

PUBLIC MEETING – JANUARY 3, 2007

The Public Meeting was called to order at 1:30 p.m. by Chairman Barbara Evans. Also present were Commissioner Bill Carey, Civil Attorney James McCubbin, and Director of Public Works Greg Robertson. Commissioner Jean Curtiss was absent, attending a Public Health Improvement Task Force meeting in Helena.

Pledge of Allegiance

Public Comment

None.

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the weekly claims list for two weeks in the amount of \$1,097,112.69. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Hearing (Certificate of Survey): Kindred (aka Emerson) Family Transfer

Chairman Evans opened the hearing.

James McCubbin presented the staff report.

This is a proposed family transfer by Linda K Kindred (aka Linda K. Emerson) to create a parcel for a residence for her daughter, Carole Stinson. The intent stated in the application is to split an approximately 5-acre parcel roughly in half for two residential parcels, one for mother and one for daughter.

The history of the parcel is as follows: Frank Cunningham filed Certificate of Survey #1744 in December 1978 creating tracts of land having over twenty acres each. COS #2136 was filed in October 1979 for the purpose of creating a parcel for an occasional sale and tract D-1 filed to denote the owner's remainder. COS #2503 was filed in December 1980 with the purpose of creating a parcel (D-1-A) for an occasional sale. According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Chairman Evans: Thank you, James. Is there anyone here representing the applicant, would you come to the microphone? I assume you know why you're here.

Yes, ma'am.

Chairman Evans: Mr. McCubbin, our attorney, will ask you some questions. For the record, would you give your names?

Carole Stinson: Carole Stinson and this is Joe Hedges.

Chairman Evans: Would you like to tell us what it is you want to do?

Carole Stinson: I actually been living on the land since February of 98, but we are wanting to move our old trailer home off of the existing site and put on a 2007 manufactured home on a permanent foundation.

Chairman Evans: Could you speak into the microphone? We have to record these minutes and make them...

Carole Stinson: Okay, can you--okay, can you hear me? We're removing our old 1975 Lamplighter trailer and replacing it with a 2007 manufactured home on a permanent foundation. Our plans are to use all the existing utilities and hookups that are there. In 98, I actually did a subdivision, but it was never family transferred to me, so we have all the existing utilities and stuff that we need.

James McCubbin: What do you mean by you did a subdivision? On this property?

Carole Stinson: Yes, sir. We have the paperwork if you'd like to see it.

Chairman Evans: When you say you did a subdivision, do you mean you went through subdivision review and the Commissioners approved it ...

Carole Stinson: Approved it, yes ma'am.

Chairman Evans: Then maybe it's all done?

Carole Stinson: Well, I need the family transfer in my name in order to use the loan to get my manufactured home for a down payment for my home.

Chairman Evans: Would this be a mortgage release?

James McCubbin: Is the parcel that's proposed to be split by family transfer one of the parcels that came out of a prior subdivision. Is that what you mean?

Carole Stinson: It's the exact same location, sir. They just never filed it to have it deeded into my name. It was never...

James McCubbin: There was never a final plat filed?

Carole Stinson: No, sir.

James McCubbin: Okay.

Carole Stinson: But the subdivision's been approved and now that's why we're here to try to get the finalization on it.

James McCubbin: So the split that you are proposing is the same as was proposed in the subdivision?

Carole Stinson: Yes, sir.

James McCubbin: But without the final plat [inaudible] filed, it's probably expired.

Chairman Evans: We've never done this before; you're one of the first in these circumstances. So what do we do, just simply...?

James McCubbin: The analysis is the same. I guess there's some reassurance in the fact that there's actually been subdivision review. At least that's what we're being told and I don't have documentation on that.

Carole Stinson: We have documentation.

James McCubbin: I'm not saying I don't believe you, I'm just saying I haven't reviewed that. So that gives some reassurance. You know, most family transfers, you're not going to have any idea whether it's good, bad, or indifferent, so that's kind of a nice thing. But in terms of analysis of this process for family transfer, it's the same as any other family transfer.

Chairman Evans: So James will ask you some questions for the record.

Carole Stinson: Okay.

James McCubbin: Now I understand you are Carole Stinson?

Carole Stinson: Yes, sir.

James McCubbin: So your mother is the owner of the property, is that correct?

Carole Stinson: Yes, sir.

James McCubbin: Do you know how long she has owned the property?

Carole Stinson: I went to grade school out there. I really don't, sir, just--do we have the--?

James McCubbin: More than 10 years?

Carole Stinson: Oh, yes.

James McCubbin: Twenty years?

Carole Stinson: Yes, sir, more than 20 years.

James McCubbin: Do you know if she bought the property with the intent of dividing it?

Chairman Evans: If so, she was very patient.

Carole Stinson: No, sir, she did not buy it with intent to divide.

James McCubbin: There was some intent when there was subdivision review.

Chairman Evans: I was teasing, James. I tease a lot. It's my nature.

James McCubbin: Is there any intent by yourself or your mother to subsequently transfer either of the parcels that will be created sometime in the near future?

Carole Stinson: No, sir.

James McCubbin: So what is your intent?

Carole Stinson: To continue...

James McCubbin: To both have a residence?

Carole Stinson: To continue living there and upgrade to a new home.

James McCubbin: Give me just a moment.

Chairman Evans: This is his first time doing this.

Carole Stinson: That's fine, it's mine as well.

James McCubbin: I've done a number of these. So the development of the property will be as you have discussed here today?

Carole Stinson: Yes, sir.

James McCubbin: Do you and your mother live in the same residence at this time?

Carole Stinson: Yes, sir--oh, no, I'm sorry, we're in separate homes but on the same land, yes.

James McCubbin: There's actually already two residences...

Carole Stinson: I've been approved...

James McCubbin: ...on the parcel?

Carole Stinson: Yes, sir.

James McCubbin: Have you talked to anybody about pursuing subdivision review subsequent to the past process you went through? Have you considered doing that for this proposal?

Carole Stinson: I'm sorry; I don't understand your question.

James McCubbin: Have you weighed your option of going through subdivision review instead of going through this process? Have you spoken with anyone about that?

Carole Stinson: We have a--I guess no.

Chairman Evans: I would think the answer is you've already gone through subdivision review.

Carole Stinson: We did, we've been approved and--yes, ma'am.

James McCubbin: Do you understand at this time that this request, the family transfer request, is not being reviewed for adequate access in various weather conditions for all vehicles, including emergency services? Do you understand we're not reviewing this for emergency access?

Carole Stinson: Yes, sir.

James McCubbin: Do you understand that an approval of a family transfer does not necessarily mean--does not mean on it's own that you'll get approval or you'll have approval for any other permits, such as floodplain permit...

Carole Stinson: Yes, sir.

James McCubbin: ...sewage, wells, anything like that? Those are all separate processes. Do you understand that?

Carole Stinson: Yes, sir.

James McCubbin: And that approval of the family transfer does not guarantee any of those approvals? Do you understand that?

Carole Stinson: Yes, sir.

