's where Ramona is asking for 1 per 2.5 acres.

Commissioner Jean Curtiss: Okay.

Christopher Barns: I just want to clarify something about that. Because we were, when we came up with this plan, we didn't intend to be arbitrary and instead we're following the density recommendations of the Lolo Community Plan. They had the boundary between one house per one acre and one house on five acres on Sleeman Creek Rd. So actually, Drake and Russ' property in on both sides of that parcel, so their lot is bisected by the community development recommendation. Which is early, but we thought it was best if we followed the recommendations in that plan.

Elmer Palmer: Representing the Lolo Community Council. I apologize for the letter coming out the way it did, unsigned and misspelled, but when OPG gives us seven days from the day that the letter is mailed out of their office until answers are due back, it is totally unacceptable and that's why the letter was drafted in a hurry, unsigned and sent in with mistakes. We apologize for that. I'm here to speak on behalf of the council. We had a hard time making a decision which way we wanted to stand on this one. We felt like we had to support the folks up Sleeman Gulch, yet we had to support the rest of the citizens, particularly these folks who have come to us twice now with a proposal for building in there. I applaud the residents of Sleeman Gulch for their efforts in establishing citizen-initiated zoning, and would like more areas in Missoula County to do likewise. Zoning can be a positive land use planning tool, much more effective than almost an unenforceable covenants that comes with many of the subdivision this day and age. However, the way that they are extending this boundary, this zoning district boundary, is land use planning through ambush. The citizens in Sleeman Gulch were correct the first time in drawing the line up the hill. Thy area indicated contains a lot of the Lolo Creek valley, not Sleeman Gulch. It is completely different ground. Rumors of this RV Park were circulated late in 2004 with many people wondering if it would be ready in time for the crowds anticipated for the Lewis & Clark bi-centennial. The owners, Russ Dexter and Drake Lem purchased the ground some time ago and held their neighborhood meeting for the RV Park on November 10, 2005. The met with some opposition and we understood that was the reason they changed, although Mr. Lem has informed us that they did it on their own. They chose a small subdivision instead. The neighborhood meeting for Buffalo Trails subdivision was held on February 9, 2006. Two members of the Lolo Community Council attended the first for the trailer park and three to the second. At no time was the effort to extend the zoning boundary mentioned at either of these meetings, even though the request for the boundary extension had been filed on the 10th of August, 2005. The engineering firm, PCI, first heard of the efforts when it was published in the legal notices and appeared in the daily Missoulian. Taking is the process of reducing the value of a person's property, or making it useless through outside action. Within the past three years, a developer came before the zoning board up here with a request for a variance for citizen-initiated zoning to allow three extra houses in a subdivision. Commissioner Evans inferred that it would be taking, if this request were not approved. That board saw fit to approve the request and one of the Lolo Community Council members resigned in protest. The Lolo land use plan recommended this land as open resource. Had the Board of County Commissioners, this area would have been zoned by Commissioner directive zoning. The second largest attendance of any of our meetings was highly in favor in the area to match the land use plan. The Council jumped through hoops doing so and the Commissioners said, 'No, we won't do it,' and another resignation from the Lolo Community Council in protest. The engineers for Buffalo Trails subdivision has indicated that the zoning slot if imposed on the owner of the parcel, would decrease the subdivision from seven houses to one. This is a taking in the highest sense. If the residents of Sleeman desire to zone the property in this manner, they should consider purchasing the land for the land cost, two engineering costs and the expected profit from the sale of the seven houses. Then they could zone it anyway they

wanted to. Perhaps while we're doing this zoning, we should look at the rest of the zoning up there. Sleeman Gulch lies in the Missoula air stagnation zone. Perhaps this would be a good time to require paved streets, sidewalks and curbs through the whole district. This would eliminate the deaths from the hundreds, perhaps thousands of daily trips up the road. We would require the developer to pave Sleeman Gulch Road where it goes through his property. If this extension is approved, I will not resign in protest. I will remain around to be a witness for the developer and the owners in the court cases that I am certain will follow. Thank you.

Stan Hendrickson: Not a newcomer to the area, I've lived at the mouth of Sleeman since 1946. I kind of resent....I don't resent newcomers if they don't come and tell everyone else what to do. The regular initiated plan I thought was good, leave it lay. But unbeknownst to me, they have brought this area clear down to Highway 12 and the way I found out about it...this is what really makes me mad...I am not for or against anything that's going on, but when they pull stuff like this and I find out that 'hey Stan won't sign this, so lets not tell him about it,' another...yes... (inaudible from the audience) did you send me a letter?

Commissioner Barbara Evans: Lets not fight with each other, please.

Stan Hendrickson: Another person is Dave Herriton, who has suffered a stroke in California. They're changing the wording on his property and he's not here to speak for himself. I just think it's a little bit underhanded to do something like this without further study. I don't even know what's proposed for mine. The way I found about this was in the legals and someone called me, I don't read the legals. Why should I have to read the legals every day to find out what's happening to my property?

Commissioner Barbara Evans: Are you in region six, Stan?

Stan Hendrickson: I'm in region...six.

Commissioner Barbara Evans: Currently that's one dwelling per acre.

Stan Hendrickson: And I have no problem with that. I just have a problem with some of the others in region three that refuse to sign this, but are being brought in without their input. I think they should have input.

Commissioner Jean Curtiss: Could you show us on the map where Dave's property is?

Stan Hendrickson: He has three properties in region three. And I'm sure he's against this, but he doesn't have any notice and they say that I was invited to a meeting....this is probably a year ago? And....

Commissioner Jean Curtiss: They've been working on it a while.

Stan Hendrickson: But I wasn't informed that this was happening today and apparently there's a vote happening on it today! Do what you will, but I think there needs to be more study on this. Thank you.

Christopher Barns: I just have to make a couple of responses here. I understand Stan's owned property there for a long time there and we all have problems with newcomers coming and wanting to do things differently. My ancestors came over to America in the 1660's and I'm not happy with some of things that have happened to our country since then. I have here - Stan was at a meeting that we had at the Sturgis house at the end of July in 2005. At this meeting, we discussed this, Stan signed on as agreeing to this zoning and later changed his mind, made it clear that he was withdrawing his support. But he did know about that at that meeting he agreed to contact the Bray's, the Harriton's and the McHatten's. We do know that the Harriton's are opposed to this, whether or not they've sent a letter, the didn't sign in support. Mr. Harriton, when

he heard about this last July, drove up to our house and threatened to sue us personally if this zoning went through. So we knew perfectly well that he was not in agreement with this proposal and he also knew about it. That's it for now.

Commissioner Bill Carey: Okay, thank you.

Stan Hendrickson: Yes, I was at that meeting. I was lead to believe at that meeting that everyone was in favor of it, including McHatten. The other people he mentioned, Dave Harriton. And I was lead to believe that they were all in favor of it and I thought, 'well, who am I not to go along with it?' I signed it and within hours when I found out, I went to visit these other people and I found out that I had been mislead and they were NOT for it. They were very much against it, so I withdrew my name from the support list. I was misinformed when I signed that and I did take my name off and it will remain off. But these other people have not changed their mind.

