

Public Meeting – June 7, 2006

The meeting was called to order at 1:30 by Chairman Carey. Also present were Commissioner Barbara Evans, Public Works Director Greg Robertson, Chief Deputy County Attorney Mike Sehestedt and Clerk & Record Vickie Zeier. Commissioner Jean Curtiss was at a Settlement Conference in Missoula.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Janie Bell: I've come back to visit with you about the Johnsrud turnoff one more time. When I spoke to last in April and I had a meeting with Duane Kailey with the MDT in May and Glen, I don't have his last name; the traffic engineer was there also. We talked about a few things. When I was here in April, you folks had talked about signing us up with Public Works for the safety enrichment program and what I found out from Duane is we'll be competing statewide for any kind of monies there. He felt that it was very unlikely that we would be able to find any funds in that venue to do any changes at the Johnsrud turnoff. We do have such high density seasonal use there, late August 2005, I got information from Public Works and the weekend use is about three times as high as it is during the week. One of the numbers was 648 vehicles one way in a day. That's a lot of turning off there. So, what Duane suggested was that the County Commissioners ask for what they call a speed study? That would be with the Transportation Commission. They're the people who have the authority to change speed limits, add flashing signs, those kinds of things. Also, the legislative body can do that, but he didn't feel like that was a good option. He also mentioned that as Foy's Lake up in the Kalispell area they are using a seasonal speed limit in a spot there that has a lot of problems and they're still considerably working as a study in that area. For whatever things we can do there, I feel we need to keep moving forward with this. Duane is looking at trying to find some sort of funds somewhere to put in a turning lane at Johnsrud, but that could be up to two years before that happens and it would not be occurring at our new area the McNamara Landing, where we'll get a lot of turnoffs on the opposite side of the bridge. They're not considering widening the bridge because the safety study did not show that would be a good way to spend our money. I am here today to ask if you folks could ask the Transportation Commission to do a speed study and to also ask them if there is any other ways that we could get some changes there. I still feel that if we could get some flashing signs, slow down the speed there without a turning lane, that we could make safety much better in that area. Last year we did have the one fatality and I surely hope it would not be a lot of our kids or local folks just trying to get up and down the road that it happens to this year. There's also a problem with emergency services getting in and out of that area because it's tight, so there's still some safety issues in other venues besides just what studies are showing traveling back and forth on the highway. Then I do have one other question and this is a different item and this is to Mike Sehestedt. I got all the information when I was here about the community decay ordinance which I brought you pictures of our mile marker 13 area where they've had trailer that has fallen in and it's been tumbling down the hillside since last October. Here on the actual citizen complaint form asks if you've made any official complaints of this nature against this person before. Has the property owner made any official complaints against you? Blah blah blah. My question to Mr. Sehestedt is if a complaint form is filled out, does the person who the complaint is against have the option to come in and look to see who made the complaint against them? What I have heard previously is that there has been retaliation when someone tried to do this before. There are a lot of folks of who have told me that they would be happy to try and help get that cleaned up however they can, but it says in your actual ordinance that you won't do anything without an official complaint. The concern that I'm hearing is that this person can look and see who the complaint is from and then there would be a problem with that. Can we protect folks from that? Or....

Mike Sehestedt: The answer is anything that gets filed with us, other than adoption and a couple other things not here relevant, is a public document and you have a right to look at it. So, yes if you file a complaint the person gets to see who the complainant is. In terms of retaliation, clearly you're entitled to

protection against any sort of unlawful retaliation on the other hand if a person says 'fine I'll never shop at your store again,' that's kind of the price of rice. I don't know what you mean by retaliation.

Janie Bell: Well, I believe that there actually was damage done to this person's personal property.

Mike Sehestedt: I hope they reported it to law enforcement, it's clearly a criminal offense and there's protection there. That's about all I can tell you.

Janie Bell: Okay, so my thought was, I would be happy to fill one of these out but my husband said let's go ask and see if there's something else that I could do. So I guess my thought would be if I wrote a letter along with this complaint saying that was something I feared of, that would be on file with it...

Mike Sehestedt: Correct.

Janie Bell: Okay, so if there was any problems then....

Mike Sehestedt: Essentially it'll then be pursued, investigated by the Health Department Richard Corrigan will do the actual investigation. He'll give a report to our office and then we'll proceed with an enforcement action if that's warranted under the terms of the ordinance and based on the report. You're starting the ball rolling, but it'll take an investigation and/or a report.

Janie Bell: Right, that's what I was reading in the actual ordinance.

Mike Sehestedt: Which under these circumstances would mean probably Corrigan would be our witness. He'll be the one that says 'I went out, I looked, I saw and it....,' he'll recite facts and we say here your Honor, you can see these facts constitute a violation of it and we ask for relief.

Janie Bell: Well, I did bring photographs that I left with you folks in April. I feel like it is really ridiculous that this trailer has fallen in and started tumbling down the hillside of one our most scenic areas in Missoula County. Okay, thank you for your answers.

Commissioner Barbara Evans: We can go ahead and ask for the speed study, but I want you to understand that's a two edged sword. The reason for that is, we've asked for speed studies before and their lawyers have told the Transportation Commission that if 85% of the traffic is traveling faster than what you'd like, that's the speed at which they set it. The 85% in their mind is that's what 85% of the people are traveling, and that's what the speed limit is set to. So, we can ask for it and we can also ask them whatever things that Greg can help us....maybe Greg can write the letter for us, to send to them to try and give you some help, but I just want you to know there is a potential for getting a higher speed limit than what you want if 85% of the people are traveling that fast.

Janie Bell: Well, I guess I would ask that in the letter you would include that there is this new business that's occurring and that there will be a lot of left hand turns coming from the Missoula area, especially for the tube rental, I think it'll be the largest there. As for the campground, I'm not real positive; we don't have any numbers on that because it's just starting to move forward. There is the bridge there; there is the line of sight of both ends of that with the curves. Johnsrud just keeps getting bigger and bigger every year for use. I would ask you to consider putting those items in your letter too, that state it's not just what we're looking at in the past, but what we're looking at in the future also. Thank you.

ROUTINE ADMINISTRATIVE ACTIONS

Commissioner Barbara Evans moved to approve the Weekly Claims Lists in the amount of \$294,732.99. Commissioner Bill Carey seconded. The motion carried on a vote of 2-0.

BID AWARDS

1. Taos-Style Toilet for Fort Msla County

Greg Robertson Director of Public Works: Good afternoon Commissioners. Our office solicited bids from responsible suppliers for supplying installation of the Taos Style restroom for the Fort Missoula Park adjacent to the tennis courts. We received one bid from CXT, Inc. in the amount of \$140,410.10. We evaluated their bid, found it in order and recommend that you award it to CXT, Inc out of Spokane, WA in the amount of \$140,410.10.

Mike Sehestedt: I would note that because the Park Board has not had an opportunity to...

Greg Robertson: OH, I apologize.

Mike Sehestedt: ...review this, that Greg's recommendation is I think contingent on their approval.

Commissioner Barbara Evans: Let's ask Lisa...the Park Board certainly has seen these and I think they are very much in support of this, so there isn't much danger making this a contingent award.

Lisa Moisey w/Parks Dept.: That's correct.

Commissioner Barbara Evans moved to award the contract to CXT, Inc. to supply and install a Taos Style restroom for the Fort Missoula Park, contingent on the approval of the Park Board. Commissioner Bill Carey seconded. The motion carried on a vote of 2-0.

2. Asphaltic Plant Mix

Greg Robertson: Before you is an award for supply of hot mix asphalt from a commercial source for our annual overlay program. We solicited bids, we received two – one from JTL Group, Inc. the other from LS Jensen and Son. The successful bidder was LS Jensen in the amount of \$170,000 for 5000 tons of plant mix. The represents an increase over last year of nearly 40% reflecting increase in oil prices and that sort of thing. Our recommendation is to award to Jensen.

Commissioner Barbara Evans moved to award the bid to LS Jensen and Son and that they appear to be the best and the lowest bid. Commissioner Bill Carey seconded. The motion carried on a vote of 2-0.

3. Meadows West Roadways – O'Keefe Creek RSID 8483

Greg Robertson: This is a bid award for construction of O'Keefe Creek Blvd. from Highway 93 up to Fire Bucket Loop and down to Tookie Trek. We solicited bids from responsible contractors for the work, we received three bids. The first one from LS Jensen and Son in the amount of \$716,731, the second one was from Nelcon, Inc in the amount of \$828,546 and the last one was from JTL Group in the amount of \$683,455. For reference, our engineers estimate was \$541,840 which was established this past year prior to spikes in oil prices and clearly the bid prices reflect the latest market conditions. They have gone up exponentially as you can see from our previous bid award. Our recommendation at this point is to reject bids and start over.

Commissioner Barbara Evans: Greg would refresh my memory how this came to us. Was it a citizens group that wanted the RSID or did we initiate it?

Greg Robertson: This was actually initiated by the Homeowner's Association in fulfilling their responsibility under the stipulated settlement agreement. It was part of a lawsuit for an illegal subdivision several years back, Mike can fill you in a little more.

Mike Sehestedt: Right, this is the Meadows of Baron O'Keefe. I would concur with Greg's recommendation. Because this is an RSID, we're constrained by the maximum assessment set in the resolution of intention to create and cannot go beyond that. So you're only option if you want to proceed with this would be to inject other funding into it. We can't simply up the assessment. I would suspect that given this result we'd have to look at recreating the RSID with a higher assessment. I suppose it is always

possible if we reject all bids that oil prices will return to something approaching normal and we could re-bid it again using the original assessment. I deem that unlikely.

Commissioner Barbara Evans moved to reject all bids for the O'Keefe Creek Blvd. RSID 8483. Commissioner Bill Carey seconded. The motion carried on a vote of 2-0.

HEARINGS (Certificates of Survey)

1. Puccio Family Transfer

Commissioner Bill Carey opened the hearing.