James McCubbin: One thing we might want to do is, if you're going to be considering it as part of your decision, whether there's an attempt at evasion or not, is enter the preliminary plat approval from the prior subdivision for the record. If that's something you would like to take a look at, it sounds like something you're considering. I don't know if we could get a copy of that.

Chairman Evans: I would have no problem with doing that, but it would seem to me that it's clear that there is no intent to evade the subdivision act because she's been through it.

Carole Stinson: Yes ma'am.

James McCubbin: We don't actually know that without the piece of paper.

Commissioner Carey: So have them introduce that for the record.

Carole Stinson: They want you to take--the letter stating that it was approved. Is that in here?

Chairman Evans: Do you want her to give that to you or to Cathie? Give it to Cathie and she'll put it in the record or make you copy. I assume you'd like a copy. Okay, do I hear a motion?

Commissioner Carey made a motion that the Board of County Commissioners approve the request by Linda K. Kindred 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. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Chairman Evans: It has been approved and you will get a letter to that effect. It may be awhile before it's written because we're kind of backlogged here, but we will give it to you.

Carole Stinson: Okay.

Chairman Evans: This is--do we need the whole package, James?

James McCubbin: I'd say just the approval letter. Probably some kind of identification of the parcel [inaudible] if there's no legal on the approval letter.

Chairman Evans: I don't see one, but I'm not used to looking at these papers.

James McCubbin: Probably just the letter is sufficient. That identifies that the subdivision was [inaudible] from County records what that is.

Chairman Evans: We'll get a copy made and give that back to you.

Hearing (Certificate of Survey): Hedin Family Transfer

Chairman Evans opened the hearing.

James McCubbin presented the staff report.

The item is consideration of a request to create a family transfer parcel for that parcel described as Tract 1A, COS 4060, in Section 35, Township 15 North, Range 14 West. The background on this request is that Richard and Neva Hedin have submitted a request to create one parcel using the family transfer exemption to the Montana Subdivision and Platting Act. The current parcel is approximately 25 acres in size located near Greenough, Montana. Richard and Neva propose to create one approximately one to five acre parcel for transfer to their son, Gary Hedin, for residential purposes and to keep the remaining approximately 20 +/- acre parcel for residential purposes as well.

The history of the parcel is as follows: COS #3532 was filed in January 1988 for the purpose of creating an irregular parcel greater than twenty acres in size, identified as Tract A. In January 1992, COS #4060 was filed creating a parcel of land for the purpose of relocation of common boundary lines between adjoining properties. The new parcel there was identified as Tract 1A. According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

Recommendation on this matter is you consider a request to create a family transfer parcel by dividing the parcel described as Tract 1A, COS 4060, in Section 35, Township 15 North, Range 14 West. There's a proposed motion in the staff report.

Chairman Evans: Thank you. Would you like to come up to the microphone and tell us what it is you want to do? Identify yourself for the record and allow us to ask us any intrusive questions that we chose to ask.

Neva Hedin: My name is Neva Hedin and my husband is Richard. We just wanted to give the five acres to our son for him to build a house on.

Chairman Evans: And now James--do you have any questions before we go on? James, would you read the questions please?

James McCubbin: Okay and before I do the standard questions, you mentioned five acres...

Neva Hedin: Yes.

James McCubbin: ...the application packet mentioned one to five acres...

Neva Hedin: Well, approximately five.

James McCubbin: Okay, good enough. How long have you owned the property?

Neva Hedin: Since 1988.

James McCubbin: Did you buy the property with the intent of dividing it?

Neva Hedin: No.

James McCubbin: Do you or your son intend to transfer the property within the next year?

Neva Hedin: No.

James McCubbin: Is your son a minor?

Neva Hedin: No, he's not.

James McCubbin: Will the property be developed?

Neva Hedin: No, it'll just be for a house.

James McCubbin: So you'll have the current residence, plus the additional residence for your son?

Neva Hedin: Yes.

James McCubbin: And he will then reside in that house?

Neva Hedin: Yes, he will.

James McCubbin: Where does your son live now?

Neva Hedin: He lives in Minnesota.

James McCubbin: He's going to be moving here then?

Neva Hedin: Yes.

James McCubbin: Have you talked with anyone at the County about possibly going through subdivision review?

Neva Hedin: No, we have not.

James McCubbin: Are you in the business of building or developing property?

Neva Hedin: No, we're not.

James McCubbin: Are you attempting to evade subdivision review?

Neva Hedin: No, we're not.

James McCubbin: Do you understand that this request is not being reviewed for adequate access in all weather for all vehicles, including emergency services?

Neva Hedin: Yes, we understand that.

James McCubbin: Do you understand that this approval does not mean that the property is approved for zoning compliance, floodplain, or septic systems or any other permit?

Neva Hedin: Yes, we understand that.

Chairman Evans: Thank you, do you have any questions? I would like to explain that sometimes these seem like very intrusive questions that are really none of our business, but the reason that we have to do this is our chore is to find out whether or not you're trying to evade the subdivision act.

Neva Hedin: I understand that.

Chairman Evans: And these questions are to help us discern that and this isn't our favorite part of our job, I'll tell you that much.

Neva Hedin: It's okay.

Chairman Evans: Any other questions, comments? Pardon?

James McCubbin: I was thanking them for their patience.

Chairman Evans: Okay, so, motion.

Commissioner Carey made a motion that the Board of County Commissioners approve request by Richard and Neva Hedin 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. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Consideration: Lolo Creek Subdivision (5 lots on 46.92 acres) - Highway 12 West in Lolo

Chairman Evans opened the hearing.

Mirtha Becerra, Office of Planning and Grants, presented the staff report.

Before you today is Lolo Creek Subdivision. This is a request from Arlyn Lemer represented by DJ&A to subdivide his 46.9-acre property into five residential lots. Lot 1 is where he currently resides and that lot is approximately 27 acres in size. Lots 2 to 5 vary between 3 and 7 acres in size. The property's located off of Balsamroot Road, off of Highway 12 in Lolo. The property is unzoned in the County and the 2002 Lolo Regional Plan designates the property as residential one dwelling unit per five acres. A portion of it is floodway and a portion of it is open and resource. The floodway portion coincides with the FEMA designation, FEMA 100-year floodplain designation. The property contains areas of riparian resource along the Balsamroot Road boundary of the property and some floodplain areas along where Lolo Creek is present. If you look at the plat to your right, it's the area that is shaded blue, that is all FEMA floodplain area.

It is because of these two significant resources that originally staff had recommended a different access to the property. The original proposal called for one driveway to Lot 5, a shared driveway for Lots 3 and 4, and an additional driveway to Lot 2. For safety reasons, Montana Department of Transportation did not want to grant another access off of the highway, which would have made it easier to prevent any disturbance through those riparian resource areas. In addition to that, we had comments from Rural Initiatives regarding the importance of riparian area on the property, as well as comments from the Confederated Salish and Kootenai Tribes and our Historic Preservation Officer regarding the potential presence of historic and prehistoric artifacts or burial sites on the property as well. It is because of that reason that we are recommending a different way of accessing the lots. The proposal would be for one driveway on Lot 5, which would provide an easement to Lot 4 and another driveway would be shared between Lots 2 and 3. Lot 1 has its own driveway off of the highway.