Commissioner Bill Carey: Is there anyone who has NOT spoken yet?

Wendy Sturgis: I live in one of the already zoned properties up Sleeman Gulch Road and I've been part of this process since the very beginning. This whole process has been in the works for years, as far as people before us in Lolo who worked on the development of the comprehensive plan. The County's involvement has gone on for a long time trying to shape and guide and educate citizens on how they go about planning for themselves, which I think is a good way to do things, but it does take a while. In the Gulch, it's been months or years, depending on how you look at it, in the process of people talking, learning, figuring out how to go about zoning a neighborhood or a town or a part of a highway, getting the information you need. In the whole process, meetings have been where people are interested and concerned have input, no matter what their opinions are they were invited to participate. They had what I would call very democratic and respectable discussions between neighbors most of the time. Not everyone shows up at a meeting when invited, so what you have is representatives learning, educating themselves and then volunteering...who's going to call everyone else? So each person at a meeting would say I'll tell the five people I know best, help teach them and educate them, so it ripples out from there. There were times that people maybe didn't feel informed, but on the other hand they can talk to anyone at anytime and get the information they need. So, in light of that I don't feel that people are mislead, but the idea was that each person had a responsibility to inform their neighbors...it's a citizen-initiated process, so as citizens whoever shows up carries the bowl and learns. One point I want to make for the need for zoning – when you buy property, if it's unzoned, there's not guarantee that you have the ability or future right to subdivide, if the democracy of the County of the citizens at some point in time, whether it's a year or 30 years after you buy your property, if property becomes zoned before someone has developed that happens. I don't feel like anyone is trying to prevent development here, I don't know of anyone who feels that way about this process. It's about planning what is acceptable or reasonable for a certain place. So when citizens planned out Lolo comprehensive plan, comprehensive it a big area. Now you see as each area, when things come up, people respond and look at what's good for this area. Just east of us, there's a development that's six houses per acre. We're not against that, it might not be ideal, but we don't own the property, that's what's going to happen along the highway. When you talk about Sally Cummins comments, I'd like to echo a lot of what she said. At this particular location on the highway where there's already accidents and safety concerns, the consensus of 80% of the people who are involved in this, it's not a good spot for high density. We're not opposed to people developing, or their being neighborhoods and houses, it's just a particularly bad spot for high density. So our feeling is to follow the comprehensive plan as best as possible, looking at this area and finish something we started a long time ago, which is zone down to the highway because that does affect everyone that does live that area. A few feet or however far east of Sleeman Gulch Road you want to go is pretty open to the community to figure out what's appropriate. But at the mouth of the Gulch, in that dangerous spot, it makes sense to put zoning in place for the reason that the next time someone wants to come and develop or subdivide, you have something in place to follow. The comprehensive plan doesn't stop any other developments from happening and it makes sense to zone it now, so that you can handle the

next requests that come along. I just think that it's helpful so that any future buyer of property there understands what the community thinks is acceptable before they put their money and time into investing and then find out that they can't. I think it's job of the citizens first and the County to respond and say, 'Yes we need to have this zoning in place,' it's been long enough, this is not something that needs further study. People have had years to be involved, do their homework and make their comments and I think you need to make a decision on what you think is a good zoning density for that spot along the highway and use that as your discussion point to get the rest of Lolo together and finish what was started much too long ago. You can't wait 10 more years for 20 more development ideas to decide what you think is right there. I encourage you to pass this with whatever you feel is a fair and reasonable density and get it done. I fully support it. Thank you.

Russell Dexter: I'm the one who wrote the letter that you received. Drake Lem is my partner in this pursuit. We have about six acres at the mouth of Sleeman - actually we're in the Lolo Creek corridor. As Wendy Sturgis point out to me one time, Sleeman starts out a little bit beyond them up the canyon. We, about five years ago, starting planning to purchase the land. We noticed that it was zoned to where we could pursue building an RV Park in the area. We noticed that there was an RV Park up closer to Lolo and there is another park with a half mile of where we were interested in pursuing this building. We thought this would be a great spot for one, it looked nice, it was a close location to Lolo. Over a period of the last year, when we started chatting with the Sleeman residents, and I have to commend them they're very passionate people and I appreciate all of them, however we did purchase this land and we pursued something that I thought was the dream of anyone who lives in Lolo in the past century; that when they buy property, that people get behind them and support them in their dream. I live across the highway from Sleeman on Balsamroot Rd. and it is my neighborhood, I guess you would say, Drake and I both. We were interested in building something that was a gem for the area. But within the last year in talking with the Sleeman people, we had a number of comments that they didn't want anything like that in the area. We did pursue trying to update some of the ideas we had as far as building the park, to try to make it a better situation for them. Something that would be appealing to the community and to the Sleeman people. Over a period of time in talking to them and being open to suggestion, when I wrote in the letter that it was because of listening to the people that we changed our minds, that was part of it, the other part was we started looking at the location of the corner where people, elderly folk, would be trying to turn a large long rig into our property...we said that may be another reason to not build the park. So we started reassessing 'where do we want to go with this? What would we like to do?' And in listening to the people, they said 'build anything, do anything but an RV park,' they pleaded with us. And we said okay, we need to do something with our land. This is our land that we've purchased and actually spent a lot of money pursuing and RV park, and yet we changed and said lets do what they're asking us to do. In an area where we were able to pursue doing an RV Park, we changed and we asked 'what can we do here that would still be a nice setting for something...would be a gem for the area?' So that's why we pursued doing a subdivision. My request today is that you remove our six acres, and I understand and appreciate the fact that they want to zone what they've got. And I say lets go ahead and let the people that are for it zone what they have. I feel it's a little self-serving to zone what you want, they way you want and then try to incorporate people who are not for it in your zoning. So I request the you remove our acreage from that zoning. Thank you.

Commissioner Barbara Evans: I have a question for you sir.

Russ Dexter: Sure.

Commissioner Barbara Evans: You say when you looked at this land, you felt it was zoned properly for you to do an RV Park? What zoning were you referring to?

Russ Dexter: It wasn't zoned....I get it all confused. I just wanted to let you know I'm not a developer, I'm a neighbor who saw an opportunity. Does anyone else have any questions?

Commissioner Bill Carey: Not right now, but we may later. Thank you.

Ramona Holt: I just want to address the floodplain issue. I think for everyone's simplicity and taking into consideration what Barbara said. This language would be better struck and left to the subdivision process and the Planning Board. Otherwise we have two entities there that have different rules. It would be recommendation to strike that language.

Commissioner Jean Curtiss: Mrs. Holt, is the property you own...did you already subdivide that? Was that Long Horn Estates? Or did you not subdivide?

Ramona Holt: No.

Commissioner Jean Curtiss: But the property you did subdivide is next to this property in region 5?

Ramona Holt: Yes.

Chris Barns: Is it germane to talk about the discussions between Drake and Russ and the proponents? Does that have any bearing whatsoever on this?