Mike Sehestedt: This is consideration of a request to create a family transfer parcel for that parcel described as Tract 19A COS #3059 in the S ½ SE ¼, Section 27, Township 14 North, Range 23 West. Claudio Puccio has submitted a request to create one parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 11.68 acres in size located near the Petty Creek area. Claudio proposes to create one approximately five (5) acre parcel for transfer to his mother, Ursala Puccio, for residential purposes and keep the remaining approximately six plus (6.68) acre parcel for residential purposes as well. The history of the parcel is as follows: COS #1354 was filed in December 1977, creating parcels of land greater than 20 acres. COS #3059 was filed in June 1984 for the purpose of created a tract of land as an occasional sale. A Warranty Deed was filed in October 1999 deeding the property to Claudio Puccio. According to records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Commissioner Bill Carey: Is Mr. Puccio here or a representative?

I am Claudio Puccio.

Commissioner Bill Carey: We ask our Deputy County Attorney to ask a few questions of applicants on the record to make sure this is not an attempt to evade subdivision review, which is a misdemeanor.

Mike Sehestedt: Claudio, I apologize for butchering your name.

Claudio Puccio: No problem.

Mike Sehestedt: Was I correct in saying that you purchased this property in 1999?

Claudio Puccio: Correct.

Mike Sehestedt: Do either you or your mother intend to transfer the parcels created within the next year?

Claudio Puccio: No Sir.

Mike Sehestedt: Do you plan to build on it?

Claudio Puccio: Yes, I do.

Mike Sehestedt: Do you know what your mother's plans are at this point?

Claudio Puccio: We would like to build a residence for her and my father.

Mike Sehestedt: Have you talked to anyone in the County about going through subdivision review?

Claudio Puccio: No.

Mike Sehestedt: Are you in the business of building or developing property?

Claudio Puccio: No Sir.

Mike Sehestedt: Are you attempting to evade subdivision review?

Claudio Puccio: No Sir.

Mike Sehestedt: You understand that this request is not being reviewed for adequate access for vehicles in all weather and not being reviewed for emergency services vehicles.

Claudio Puccio: Yes Sir.

Mike Sehestedt: All we're doing is reviewing whether or not you can use this exemption to divide the property into two pieces.

Claudio Puccio: Okay.

Mike Sehestedt: You understand if the Commissioners approve your use of the exemption, it doesn't mean you have zoning approval and I believe this property is unzoned, correct?

Claudio Puccio: That is correct Sir.

Mike Sehestedt: Or floodplain or that you'll be entitled to get a septic system. We're just saying that you can divide the property; everything else is still an open issue.

Claudio Puccio: Yes Sir.

Mike Sehestedt: I have nothing further.

Commissioner Bill Carey: Thank you. This is a hearing; would anyone like to speak on this?

Commissioner Barbara Evans moved to approve the request by Claudio Puccio to create one parcel by use of the family transfer exemption based on the fact that there does not appear to be an attempt to evade subdivision review. Commissioner Bill Carey seconded. The motion carried on a vote of 2-0.

2. Kuhl Family Transfer

Commissioner Bill Carey opened the hearing.

Mike Sehestedt: This is consideration of a request to create a family transfer parcel for that parcel described as Tract 2, COS #5618, NE ¼ of Section 18, Township 13 North, Range 16 West. Tanya M. Kuhl has submitted a request to create one parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 15 acres in size and is located near Johnsrud Park on Bear Creek Road. Tanya proposes to create one approximately five (5) acre parcel for transfer to her father, James Kuhl, for residential purposes and keep the remaining approximately ten (10) acre parcel for residential purposes as well. The history of the parcel is as follows: COS #170 was filed in January 1974 creating Lot 26. A Warranty Deed was filed in November 2003 deeding the property to Tanya M. Babbitt. COS #5618 was filed in October 2004 for the purpose of a single gift and leaving Tract 2 as a remainder. A Warranty Deed was filed in January 2006 by Tanya M. Kuhl formerly known as Tanya M. Babbitt deeding the property into the name Tanya M. Kuhl. According to records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the subdivision except: COS #5618, NE ¼ Section 18, Township 13 North, Range 16 West.

Commissioner Bill Carey: Is Tanya Kuhl here? Or a representative? She's not here, we can't proceed.

Commissioner Barbara Evans: Yes we can.

Commissioner Bill Carey: Can we?

Mike Sehestedt: We lack some information. I guess my recommendation would be that you continue the hearing. I'm not sure what efforts were made to contact her that we were having this today.

Commissioner Barbara Evans: Did she not file an affidavit when she gave this information?

Mike Sehestedt: She did, but it doesn't answer all of the questions that we normally ask.

Commissioner Bill Carey: Then we wouldn't have her responses on the record either.

Mike Sehestedt: I think it would be a bad habit to let people start skipping the hearing, just because they like everyone else filed an affidavit. Sometimes you get surprising information. So my recommendation...it is within your power as the Board of County Commissioners to approve it based solely on the affidavit, but my recommendation would be to continue the hearing and give her notice again and see if she wants to appear.

Commissioner Bill Carey: I think that would be good. Commissioner Evans, are you okay with that?

Commissioner Barbara Evans: That's fine.

Commissioner Bill Carey: Okay, we'll continue it until we can make sure she's here. Do we have to set a date or just....

Mike Sehestedt: I would continue it without a date and we'll notice it up after we've made contact with her.

Commissioner Bill Carey: Okay, thank you, Mike.

HEARING (*Planning and Zoning Commission*)

Hookset/Swanson Citizen-Initiated Zoning District #45 (Potomac Area)

Commissioner Bill Carey recessed the hearing of the Board of County Commissioners and convened the hearing of the Planning and Zoning Commission.

Commissioner Bill Carey: This just means that a separate Commission reviews Citizen-initiated zoning proposals and then makes a recommendation to the Board of County Commissioners. The Planning and Zoning Commission has as its members: the three County Commissioners, at least two citizens and two employees of the County.

Mike Sehestedt: Correct and currently, Greg Robertson Director of Public Works and Vickie Zeier the Clerk and Recorder.

Sylvia Wiesenberger: I am a citizen and a member of this zoning commission. I live in Seeley Lake.

Mary McCrea, Sr. Planner with OPG: The proposed zoning district is located south of Highway 2—and southeast of Potomac along the intersection of Hookset and Swanson Lanes. Swanson Lane provides access to many of the parcels and bisects the district from the northwest to the southeast. Hookset Lane intersects Swanson Lane in the northern portion of the district. Camas Creek runs south of and parallel to Swanson Lane. Parcels vary in size from 2.4 to 55.5 acres. The homeowners have signed the petition to create Zoning District #45 represent 72.20% of the Freeholders of the 169-acre area. The proposed standards permit single dwelling residential, bed and breakfast establishments, home occupations, accessory building, manufactured housing and agricultural activities, but prohibit commercial and industrial uses. The proposed standards also include provisions for non-conforming uses and structures in order to address existing uses and structures that do not meet the proposed standards. Comment was requested of Agencies that included: City/County Health Departments, County Public Works, County Rural Initiatives, Montana Fish, Wildlife and Parks and Greenough/Potomac Fire District. Of the four agencies that provided comment, Montana Fish, Wildlife and Parks recommended revisions to the zoning district standards to

require riparian setbacks from Camas Creek to be adopted with the zoning district standards. Staff has included MFWP recommendations in the amended draft (included in Attachment A in the file). Per state law on Part 1 zoning, the district was posted in three places within the district 15 days prior to the public hearing. An additional poster was placed near the Potomac School. Seventeen public comment letters were received, all in opposition to the proposed zoning district. Of those, three comment letters were from landowners within the district. Many of those commenting were in opposition to zoning in the Potomac Valley in general. Some were opposed to the zoning district that includes lands of those not in favor of the zoning. Others expressed concerns that the proposed standards would prohibit agricultural activities, day cares, temporary trailers as residences and second homes on properties. The proposed standards expressly permit agricultural activities. Daycare homes for 12 or fewer children are permitted by state law as residential accessory uses. A second home added to a tract would be required to go through subdivision for lease or rent review. The proponents did not want temporary trailers to be permitted as residences, and if proposed would be added as a second home, it would require subdivision for lease or rent review as well. Staff is recommending approval of the district standards as amended per Attachment A included in the file. I have handed out to you per the planning status on Monday, there was some possible amendments and I've handed you a memo that details those three amendments that were discussed. I've also included the Missoula County Animal Ordinance per Mike Sehested's request.

Commissioner Bill Carey: Okay, would someone from the proposal group like to step forward?

Mike Swofford: I am one of the property owners that live in the proposed zoning district. I have been asked by the other property owners of this district to be a representative for the meeting. I would like to request everyone speaking here today to show on the map where they live in relationship to the proposed zoning district, if they're a landowner and how this proposal will affect them either positively or negatively. This proposal is for a small amount of land, roughly 169 acres of which most are 10-20 acre parcels. It in no way affects anyone outside of the proposed district. This is a rural residential area in an agricultural based valley of which is mostly cattle and timber business. We do not want to change this in any way. In fact, this is why we are proposing this district, to ensure that at least our portion of this valley will stay as it is. This is in direct alignment with the County's long range projections for this area. We do not want commercial industry with all of its air, ground, noise, dust and water pollution to move right in the middle of where we all live and without this district that could very well happen. We all have private wells in this valley and are terribly afraid of what a commercial industry could do to the water table that we all rely on. Once it's polluted, it's too late. We've all moved here for the beauty and tranquility of this rural setting, not to become victims of some lung disease or form of cancer that commercial industry could create. Some of us are retired and have invested our life savings into our homes. The financial impact of commercial industry on our property values would be devastating. This proposal does not prohibit anyone from having a home occupation; in fact there are numerous home businesses there now. No one wants to change that. This proposal in no way hinders or restricts agricultural or timber cutting. We tried to be realistic in this proposal today. Junk vehicles and equipment, we realize that people have different types of equipment and vehicles for work, but when they no longer run we don't want them leeching oils and hydraulic fluids on the ground or in the water table. We set out buildings size at 1500 square feet and 3500 cumulative. This is larger than most of the homes in the proposed area. It in no way affects residential or agricultural buildings. We know there are some in the valley who are opposed to any form of zoning whatsoever, whether it affects them or not. It's kind of like sticking your head in the sand and hoping nothing bad will ever happen. They don't realize that zoning is nothing more than a tool and if used wisely, it can help ensure what everyone loves about this valley will not be ruined at some future date in the name of profit. Thank you.