There are two variance requests and that is in your memo that you have received today. I apologize for the numbers being a little bit off, but what you will see in the report is a deletion of two of the variances that were originally placed on the report. So Variance Request #1 is to vary from the requirement to have to widen and pave Balsamroot Road. Balsamroot Road is actually between 20 and 22 feet wide and a requirement calls for improving it to 24-feet wide. A condition requires that the applicant improve this road to 22 feet along the entire length of the property boundary. The next condition is Condition #4 and it's highlighted in your memorandum. That variance request is to vary from the requirement, which prohibits lots to be divided by a public street or easement. Staff recommends approval of that variance request. That would apply to Lots 4 and 5 for that shared driveway that we are proposing now.

Commissioner Carey: Mirtha, I have a question, #1, the conditions about the 22-foot gravel surface width, that has not been deleted, right?

Mirtha Becerra: No that remains.

Commissioner Carey: So it's not stricken, it's got a...

Mirtha Becerra: I don't know how that happened, but it won't be shown like that on the report.

There are a number of conditions of approval and some of them have to do with amending the development covenants. Some of the other ones are more relevant to the sub, so I will try to highlight the ones that I think are more relevant for you. The first one is a condition that requires a road easement for US Highway 12 to be verified and shown on the plat prior to final plat approval. There was some discrepancy as to the road right-of-way width and as a recommendation from Public Works; we're asking that that be shown under [inaudible] prior to final plat approval. The next one is the surface width for Balsamroot Road shall be increased to 22 feet along the entire subdivision property boundary. Engineering plans for the road improvements shall be reviewed and approved by the County Public Works Department and Missoula Rural Fire District prior to final plat approval.

Conditions of Approval #3 and 4 are new conditions and those are to address the new driveway access to the lots. The first one would be that the subdivider shall show on the plat a 20-foot wide shared driveway accessing utility easement along the property boundary between Lots 2 and 3 prior to final plat approval. Individual driveways branching off from the new shared driveway easement to building sites located on Lots 2 and 3 shall occur beyond the riparian resource area and buffer area bordering Balsamroot Road.

The next one, the subdivider shall install a 16-foot wide shared driveway with a gravel surface and a minimum unobstructed width of 20 feet within the shared driveway accessing utility easements serving Lots 2 and 3 and serving Lots 4 and 5 prior to building permit approval. The shared driveway serving Lots 2 and 3 shall be located within the easement such that all black cottonwood trees, 15 inches in diameter and greater, are preserved.

Shared driveway serving Lots 4 and 5 shall be outside the riparian area, the riparian resource area. Individual driveways branching off from the new shared driveway easements shall occur outside the riparian resource and buffer area bordering Balsamroot Road. Engineering plans for the driveway shall include a turnaround for fire apparatus at the terminus of each driveway and shall be reviewed and approved by County Public Works and, Missoula Rural Fire District prior to building permit approval.

The next condition is to be revised and it would read, "The plat shall show a one-foot no-access street along Balsamroot Road easements on Lots 2, 3, 4, and 5, adjacent to the riparian resource area, except for the area off the two 20-foot wide driveway easements serving Lots 2 and 3 and serving Lots 4 and 5 prior to final plat approval." That is that pink line that is along the Balsamroot Road on the plat.

The next condition, Condition of Approval #6 is to be deleted as it made reference to the original proposed access to the lots. So #7 is plans for driveways in excess of 150 feet in length shall have approved turnarounds for fire apparatus, minimum unobstructed width of no less than 20 feet, an unobstructed vertical clearance of 13 feet, 6 inches, subject to review and approval by Missoula Rural Fire District prior to building permit approval.

Number 8 has to do with government land office trail shown in a previous COS, the COS that created the parcel. Based on comments from Public Works, we want to clarify that. #9 is the inclusion of Balsamroot Road to the RSID/SID waiver statement currently placed on the plat. Condition of Approval #10 is to be deleted. The next condition has to do with including an RSID/SID waiver for public water, water systems, based on benefit.

The next one has to do with water rights. The subdivider shall remove the water rights from Lots 2, 3, 4, and 5 through an appropriate legal administrative process, which shall be indicated by a statement on the final plat and in the covenants subject to review and approval by the County Attorney's Office. Number 13 has to do with the primary travel corridor. Highway 12 is a primary travel corridor in standards and our subdivision regulations require a number of plans for landscaping and watering of that area.

Number 14 has to do with fire protection and a provision of a source of water for fire protection and for that source to be approved by the Rural Fire District. Fifteen has to do with visible address signs from all streets and in all conditions. Number 16 is related to floodplain. The pre- and post-construction elevation certificates are required

for new construction on Lots 1, 2, 3, 4, and 5, documenting that the lowest floor and utility elevations are at minimum 2.5 feet above base flood elevation prior to building permit approval. Number 17 has to do with amending the designation, the FEMA floodplain designation. Currently only a portion of it is shown and it's missing a little bit of it, so that's the requirement. Number 19, prior to any disturbance of the site and within three months after notice from the developer, the Confederated Salish and Kootenai Tribes of the Flathead Nation, or their agent, shall be permitted to conduct a cultural resources survey of the site and the following language shall be added to the Development Covenants prior to final plat approval.

Chairman Evans: Mirtha, did you miss #18 or did I...

Mirtha Becerra: Oh, I did miss it, I'm sorry. That is linked to #17 and that's probably why. What that requires is that the entire area that is within the floodplain be designated a no-build zone. Thank you.

The development covenants should include the following language: The Lolo Creek Subdivision is located in an area of significant cultural concern to the Confederated Salish and Kootenai tribes. If historical or cultural artifacts are discovered during ground disturbance as a result of the subdivision development activity, impacts to the area of discovery shall be halted and the Confederated Salish and Kootenai Tribes Preservation Department shall be contacted immediately.

The next condition, Condition #20, is related to riparian resource area. The Riparian Resource Area and Buffer shall be designated as a No-Build/No-Disturbance Area, which shall be defined in the Riparian Management Plan and in the covenants as follows, and Section B of the Riparian Management Plan shall be replaced with the following language subject to review and approval by OPG prior to final plat approval. That reads, "The no build/no disturbance area shall include the prohibition of all buildings, structures, fences (except for wildlife friendly fencing), roads, motorized vehicle access except for routine maintenance activities, parking, storage, livestock grazing or watering except at one designated watering location along the creek, or any other development. It shall also prohibit any mining, cutting, burning, or removal of live or dead vegetation (except if needed for fire prevention or noxious weed control for safety considerations or for healthy forest management), filling with substances such as gravel, soil, slash or other debris, or the planting of non native vegetation such as lawn grasses." The livestock watering location along the creek shall be submitted for approval to OPG prior to final plat approval and shall be shown on a final Riparian Management Plan to be included in the covenants. The Riparian Area and Buffer No-Build/No-Disturbance Area shall be shown on the plat and on the map to be included in the covenants.