Commissioner Barbara Evans: What I think is appropriate is for you to address the issue and I really....it distresses me when I have neighbors disputing. So if you want to address an issue, fine, but I would appreciate you not making the opponents to your issues really mad.

Commissioner Jean Curtiss: I have a couple questions for you, Chris. Who's property is in region 3? If Kathleen could answer this, that's fine too.

Kathleen Stachowski & Chris Barns: In Region 3 - Harriton, McHatten, Reed and Starkey. Region 4 - Chief Joe subdivision, Lumans and Campbell's. In Region 6 – Hendrickson, Bray and part of Harriton, he has three lots.

Commissioner Jean Curtiss: So all of his lots are on the east side of the road?

Chris Barns: Yes. They're all on the east side of the road. One of his lots is in zone 6 and two of his lots are in three. So in addition to his existing house, he could build three other houses on an area that is....the buildable area is a couple hundred yards in a triangle. In Region 5 is the Holt property and a portion of the subdivision – the area part in six and part in five. The discussions that we've had with Drake and Russ at the two meetings, I would characterize as being different than the way Russ did and maybe we should sit down and talk about what we heard each other say. I only want to go into details if it's germane on your decision on what happens here, otherwise there's no point in making a neighbor mad.

Commissioner Barbara Evans: I have a saying that I use a lot that I think pertains to this situation: I know you think you understand what you think I said, but I wonder if you know that what you heard isn't what I meant?

Chris Barns: I hear you.

Matt Ulberg: This question has to do with my parcel and I don't want to make anyone mad, but Lolo is coming up the highway. It's happening on a daily basis and it's also coming up the hill on the backside....I'm in Region 1. I'm a little nervous about Lolo creeping up on the backside of that hill and what happens when we get street, sewer and water and services? If you stand at my place right now, you can see a house on the same ridge at the same elevation, not very far away. So when Lolo marches up the hill and into my nice little meadow where the deer and buffalo play, what happens when we're zoned and you've got a half acre or one acre or quarter acre lots up against you, do we do a revision to zoning? Same thing down here, where Lolo marches up the

highway, with citizen-initiated zoning amendment, is that something that can be changed in the future? Similar to a community plan, things like that, should I worry about that right now? I'm just starting to think ahead of....20 years down the road. Our Lolo Community plan is already five years old and the things that we're zoning toward agree with a five-year-old plan even though the landscape around us is rapidly changing. I'm just....the last thing I want to see up here is development, but I tell you what, if I do see development up there I want to put my house on my property up higher, if that's going to be doable.

Commissioner Bill Carey: Can this zoning be amended at some future date?

Colleen Dowdall: It can always be...it needs to be petitioned to expand the boundaries or to rescind it, yes.

Commissioner Bill Carey: Same 60%?

Commissioner Jean Curtiss: To amend the development pattern?

Colleen Dowdall: To amend the development pattern does not require a petition. To change the density requirements or any of the permitted uses or prohibited uses, those are the parts that are the development pattern.

Commissioner Jean Curtiss: So it doesn't require a petition to do that, but it still comes before us to do that.

Colleen Dowdall: And it's unlikely that....

Matt Ulberg: What about lot size if there's no density requirement?

Colleen Dowdall: Density or minimum lot size.

Matt Ulberg: Okay. Now...and you said, I think I read the meeting minutes of the previous meeting here that said 40 acres constitutes a zoning district, is that correct? 40 or more?

Commissioner Jean Curtiss: A minimum of 40 acres is correct.

Michele Landquist: I wear many hats in the local community as a long time land owner. I've lived there 28 years now and I've loved it for all those years. The first hat is as a property owner and many of the folks here today, I'm proud to call my neighbors. As rural folks, we don't see each other on a daily basis. We may see each other at local events, but I'm proud to call them my neighbors because they have many of the same, if not all, of the same land ethics that I share and that's becoming rather rare these days. I know for a fact that these folks who are behind this citizen-initiated zoning have never tried to misinform anyone. They've tried only to inform everyone, so if anyone felt as if they were misinformed, I would have to reiterate what Wendy Sturgis said, it's our responsibility to inform ourselves and understand the issues. That's our responsibility, go to meetings, read letters and keep up on things. I'm sure it was never their intent to misinform anyone. We have an opportunity here to preserve some open space in that area. This zoning would help do that by requiring certain densities. I think that's really important considering the density and growth that's happening in the area and the drainage and the traffic. There's been an increase in traffic just from that last subdivision across the street from me, Lolo Creek Trails. This traffic has significantly increased and half of the people aren't even living there yet and there's been some near wrecks right in front of my driveway from drivers trying to come out of that subdivision, people trying to enter it from west and the east. They've actually had to come to a stand still on the highway to figure out who was going to pull out. We've witnessed this with oncoming traffic coming at 70 miles an hour. My concern is that if we don't implement some zoning and adhere to our land use plan, land density recommendations, we're going to end up in the same situation, we're already kind of close there now, as we are Highway 93 as far as it being

at its maximum capacity for carrying people and goods. I whole-heartedly support, and I'm not a big fan of zoning, but I support their initiative for this zoning as far as anyone who has purchased land in an area without zoning, that's the risk we all have to take, myself included. You don't buy it with a guarantee anymore than you buy a stock with a guarantee that says 'you're going to be able to make the most money out of this, I guarantee it!' It does not come with a guarantee when your purchase land in an unzoned, even in a zoned area, it's buyer beware. They bought it, they want to speculate on it, speculate all you want, but within the confines of the zoning. It was never zoned, it only had a recommendation. The other hat, some of you may be aware of the Lolo Watershed group, which I am a member and chair of. I'm on their board and I'm their co-coordinator, so I'm wearing many hats all the time. I am concerned with the aquifer in the area, I don't know how many people caught Friday's paper regarding the Supreme Court ruling on the alluvial aquifer and how it does in fact impact creeks and streams. Lolo creek is already a listed impaired stream because it's over appropriated; we've been in a draught and many other problems. I do know, from going to meetings that the developers have had, the last one when they talking about putting eight houses that the planner kept saying water wouldn't be a problem, water's been a problem with places in Sleeman already. If the subdivision does do what they're thinking of doing, seven or eight houses to that five some acres with every individual well and a community wastewater system that will severely impact Lolo creek and the community wastewater system would as well. I have documentation that will share with you both of those things in that area would significantly impact the streams. So this zoning, as a water person, I find gives me a comfort level knowing that we're doing something healthier for our stream by saying this is the carrying capacity in this area with this stream that runs through it and has to be shared with all these humans. Thank you for your time and appreciate your consideration on this issue. I hope that you'll send a good message today and endorse this citizen-initiated zoning with the few changes from Ramona.

Commissioner Bill Carey: Additional testimony?