Janette Ployhar: We own two lots right in the middle of the proposed district and we were not informed that this had been in the planning for about a year and a half. We accidentally found out about a month ago. I would like to present to you petitions containing roughly 240 signatures from people in the valley who I understand because they are not directly included in this proposal, they're not directly involved. But these are people who are concerned with what zoning might do to the history of agricultural and things in the valley that do require heavy equipment which makes noise and large outbuildings and such. I also have prepared a letter I would like to read which states our objections to this zoning district. As far as the petitions go, we've had a lot of feedback from those 14 people who are in favor of this zoning district. We

feel that once there is a zoning area in place within our valley, it will be easier to zone another section. We've watched this happen up the Bitterroot and the Flathead as one area is zoned, it tends to grow from there. We realize it's not directly saying it will spread, but that's why we wanted others in the valley to have some comment on this if they wanted to. We have several reasons as to why we are not in favor of this kind of zoning. First of all, just the fact that there are several rural areas around us including Clinton for example who are a lot more densely populated and don't have near the strict zoning regulations that this would give us as far as building size. I know he said that they left building size at 1500 square feet that does not work for us because our logging trucks are longer than that. They don't fit in our 30 x 50 shop; we would like to expand that. They told us 'Oh go get a variance,' well we've been informed by a lawyer that a variance isn't that easy to go and get. Next, the proposed zoning area is surrounded directly by several non-conforming areas, places with buildings that are closer than 50 feet to the edge of the property, actual feed lots within a six mile loop of our house. This might seem like a long ways, but that is in a rural area not so far. There are already 27 trailer homes on nonpermanent foundations. That's something we are concerned with because we hope in the future to be able to help my parents as they age and we don't pour concrete and put a permanent structure on our property, but we hoped with having the acreage we do we could be able to use it to help them out. We've found in the definitions of illegal spot zoning that one of the things was to impose restrictions small parcels that are surrounded by areas that do not have the same restrictions. We feel that fits into there. Also, zoning restrictions....coming into an area where multiple non-conforming uses are already in practice within the area that they're proposing zoning there are already several things that....such as a building that's within five feet of our fence line, there's already someone who has OVER five unused vehicles parked there. Part of the zoning proposal says that no one can have a guest house with an extra kitchen, someone already has that. These people would already be grandfathered in, yet no one else within this zoning could do that. We didn't feel that was the right way to go about this. It's become real apparent to us that this whole thing is a vendetta against one person they wanted to stop from doing a business that they felt was too much for our area. We just aren't sure that zoning and everyone having to have the affects of it was the way for them to stop that. As far as the commercial industrial uses, we have a small business corporation that is based on our property. It requires large noisy equipment and large buildings. I realize that there is a pre-existing business exemption, but we also need a larger shop which we would not be able to build under the new proposed zoning. Within our business, there is also a shift within the logging in general from one kind of equipment to another, for example we've had logging trucks for 14 years and in the last two years we have switched and had logging equipment in the woods for a year and a half and then decided to go back to the trucks. If this zoning goes through, we would not be able to do that. It says any business or practice that is stopped for one year; you cannot start doing that again. If it has ceased for a year, then you cannot do that business which is a concern for those of us that....even farmers go from one crop to another or the sale of one commodity to another. You have to follow the market and where the profit is. We also have the same concern because our youngest son has a firewood business, if he were to put it on hold to get more involved with his high school sport, he couldn't pick it up again because they say that any business that is stopped for a year you can't do again. We also have concerns with the vagueness of a lot of the things that are in the zoning proposal, it just says intense agricultural. Who's defining intense? We want it to be a lot more specific if we are to understand what effect it's going to have on us. I think the biggest concern we have is with number six on the Prohibited Items...it says 'all uses not listed as permitted are prohibited.' We are very uncomfortable with that open ended of a restriction. We don't know what that could mean on our livelihood in the future. Lastly, my husband's family has lived in the Potomac Valley for 50 years. All these people who have purchased property in our area knew at the time they purchased it that we were loggers and farmers with heavy equipment and big buildings. None of them have once knocked on our door, called us up or anything else and had one complaint. And we just feel like there has been a lot of time and tax dollars wasted where they could've tried visiting with their neighbors and it would've sufficed. Thank you very much.

Trent Baker: I'm an attorney with Datsopoulos, MacDonald & Lind here in Missoula. My firm represents the Ployhars – Janette and her husband Floyd also Donna and Jeff Ployhar who also live in the district. They are on the land COS 969 Tract 1A and Janette and Floyd are on COS 5181 and 969 Tract D. Commissioners, I have put in writing my comments and I'll just highlight some of those today. I'll go ahead and submit those written comments and several copies for all of you. (in the file) I think it's important to speak a little bit about what my clients perceive as the purpose behind this zoning district proposal. As

Janette alluded to, this proposal is apparently for the purpose of preventing Jeff and Donna Ployhar from going forward with and operating a marble cutting and wholesale business that they are working on and would like to base on their currently un-zoned property. Jeff and Donna have lived in the Potomac at this same address for 27 years and during that time they've had some small businesses that they've operated from their property including a logging operation and a snow mobile repair business. Due to the downturn of the logging industry or the changes in the logging industry, they started looking for alternative businesses that they could operate from their property. About three years ago, they started working on this current business venture and identified and acquired rights to quarry marble in the Garnet Range – that's about 18 miles from Potomac, so the proximity of Potomac is an important economical/financial reason why the business needs to be located there. The basics of the business are that large marble blocks would be cut at the quarry, transported to the Ployhar's where they'd cut it into slabs suitable for use in construction. It wouldn't be a retail business that would involve customers coming in and out; it would be a whole sale business. The slabs would be transported to local retailers. The Ployhars think it very important to make it clear that contrary to a lot of the information being published by the proponents of this zoning, their business will not damage the local environment or environmental/public health. The Ployhars estimate the truck traffic associated with the business really be no more than truck traffic associated with agricultural and logging businesses that are already ongoing and prevailing in the area and also contribute to it's rural character. The business will use less water than a traditional home would. The small amount of water that is used would be used in the cutting process to prevent dust and that rock that they propose to cut there has been examined and tested by a geologist. Attached to that letter is a letter from the geologist and his analysis. The rock is mostly (60% +) limestone, which is calcium carbonate. The balance is composed of common rock and clay forming minerals that pose no threat to the environment. If you look at the last sentence of his letter that's what he says, 'no threat to the environment.' So, the special saw that they would use in cutting is also actually very quiet, so the noise concerns are likewise not valid. This will be housed inside of a shop, so that will further reduce any impacts visually, noise, dust wise and those types of emissions. The Ployhars want to make it clear that they simply wouldn't have invested three years of their lives and hundreds of thousands of dollars in this business venture if they thought it was going to be harmful for their family members, their neighbors, their property or the valley that they've called home for so many years. But regardless, the proponents of the district are attempting to portray this as a heavy type of industry and that's just not accurate. The Ployhars, once they learned about this which was just last month even though it's been going on for more than a year, did approach their neighbors and tried to explain things to them because they heard rumors that their business was going to cause cancer and pollute the ground water. So they tried to explain the reality of the situation to several of these folks but apparently it didn't take and even after they approached their neighbors and explained the situation there were still postings put up around the area talking about cancer and silicosis and posted warnings that bordered on hysteria in terms of saying things like, 'Look at the poor people in Libby.' That's just NOT what this is all about. A copy of that posting that was put up is also attached to the letter. In looking at the actual purpose behind this proposed zoning district, I think it's clear that it doesn't comport with guiding principles that are set forth in the Missoula County Growth Policy. There are a few of those that I'd like to highlight. One is that the zoning tools should reflect the values of the citizens that they serve and the communities should be involved in the planning and the decision making processes that affect them. Here it's clear that many of the people within the zoning district were not informed and involved and the majority, if not all the community surrounding the zoning district, was also in the dark. I think you're going to hear from a lot of those people today. You've seen a petition that a lot of them have signed that shows they are not in support of this. The proponents talk about the size of this and it's incredibly small size is being a reason to support it but I think when you look at it the small size of it makes you wonder really what is the purpose. It doesn't seem to do a lot for the concerns that they're expressing other than the real motive behind this which is to try and stop one business proposal. We're not sure that it would be even effective to that because of the fact that the Ployhar's have gone so far down the road in terms of setting that business up. They've purchased equipment, they've acquired mineral rights, they've started building the building where it would be housed all in reliance on the fact that this is an industry that's similar to other extractive industries in the valley and it is an unzoned area with no prohibition against it. One of the other guiding principles of the growth policy is that private property rights should be paramount and respected. Those private property rights are what the Ployhars relied on when they started this business venture and now it appears there is an attempt to infringe on those rights, even though the business that they're proposing...they don't see how it's going to infringe on the rights of anyone else. I think the next and probably more important