The next condition is based on Planning Status discussion and it reads, "The riparian resource area and buffer shall be revised on the plat and on the riparian resource map to more accurately designate those areas that contain riparian vegetation as listed in Appendix 6, Riparian Wetland Habitat and Community-Types of the Missoula County Subdivision Regulations, subject to review and approval by Rural Initiatives and OPG prior to final plat approval. Currently all of that area designated as riparian resource and the FEMA floodplain areas are all one no-build, no-improvement zone, so this will allow the developer to more accurately show where the riparian areas are.

Commissioner Carey: Mirtha, this says Appendix 5.

Mirtha Becerra: That's correct, did I say 6?

Conditions of approval #21 and 22 need to be renumbered. Those conditions of approval include the general language that we have regarding radon and energy-efficient measures for the covenants, and weed control. Letter d of that condition of approval is to be corrected, so that it reads, "Revise all sections of the Development Covenants and notes on the plat referencing shared driveways to delete references to a shared driveway for Lots 3 and 4 and to include references to maintenance agreements for the shared driveway serving Lots 2 and 3 and serving Lots 4 and 5.

Condition of approval #2e is to be deleted and replaced with the following, "A single shared driveway along the property boundary between Lots 2 and 3 is the only access crossing to the riparian vegetative zone. The private driveways for Lots 2 and 3, 4 and 5 shall be constructed outside the Riparian Resource Area and buffer. The shared driveway serving Lots 2 and 3 will be centered along the common lot line of Lots 2 and 3 and must be constructed to avoid all black cottonwood trees 15 inches in diameter or greater. A 36-inch pipe (or hydraulic equivalent) must be placed under the new shared driveways to ensure proper drainage of the existing swale.

During construction of the driveways, it is prohibited to side-cast materials into the swale that would impede drainage. Upon completion of the driveways, all the disturbed areas will be replanted according to the weed plan by the Missoula County Weed Board.

The next conditions of approval have to do with driveway requirements and it's somewhat similar to what I read before, so I'll skip that one, but letter g regarding floodplain requires that pre- and post-construction elevation certificates are required for new construction for Lots 1, 2, 3, 4 and 5 documenting that the lowest floor and utility elevations are a minimum of 2.5 feet above the base flood elevation.

The next two conditions are related to woodstoves and we already have that language. The next one has to do with amendments and that sections of the covenants relating to driveways, interior residential fire sprinklers, address signs, shared roadway maintenance, primary travel corridor, Riparian Resource Area and buffer, floodplain, No-Build Zones, Historical and cultural artifacts, weed control, living with wildlife, radon, driveways, woodstoves, or amendments may not be deleted or amended without governing body approval.

In conclusion, staff recommends approval of the subdivision based on the conditions of approval as presented in that memo and the findings of fact contained in the staff report. Thank you.

Chairman Evans: And with the variances listed or they are all removed? Or are they just renumbered?

Mirtha Becerra: Yes. Is there a developer who would like to represent his client and discuss this issue with us?

Paul Druyvestein: My name is Paul Druyvestein; I work for DJ&A Consulting Engineers. I represent Arlyn Lemer. He is the developer and the owner of the property. Arlyn's going to live in Lot 1 and that's his plan. I really appreciate all the hard work that staff and Mirtha did on this project. It was fairly complicated with all the riparian issues. I think that we've addressed all of our concerns with the rewriting of the conditions as they're done. We don't see any of these that we can't live with. We would have maybe preferred back to the driveway configuration that we had before, but I believe that what we have come up with probably satisfies--is middle ground for everybody.

The only problem that we had is of course having a common driveway through Lot 5 really affects Lot 5's--the owner of that property because it has another driveway that's going to be going through there, but that's something that I think we can live with. We do like the opportunity to better delineate the riparian areas. We, I guess, would hope that you would approve this subdivision. Thank you.

Chairman Evans: Thank you.

Commissioner Carey: I have a question, Paul, while you're there, please with regard to Condition #13, the primary travel corridor. This speaks to specifications outlined in the primary travel corridor plan in terms of landscaping and so on. Could you just briefly describe what some of those things are? I mean are they talking about trying to kind of shield the home from the view of motorists on Highway 12 or how's that work?

Paul Druyvestein: Well it's my understanding and you'll have to forgive me because I think I read it a while back. I think it was basically to replant some native trees and vegetation along that corridor because it's not a commercial area, it's a single-family residence, you know, subdivision that I didn't believe that there was some wording in here that was a little less--that it didn't have to be such a--I guess, commercial-looking landscape, it could be more natural. That was what my belief was on that and Mirtha might have to correct me if I'm wrong.

Mirtha Becerra: The standard for our regulations require that landscape be done for all subdivisions adjacent to primary travel corridors. What that means is installing landscape on private property adjoining a travel corridor 25 feet from the right-of-way line. So that area is what needs to be replanted or...

Commissioner Carey: Is there any intention at all in the specs to try and shield to whatever extent might be possible, the view of the homes from the highway?

Paul Druyvestein: I think it was our intention was to plant native tree species that would accomplish that goal.

Chairman Evans: The reason it was done, Bill, as I recall, was to provide nice gateways into the community and to provide for landscaping to make it look nice, but I don't think we ever went to the point where it was designed to

shield the houses or the highway from the houses. So, what did we provide, Mirtha, 30 feet between the trees or what? I don't remember.

Mirtha Becerra: Yes, 30 feet spacing between trees. You know, the purpose of it is also the visual quality, I believe, from the highway as you travel along the highway.

Commissioner Carey: That's actually why I'm asking because some 25 years ago, I first came to Montana on Highway 12 and was struck by how beautiful it is and it would be nice to try and do our best to shield housing from the highway if we can.

Paul Druyvestein: Yeah, I think our intent was--well, I don't know, I'll have to double-check this, but we were hoping like--you know there's a lot of the cottonwoods along there and you can get, you know, [inaudible] cottonless cottonwoods that look just like those. Those have been pretty popular to put along there. I wouldn't want it--I was hoping that it wouldn't have to look like an actual landscaping corridor along like a commercial zone. I was hoping to match what is out there and I think that's what the intent is.

Commissioner Carey: I think so too.

Chairman Evans: I think so too.

Commissioner Carey: Thank you.

Chairman Evans: This is just a consideration. We always allow public comment on anything, so if you have anything that you'd like to say about this subdivision, either pro or con, please come to the podium.

Commissioner Carey: I think Meg is here from Rural Initiatives.

Chairman Evans: Meg, are you wanting...

Commissioner Carey: Mel, excuse me.

Chairman Evans: Are you wanting to talk about this one, Mel?

Mel Waggy: [Inaudible, spoke from audience.] I was only--if there was a question about changing the access to the drive...

Chairman Evans: Would you come up and do it at the mic? Cathie gets real picky if she can't hear.

Mel Waggy: I had visited the site in November with Mirtha. It was one of my recommendations that they try to alleviate one of the driveways to the riparian area and it appears that they don't have any problems with that. Mirtha did...

Commissioner Carey: Excuse me, would you identify yourself for the record, please?

Mel Waggy: I'm sorry, I'm Mel Waggy, and I am from Rural Initiatives, Missoula County.

Chairman Evans: And just for Cathie's edification, would you spell your last name?

Mel Waggy: Sure, W-A-G-G-Y.