Stan Hendrickson: I noticed on the list of people that has signed this that there are people there that weren't originally and may possibly ...how many of these people have sold off a piece of their ground? When Sleeman was developed originally, it was narrow strips over the top of a mountain and down the other side. You had one building site on your property, most of the people up there. Some of them had two. Some of them have sold their one other site and they couldn't develop if they wanted to. So we have people who have developed and they say 'I've got mine,' but these other people can't have theirs. I think that's very unfair. If you bought a piece of property up there where there is water problems you bought that land up there knowing of the water table and everything. But there is water at the lower end and I think if people have subdivided, their names ought to be taken off of here if they have sold off a piece of their land. That should eliminate from signing this petition. And another thing, I don't know how Michele got her information, but I was at that meeting and I didn't see Michele there, so how does she know I was mislead? I was thrown out of two houses, I was lead to believe that these people would sign, I says 'yeah I was the first one to sign it.' So I said I would take it around to these other people, four people that I was told were in favor of it. Two of the people actually asked me to leave. Now, if that isn't deceiving to say those people were in favor of it. Eddy McHatten was one of them and the Harritons. These people are not in favor of it and I don't think it should be pushed down their throat, we ought to stick with the original boundaries, the way it was. You people that are up above and have 20 acres with a half acre on the flat to live on, that's the piece of ground you bought. But people who bought 10 acres with five on the flat, don't try to tell them what to do.

Commissioner Bill Carey: Just for your information, Stan, the petition has been certified by the Chief Deputy Clerk and Recorder saying it represents 60 or more % of the free holders thereby. So they've researched the names and certified the petition.

Stan Hendrickson: Some of those have been subdividers within the last, I don't know how long, but I've noticed some names on there who have subdivided and probably a piece of land was put in two people's names rather than one.

Commissioner Bill Carey: I think we have someone here who can speak to that.

Kathy Wah: Assistant Chief Deputy Clerk and Recorder. We worked on this petition. At the time we check the signatures, we look on the Missoula County website to show who has ownership in this area. If that sold off later, there's nothing we can do about that, it has to be at the time that the petition is presented to us. So that's who we show as owner at that point.

Kathleen Stachowski: I'd like to make two points, because they speak to integrity and that's really important to me. The first point is the issue with Stan, the Brays, the Harritons and the McHattens – on July 28th a group of about 12 gulch citizens met at Jack and Wendy Sturgis' house to hammer out the details. We presented the amendment that we came up with through working with OPG, it was made very clear what the boundaries were, we passed out amendments, maps and so on. I have here a dated e-mail that says: Here's a list of who agreed to contact whom. Stan agreed to contact the Brays, Harritons and the McHatten's. They have not yet been contacted. So I want to refute the idea that they had already known about it and signed on, they did not. It was Stan's job to go them with the signature sheet we provided and explain the amendment and get their support or their lack of support. It was subsequent to that Mr. Harriton came to our house and basically screamed and scared us. I just want to make clear the truth in that situation. The other point is unrelated, but I will feel terrible if I don't bring it up. It regards Mr. Bray's permitted use. He worked hard with Chris and me to work the permitted use the way it would best benefit his business, which we are grandfathering in. On Thursday, 20 April, as she was preparing her final staff report, Denise Alexander of OPG informed me that the Deputy County Attorney, Colleen Dowdall had weighed in on an item in our amendment – namely number eight under section two, uses and under that permitted uses. This language was added to the amendment last summer to address the concerns of a resident, Mike and Ruth Bray, in the area to be amended. He and his wife wanted to be very certain that their home occupation, a small and discreet machine shop, would be grandfathered in under the amendment to ZD44. We recognized this as a valid concern for their livelihood and worked closely with these neighbors to produce a provision that accurately reflects their needs. Ms. Alexander called last Thursday to inform me that in Ms. Dowdall's opinion, including the machine shop as a permitted use is the wrong approach. It is better designated as a nonconforming use. I reiterate this information came to me on the 20th of April as Ms. Alexander prepared the final report, prior to leaving town for conference the next day. This left us with zero opportunity to respond to this change. Ms. Alexander prefaced this information with, 'you aren't going to like this, or I should say, you neighbor with the business isn't going to like this.' My response to her was this, 'When ZD44 was established in 2003, the same permitted use language was used and approved for an existing tree farm/sawmill operation.' Her response was, 'Good point, perhaps when you make your case, the Commissioners will see things your way.' When I filed the initial intake form with OPG on the 23rd of June, I was handed a sheet entitled, Citizen-initiated Zoning Process, but was told don't use it, it's outdated. Just use your zoning document, ZD44 as a guide. Indeed, that information sheet was dated July 1992, it hadn't been updated for 13 years, but my point is we were advised to use our zoning document and our zoning documents includes a permitted use provision for an existing business. When the amendment was originally written it included a permitted use for a sand and gravel operation already in existence, no comments or objections were ever raised regarding this designation as a permitted use. We had no reason to believe that we weren't on the right track with it. When we added the number eight, machine shop permitted use language to the amendment, I corresponded with our planner Dale McCormick on the 17th of August, 2005. I inquired whether we would need to gather a second set of signatures for this addition. Mr. McCormick forwarded to me his query to Ms. Dowdall as well as her response, which I have included and will give to you. The e-mails indicate that Ms. Dowdall and Ms. Alexander discussed this permitted use addition as early as the 15th of August. The discussion focused only on whether to require second signatures, whether this was more appropriately a nonconforming use or a permitted use was not mentioned. Now, given this sequence of events and the fact that it was more than eight months ago that Ms. Dowdall discussed the addition of the permitted use in context of whether signatures would be required, yet never registered any thoughts or objections to a permitted use rather than a nonconforming use. Given the fact that a similar

permitted use was approved in our original document and, as advised by the County, we based our amendment on this precedent, given the fact that the objection to permitted use designation was unknown to us until the final day that the final report was being prepared and given that the residents of Sleeman Gulch have worked with the County in good faith, with honesty and transparency, in spite of the many difficulties and setbacks that we've encountered, we appeal to your better judgment and sense of fairness in accepting this permitted use, or rather reinstating the original amendment language. I feel really compelled because Mr. Bray isn't here. I want to be on record so that he knows I represented him fairly. I also have a timeline of the entire zoning thing....

Commissioner Bill Carey: Okay we've been at this about an hour and a half. Colleen, can you....does it make any practical difference?

Colleen Dowdall: There are differences between this language and the language on the saw mill. It was clear that this language was written specifically to allow only one machine shop and that's the one that exists now. The way to accomplish that is by allowing it to be a legal nonconforming use that is not to describe it as something that fits only one property owner. If we were to go forward with this language, it's my belief that we could be challenged and every lot could have a machine shop because it's written in such a way as to not apply the zoning across the board in an equal and equitable way. So, that was my concern.

Commissioner Jean Curtiss: So all the lots within a quarter mile could have a machine shop?

Colleen Dowdall: I think that all of that limitation language could be challenged, because it is so clearly designed to fit only one....if they only want one machine shop, what they should do is not permit machine shops at all and allow the one that exists to be a legal nonconforming use. Which means that as long he uses it, it's legal, if he sells his property to someone who wants to run a machine shop, it's legal, the only thing that could make is illegal is if he abandoned the use for a period of time. He could lose his legal nonconformity.

Commissioner Jean Curtiss: It's kind of like grandfathering that particular place?