planning document to consider here in the context of this proposal is the Potomac/Greenough....I'm sorry the Missoula County Regional Land Use Guide. There's no comp plan that affects this area and there's no regional plan either. So this Missoula County Regional Land Use Guide serves that function. When you look at the guide, you can see that the objectives for the Greenough/Potomac planning area include continued operation of agricultural and control of development which would limit agricultural production. You also see in there that the jest of the guide is that residential use would be secondary to the existing uses that are going on there. So the idea of turning this into a residential area or a bedroom community for Missoula is something that this planning document specifically recognizes is not the goal out there. But when you look at this zoning proposal, I think it's pretty clear that it elevates residential uses over the kind of commercial uses that are going on out there. Those commercial uses include agriculture and logging by the admission of the proponents, but I think you have to recognize those are extractive uses and the business venture that the Ployhars want is in the same category. It's not heavy industry, but it is extractive industry and it's like ranching, it's like logging, it's like agriculture. It's use of local natural resources and is not going to have the type of detrimental effects that have been thrown out here. I think it's important to recognize that the County planning staff, they're aware that this is a proposal that is geared at stopping one person. About a year ago on July 22, 2005 an OPG staffer corresponded by e-mail with the County Attorney's Office to say, 'I'm not sure myself about this whole create a district around a business you know your neighbor's about to establish knowing you live within an un-zoned area. I know that they have not talked to this neighbor about zoning his property and that many of them have home occupations they would like to NOT zone out.' So, this is a situation that the Ployhars feel is very unfair for that reason. The purpose behind it is not really in line with the purposes of citizen-initiated zoning and they feel that this proposal should be rejected for that reason. In addition to the conflicts with the other planning documents that I talked about...Janette touched on the fact that this is something that might be considered illegal spot zoning because it does impose restrictions that are greater than the restrictions in the surrounding area. Again, the small size of this district really renders it ineffective in terms of accomplishing the purposes of protecting the valley from the kinds of uses that the proponents are worried about. If there's to be a planning or a zoning proposal to do that kind of thing, I think it would be more appropriate to consider a larger area and to involve the community as a whole in the process from the beginning. Not drop it on them years after the proposal has been initiated and is way down the road and hasn't incorporated any of their input or concerns. Finally, I just wanted to point out that if proposals like this are allowed to go through and elevate residential uses over existing commercial, agricultural and other types of extractive uses it leaves residents in the area with very few options to make their property commercially viable and be able to hold on to it and use it the way that they have for years. I think a similar situation has occurred in other areas around Missoula where the commercial and agricultural uses have become unsustainable and people have resorted then to selling off, subdividing and creating residential properties out of it. That is exactly what I believe the citizens of the valley hope to avoid here and I believe that is what the County's existing planning documents expressly prohibit. So I thank you for your time and attention and for considering our comments on this district.

Commissioner Bill Carey: Who's next? Let's let people who haven't spoken speak.

Ed Brewer: I'm not in the zoning district; I live just past the proposed district. I just want it on record that I oppose the district. I'd like to say, as far as I'm concerned this should be a shame on you to the County Attorney's Office and the Office of Planning and Grants for allowing this to go on for a year and half with Jeff Ployhar up there sinking every dime he's been able to earn in the last three years into this while you're sneaking behind his back trying to pull the carpet out from underneath his feet. Somebody should have told him about this a year and half ago so he wasn't investing this money for the last year and a half. If you folks think that's a fair way to do business, well I think we need some other people doing the business! Thank you.

John Driscoll: My property is 2.45 acres next to the Ployhars.

Commissioner Bill Carey: And you're outside of the district or in?

John Driscoll: I'm in it. I'm one of the petitioners and I'll have to be brief with my comments, I just purchased a restaurant downtown and my walk-in cooler went out this morning. I just want to reiterate

what Mike Swofford said. We moved to the area for its rural nature. I embrace the logging industries and the agriculture and the ranching. I live right next to Janette's son and I listen to him fire up his logging truck at 3:00 in the morning and get home at 6:30 at night I hear him pull back in. I respect that kind of work ethic in these people. I LOVE living in that kind of environment. These are hard working folks out there. I've seen some of the comment letters from the people that are against this about 'well let's go buy 100 acres and go hide somewhere, or go back to the city,' and all I have is two and a half acres and we're very concerned about any commercial, heavy industry or what we feel is heavy industry. I think that anything above the logging, agriculture, ranching or that sort of work is going to be detrimental to that little area. We are the last people, trust me my wife and I that would try to tell people what to do on their property. I wouldn't like anyone to tell me what to do on my property either. We have no place to go, we have all of our money tied up to that now and quite frankly the bank owns everything right now for me, so I've go nowhere to go here and that's why we're so concerned about that. We're on kind of the fringe of it there, but we thought that we could join in with this effort and try to keep it as it is for now and in the future. We are worried about water wells and tables and noise and that sort of thing. But I just want to make it clear to the Ployhars and to everyone in Potomac Valley we love living out there and we think we've go good neighbors. But our concerns have already been put forth about the pollution and the environmental impacts. Thank you.

Mike Hayes: My great grandfather homesteaded in Potomac in 1888, that's a year older than Montana. I've lived there all my life and as far as I'm concerned zoning is an infection. We've lived through thick and thin, there's no money on agriculture! I haul gravel during the summer, I log during the winter and if I have to do something else to make a living I'm gonna do it! I don't want someone telling me to do.

Commissioner Bill Carey: Excuse me, Mr. Hayes, where is your property?

Mike Hayes: It's over here to the east of the district. We're a large landowner up there. I'd like these people that are proposing this zoning to ask themselves how they affected our lives when they moved in. Have they done that?! Because it affected our lives and we didn't say anything. That's all I have to say.

Jim Swofford: I live right next to Mike Swofford and I'm right next to the Ployhars. I have no problem with the Ployhars. I never have. But I am very concerned with losing the rural, agricultural feeling of the valley. I'm very concerned with the water quality and how things are done there and I'd like to see the future remain as agricultural as it is. Thank you.

Daniel Westberg: I'm a property owned in Potomac. My land does not show on the chart here, but it is over to the east of the zoning district. I have prepared a statement to stay on track. I have been a landowner in the Potomac Valley since 1987 and a full time resident since 1992. When I made the decision to move the Potomac Valley I did so because of the freedoms associated with this rural community. The land I purchased had no covenants or other restrictions associated with it and that was a major contributing factor in my decision. There was no zoning in the valley and building permits were not required. I once knew Montana as a land of individual freedoms, unwritten mottos such as 'the least law is best law,' and 'respect your neighbor and stay out of their business.' These were common statements and the residents lived by these mottos and enjoyed doing so. I strongly disagree with any attempt to create zoning in any part of the Potomac Valley. It is my belief that we will lose the freedoms that we have enjoyed in the past if this zoning request is passed into law. It is my understanding that building permits are now required in the area County wide, as I understand it this measure for building permits previously would have allowed the landowner/homeowner to construct their own buildings and a building permit would not be required. Therefore, we were governing the contractors engaged in the construction trades. Upon review by the state level it is my understanding that this was deemed unlawful and therefore the owner/builder had to be included in the permitting process and now owner/builders must also obtain building permits. We have now lost the freedom to build on our own lands without government interference. This example of building permits being required in the Missoula County area demonstrates how one implementation of law can quickly expand beyond the initial stated goal of a law with far greater reaching consequences. My great concern is that with zoning in the Potomac region the same expansion of law will occur and it will happen without the knowledge of the majority of area residents. This proposed zoning action is only known in the Potomac region now due to a few concerned citizens getting information out in the area. Next issue of

zoning is how the County plans on enforcing this new law? I access my property via Blixit Creek Road, a County owned and maintained road. In the spring and during wet weather periods, this road becomes nearly impassable due to a lack of gravel road base. It is common for there to be six to eight inches of clay based mud on large portions of the road. Four wheel drive is required and low clearance vehicles cannot negotiate the road during these wet periods. The road department has told me that there is no funding available to improve the road to County road base level standards. I do not receive any property tax relief for this inadequate road condition. I fail to see how we as a County can expect to enforce new zoning laws in an area where we have been unable to adequately handle the funding of base needs such as roads. Additionally, tax dollars will be seriously affected when someone with large funds becomes a player in the area. If a landowner desires to change or challenge a zoning law, they can do so in the court system. As a County we have no choice but to defend our laws in the court. If a landowner has enough funds to surpass our County legal funding, we've just wasted our dollars on court cases and have none left for continuing our base services in the County. This has been demonstrated by a negotiated settlement with a large guest ranch in the Greenough area. I seriously question our ability to defend and/or enforce zoning ordinances. There's a small base of businesses in the Potomac region, it's growing slowly but it does impact employment in the valley. Myself being one of those employers. This type of zoning has the potential to impact small businesses such as mine, thereby reducing our ability to grow and provide more employment. I've always been a believer in supporting small businesses per employment base versus a single large employer. In my opinion if 20% of small businesses fail we still have 80% of the remaining small businesses providing employment. If we lose one large employer we lose a 100% of the employment base from that. I believe small business is still the backbone of America. We already have state level laws that govern businesses therefore local zoning would only be redundant and in many cases has a strong potential to affect some of the economic vitality of this valley. We may not see that directly today, but in looking to the future, it becomes apparent to me. Should this zoning measure be passed, in my opinion, it will signal the end of the Potomac Valley being an agricultural based rural community and the beginning of suburban Potomac, a bedroom community of Missoula. Zoning once started, again in my opinion, grows like a cancer and with that we will use the freedoms that we currently enjoy today. I strongly urge you to defeat this zoning measure and continue to support our desire for a rural lifestyle. Thank you.