Chairman Evans: Thank you. So, you're okay with it then, the changes they've made?

Mel Waggy: I am. Mirtha did show me a map today about them wanting--let's see, its Lot #2, I believe, extending livestock grazing into the riparian area. I have some real concerns about that because originally the plan called for no-build, no-disturbance in the riparian areas. I think that's why Mirtha had them--she wants them to delineate the riparian vegetation better because from the map I was given, it pretty much shows that they want to have livestock grazing throughout the riparian area attached to Lot 2. That, you know, having a concentration of livestock in that area would be pretty devastating to that plant community.

Commissioner Carey: Mirtha, does Condition #20 deal with that?

Mirtha Becerra: Yes, what it requires is for the developer to provide an amendment to the riparian map to better illustrate where the actual riparian resources area is, a separate or in a different color or in a different hatching from [inaudible] floodplains.

Commissioner Carey: Thanks.

Chairman Evans: Are you satisfied then?

Mel Waggy: Yes I am.

Chairman Evans: Is there anyone else who would like to comment? Paul, do I see you want to add anything? Okay, do I hear a motion?

[After motions were made and voted upon, discussion took place on rescinding a motion that contained the wrong Article number and numbering changes that needed to be made. Following are the correct motions.]

Commissioner Carey made a motion that the Board of County Commissioners conditionally approve the variance request from Article 3-2(1)(G) and 3-2(1)(I) requiring a paved 24 foot surface width for Balsamroot Road to permit a 22 foot gravel surface width based on the findings of fact in the staff report. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Carey made a motion that the Board of County Commissioners approve the variance request from Article 3-2(8) requiring internal pedestrian connections and pedestrian connections to school bus stops and to adjoining neighborhoods based on the findings of fact in the staff report. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Carey made a motion that the Board of County Commissioners approve the variance request from Article 3-3(1)(D)(ii) prohibiting lots from being divided by an access easement to permit the access easement serving Lot 4 to cross Lot 5 based on the findings of fact in the staff report. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Commissioner Carey made a motion that the Board of County Commissioners approve the Lolo Creek Subdivision subject to the recommended conditions of approval and the findings of fact in the staff report. Commissioner Evans seconded the motion. The motion carried on a vote of 2-0.

Lolo Creek Subdivision Conditions of Approval

Roads and Access

1. The road easement for US Highway 12 shall be verified and shown on the plat prior to final plat approval. *Subdivision Regulations Article 5-4(D) and County Public Works recommendation.*
2. The surface width for Balsamroot Road shall be increased to 22 feet along the entire subdivision property boundary and engineering plans for the road improvements shall be reviewed and approved by County Public Works and Missoula Rural Fire District prior to final plat approval. *Subdivision Regulations Article 3-2(I)(1) and County Public Works Recommendation.*
3. The subdivider shall show on the plat a 20-foot wide shared driveway access and utility easement along the property boundary between Lots 2 and 3 prior to final plat approval. The individual driveways branching off from the new shared driveway easement to building sites located on Lots 2 and 3 shall occur beyond the Riparian Resource Area and buffer area bordering Balsamroot Road.
4. The subdivider shall install a 16-foot wide shared driveway with a gravel surface, and a minimum unobstructed width of 20 feet within the shared driveway access and utility easements serving Lots 2 and 3 and serving Lots 4 and 5 prior to building permit approval. The shared driveway serving Lots 2 and 3 shall be located within the easement such that all black cottonwood trees 15 inches in diameter and greater are preserved. The shared driveway serving Lots 4 and 5 shall be outside of the Riparian Resource Area. The individual driveways branching off from the new shared driveway easements shall occur outside of the

Riparian Resource and Buffer Area bordering Balsamroot Road. Engineering plans for the driveways shall include a turnaround for fire apparatus at the terminus of each driveway and shall be reviewed and approved by County Public Works and Missoula Rural Fire District prior to building permit approval.

5. The plat shall show a one-foot "No Access" strip along the Balsamroot Road easement on Lots 2, 3, 4, and 5 adjacent to the Riparian Resource Area except for the area of the two-foot wide shared driveway easements serving Lots 2 and 3 and serving Lots 4 and 5 prior to final plat approval.
6. Driveway Plans for driveways in excess of 150 feet in length shall have approved turnarounds for fire apparatus, a minimum unobstructed width of not less than 20 feet and unobstructed vertical clearance of 13 feet 6 inches, subject to review and approval by Missoula Rural Fire District prior to building permit approval. *Subdivision Regulations Article 3-2(10) and Missoula Rural Fire District recommendation.*
7. The location of the Government Land Office Trail shown on the 1879 survey shall be verified and if located on or adjacent to the subject property, the easement shall be shown on the plat, prior to final plat approval. *Subdivision Regulations Article 5-1(4)(D), and County Public Works and Historic Preservation Officer recommendation.*
8. The RSID/SID waiver statement contained on the plat for improvements to US Highway 12 shall be amended to include Balsamroot Road prior to final plat approval. *Subdivision Regulations Article 3-2(14)(B)(i).*
9. The following statement shall appear on the face of the final plat:

"Acceptance of a deed for a Lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for public water and sewer systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owner of the land." *Subdivision Regulations 3-1(6).*

Water Rights

10. The subdivider shall remove the water rights from Lots 2, 3, 4, and 5 through an appropriate legal or administrative process, which shall be indicated by a statement on the final plat and in the covenants subject to review and approval by the County Attorney's Office. *MCA 76-3-504(1)(j-k), Subdivision Regulations Article 4-1(13) and OPG recommendation.*

Primary Travel Corridor

11. The developer shall install the landscaping and a system for watering, in accordance with the specifications outlined in the Primary Travel Corridor plan, prior to final plat approval. Additionally, the Primary Travel Corridor Plan shall be amended to include requirements from Article 3-14(3)(A)(v) and (vi) and (B) and delete requirements listed in the Plan under (vi) and (vii) which apply to non single family subdivisions, prior to final plat approval. *Subdivision Regulations Article 3-14(3) and OPG recommendation.*

Fire

12. The developer shall provide a water supply for fire protection that produces 1000GPM with a hydrant or, in lieu of a water supply with hydrant, the developer shall install interior residential fire sprinklers that meet NFPA 13D standards in each new home. Plans for a water supply and hydrant location shall be approved by Missoula Rural Fire District prior to final plat approval. If water supply for fire protection is to be provided by interior residential fire sprinklers then plans for the installation of interior residential fire sprinklers shall be approved by the Missoula Rural Fire District prior to building permit approval and the development covenants shall be amended to include the following prior to final plat approval:

"Installation of interior residential fire sprinklers that meet NFPA 13D standards are required in each new home for the purpose of fire protection. Plans for installation of interior residential fire sprinklers shall be approved by the Missoula Rural Fire District prior to Building Permit approval. Failure to install residential fire sprinklers in any new home may subject the entire subdivision to the cost of installation of a shared water source for fire fighting purposes."