Colleen Dowdall: That's exactly what...and we added language to the zoning district to describe what legal nonconforming language was. I don't recall the e-mail....I have from Denise from about August of last year about 200 e-mails, so if I go through them here, I could probably find the one here where she asked the question. But...

Commissioner Bill Carey: But, he's okay. Striking eight, but adding the nonconforming use allows him....

Colleen Dowdall: The machine shop can stay and he won't be subject to challenge any of the language that we just essentially spot zoned that one little place to allow the machine shop. I do want to address the fact that the applicant discussed the gravel mine, also, as to whether that was a permitted use or a legal nonconforming use. Gravel mining is entirely different as you folks know. It is specifically allowed in every....mining is allowed everywhere in Montana, except in areas that are zoned residential. And the method of acquiring grandfathering was set out in statutes prior to 1993, so the definition that you folks had talked about asking me to prepare some language to add, defines a gravel mine as one that requires a permit.

John Luman: I'm one of the newbies who's causing the problems. My wife and I own one of the lots in section 4 and we have signed on as supporting the zoning. I'm fine with the zoning where we are, but I just want to clarify that I'm a little uncomfortable with zone 5. The amendment is imposing restrictions there that are much more restrictive than up and down the highway, which to me seems unfair.

Wendy Sturgis: I just want to clarify about moving the nonconforming use, moving the permitted us to the nonconforming use, is that also recommended for the portable saw mill? I mean are we...

Colleen Dowdall: The portable sawmill allows portable sawmills and that's already part of your zoning. But it does not limit it to one lot, anyone in the Sleeman Gulch zoning district could have a portable sawmill.

Commissioner Jean Curtiss: As long as it was a size listed there.

Wendy Sturgis: Okay, and then in changing Brays to a nonconforming use, does that carry forward if he sells his property? Can he sell it as a business and that's grandfathered in for future owners?

Colleen Dowdall: Yes. It runs with the land as long as the use continues.

Wendy Sturgis: I don't know if there's a point of clarification history needed about...I mean if I were you all looking at this knowing you have a lot of other things...it looks odd to have so many regions. Of course us citizens, when we're trying to figure out how to do this, would look at each piece and try to figure out how do we best go about it. My first thought was 'why do we have so many little pieces with so many different recommended land uses?' Is that reflective of different people wanting to develop differently and we're trying accommodate peoples needs and desires for developing? So I understand the question of which region is which people and what would they like to do? By you deciding this, you are affecting people's livelihood and their ability to develop or not, so I just...I'm wondering if anyone else had questions about that or understands it all. One point Stan made about some of the pieces here were not part of the original process, the regions 1 and 2 were zoned. I'd just like for everyone here to understand that when citizens in this area first talked about zoning, it was definitely our hope and intention to zone the entire road. That made sense to develop from the end up in the woods down to the highway and that's what we set about doing. So of course as we went months and years through the process in the beginning it became clear people had different opinions on what they might do. To have any zoning at all, we took what we thought was a huge compromise, to instead of going on with the process and haggling over it for a long time, lets stop short of what we would like to do and zone as far as we can go to put protections in place for the people who do agree, especially the 40 acres lots. They're happy with that density, it's appropriate for the area. We worked hard to figure out what dividing line we want to switch it to something denser. If you look at the lots that already exist and ask what people want to do, we went through that process and everyone with the signatures there, most people agreed that the density in the middle section of the gulch was appropriate and fair. Now land has sold in the meantime and I understand there's not much you can do. That's the whole point of zoning, to put some protections in place now, to make it easier for future buyers to understand what's appropriate there. In looking at this list with all the regions, I think region 4 is the one that sticks out as 'why is that a region by itself?' Why isn't it the same as across the street and down below? It does go all the way to the highway on that one side. The reason is the owners of the land a long time ago opted out because they wanted to subdivide. They weren't part of the process, so we had to stop short of that and do what we could with the rest of the gulch. Now, that's already been subdivided and Stan's point is well taken – they got theirs, they subdivided and now they're happy to sign on and protect what's left of the view down below on Highway 12. That's behind us, that wasn't the best situation, but it's how a citizen process goes forward. You pick the boundaries you can live with and you make them work. So now we're looking at finishing the bottom of the gulch and I just wondered, does anyone need anymore clarification about sections and why it looks chopped up that way? I just want to point that out, because I really do understand what Stan said about all this haphazard subdividing going on. If you can quick get yours subdivided before the citizen-initiated zoning you win, and if you don't you lose. Well, we do understand that does prevent some from subdividing, but you can't just not zone it to let every last person subdivide, when would it end? It would never end, it would continue all the way down the highway and at some point we are counting on you to

say, 'while we have the time and the process in place, lets use the homework we've done so far and make the decision to pick something and go with it.'

Commissioner Bill Carey: Yes Colleen?

Colleen Dowdall: Before you close the hearing, we are researching whether there was an error in the legal description in the published notice. I think Tim, do you want to tell the Commissioners where you're at with that?

Tim Worley: I have to commandeer a computer over here and I haven't been able to do that because Nancy Hile had to log off for me over in my office. It'll be a few more minutes.

Commissioner Barbara Evans: Please explain to us what you mean. Did you put in the wrong district? Did we put in the wrong numbers, the wrong date? What do you think we did that was wrong?

Tim Worley: In Region 5, in attachment A in your staff report, there's a certificate of survey reference that has a couple numbers reversed. COS 2540 should read 2450.

Colleen Dowdall: The reason notice and accuracy in the legal description are so important in citizen-initiated zoning is because it is initiated by owners of the property and your jurisdiction comes from that petition. So all of the information on it has to be accurate, the petition has to be signed in a way that is accurate. I just want to make sure of that before you take any action because this is what has had these kind of zoning actions overturned by the Supreme Court in the past.

Commissioner Bill Carey: Then I'll go ahead and recess this hearing and deal with some other items on the agenda and then we'll come back it.

Colleen Dowdall: That's fine with me.

Commissioner Jean Curtiss: I have one question I'd like to ask of the petition carriers, Kathleen or Chris, why did you propose that section 5 have a density of 1 per 5 when it's right down by the highway close to services and such. It seems like it should be more related to number 6.

Chris Barns: The only reason was that it followed the recommendation of the Lolo Community Development Plan of 2001.

Commissioner Jean Curtiss: So that division of Sleeman Gulch that you talked about earlier.

Chris Barns: Yes. We only intended to give the force of law the zoning that was recommended in that document.

Commissioner Bill Carey: Would the commission like to recess the hearing and deal with some other business?

Commissioner Barbara Evans: Yes.

Commissioner Bill Carey: Okay, the Planning and Zoning Commission hearing is recessed until we get the information we need. We'll move on to the next item on the agenda.

Hearing

Petition to Establish a County Road (Rumble Creek Road) off Highway 83 in Condon.

Commissioner Bill Carey: Mr. Wright, are you hear for that?

Chuck Wright: I'm from the Public Works Surveying Division. This road right-of-way change I believe is a good thing. I think that what they're trying to do is widen the rights-of-way to the original rights-of-way and solve any problems with crossing properties that are not public right-of-way but are private rights-of-ways. I think this is a good thing to solve those problems.