Elizabeth Cromwell: I'm one of the landowners in the area. This is a citizen-initiated zoning proposal, NOT government initiated as you were previously accused of. This proposal happened because a group of us do have serious concerns about our immediate area from industrial and commercial use in the future. In other words, we're trying very hard to protect our environment, health, quality of living and our property values. Population pressures and densities have increased to where our immediate area requires some zoning to protect us. Note that this proposal is for this specific land area and the property owners within the proposed zoning area only. This proposal has absolutely no impact on anyone outside the zoning area. 78% of the property owners of this proposed zoning area are in favor of the proposal. 79% of the acreage in the area of the zoning proposal is owned by those in favor. Again, those property owners outside this small zoning area are not affected by this zoning. County regulations already forbid zoning to restrict agriculture, except for intensive agriculture which includes feed lots, commercial dog kennels, commercial stables, poultry business and so on. NOT a barn for a horse or two horses or your cows. NOT a kennel for one or two dogs. Our zoning follows County regulations; it DOES NOT forbid farming or agricultural activities in anyway. Furthermore, existing businesses are not affected and variances are provided for in the general regulation. General fear of zoning and of governmental control expressed by public members outside this zoning area should not be a reason to deny this proposal. This is not a disease that spreads like an epidemic, as unchecked industry and commercial uses could be. This was a year and half of work on the proposal; it's a proposal for zoning. It was a lot of work. All of us are trying to protect against these uses. Why? Because we do have a worry about the future impact of pollution, land, noise, water, dust, air. I've been around commercial rock saws. Water controlled, water driven rock saws, water used as a dust control contains the rock dust. That's sledge that has to go somewhere. There ends up being dust. The reason that we became worried was because of businesses that were planned or coming into being....that was a catalyst. We are worried about the future. We see this happening in a lot of places and we have a small area. We're not trying to legislate control over the whole valley. We're small acreages, mine's the largest piece. We raise hay. It's a little residential area and we do have pollution that has been occurring. We've had a lot of....chemicals are being buried and this and that and we are very concerned about it. We don't know how else to control it for the future. We're not....we're aware of what is, we do not....we're not

just concerned about today. Finally, it's our overall intent to keep this area that we're talking about of Potomac beautiful, environmentally healthy...we don't need or want ugly scars on our landscape or operations that ruin our environment as a whole. Our drinking water and health are very important to us therefore we ask that you, the Commissioners, approve this zoning measure for our protection, our land and for the future generations. Thank you very much.

Kelsey Ployhar: I rent a piece of land in the middle of the proposed district. I just want to point out that if they were concerned about their health and the environment, they should've talked to us about it. Nobody mentioned anything. We have proof that it's not going to be dangerous to their health, otherwise we wouldn't do it. You can tell that it's a spot zoning, if you look up at the top of the map, why did they leave out that one little piece instead of making it a straight line? Is that not obvious to anyone else? There are lots of things that they have in the proposed zoning, like you can't have extra vehicles that don't run on your land. The people who are proposing the zoning have that. They have a bed and breakfast, they have cows that come and roam on their land when they want the hay eaten down. I think they're kind of shooting themselves in the foot too. People have kids who they want to be able grow up and start businesses... well we can't do that if we haven't already started it. Or if you stop doing a business for a year, you can't start again. I think they don't realize what they're getting themselves into and it's going to ruin the lives of a lot of people. Thank you.

Janette Ployhar: I would like to rebut some of the statements. They're all saying 'this is nothing personal, we have nothing against the Ployhars,' then what's with the year and a half behind our backs and not coming to us and saying we really don't want this rock plant here. There would've been other options. This is a very personal thing. My home. My family. It's personal to me. It might just be their monetary investment, but our valley which the grandparents have been in forever, where I've raised four kids in, my husband and I are about to have a grandbaby. We care as much as they do or more about the environment! And for them to accuse us to just want to pollute the environment and that this is not personal? It's very personal.

Russell Hudson: I have 40 acres just to the west of the proposed zoning district. We just moved here from Stevensville and I kind of have an idea of what the Ployhars feel like. We have cattle and we were in an area that had covenants and they weren't necessarily a bad thing. But, the problem we ran into was that we had too many cows according to the neighbors. About half the neighbors loved the cows about half of them hated the cows. So, it was the same thing, there was a letter going around the neighborhood and we found out later they were having a special meeting to decide what kind of community it was, i.e. get rid of Russell and his cows. It saddens me because there are a lot of similarities between what's going on here and what went on there. I agree with the Ployhars. It seems like it's just the sad way that America's going right now. People when they have a problem, instead of going to confront the people...and I think most of the concerns that the people have, I'm sure the Ployhars have already thought about them as far as the dust pollution, noise. I mean even if nobody else lives there, we still have the EPA. There are certain standards that would have to be met regardless, just with all the existing laws. I'm sure if anyone investing money in a business has probably gone over that stuff. It sounds like we're suffering...there's a lot of information that has come out today that sounds like if it had come out earlier it probably could've quelled a lot of people's concerns. It seems to me like the effort could be better spent, here, instead of going through all this zoning action which I understand it's not supposed to have a lasting affect, but we also understand with the laws of the United States...anytime a case is tried it sets a precedent, so anyone can say what they want but if the zoning goes through, it's going to set a precedent. Then it may stop the Ployhars from putting in their business, but it opens up a whole new can of worms. For example, they decided to rewrite the covenants down in Stevensville. To my knowledge, they're still trying to rewrite the covenants because it finally got down to, when you have a large group of people who are trying decide how many chickens you can have, how many horses, it's a huge can of worms. Now, as far as addressing the intensive farming...there's a real fine line between farming and intensive farming because there's not a lot of money in farming, so if anyone's going to make money in farming it's going to have to be intensive farming. The day of just having a couple cows and a big parcel of land and having all this low key thing, is basically over. As far as the land values, that's a joke because part of the problem the land values are going up so fast that it actually makes it harder for people in agriculture to expand and have what you might call a low intensity operation. I'm just sitting here listening to all this stuff and I can see the handwriting on the wall

because we have, even still, a larger place than we had, but we still have a lot of livestock. A lot of the people I consider my neighbors I feel like I'm in the middle of this only because I understand these people's concern. When I go by John Ployhars, he just built a new building and it's a nice ugly building and I think 'gees, it's too bad that couldn't have been a pretty building,' well, it probably made more economic sense to build the building that he built. Everyone wants to live a perfect world where nobody has a building that's the wrong color or the wrong size or whatever but that's a pie in the sky deal. It just isn't that way. It seems to me....I almost had to laugh when the gentleman that spoke who has the restaurant. He has everything in his life, he said, the bank and he owns and it's all tied up and he wants his business to succeed but the business right next door to him which the Ployhars have sank all of their life's work and saving in...he's not concerned about that succeeding. It seems like if the aesthetics, the noise, the pollution and so on is the main concern then maybe as a neighborhood we should get together and if there's some kind of building that looks better or whatever we ought to be helping them succeed in a manner that doesn't affect the community as much. I just can't imagine that noise concerns, pollution concerns, aesthetic concerns can't be addressed in another manner besides just trying to zone them out of business.

Mike Swofford: I would like to readdress a few things. The Ployhars are...I know they're upset and they're thinking this is a personal thing. This is a future...whatever Mr. Ployhar has going now, if he's got the permits and legalities that are required, we can't stop him. We don't want to tell anyone how to make their living, this if for the future. He may have been the catalyst that made us realize there's nothing to protect us five or ten years down the road. We've owned our property there for 14 years and we have not had any problems with them. I don't know of anyone around us who's had problems...so they may have some of their finances tied up in this and I'm sorry if the zoning affects them for that, but at the time that they were doing this I don't recall anyone coming around to any of the neighbors and asking if it would be a hindrance to put in this operation, whatever it is. We really don't know what he has in store to put there. It's not like it's a personal attack, I just want to make that clear.

Commissioner Bill Carey: Does anyone else have anything new? Mrs. Ployhar, we're not going to get into a back and forth here.

Janette Ployhar: I just want to say, nobody came to us and asked us if we minded having a chemical including auto body paint shop in our neighborhood either and we have never once complained to you.

Commissioner Bill Carey: Okay, let's leave it at that.

Bill Steck: I live on up Swanson Lane on a County road that is Not County maintained, but that's another story. I drive through this area, so I'm part of the community. I'm part of the rural fire district. I vote in Potomac and I wouldn't even be here except I read that petition nailed to a telephone pole. The first thing that I hear from the people that want this petition is in the best interest of everybody here. Really? If I had been gone 15 days... I have a business; it's out at the airport. We do smoke jumping contracts for the government. So I know the people in the Commissioners Office have a problem in their own organization sometimes. If I had been gone 15 days, that's ALL the notice these people have had. I wouldn't even have known about this. I'm gone lots of times for 30 days and I come back. I listen here to all the comments. Zoning is not a cancer, however if five people that border my property can get together and in 15 days nail up a sign on the wall and change the way my lifestyle is, that's not right. If this zoning is for an area, and they all keep saying this 'water quality?' We have water quality protection. There's people sitting right here at this table. I'd be pounding on Barbara Evans door two days from now if someone was polluting the water in Camas Creek! Air quality. We have air quality laws, we have state, we have county, we have environmental right in the County. Guest houses? Who is going to say...maybe I have a mother-in-law and she wants her own damn kitchen...this things says I can have a guest house, but not a kitchen!? What is this? It's crazy! Protection from what?! I've heard the gentlemen here that are for this petition keep telling me they're going to protect me, from what? What are they protecting me from? County regulations are what we pay our taxes for. We are the ones who vote for the Commissioners. If we have a problem, we can come to the Commissioners. We don't need four and five people in a community that is rural getting together and saying, 'boy, we got a good idea here, we're going to limit the size of dog houses, barns...now they can have a barn for two horses, but I don't know about that third horse.' This isn't Potomac! This is NOT rural zoning! If it's a rural zoning it affects the whole area. Thank you and I think

everyone in here should get up and say short termed to Mr. Carey and the Board, 'I live in the Potomac Valley and I'm Not. For. Zoning this permit.' Thank you.

Marshall Cromwell: We've heard a lot of pro and con...I do not have property anywhere on this map. My wife and I live in Missoula. I used to own property in Potomac within this proposed zoning area, in fact. But that property now belongs to my ex-wife and that's okay, she also got the horse and pickup and that's alright too. I have five points I'd like to share with you, I'll make them very brief. Number one, even though I do not live in Potomac now, I continue to be concerned for my friends and my ex-wife who do live there. Nobody wants to drink dirty water. Nobody wants to breathe dirty air. Nobody wants a noisy, polluted, messed up environment. Therefore I'm here today to speak in favor of this zoning request. Number two, one word...Perspective. Put this thing into proper perspective. The proposed zoning district involves nine families in a very small area, less than 170 acres. This 170 acres is equivalent to half mile by half mile or a quarter section of land. This represents less than 1/10 of 1% of the whole Potomac Valley. Number three, this proposal has absolutely no impact on anyone outside this small area. It does not effect the rest of the Potomac Valley or the rest of Montana in any way. If other people do not want zoning, so be it. They continue to have that choice. Number four, without covenants and/or a good master plan, some zoning makes perfectly good sense. People should not be afraid of the right zoning at the right time in the right place. Zoning does not spread like the bird flu, or AIDS or any other kind of disease, it just doesn't happen. Number five - seven out of the nine families living within this district, about 80%, want this zoning. As an outsider I believe they should get it. Finally I support all the families who want this new zoning and we would appreciate you, the Commissioners, approving this request. Thank you.