This section of the covenants may not be changed or deleted without governing body approval. *Subdivision Regulations 3-7(1) and Missoula Rural Fire District recommendation.*

13. All residences within this subdivision shall post address signs visible from streets in all light conditions. Plans for visible addressing shall be reviewed and approved by the Missoula Rural Fire District and shall be included in a development covenant, prior to final plat approval. *Subdivision Regulations Article 3-2(2)(G).*

Floodplain

14. Pre and post construction elevation certificates are required for new construction on Lots 1, 2, 3, 4, and 5 documenting that the lowest floor and utility elevations are at minimum 2.5 feet above base flood elevation prior to building permit approval. *Subdivision Regulations Article 3-1(2) and Floodplain Administrator recommendation.*
15. The plat shall be amended to include the vertical datum designation NGVD 29 in reference to the 100-year floodplain boundary, prior to final plat approval. *Subdivision Regulations Article 3-1(2) and Floodplain Administrator recommendation.*
16. The plat shall be amended to extend the 100-year floodplain boundary completely across Lot 1 and all areas within the FIRM 100 year floodplain boundary shall be shaded and designated No-Build/No-Improvement Zone, and the plat legend revised to state Riparian Area/100 year Flood Plain-No-Build/No-Improvement Zone, prior to final plat approval. *Subdivision Regulations Article 3-1(2) and Floodplain Administrator recommendation.*
17. Prior to any disturbance of the site and within three months after notice from the subdivider, the Confederated Salish and Kootenai Tribes of the Flathead Nation, or their agent, shall be permitted to conduct a cultural resources survey of the site and the following language shall be added to the Development Covenants prior to final plat approval:

Historical/Cultural preservation

The Lolo Creek Subdivision is located in an area of significant cultural concern to the Confederated Salish and Kootenai tribes. If historical or cultural artifacts are discovered during ground disturbance as a result of subdivision development activity, impacts to the area of discovery shall be halted and the Confederated Salish and Kootenai Tribes Preservation Department shall be contacted immediately. *Subdivision Regulations Article 3-1(9) and Confederated Salish Kootenai Tribes Preservation Department and Historic Preservation Officer recommendations.*

Riparian Resource Area

18. The Riparian Resource Area and Buffer shall be designated as a No-Build/No-Disturbance Area, which shall be defined in the Riparian Management Plan and in the covenants as follows, and Section B of the Riparian Management Plan shall be replaced with the following language subject to review and approval by OPG prior to final plat approval:

“The ‘No Build/No Disturbance’ Area shall include the prohibition of all buildings, structures, fences (except for wildlife friendly fencing), roads, motorized vehicle access except for routine maintenance activities, parking, storage, livestock grazing or watering except at one designated watering location along the creek, or any other development. It shall also prohibit any mining, cutting, burning, or removal of live or dead vegetation (except if needed for fire prevention or noxious weed control for safety considerations or for healthy forest management), filling with substances such as gravel, soil, slash or other debris, or the planting of non native vegetation such as lawn grasses.”

The livestock watering location along the creek shall be submitted for approval to OPG prior to final plat approval and shall be shown on a final Riparian Management Plan to be included in the covenants. The Riparian Area and Buffer No-Build/No-Disturbance Area shall be shown on the plat and on a map to be included in the covenants. *Subdivision Regulations Article 3-13.*

19. The Riparian Resource Area and Buffer shall be revised on the plat and on the Riparian Resource Area Map to more accurately designate those areas that contain riparian vegetation as listed in “Appendix V: Riparian/Wetland Habitat and Community Types” of the Missoula County Subdivision Regulations subject to review and approval by Rural Initiatives and OPG prior to final plat approval.

Development Covenants

20. The Development Covenants shall be amended as follows, subject to review and approval by OPG, prior to final plat approval and these sections of the covenants shall not be deleted or amended without the approval of the government body:

- a. Replace Section 26 of the Protective Covenants titled "Radon" with the following updated language as recommended by the Health Department:

Radon: EPA has designated the Missoula area as having a high radon gas potential (Zone 1). Therefore, the Missoula City-County Health Department recommends that all new residences incorporate radon resistant construction features.

- b. Replace Section 25 of the Protective Covenants titled "Energy Efficiency" with the following updated language as recommended by the Health Department:

Energy Efficiency: The Health Department recommends that builders consider using energy efficient building techniques such as building orientation to the sun, appropriately sized eaves, wind breaks, extra insulation, passive solar lighting, solar heating, and ground source heat pumps for heating/cooling. Ground source heat pumps are usually more efficient, and so create less pollution, than other systems for heating and cooling. Increased energy efficiency reduces air pollution, reduces the need for people to use cheaper heating methods that pollute more, and helps protect the consumer from energy price increases.

- c. Replace Section 13 of the Protective Covenants titled "Weed Control" with the following updated language as recommended by Missoula County Weed District:

Weed Control: All lot owners are required to maintain their lot in compliance with the Montana County Weed Control Act and the Missoula County Noxious Weed Management Plan. Lot owners shall initiate weed control prior to any ground disturbance. Lot owners shall revegetate any ground disturbance with beneficial species at the first appropriate opportunity after disturbance occurs.

- d. Revise all sections of the Development Covenants and notes on the plat referencing shared driveways to delete references to a shared driveway for Lots 3 and 4 and to include references to maintenance agreements for the shared driveways serving Lots 2 and 3 and serving Lots 4 and 5.

- e. Revise Section 2 titled "Access" of the Riparian Vegetative Zone Covenants as follows:

Access:

A single shared driveway along the property boundary between Lots 2 and 3 is the only access crossing allowed to cross the riparian vegetative zone. The private driveways for lots 2, 3, 4 and 5 shall be constructed outside the Riparian Resource Area and buffer. The shared driveway serving Lots 2 and 3 will be centered along the common lot line of Lots 2, and 3 and must be constructed to avoid all black cottonwood trees 15 inches in diameter or greater. A 36-inch pipe (or hydraulic equivalent) must be placed under the new shared driveways to ensure proper drainage of the existing swale. During construction of the driveways, it is prohibited to side-cast materials into the swale that would impede drainage. Upon completion of the driveways, all the disturbed areas will be replanted according to the weed plan by the Missoula County Weed Board.

- f. Add the following Driveway Requirements to Section 4 of the Protective Covenants titled "Driveways and Parking Area":

Driveway Requirements:

Driveways in excess of 150 feet in length must be approved by Missoula Rural Fire District prior to building permit approval. A turn around for fire apparatus must be incorporated at the terminus of the driveway. The driveway must provide 20 feet of unobstructed horizontal clearance and 13 feet 6 inches unobstructed vertical clearance the length of the drive.

- g. Add the following requirements to the Development Covenants:

Floodplain

"Pre and post construction elevation certificates are required for new construction on Lots 1, 2, 3, 4 and 5 documenting that the lowest floor and utility elevations are a minimum of 2.5 feet above the base flood elevation. Crawlspace surfaces may be at base flood elevations provided they do not contain mechanical equipment."

- h. Add the following requirements to the Development Covenants:

Wood stoves:

While not required outside the Missoula Air Stagnation Zone, the Health Department encourages property owners that choose to install solid fuel burning devices to install pellet stoves or EPA-approved wood stoves that emit less than 4.1 grams of particulate per hour to reduce particulate pollution in the area.