Commissioner Barbara Evans: This is up at Seeley? Swan?

Chuck Wright: Swan, Rumble Creek Road.

Commissioner Bill Carey: I'll open the hearing, do we have a need to schedule a visit?

Commissioner Jean Curtiss: I think we have someone to comment.

Dick Ainsworth: with PCI. I'm representing the petitioners in this case. I was before you sometime within the last month, with a subdivision called Panorama, which you folks approved. It lies off of Rumble Creek Road and one of the conditions of the approval of the Panorama Addition was that we get access to that subdivision straightened out. I guess we discussed it a little at that point in time. Several years ago you folks created Rumble Creek Road and I'm not sure why, I think Chuck was involved at that point. It was Resolution 2005-083. For some reason, and I guess because some folks up further asked to have it done that way, the right-of-way was created at 40 feet of width rather than 60 feet. Chuck I think, tells me that Mike Kennedy was the perpetrator, for lack of a better term, of the 40 foot right-of-way rather than the 60 foot. Basically, what that did was with the few properties, including the one we're involved in this subdivision with, that had always thought they owned right-of-way on Rumble Creek Road when the right-of-way became 40 feet instead of 60 feet, there became a gap between the County right-of-way that you folks created by that petition in these folks ownership. We weren't aware of that, it was something when the Panorama Addition was sent out for agency comments, Steve Smith in Chuck's office noticed this and waived a red flag and said we have a problem here. As soon as we discovered it, I went down to talk to Chuck and he said, 'I knew that was going to be a problem someday. Back when they were doing that I told them it was a mistake and I talked to Colleen.' He told me what I ought to do is come back in and petition that at least the lower portion of the right-of-way be widened out, so that's what I'm here for. If it'd widened, it will then touch this property and there's another property to the east of this that has the same problem, but probably doesn't know it. And the folks to the south own all of the right-of-way. So it doesn't affect them.

Commissioner Jean Curtiss: To clarify, was it not a county road until that time? But they only did a 40 foot right-of-way instead of a 60 foot.

Chuck Wright: We were maintaining that road and that time and we had right-of-ways clear up at the other end, it was prescriptive road right-of-way and when they did that original one, Peter Dayton and his people wanted to get it 60 feet all the way through and they didn't do it.

Commissioner Bill Carey: Seeing no one to speak, I'll recess the meeting for a site visit.

Commissioner Jean Curtiss: Before you do that, I'd like to put on the record that I have received correspondence from residents along the road, including Mr. and Mrs. Wolff who own the property directly across, in fact the road onto Panorama Estates is technically on their property because they have the little gap. And Mary Phillips, who lives next to them and another woman who lives up the road. So these folks are concerned and feel that this guy doesn't have physical access to his property and they aren't happy that he built the road and then asked. I've already

looked on the books because of calls from folks and we're going on May 2nd and we'll leave here around 11:00 and get there around 12:30 p.m.

Dick Ainsworth: Are those people opposed to this request?

Commissioner Jean Curtiss: They are.

Dick Ainsworth: On what basis?

Commissioner Jean Curtiss: Because they...partly they don't understand it. The other part is they think it can stop a subdivision. Right now they have a 40 foot easement on their property and they would now end up with a 60, even though part of it is that little strip on the north side of the road that's not as useable.

Chuck Wright: Jean, when you say they only have a 40 foot public easement on their property, and the rest of the right-of-way of was is a private easement. It's much more than 60 feet, I think in one area it's like 67 feet.

Commissioner Jean Curtiss: Right. Some of it is that they don't understand it. I told them when we got there that Charlie would be able to explain lots of things to them.

Dick Ainsworth: This property that we subdivided, this Panorama Addition, does have another access. There's an existing County road the lies a little to the west of this. It's an old County road that parallel's the highway. They could use that as access into their subdivision, they're not land locked, if you will. But it is not as good of an access and they bought this property thinking that they had frontage on Rumble Creek Road. So this would come back in front of you folks when?

Commissioner Jean Curtiss: Next Wednesday. We'd do the site visit on Tuesday and it'll be on Wednesday's agenda.

Dick Ainsworth: Thank you.

Mike Sehestedt: I have a question for Chuck. When we did this 40 foot right-of-way what earthly reason do we have for not taking the 40 feet from the edge of the property?

Commissioner Jean Curtiss: To match the existing road, I think.

Chuck Wright: What earthly reason? We had a center line of a road that existed there forever and we went from the center line of the existing road, 20 feet each side like we were told to do.

Mike Sehestedt: No, no...I'm just wondering why you were told that.

Chuck Wright: Where would you put the right-of-way up to the north side? And then half the road would be in the right-of-way...is that what you're saying?

Mike Sehestedt: Well, if I was going to do a 40 foot right-of-way, I wouldn't do a right-of-way that didn't attach adjoining property.

Chuck Wright: The problem with it is, you can second guess it, but we already had these questions and problems a long time ago, Mike. And I think you were part of it!

Mike Sehestedt: I know, I know. I know that. I was here when it happened, but I'm not....

Commissioner Jean Curtiss: We're just saying it wasn't a rational decision.

Mike Sehestedt: The issue was...and I recall a specific purpose, was an opposition to development. By holding the road under 60 feet, it would prevent the approval of subdivisions or at least arguably do that. I don't recall anyone suggesting that the purpose was to isolate the property or any representations, in fact the center line of the road wasn't along the property boundary.

Commissioner Bill Carey: Okay, lets....

Mike Sehestedt: I know that's what happened, it just strikes me as really odd.

Commissioner Bill Carey: Let's move on. Thank you, Dick.

Hearings (Petitions for Annexation to Missoula Rural Fire District)

Handleman Property:

Mike Sehestedt: The Handleman property received a request for annexation, the petition has been verified. It contains signatures of more than 50% of the owners, the privately owned land in the area to be annexed. It has also been signed by a majority of the tax paying, free holders within the area described. This meets the statutory requirements for annexation into a fire district. Area to be annexed is described as Tract 1A, COS 2218 in the NE SW ¼ of Section 10, Range 14, Township 19N. As to where it is precisely in the world, other than that I couldn't tell you from the materials presented.

Commissioner Bill Carey: Michael, can we do one hearing for both properties? Or do we need to do two separate?

Mike Sehestedt: I think we need to do two separate because they're not adjacent properties.

Commissioner Bill Carey: Well, having that background, I'll open the hearing. No public comment.

Commissioner Jean Curtiss: We do have a letter from the fire department saying they would accept it. But I think we need to correct...they didn't write township, range and section. It's Township 14N, Range 19W, Section 10.

Commissioner Bill Carey: With no public comment, I'll close the hearing.

Commissioner Barbara Evans moved to approve the annexation in the rural fire district for the piece of property listed on this petition submitted (Handleman Property) and notice the acceptance by the fire department. Commissioner Jean Curtiss seconded. The motion carried on a vote of 3-0.