Wayne Williamson: I'm not a landowner, but I do live on a parcel of the land out there which is in the district. There's been many things said this afternoon and I was just writing down some notes because I didn't think I would get up and speak. One of the things that concerned me was someone said that a member of their family wouldn't be able to cut firewood and sell firewood. Cutting firewood and selling it is a home occupation and we're not trying to...I don't see anything that's trying to limit home occupations. Someone also said something about when they first moved to the Potomac area they could build anything they wanted to build because they didn't need to get building permits. I worked for a contractor one time and he didn't have to get permits, this was years ago, but he did get permits because that provided a protection for who he was building things for. A building permit isn't to try to limit you, as zoning is not trying to limit people outside the zoning area. Thank you.

Cindy Hayes: We own property in sections 23, 25, 26, 35 and also one, 11 and 12 across the highway. I've lived up the Potomac now for 23 years; I was born and raised over on the north side here. We are trying to preserve what is left of a 6000 acre ranch that was actually established in 1865 by my husband's great great grandmother. It is a challenge constantly because people disregard our property. A County road goes through it. People are wiping out our fence, they spread weeds, they do all these things. Right now we are currently working on several programs...for (inaudible) program for water restoration on our property. We are working on several conservations easements to protect what is left of our property because there are no more heirs. So, if something like this goes through, we're trying to preserve the agricultural land that's there. If people start telling what we can or can't do with our land, we might as well take and do what every other rancher/farmer is doing now and take the money and run. Because if we can't preserve our quality of life and do what is necessary in order for us to stay in business, because there isn't any money ranching. We end up taking and putting \$75,000 a year in and we make \$25,000 a year selling hay, so you tell me. So, what we're doing is we're preserving land...the beauty of the area for all these people so they can live there and yet they try to take and take things from us. Whether...my husband is going to put a sawmill on our property, so that we can cut OUR trees from our land so we can build buildings to house our grain and hay in it instead of taking and using tarps. We are trying the best we can to take and work with what we have to preserve it. Little stuff like this might just be little to these people, but it's big to us. So we can slap signs up that say For Sale, 10 and 20 acres tracts, I can let everyone else in on the little piece of heaven out there if they want to. Thank you.

Paul Palermo: I'm about a mile marker 17 on the north side of the highway in Potomac. Now, personally I think this map deal is a little ridiculous because I'm downstream of where they're going to build their proposed whatever they're building. So that affects me and the zoning affects me in that way. If I though

the Ployhars were doing anything that was going to cause me grief, I would've gone and talked to them, number one. Number two, as far as one the gentlemen who proposed this said they don't even know what business they're going to do. What it involves. But I keep hearing water pollution, air pollution, I keep hearing this and that, they showed proof by the stone analysis that there's not going to be pollution to a great extent other than what you could get agriculturally anyway. So if there's an issue in pollution, show me something. Show me some proof. The other thing is I'm a little torked too that I just found about this proposal. Why wasn't there a public announcement? Why wasn't something put in the paper? You guys are doing the zoning thing, be courteous and let everyone know. It's not that big of a deal. You're elected to serve the public, I'm the public. So I would appreciate the courtesy. Other than that, like I said to me the map is a ridiculous thing. I'm part of the valley. I'm a newcomer; I've been there 16 years. I was up in Ravalli before that. I know the benefits of zoning from there, so it may not be a cancer but it spreads like one. Thank you.

Commissioner Bill Carey: Mary, for the record, what are we required to do by state law to notify and publicize this?

Mary McCrea: Per state law for part one zoning it's just posters 15 days prior to the public hearing.

Commissioner Bill Carey: Okay, and that's what we did?

Mary McCrea: That's what we did. We did an extra one. We did three within the district and one near Potomac School.

Commissioner Bill Carey: Thanks.

Kristin Braun: I actually don't live there; my parents own 20 acres in the proposed zoning area. I wish I could live in Potomac; I just flat out can't afford it. I would like to live in a peaceful place like there. I understand what the people are doing. They're just trying to protect their community and keep it the way it is, quite and peaceful, a place to get away. I like to take my daughter out there when I have my new baby, I'd like to take him or her out there to play and just get away and not have to worry about anything dangerous. I don't have a problem with the Ployhars, I grew up with them. I'm sorry that this is separated the community, I wish it hadn't. I do understand where everybody's coming from and hope that everyone in retrospect can see what's going on.

Brad Hull: I do not own property in the proposed zone. I'm down the road a little ways. My family's been in the Potomac Valley since the late 1800's also. What concerns me about the zoning is if I have five or six neighbors around me that can zone and shut me out of certain types of businesses down the road. I know I'm not directly affected with this zoning but what concerns me is the way the zoning is gone about. If I'm just one person and the other 70 – 80% of people around me want to zone that will affect the way I live or what I can do make a visit, then yes indirectly it affects me, but down the road I think it's a precedent being set. I do agree that there are other things that can be done to deal with this situation. If they think there are serious pollution problems, there are other avenues that can be taken to correct it if someone is breaking laws. For neighbors to have that kind of control and I'm not a large landowner but I'm not a small landowner either, but it scares me a little that five or six people can shut me down. We ranch and I also work at the University. I've been involved in logging. I was in construction for many years because of the subdivision that went on up there also. So, I've had a wide variety of things to try and keep agriculture going for myself also and this scares me a little bit. We do have other laws in place that can deal with what the neighbors consider to be a problem. By the way, people on both sides, they're all good people and they're all good neighbors I just think there's a better way to approach this. Thank you.

Rhonda Dursma: I am a landowner in the proposed area. I'm tract B COS 2357. My main concern is keeping everything as is so we have what we've got now: the beauty, the peacefulness and everything. With the development going on around Missoula it kind of scares me what can come into our area. I know that pretty soon people are going to discover Potomac and we're going to be pretty much over run. The different things that have been going on like the Rock Creek stuff and all that, I'm concerned about that, so in my mind this is helping to protect from that kind of stuff going on. The big subdivisions coming in. I do

approve of it; I want to keep everything the rural setting the way it is. I love it out there. I was born and raised in Missoula, Potomac's always been a place for us to go. So it's just something I approve of. Thank you.

Beau Ployhar: I live in the district; we rent the land from my father. I've lived there for all 23 years of my life. Everybody keeps getting up here and they don't want anything to change from when they moved in there, but the way that our family has been forever was you have to do what you have to do to make money. If you need a truck, if you need to build a different building to keep making money, they all have jobs or they're retired from jobs in town, so they can leave their land exactly how it was. But, to say that we should leave our land just as it was and change nothing so it looks the same out their window, that just doesn't seem fair to me. Also, I would like to point out with the signs that you put up, one was hidden behind a dumpster so it couldn't be seen. The other one was on the road with the flow of traffic; I have pictures of it on my digital camera. You could not see it unless you stopped and looked next to it. I stopped and changed it so everyone in the valley could see or else nobody would have known. Thank you.

Jody Wills: I live in the Potomac Valley, not near this proposed district. I would like to say that I support things that have been said in the past about keeping Potomac Potomac. The only trouble is, in 1973 when we worked as a community, as a community, NOT as seven or eight individuals, to zone the Potomac Valley. We were unsuccessful for several reasons and now that time has gone by, I am glad that we were unsuccessful. If this type of zoning is being done by people who have come in the valley and say, 'well I've lived here 14 years, I've lived here 10 years, I've lived here so long...', they wouldn't be here if Jeff, Floyd's father, had not had to make enough money to keep his family going and subdivided part of his ground. They wouldn't even be in Potomac and I, a rancher in Potomac completely surrounded by subdivision at this time, now live with people who say, 'I can drive on this road because it's an open road,' it was not an open road, it was a prescriptive use road, but the ground behind that road was subdivided. Was I told? No. They just started driving on the road, now it's my road. You can no longer drive your cows across this ground that you guys drove on because it's subdivided now, but I can drive my car on your road. All I can say is, this type of zoning is going to lead more subdivision in Potomac because I'm afraid, just like Brad said, that the people around me are going to say, 'I really like the open space in Potomac and I'm really glad you have a beautiful ranch, but I don't want you to have your cows. Your cows are difficult for me to live around. Or I don't want your cows on my place. But I want to ski on you, I want to snowmobile on you, I want to ride my horse on you, but I don't want you to ranch.' This is just what will happen. All those subdividers around me are going to say, 'I don't want to hear you cut hay at 2:00 in the morning, even if that's the best time of day to cut hay.' 2:00 in the morning, NOT 2:00 in the afternoon! I work in town and I want to come home and have peace and quiet. Well, I live out there and I want to have peace and quiet and I don't want to listen to you target shoot to get your gun ready for hunting season. And I don't want to listen to your kid rev up his motorcycle and run up and down the road. If we are all going to live together, we have to live together. That means if you have a business already started in your home, which several of the people in this zoning district have, and as we have heard one is a car restoration place that involved chemicals for painting. One is going to be a pottery shop, that I'm glad is coming; I already have an order in. Then why can't Jeff put in a business that is going to make a living for him and keep him in the valley and keep the family in the valley and keep the valley as it is? Because the valley's not going to stay the way it is if people that come out there can't make a living. We can't all be golden parachutes. Thank you.