- i. Amendments:

Sections of the covenants relating to driveways, interior residential fire sprinklers, address signs, shared roadway maintenance, primary travel corridor, Riparian Resource Area and buffer, floodplain, No-Build Zones, Historical and cultural artifacts, weed control, living with wildlife, radon, driveways, woodstoves, or amendments may not be deleted or amended without governing body approval. *Subdivision Regulations Article 3-1(1) & (2), 3-2(13), and 3-2(10)(E) and City/County Public Health Department, Missoula Rural Fire District and Floodplain Administrator recommendations.*

Hearing: Country Crest No. 3A, Lot 26 (2 lots on 1 acre) - Peregrine Loop

Chairman Evans opened the hearing.

Zack Brandt, Office of Planning and Grants, presented the staff report.

This item is a subdivision request from Dana Skiftun, represented by Ron Ewart with Eli & Associates, to subdivide a one-acre lot into two half-acre lots. We've done several of these Country Crest subdivisions, so this is similar to all the others. The area is zoned C-RR2 at two dwelling units per acre and the Comprehensive Plan also recommends a land use density of two dwelling units per acre. The proposal is in compliance with both the zoning and the land use designation. Lot 26 is located along Peregrine Loop in the Country Crest #3A Subdivision. Peregrine Loop is a County maintained road within a 60-foot right-of-way and paved to a surface width of 24 feet.

The applicant's requesting two variances. One is to not install curb and gutters along Peregrine Loop. Two is to not install sidewalks on Peregrine Loop. A condition of approval requires that the applicant add Grassland Drive to the RSID waiver statement as shown on the plat waiving the right to protest improvements to Peregrine Loop including curb and gutter and sidewalks. Staff supports the two variance requests based on agency comment.

Staff is recommending 11 conditions of approval. I'll summarize a few of these conditions at this time and if you'd like, I can do the rest in more detail. Condition of approval #1 states that the application shall receive approval of a variance request for Lot 26B to the Missoula County Zoning Resolution #76-113 for minimum lot width in the C-RR2 zoning district from the County Board of Adjustment prior to final plat approval. This condition is necessary because Lot 26B does not meet the minimum lot width requirement of the zoning. Condition of approval #2 states that the subdivider shall contribute #230 per new lot to mitigate the impact of additional development to assist in the signalization of the Flynn/Mullan intersection and \$815 per new lot to mitigate the impact of development on the Mullan/Reserve Street intersection.

Condition of approval #6 requires that the plans for the installation of interior residential fire sprinklers shall approved by the Missoula Rural Fire District. Condition of approval #7 requires that plans for visible addressing be reviewed by the Missoula Rural Fire District. Lastly, Condition of approval #9 states that the newly created lot shall contribute to the sewer RSID #8486 in the amount specified in the resolution. As I stated previously, the full conditions of approval are contained in the staff report. I'd be happy to answer any questions. Thank you.

Chairman Evans: Do you have any questions at this time? Does the representative wish to speak?

Ron Ewart: Good afternoon, I'm Ron Ewart with Eli and Associates. We are in agreement with the recommended conditions of approval. As we discussed on Monday, there's a little bit of a situation with this particular lot. It's on the outside of a curve, therefore, the frontage is less than 200 feet at the 25-foot building setback. So in order to meet the zoning, we increased our setback to a 60-foot setback so that we would have a 100-foot width at that building setback. Apparently that still doesn't meet the technical letter of the regulation, of the zoning regulation, therefore, we have to go to the zoning Board of Adjustment. Again, we're in agreement with the conditions and would like to know your thoughts on the zoning variance proposal.

Chairman Evans: Thank you, Ron. I'd like to ask our Deputy County Attorney if there's anyway to prevent having to do that since this subdivision, the entire subdivision of Country Crest, has been approved in the past with the clear determination that it would be split later. It was approved to be that way and the configuration was looked at and approved at that time. It puts this one particular lot in a pickle in that it being on the curb, if the setback is agreed to at 100 feet, do they then have to still go through the Board of Adjustment based on our previous approvals.

James McCubbin: I have not had an opportunity to actually review the particular language of the zoning that applies. My understanding is that planning staff has reviewed that and determined that really we need a zoning adjustment, a variance from zoning Board of Adjustment to comply with the zoning. Assuming that's the case, there are two separate processes, so I don't see a way of avoiding having to go to the zoning Board of Adjustment and that just seems to have been an oversight in the original subdivision design and compliance with zoning.

Chairman Evans: Well, I would certainly want the record to show that that is the case, that it was intended in the past that this subdivision was approved explicitly with the desire to be able to further split and that if it was an oversight that these folks not have to pay the bill for everybody else because they're caught in the middle.

Commissioner Carey: I would support that view too.

Chairman Evans: Okay, thank you. This is a hearing, is there anyone who would like to comment on this proposed subdivision? Okay, do I hear any motions?

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

Commissioner Carey made a motion that the Board of County Commissioners approve the variance request from Section 3-2(7)(i) requiring installation of curb and gutters so that curb and gutter installation on Peregrine Loop is not required based on the findings of fact in the staff report. Chairman Evans seconded the motion and stated that all of these things were also covered in the previous approval of the subdivision, which is why they are not being required now. The motion carried on a vote of 2-0.

Commissioner Carey made a motion that the Board of County Commissioners approve the Country Crest No. 3A, Lot 26 Subdivision based on the findings of fact and subject to the recommended conditions of approval found in the staff report. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Country Crest No. 3A, Lot 26 Conditions of Approval

Zoning

1. The applicant shall receive approval of a variance request for Lot 26-B to the Missoula County Zoning Resolution No. 76-113 for minimum lot width in the C-RR2 zoning district from the County Board of Adjustment prior to final plat approval. *Subdivision Regulations Article 3-1.*

Roads and Access

2. The subdividers shall contribute \$230 per new lot to mitigate the impact of additional development by assistance in signaling the Flynn/Mullan Road intersection and \$815 per new lot to mitigate the impact of additional development on the Reserve Street/Mullan Road intersection. Payment of this contribution shall be verified prior to final plat approval. *Subdivision Regulations Article 4-1(12).*

3. Driveways in excess of 150 feet in length must be approved by Missoula Rural Fire District prior to building permit approval. A turn around for fire apparatus must be incorporated at the terminus of the driveway. The driveway must provide 20 feet of unobstructed horizontal clearance and 13 feet 6 inches unobstructed vertical clearance the length of the drive. *Subdivision Regulations Article 3-2(10) and Missoula Rural Fire District recommendation.*

Pedestrian Facilities

4. The subdivider shall petition into the Missoula Urban Transportation District and the filing of the petition with the MUTD Board of Directors shall be verified prior to final plat approval. *Subdivision Regulations Article 3-2(1)(E) and MUTD recommendation.*
5. The RSID/SID Waiver statement shown on the plat for improvements to Peregrine Loop shall be revised to include Grassland Drive prior to final plat approval. *Subdivision Regulations Article 3-2(2)(E).*