Rossignal Property:

Mike Sehestedt: The second one is a request by Paul Rossignal for annexation of a tract property located in the Lolo area. The petition has been verified, been signed by more that 50% of the owners and a majority of the tax paying free holders within in the area described. It is, if you're familiar with Lolo, the property lying immediately to the north of Ridgeway and west northerly of the developed areas of Lolo. It is described as Tract 3A, COS 5774 located in the west half of Section 26 and east half of Section 27 all in Township 12N, Range 20W.

Commissioner Bill Carey: I'll open this hearing.

Commissioner Jean Curtiss: We should note that the fire department is in support of this petition as well.

Commissioner Bill Carey: Seeing no comment, I'll close the hearing.

Commissioner Barbara Evans moved to approve the annexation to the rural fire district for the parcel of land that is described (Rossignal Property) and notice the acceptance by the fire department. Commissioner Jean Curtiss seconded. The motion carried on a vote of 3-0.

Hearing

Extend Interim Zoning Resolution Prohibiting Sand and Gravel Mining

Matt Boulanger: Missoula County Rural Initiatives. This is a hearing before you to extend interim zoning prohibiting sand and gravel mining in County residential zones as listed on the request for Commission action. This continues the interim zoning from the last year and it continues a prohibition on gravel mining in County residential zones that has existed since 1989. This is the last available one-year extension of this, following this, should Commissioners desire to continue a prohibition on gravel mining we'll have to go for a permanent resolution.

Commissioner Bill Carey: Thank you, Matt. I'll open the hearing on this. No comment, I'll close.

Commissioner Jean Curtiss moved to extend the previously adopted interim zoning resolution for one more year to prohibit sand and gravel mining in residentially zoned lands. Commissioner Barbara Evans seconded. The motion carried on a vote of 3-0.

Commissioner Bill Carey: Are we prepared now to re-open the Planning and Zoning Commission hearing? We'll reconvene.

Colleen Dowdall: The error was in the description of a tract of land, it was a typo that described one of the tracts owned by Ramona Holt. It's described as Tract R of COS 2450 in the petition, which was correct. The notice in the newspaper described it as Tract R of COS 2540, so...and the owner is here, so I think we can assume that she was adequately notified and that it isn't a jurisdictional issue, we have jurisdiction over the property.

Commissioner Bill Carey: Thank you for catching that.

Colleen Dowdall: It was actually Tim Worley who caught that.

Commissioner Bill Carey: We've heard a lot of testimony today, but does anyone else wish to speak today? Yes sir?

Barry Barlett: Live 9781 Lolo Creek Rd. Just a comment on zoning and the process of subdivisions, being involved with a couple of hearing before with subdivisions, we've been told if we don't like what is happening to zone the property. I feel that this initiative is exactly what they're trying to do. I would request that you listen to Mrs. Holt request for the 2.5 acres per, but not allow any other exemptions aside from that. I am distressed to hear Elmer talk that you have allowed variances to zonings that have been initiated by citizens, especially when you, Mrs. Evans are the one who said that to us. If we want as citizens to have an area not be subdivided that the zoning is the way to go, if that is an issue I would really feel the Commissioners should adhere to those zoning requests. Thank you.

Commissioner Barbara Evans: Let me point out, sir, that variances are part of the process, they are legal and if we determine that is should have been granted then we granted it.

Barry Barlett: I understand it's part of the process, but to me if the citizens have spoken, that's what they are asking for the area. That's the point I'm making.

Commissioner Bill Carey: Close the hearing. Comments or questions from the board?

Commissioner Jean Curtiss: I think Colleen has outlined for us that there's really two steps. One is to approve the boundaries so we can readjust them if we wanted to and the other is the development pattern, right?

Colleen Dowdall: Correct.

Commissioner Barbara Evans: The problem I have is that a year or so ago, we had a meeting for the discussion on the zoning for the other areas and I remember that we left out the front portion of the property because the folks who owned it didn't want it zoned the way the neighbors wanted it. Now, I've got a problem with zoning someone's land without them being involved in the process. Elmer used the term zoning by ambush and that may or may not be true, but that disturbs me. I don't remember everything that took place at that hearing, I'd have to look at the minutes to determine who all said what and why we made the decisions we did. But, I'm not comfortable with doing this without having some time to look at it and see what we said last time. I don't feel comfortable with this.

Commissioner Jean Curtiss: It seems to me like quite a few of the people are in favor of it, so I guess I need to clarify – is all of Harriton and McHatten's property in number three on the right hand side of the road? Could someone point out where their property is?

Chris Barns: Harriton owns a lot in six, two lots in three (pointed out on a map in the meeting). And McHatten's own one lot.

Commissioner Barbara Evans: I don't think I was ever given a copy of the petition to know who signed and who didn't. Did you see one?

Commissioner Bill Carey: No, I just saw that 63% of the free holders had signed the petition.

Commissioner Barbara Evans: Well it may be the free holders in the further part of the district, I don't know. All I know is I don't have the information. Do you have the petition with the names on it?

Tim Worley: I could probably dig it up for you, Barbara, yes. What we have as an attachment is just the certified 60% plus.

Commissioner Jean Curtiss: I think I agree, when people come together and try to put zoning in place it's a good idea, unless they're doing it on someone's property that doesn't want to be zoned that way, so I think Mr. Hendrickson said that he really didn't have a problem with one per one on his property. Is that right, Stan?

Stan Hendrickson: I don't have a problem with the way I'm being proposed. I do have a problem with zoning people....I'm trying to protect other people's rights. My rights, at my age don't make that much difference. But, I do think the other people have been dealt dirty.

Commissioner Bill Carey: Of course the standard we have to apply is whether or not 60% or more of the free holders in a given area have petitioned. It's not a 100%.

Colleen Dowdall: No, and it was 60% of the people in the new area that had to sign, so you can assume that 63% all live in the new area.

Commissioner Barbara Evans and Bill Carey: That's helpful, thank you.

Commissioner Barbara Evans: They're saying no they don't.

Commissioner Jean Curtiss: No, we made sure...that was one of the reasons it got held up so long, is clarifying 60% of where...

Stan Hendrickson: I wonder if maybe some of these pieces were subdivided, which gave them two votes instead of one.

Colleen Dowdall: That was another problem we had early on, but it's only by free holder, so if you won six properties, you get one free holder petition.

Stan Hendrickson: I'd like to see a list also, of the people in the lower part that didn't sign because I don't know of anyone that did. But I could be wrong.

Commissioner Jean Curtiss: Mike just went to see if could get that list.

Colleen Dowdall: I can tell you that the Reeds signed...

Commissioner Jean Curtiss: Do the Reeds, just to clarify it, if Susan and Fred own the property together, do they get two names or one?

Colleen Dowdall: They are each a free holder, they each get...and they own four or five lots, but they only get one per person, so if 16 people own a lot they are all free holders within the district. If one person owns 16 lots, he's own person in the district.