Julie Hacker: I guess I'm involved in this a little, too. The angle that I think about this zoning proposal is that I don't want to have to have a worry of a group of neighbors who surround me on the back side of our property. We live on the upper Potomac Loop Rd and behind us is the Jordan Subdivision. Now, if there were enough people in that subdivision, they could gang up, make up a proposal, surround some of our property and consider us zoned and we would have nothing to say about it. I really object to this activity in the dark when the people involved don't know about it. I hope that you as Commissioners will carefully examine the language in the zoning proposal and consider whether that is standard planning language because I really think there is some exceptional provisions in it. Thank you for your time and I am a little embarrassed that a year and a half of energy and time by planning staff and people has been spent on this kind of proposal. I hope that you will defeat it. Thank you.

Commissioner Bill Carey: Thank you. You all understand that the Planning and Zoning Commission and the Board of County Commissioners are laboring under state laws here, we don't make the laws at the commission level we only administer state law. Yes?

Janie Bell: I do not live in the proposed zoning district; I'm north and east of that. The only reason that I think today is a good thing is because now we know how some of the laws are working. Like you said state law? We only have to have 15 days prior notice? Who can I write? I don't like that that is wrong! If there is proposed zoning, I believe that all landowners in that area should have an official letter sent to them. So, those are a couple of things that I think need to be changed, definitely. I, as a citizen, would like to know who to write and how we can do that so that we can have a little power there so folks aren't in the dark wasting energies, wasting County time or wasting their time. I really feel that today you folks are probably here as mediators because sometimes folks can't talk well to each other, they don't understand the whole issue. I really don't think the Ployhars would do anything that would poison their water! They live there! Their kids are there. You've seen Kelsey come up here with her unborn baby. So I think those things are concerns for them, too, they live there. I have folks on both sides of this issue. I really don't have any way that I want to go one way or the other; I want to see what you folks are going to do, because you're our government. I for one am less government is the best government. We really do enjoy living out there and sure, things are going to change, I've only been there for 13 years and if somebody hadn't divided up a place the history of that, whatever it may be, then I wouldn't be able to live up there either. We do appreciate all the great things that are there, but things have change with the future. I would like to know what we can do to change some state laws, who we need to contact.

Commissioner Barbara Evans: I think if you contact Vickie at the end of the table here, she can tell you who your representative is in that area. That may change due to the election, but after November you'll know who will be the representative for your area. Or call any legislature at all.

Commissioner Bill Carey: We all live in house districts, we all live in senate districts, we all have the opportunity to vote in November and we can educate ourselves about where the candidates stand on these kinds of issues, whether they're willing to listen to your concerns and vote. It's a majority of the legislatures that make the laws, so it's a legislative process and it's time to now get involved.

Janie Bell: Thank you Mr. Carey.

Marshal Cromwell: Just a couple more points I'd like to say. The zoning has nothing to do with subdivisions. Two separate entities. It has nothing to do with any kind of subdivisions in Potomac. Point number two, with all due respect to the good lawyer - Every. Pollution. Belching. Industry in the whole wide world starts out very small. What's to stop is from getting bigger and bigger and bigger? Okay? There's got to be a limit. I know these folks don't want to hear this. I can understand that, but there's got to be a limit and THAT is the concern of these people wanting this zoning district. Thank you.

Kathy Swofford: I live on the same tract as Mike Swofford, in the district. I am for the proposal. Some of the things that have been said, I'd like to address. There have been a lot of comments about, "you didn't tell us what you were doing!" Well, we followed the policies and the procedures of the zoning district requirements. We followed what was mandated in the County. Once we had the required number of participants, that's all we were required to do. There is no vendetta against anyone. We just don't want commercial industries that are not there now. We don't have any affect on agriculture. We don't have any affect on logging. They commented that we didn't tell them, well they didn't tell us about their attorney, either. He has prepared a brief that we have not seen. We were not made aware of it. He stated that the transportation of this rock query thing doesn't create issues, well I'd like to know what they based their estimates on? We haven't seen that. They never discussed their business with us. The attorney said they have started a building where this will be housed? They don't have a permit for that. It's been mentioned about illegal spot zoning? We're not illegally spot zoning anything, we are just taking into consideration the valley that we live in. Not the whole entire valley. It was not required of us to introduce this to the entire valley. We followed the policies and procedures that have been created by the state and the County laws. Mrs. Hayes said that they wanted to preserve their quality of life, so do we. The zoning would maybe even protect them, maybe they should consider it. I thank you for your time.

Mike Hayes: I have a question for someone, I'm just wondering why this one little tract of land was left out up here. It seems to me that these land owners were talking to all but these two.

Commissioner Bill Carey: Could you identify the tract you're referring to?

Mike Hayes: Tract B2, COS 5127. It seems to me they conveniently went around that tract for whatever reason and I'd like someone to answer that question.

Commissioner Bill Carey: Mary?

Mary McCrea: I can only answer one part of the process in terms of regulations. Only a minimum of 40 acres is required for a citizen-initiated zoning district. So they came up with 169 acres of people in an area, a boundary and 72.2% of those people met the requirement for a minimum of 60% who were for that district. I don't know why that particular property was not included.

Commissioner Bill Carey: Okay, yes ma'am?

Connie Ployhar: I live in the district. First of all I would like to say that yes, there are seven of the nine people in the zoning district that are for this. Does that not make a question in your mind? There were two families who were left out of this. Why? Because they're doing this zoning to target us, they're not doing this to help themselves! Well, yes, maybe to help themselves because they don't want my uncle to help himself and to be able to live and have his business. I just don't think it's fair that they can exclude us and everyone agrees, "Well, yes they had 72% percent, so they can do it." When there's a reason there was only 72%, they go enough of the percentage so they didn't have to tell us, so we didn't have to know. I don't think that's fair or right! Thank you.

Wayne Williamson: I forgot to say something when I was up here the first time. I think some of my forefathers were here when Columbus got here, but I don't know what that has to do with anything. But, it was brought up in the public comment or the meeting, something about the beautiful site at mile marker 13? I think, had zoning been in place for the area around mile marker 13, that eyesore probably wouldn't be there.

Paul Palermo: I am a landowner in the valley. I want to know, I pay taxes on my land, I bought my land. I would like to know how many of these folks are going to show up and help the Ployhars and the other people out with their tax money and their land payments since they're deciding to restrict their land use and their rights. I do believe it's an infringement upon private landowner rights. Thank you.

Kathy Swofford: Unfortunately the people who had the question have left. The answer to why that one small parcel was not included? I couldn't get a hold of them! I tried, I talked to them the other day and they have been given all of the information and they are definitely for the proposal.

Commissioner Barbara Evans: Let's not keep fighting with each other.

Kelsey Ployhar: I just wanted to say that those people were not for the zoning.

Commissioner Bill Carey: Okay, well I think we've pretty much covered the issues here. Unless someone thinks there is something new? We'll go ahead and let the members of the Commission ask questions....state their views? Mr. Steck?

Bill Steck: Mr. Carey, the majority of an isolated group in a petition like this, they say have 70%? 80%? They have the majority in the area that they petitioned, correct? Does this committee have the power to reject that? Or is in the legal definition of zoning that they went and got the zoning person here to write it for them? In other words, is this a waste of time for us to even be here because it was legally done? Is it a done deal?

Commissioner Bill Carey: That's a question for our attorney.

Bill Steck: Well, then let me ask the attorney then?

Commissioner Bill Carey: Sure, is it a done deal?

Mike Sehestedt: The petition gives the Planning and Zoning Commission jurisdiction to act. It's their responsibility to then determine what the appropriate development restrictions, if any, are in the proposed districts. No, it's not a done deal, that's why there's a hearing and the purpose of the hearing is to determine what, if anything, should be done to zone within the area described. Citizen-initiated zoning district requires first of all it's 60% and those count of the freeholders within the proposed planning and zoning district petition. Then we have this step. The Planning and Zoning Commission will take action to, or not, to zone. Following that, there's a right of protest and now the Acres talk. If 50% or more of the titled property in the area objects or protests the proposed zoning regulations, then they are defeated. I would lay a couple of things to rest...there has been a lot of chit chat about spot zoning and the argument might make sense, generally, however the Montana Supreme Court has said the legislature authorizes zoning districts of 40 acres or more, therefore definitionally if you meet that 40 acres plus standard we can't consider it spot zoning. Similarly there have been references to the growth policy. The Montana Supreme Court has specifically ruled that Chapter 41, or this citizen-initiated type of zoning is not subject to the growth policy or comprehensive plan requirements. So, legally it's before the Planning and Zoning Commission, they have, based on what they've heard, the ability to make a decision as to what zoning regulations if any, should be adopted within the area. The other thing I would note is that statute requires the action be by a majority of the whole Planning and Zoning Commission. Since the whole the Planning and Zoning Commission consists of seven members, it will take at least four affirmative votes, even though we only have five here present. Commissioner Curtiss is away on other County business and our other citizen member was unable to make it. It that?...

Bill Steck: Yes, I think you summed that up fairly well. When do you take this vote?

Commissioner Bill Carey: Right now, as soon as we're done hearing from folks.

Mike Sehestedt: As soon as they're done with the testimony.

Bill Steck: Okay, I'll shut up. Thank you Mr. Carey.

Commissioner Bill Carey: Okay, I think we've completed the testimony from folks? Okay, member of the Commission, your thoughts, questions, concerns?

Vickie Zeier: I have a few questions. First, I'd like to know, in the e-mail in attachment D to the attorney's brief that he presented to us...it refers to...and this is a question to Mike Sehestedt. It refers to a protest provision in the citizen-initiated district, is that the acreage protest you were speaking of?

Mike Sehestedt: Right, it was added actually fairly recently to the statute, at least by my time knowledge of the statute, probably within the last five or ten years. Essentially, it's aimed at preventing the sort of thing that some of the larger landowners expressed concern over which was getting a nose count of citizens who...ten small tracts and one large ranch and getting seven of those small tracts to cause zoning of the whole ranch. The key here is that in terms of protest, acres count, not number of owners. Petition requires the kind of democratic number of owners, there's economic protection for the large landowners in the protest provisions.