Fire

6. Interior residential fire sprinklers that meet NFPA 13D standards are required in each new home for the purposes of fire protection. Plans for installation of interior residential fire sprinklers shall be approved by the Missoula Rural Fire District prior to Building Permit approval. Failure to install residential sprinklers in any new home may subject the entire subdivision to the cost of installation of a shared water source for fire fighting. *Subdivision Regulations Article 3-7(1)(6).*
7. All residences within this subdivision shall post address signs visible from public streets in all light conditions. Plans for visible addressing shall be reviewed and approved by the Missoula Rural Fire District prior to final plat approval. *Subdivision Regulations Article 3-2(2)(G).*

Weeds

8. The subdivider shall file a development covenant, which includes the following statements, subject to review and approval by OPG prior to final plat approval:

“Lot owners shall maintain their lot in compliance with the Montana County Noxious Weed Control Act and the Missoula County Noxious Weed Management Plan. Lot owners shall revegetate any ground disturbance with beneficial species at the first appropriate opportunity after the disturbance occurs.” This section of covenants may not be changed or deleted without governing body approval. *Subdivision Regulations 3-1(1).*

Sewer

9. The newly created lots shall contribute to sewer RSID 8486 in the amount specified in the resolutions, prior building permit approval.
10. The subdivider shall show on the plat the sewer easement for the sewer line located north of the proposed subdivision’s rear boundary line prior to final plat approval, subject to review and approval of the County Surveyors Office. *Subdivision Regulations Article 3-6.*

Development Covenants

11. Amend the Amendment Section of the Development Covenants as follows, subject to review and approval by OPG, prior to final plat approval:

Amendment: Sections of the covenants relating to driveways, interior residential fire sprinklers, address signs, weed control and revegetation of disturbed sites, radon, woodstoves, or amendments may not be deleted or amended without governing body approval.

Chairman Evans: I would ask, Cathie, that you could at least type the part where we discussed the setback, that it be ready, at least that paragraph for them. Ron, you’re not listening. I’ve asked Cathie to have at least a paragraph where we discussed that setback ready for you for the Board of Adjustment. So you need to tell her what it is and when you will meet. Thank you.

Hearing: Country Crest No. 3A, Lot 32 (2 lots on 1 acre) - Peregrine Loop

Chairman Evans opened the hearing.

Zack Brandt, Office of Planning and Grants, presented the staff report.

This item is another Country Crest subdivision on the same street, just a few lots to the west. So I'll be a little bit more brief with this presentation because the same issues apply. This is a subdivision request from Matthew and Jody Quinn, represented by John Kellogg with PCI, to subdivide a one-acre lot into two half-acre lots. The proposal is in compliance with the zoning and land use designation. As I stated, this is on Peregrine Loop, which is a County-maintained road within a 60-foot right-of-way paved to a 24-foot surface width.

The same two variances have been requested, to not install curb and gutters along Peregrine Loop and to not install sidewalks on Peregrine Loop. The RSID statement for Grassland Drive and Peregrine Loop is included on the preliminary plat.

We're recommending eight conditions of approval. They are similar to all the other Country Cresters dealing with the payment for the Flynn/Mullan and Mullan/Reserve intersections, interior residential fire sprinklers, visible address signage, and contributing to the RSID #8486 in the amount specified in the resolution. I'd be happy to explain things in more detail if you'd like. Thank you.

Chairman Evans: I think we've heard it numerous times. Okay, does the developer wish to comment?

John Kellogg: Thank you, Madam Chairperson Ms. Evans.

Unidentified Speaker: Barbara.

Chairman Evans: See, I'm not a sofa and I'm not chair. [Inaudible.]

John Kellogg: I knew that. For the record, I'm John Kellogg, PCI. We're representing the Quinns and we're in agreement with the proposed recommendations. Thank you.

Chairman Evans: Thank you. This is a hearing, is there anyone who would like to speak? Hearing none, I'll close the hearing.

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

Commissioner Carey made a motion that the Board of County Commissioners approve the variance request from Section 3-2(7)(i) requiring installation of curb and gutters so that curb and gutter installation on Peregrine Loop is not required based on the findings of fact in the staff report. Chairman Evans seconded the motion and mentioned that this was taken care of in the subdivision as a whole when it was approved many years ago. The motion carried on a vote of 2-0.

Commissioner Carey made a motion that the Board of County Commissioners approve the Country Crest No. 3A, Lot 32 Subdivision based on the findings of fact and subject to the recommended conditions of approval found in the staff report. Chairman Evans seconded the motion. The motion carried on a vote of 2-0.

Country Crest No. 3A, Lot 32 Conditions of Approval

Roads/ Driveways

1. The subdivider shall contribute \$230 per new lot to mitigate the impact of additional development by assistance in signaling the Flynn/Mullan Road intersection and \$815 per new lot to mitigate the impact of additional development on the Reserve Street/Mullan Road intersection. Payment of this contribution shall be verified prior to final plat approval. *Subdivision Regulations Article 4-1(12)*.

2. Driveways in excess of 150 feet in length must be approved by Missoula Rural Fire District prior to building permit approval. A turn around for fire apparatus must be incorporated at the terminus of the driveway. The driveway must provide 20 feet of unobstructed horizontal clearance and 13 feet 6 inches unobstructed vertical clearance the length of the drive. *Subdivision Regulations Article 3-2(10) and Missoula Rural Fire District recommendation.*

Pedestrian Facilities

3. The subdivider shall petition into the Missoula Urban Transportation District and the filing of the petition with the MUTD Board of Directors shall be verified prior to final plat approval. *Subdivision Regulations Article 3-2(1)(E) and MUTD recommendation.*

Easements

4. The following statement shall appear on the face of the final plat:

“The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water, or sewer to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their land and other facilities, in, over, under, and across each area designated on this plat as ‘Utility Easement’ to have and to hold forever”. *Subdivision Regulations 3-5.*

Fire

5. Interior residential fire sprinklers that meet NFPA 13D standards are required in each new home for the purposes of fire protection. Plans for installation of interior residential fire sprinklers shall be approved by the Missoula Rural Fire District prior to Building Permit approval. Failure to install residential sprinklers in any new home may subject the entire subdivision to the cost of installation of a shared water source for fire fighting. *Subdivision Regulations Article 3-7(1)(6).*
6. All residences within this subdivision shall post address signs visible from public streets in all light conditions. Plans for visible addressing shall be reviewed and approved by the Missoula Rural Fire District and shall be included in a development covenant, prior to final plat approval. This section of covenants may not be changed or deleted without governing body approval. *Subdivision Regulations Article 3-2(2)(G).*

Weeds

7. The subdivider shall file a development covenant, which includes the following statements, subject to review and approval by OPG prior to final plat approval: “Lot owners shall maintain their lot in compliance with the Montana County Noxious Weed Control Act and the Missoula County Noxious Weed Management Plan. Lot owners shall revegetate any ground disturbance with beneficial species at the first appropriate opportunity after the disturbance occurs.” This section of covenants may not be changed or deleted without governing body approval. *Subdivision Regulations 3-1(1).*

Sewer

8. The newly created lot shall contribute to sewer RSID 8486 in the amount specified in the resolutions, prior to building permit approval.

Other Business

None.

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