Stan Hendrickson: I find it interesting that the Reeds, who have done some subdividing, all of a sudden are in favor of this. Their land goes straight up. They asked permission to drill a well on the Harriton's property to serve one of their lots, because....well, I don't know the reason. I'm thinking there's no water over there. He gave them the right to come across the street on his property so he could subdivide and for the thanks he gets, he is signed against for his property to allow the Reeds to subdivide? And they can't subdivide anymore, they've done it. Is this fair? Like I say, there's instance after instance of people who have sold off every dividable piece of ground they've got and then say, 'hey, we can't do it anyway.' Like Reeds, they couldn't sell another lot if they wanted to, I don't think. So why no sign the petition to keep everyone else from doing what they did. I don't care for myself, but I think there are others up there that their property rights need to be protected.

Commissioner Jean Curtiss: It looks like the property on, that you said was Harriton's in the number three area, that looks like it's pretty steep? Is that right?

Stan Hendrickson: That is correct.

Commissioner Jean Curtiss: Not all of it, Stan, just that upper part. There's a triangle in the piece that's next to you in six.

Commissioner Barbara Evans: I hear what Ramona had to say and suggesting one per 2.5 acres, I think is a fair recommendation. But, I have a bad taste in my mouth, because I think there has been some attempt to zone people's land against their will. When we looked at this previously, we didn't do the zoning because it was against peoples will. When we did the Wye-Mullan plan, we tried to listen to the owners of the property and tried to zone it accordingly. I don't feel good about this. I would be inclined to look at zone five, the one that Ramona is suggesting one per 2.5 acres and I'd be inclined to zone that at her request because I think that's also fair to the developers. But, taking away the rights of some of these folks that aren't here, I don't feel good about that. So, I'm not going to vote on this issue.

Commissioner Jean Curtiss: I was wondering, too, if we could consider adding....putting all of Mr. Lem and Mr. Drexel's property in six?

Commissioner Barbara Evans: Well, right across the street in essence, if I look at that map correctly, it is zoned one per acre.

Commissioner Jean Curtiss: Right and they said did that because that's what the Lolo plan had recommended.

Commissioner Jean Curtiss moved to accept the boundaries. So when I say that, does that mean the boundaries including the regions drawn out?

Mike Sehestedt: It would be accepting the external perimeter of the proposed district.

Commissioner Jean Curtiss: So the amendment that extends the boundaries.

Commissioner Bill Carey: Is there a second to the motion? Greg, you can do that.

Greg Robertson: I know. Mike, explain to me....

Mike Sehestedt: So, accepting the boundaries is accepting the external boundaries of the whole zoning proposal. It's not accepting the sub district. So if you accept the boundaries of the district of the Planning and Zoning district as proposed, you would be accepting....

Commissioner Jean Curtiss: So it's adding the new part on.

Greg Robertson: I got'cha.

Mike Sehestedt: If you accept those boundaries, you then still have responsibility to determine what sub districts there should be. What the boundaries of those sub districts should be and what regulations should apply to those sub districts. Those are all within the clear discretion and judgment of the Planning and Zoning Commission, subject to the usual requirements they have to serve some reasonable police power purpose – i.e. preventing the overcrowding of land, public services, general health safety and welfare considerations.

Commissioner Barbara Evans: I would suggest that we accept the boundaries including region three, excluding four, five and six.

Commissioner Bill Carey: Well, we already have a motion.

Commissioner Barbara Evans: There was no second, dies for lack of a second.

Commissioner Bill Carey: Not yet, I'm willing to give Greg another chance.

Greg Robertson: I think, based on what Mike has said I would second it.

Commissioner Jean Curtiss moved to accept the amendment that extends the boundaries. Greg Robertson seconded. The motion carried on a vote of 3-0 (B.E. opposed)

Commissioner Jean Curtiss moved to amend the region so number six reaches across Sleeman Gulch and picks up the property that is owned by Mr. Lem, in region five, but not all of region five. And zone this region one per one acre. Barbara Evans seconded. The motion carried on a vote of 4-0.

Tim Worley: I just want to clarify, is Becky Weaver still here? Buffalo Trails Estates, at least in its preliminary form, would be seven lots on 5.6 acres. So, I don't know....

Commissioner Jean Curtiss: We realize that.

Commissioner Barbara Evans: But across the street, isn't it one per acre? If we're carrying it from six over to five....

Commissioner Jean Curtiss: It's just that they're actually proposing more density than that.

Commissioner Barbara Evans: Right, but that would be going against the zoning you're just suggesting.

Commissioner Jean Curtiss: I know. It's a compromise.

Mike Sehestedt: Basically, Tim's comment is cogent and it says that as proposed it's greater density than one per acre. Jean says I know that and my motion is one per acre.

Commissioner Barbara Evans: So, is it one per acre or the seven lots?

Commissioner Bill Carey, Mike Sehestedt: It's one per acre.

Commissioner Jean Curtiss: I'm just proposing to add it over here so it would become one per acre, the proposal is more dense than that.

Commissioner Barbara Evans: And I seconded that motion.

Commissioner Jean Curtiss moved to change the density in region five, what is left of five, to one per 2.5 acres. Commissioner Barbara Evans seconded. The motion carried on a vote of 4-0.

Commissioner Bill Carey: What about striking the floodplain language?

Commissioner Jean Curtiss: Right, so I agree with Colleen that it's better to....because floodplains change as the creeks change, it's better to just have that be handled by the Floodplain Administrator at such time that someone decides to build in the floodplain. It will accomplish the same thing, since the folks that have brought this forward said it wasn't their intent to limit, just to make sure people didn't build incorrectly in the floodplain. I think that would still happen, especially since we're going to have building permits soon.

Commissioner Bill Carey: So that would be striking 5B in section 3 of attachment A?

Commissioner Jean Curtiss & Greg Robertson: Yes. That's it.

Commissioner Bill Carey moved to strike 5B in section III of attachment A. Greg Robertson seconded. The motion carried on a vote of 4-0.

Commissioner Jean Curtiss moved to accept the development pattern now at amended. Commissioner Barbara Evans seconded. The motion carried on a vote of 4-0.

Commissioner Bill Carey: I will not adjourn the meeting of the Planning and Zoning Commission and reconvene the meeting of the Board of County Commissioners. Now we need to consider a motion to approve or disapprove of the expansion of the boundaries of the zoning district, or maintaining them, I guess.

Commissioner Jean Curtiss moved to accept the recommendations from the Planning and Zoning Commission to amend the boundaries of Zoning District 44. Commissioner Bill Carey seconded. The motion carried on a vote of 2-0. (B.E. opposed)

Commissioner Jean Curtiss moved to accept the recommendation on the development pattern. Commissioner Barbara Evans seconded. The motion carried on a vote of 3-0.

Colleen Dowdall: As note, this is subject to a protest period, so the zoning does not become effective until that protest period is up.

Commissioner Jean Curtiss: Is it 30 days or 60?

Colleen Dowdall: I believe it's 30 and it's 50% of the titled ownership.

Commissioner Jean Curtiss: So now it's ownership rather than numbers?

Colleen Dowdall: The title property ownership within 30 days of its creation. Yes.

There being no further business to come before the Board, the Commissioners were in recess at 3:20 p.m.