Vickie Zeier: My other question is regarding existing business. All I know is that there is a business that appears to have been started, but I don't know what existing in zoning means?

Mike Sehestedt: I'm not sure I can answer that question. Existing, I think would require that there be actual actions taken to establish it. It needs to be more than an idea, but...I simply do not have enough information to render an opinion on the stone cutting business as to whether or not that would be vested as

a grandfathered use or not. Certainly, the logging business as it exists and as it's operated historically, would be grandfathered. Similarly, the other businesses to the extent they exceed the home occupation would also be grandfathered and could continue. On the other hand, if this zoning were adopted, someone couldn't come in and say, "Well, I've always thought this would be the perfect place to open a commercial kennel, I think I should be grandfathered." You need to demonstrate that you've actually taken action to establish that use and that you've done more than just think about it.

Vickie Zeier: So, then we don't really have a definitive answer then, whether this zoning can stop that business....

Mike Sehestedt: I can't give you a definitive answer without more information. I...I think I've heard concern expressed by the proponents that there's going to be a large, essentially manufacturing or processing plant going in there. I've heard suggestions that actions have been taken to establish it and whether that's true or not...I'm just not in a position to give you an opinion with no facts.

Commissioner Barbara Evans: Michael, I sent you a little note asking you if it was legal to exclude the Ployhars land and zone the rest. You said probably not. I would like to look at that map and I believe Mrs. Cromwell has 56 acres if I remember correctly? So that exceeds the 40 acres and the other folks who want their land zoned, I'm perfectly willing to let them zone their own land. I'm not willing to put zoning on the Ployhars and exclude the kind of business that they wish to do on their land, it seems to me if someone wants to zone to their own land that's fine, but zoning someone else's against their will does not seem like a good idea to me.

Mike Sehestedt: Well, you know Barbara....

Commissioner Barbara Evans: And I know the percentages, Michael, I'm well aware of that.

Mike Sehestedt: It's up to you. You could also establish within the zoning district, establish a sub-district that permitted this. That might be your option. I would point out that voluntary zoning probably doesn't accomplish much and for all the chit chat about it, if people would just talk, we could solve all of this. We've had an awful lot of dialogue here today and it doesn't sound like anyone's moving.

Commissioner Barbara Evans: Nope, it doesn't at all.

Sylvia Wiesenberger: I'm a citizen member of the commission. I think I have to agree with what Barbara said. My concern is that when you look at this map, you see a very small parcel, which everyone has talked about being a very small parcel in this area. What happens when you look at the map is that the guy who lives across the road, or adjoining the property, what if he decides that he's going to do something that maybe the rest of the neighbors don't like and now we've got another zoning request coming in and another and another until...I believe that it grows, also. I think it sets a precedent. I think, having recently gone through a zoning issue up in Seeley Lake, I know the importance of neighborhood discussions to make sure everyone's on the same page and that we don't have any surprises at the other end. The other thing is that more and more land sales are resulting, and going to happen, in the Potomac Valley. I live in Seeley Lake and there are a lot of people who are driving up and down that road everyday that are commuting from Seeley. Potomac is a lot closer than Seeley and it's going to be a very attractive place for people to want to live and you're going to have a lot of density in that area with residential properties and zoning a very small piece of this, to me....you talked about trying to zone the entire valley at one point in time, which apparently didn't happen, but I can just see the neighbors across the road doing something that now we're not going to like. Then the ones behind them aren't going to like it and we're going to get bigger and bigger zoning, so...I believe if you want to zone your own property, fine. But zoning to completely surround someone and prohibit them from having, or a least continuing their livelihood, I think there's a problem about how we went about this. I think the very small area bothers me as well, because you now have a very small section that is surrounded by other residential properties that are going to be just as densely built on.

Greg Robertson: Listening to the testimony, I'm reminded of my days as rural planner in Wyoming, which is now somewhat of an endangered species. I've heard the same arguments time and time again. Really though, I'm troubled by the e-mail from Denise Dundon, former planner regarding her concerns of exclusionary zoning. I, after listening to the testimony, would have to concur. I can't support the petition in its present form. In my years as a planner in Wyoming, I dealt with a lot of rural folks. The county I lived in was the larger than nine states and we had less population than Missoula, including the cities. So, it was wide spread and one thing I learned really quickly is that folks that really want to hold onto their land, especially in the rural aspects, have to do what they have to do to get whatever income they can to manage. Sometimes that requires considerable diversification. I would think that there could be some middle ground struck if the folks would just talk to each other. I'm kind of concerned, after listening to it, that a lot of this stuff was done without the Ployhar's knowledge and that to me is unfortunate. I think zoning has its place, it is a good tool if done right. But applying residential zoning to a rural setting, especially when you have to look at diversity of uses, is very problematic and just is not going to work very well. My recommendation to you would be to reject this proposal as it is and send it back to the drawing board to see if there can be some middle ground struck with the Ployhars on what is reasonable and acceptable.

Commissioner Bill Carey: Are you prepared to put that in the form of a motion?

Greg Robertson: Yes Sir.

Commissioner Bill Carey: Okay, does it have a second?

Mike Sehestedt: Greg, your motion is just to....

Greg Robertson: Reject the proposal.

Mike Sehestedt: Reject the proposed regulations? And ask that they resubmit so the petition....the potential for creating the district is still there, you're simply asking the petitioners, OPG Staff to work with the Ployhars to see if they can generate an appropriate set of regulations to bring back to you?

Greg Robertson: That is correct.

Mike Sehestedt: Okay.

Mary McCrea: I just want to address the e-mail from Denise Dundon. She was the first planner that the petitioners had a pre-application meeting with. The way that these citizen-initiated zoning districts always come in...there is one property that proposes and activity that the neighbors didn't realize could happen in their neighborhood. So, they come in and they're upset at that one proposal and they're trying to find a way that they can create a zoning district...or what the method would be for creating some predictability. So, this e-mail was sent to Colleen Dowdall, Deputy County Attorney, with specific questions. It was fairly early on in the process, July 22, 2005. OPG went through many versions with these applicants, getting them to include permitted uses like agricultural activities, advising them about which sort of things in state law can't prohibited, which uses – manufactured housing. Colleen did a review trying to help them and definitely let them know that you couldn't....that this zoning may not even prohibit what – the initial activity that had upset them in the first place. It could set standards for future development, but that the whole discussion of the section that deals with legal non-conforming uses and structures, we had a lot of discussion about that and those were important things. There were discussions about types of commercial uses. Initially they were looking at some specific districts, it turned out that they were more....they wanted to keep home occupations. Some of their home occupations wouldn't necessarily meet the home occupation resolution that the County has for citizen-initiated zoning districts, so then again they looked at the legal non-conforming use and legal non-conforming sections. So, I think there was some effort on their part to realize that this zoning district may be the catalyst was the fear that a neighbor could create a major industrial business, but that it may not prevent it in the process. I think they did quite a bit of work so far to try to make adjustments to their standards.

Vickie Zeier: The law permits citizen-initiated zoning and even if this one is tabled for now, it doesn't mean that somewhere else in Potomac that this whole process couldn't happen all over again. My main concern about this is one that a year and a half went by and part of the homeowners in that district didn't know that it was going on. Or at least that's what we were told. That for me, if I were in that area, I'd be talking to my legislature because I think that should change too. I think it's pretty sad that they didn't know. I have a problem because I don't feel like I have enough facts. I don't know if the whole argument that I think we'll be making our decision on is the business that we're trying to exclude, whether it really is going to....we don't know if it's existing already. So, it's almost as if we could table it and in reality they already could be running that business even if we pass the zoning district. For me, that's kind of where I'm at. I'm stuck because I don't really know enough facts about the business and whether it would be grandfathered in. I understand Greg and Sylvia's issues also, this is why I'd never be a Commissioner, this is a tough one for me. I feel I don't know enough facts.

Commissioner Bill Carey: There is a motion on the floor, has it been seconded? I don't think so.

Commissioner Barbara Evans: Greg, friendly amendment...that is to ask you to take....simply move to reject the petition and if they choose to come in with another one, fine, but don't make your motion contingent upon them doing that.

Greg Robertson: Again, that's why I'm not a Commissioner and I don't plan to be.

Commissioner Barbara Evans: Why does everyone want our job?! Hahaha.

Greg Robertson: That's acceptable.

Commissioner Bill Carey: Any further discussion? I would just like to say that from my perspective as a County Commissioner, your way of life out there is threatened by growth pressures. Basically the legislature has left it up to folks in a given area to gather themselves together to try to do something about the growth that's coming their way. How are they going to direct it? What are they going to allow? It is under threat. You, I think you folks know that, we certainly....we preside over the subdivision of Missoula County on a weekly basis. So, unless the citizens, who share a place, learn how to work together and find some things to agree on, you'll be looking to move to British Columbia or something in 10 years because there's nothing left in the lower 48. I would urge you to learn at least one lesson from this and that is you really move along and make progress if you learn how to work together and talk to each other and not let it become a personal thing. You do share a beautiful part of this country. With that I'll call of the vote.

Greg Robertson moved to reject the petition to create a Citizen-initiated zoning District in the Potomac Valley. Commissioner Barbara Evans seconded. The motion carried on a vote of 5-0.

Commissioner Bill Carey: Thank you, that comes as a recommendation to the Board of County Commissioners. We will close the Planning and Zoning Commission hearing and resume the Board of County Commissioners hearing.

Commissioner Barbara Evans moved to accept the recommendation of the Planning and Zoning Commission and reject this request. Commissioner Bill Carey seconded. The motion carried on a vote of 2-0.

Commissioner Barbara Evans: I'd like to add one other thing and it's a personal feeling about this. That is you do live in a beautiful place. Unfortunately ranching and farming don't pay anymore and one of these days, all of you may be in a position where you need the income in order to survive. If you have to sell your land in order to do that, you're going to want to be able to sell it with as few restrictions on it as possible. Unfortunately, that just happens to be reality.

Seeing no further business, Commissioner Bill Carey recessed the hearing at 4:10 p.m.