

PUBLIC MEETING – FEBRUARY 27, 2008

The Public Meeting was called to order at 1:30 p.m. by Chair Jean Curtiss. Also present were Commissioner Larry Anderson, Commissioner Bill Carey, Chief Civil Deputy County Attorney Mike Sehestedt, Director of Public Works Greg Robertson, and Office of Planning and Grants Planner Jennie Dixon.

Pledge of Allegiance

Public Comment

Routine Administrative Actions

Commissioner Anderson moved that the Board of County Commissioners approve the weekly claims list in the amount of \$758,098.92. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Hearing: Early Closure of Treasurer's Office on Thursday, February 28, 2008

Chair Curtiss opened the hearing and presented the staff report.

This was added to our agenda because of an emergency that came up. One of our county employee's daughter died last Friday. She works in the Treasurer's Office and all of our employees would like to attend the services, except one employee, who, based on her religion, would not attend. We can't run that office with only one employee. Montana Code Annotated 7-4-2211 requires that the Treasurer's be open during business hours unless we have such a hearing to allow us to change. Is there anyone here who would like to make comment on closing our Treasurer's Office from two p.m. until five p.m. tomorrow to allow employees to attend the funeral? If there is, we'd accept comment at this time. Mr. Sehestedt, did you have anything you wanted to add.

Mike Sehestedt: No, I think you [inaudible] situation.

Chair Curtiss: We will post a notice on the door for folks. The end of the month is always a very busy time for the Treasurer's Office for people who license vehicles, but Friday--we have an extra day this month.

Mike Sehestedt: One thing I would add for the record. Vickie has told me she's taken care of all of the appointments that were scheduled during that period of time, rescheduled them, and she's indicated that she will have the office open at seven both Thursday and Friday to provide a little additional time to serve the public. Everyone in there is very concerned about that aspect, but circumstances of the death, they feel a need to attend.

Chair Curtiss: I guess I need to officially open the hearing. It doesn't look like there's anyone who wants to testify, so I'll close the hearing and accept a motion.

Commissioner Carey made a motion that the Board of County Commissioners authorize the Treasurer's Office to close to the public on February 28, 2008 from 2:00 to 5:00 p.m. to allow employees to attend the funeral for an co-worker's daughter. Commissioner Anderson seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: Thank you, and if you have neighbors who were going to come in tomorrow, let them know that there will be no one there for a little while.

Hearing (Certificate of Survey): Streitmatter Heron Family Transfer

Chair Curtiss opened the hearing.

Mike Sehestedt presented the staff report.

This is consideration of a request to create a family transfer parcel for that parcel described as Tract 37-B of Certificate of Survey #3358 located in the Southeast ¼ Northwest ¼ and the Northeast ¼ Southwest ¼ and the Northwest ¼ Southeast ¼ of Section 29, Township 13 North, Range 15 West. By way of background, this is a parcel located in the area known as Jordan Ranch Tracts, a tract development. It is in the Potomac area. Beth A. Streitmatter Heron 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 12 plus (12.635) acres in size located

near Potomac. Beth proposes to create an approximately two plus (2.5) acre parcel for transfer to her husband, John Loughhead Heron III, for residential purposes and to keep the remaining approximately ten plus acre parcel for residential purposes as well.

The history of the parcel is as follows: Certificate of Survey #219 was filed in March 1974 creating 43 parcels. Certificate of Survey #3358 was filed in July 1986 creating Tract 37-B. That particular certificate of survey actually created three parcels out of the original tract. There were two one-acre gift parcels. This would be the remainder. That transfer was by a predecessor and not by the current applicant. According to the records kept by the Missoula County Surveyor, the applicant has not previously used exemptions to the Subdivision and Platting Act.

My recommendation to you is consider a request to create a family transfer parcel by dividing the parcel described as Tract 37-B of Certificate of Survey #3358 located in the Southeast $\frac{1}{4}$ Northwest $\frac{1}{4}$ and the Northeast $\frac{1}{4}$ Southwest $\frac{1}{4}$ and the Northwest $\frac{1}{4}$ Southeast $\frac{1}{4}$ of Section 29, Township 13 North, Range 15 West. That concludes my report.

Chair Curtiss: Thank you, Michael. I'll open the hearing, is there someone here from the Streitmatter Heron family? If you could come forward please to the microphone and state your name for the record.

Beth Streitmatter Heron: I'm Beth Streitmatter Heron.

Chair Curtiss: Thank you, Beth. We ask that folks that are proposing to do a family transfer to come before us and answer some questions on the record so that we can determine if you are doing this as the law allows. Mr. Sehestedt will ask you a series of questions on our behalf.

Mike Sehestedt: Please accept my apologies in advance if it seems like I'm prying into what would otherwise be private matters. Fact is, I am, but we need to do it to determine whether or not this is a legitimate use of this particular exemption to the Subdivision and Platting Act. How long have you owned the property?

Beth Streitmatter Heron: Since September of last year.

Mike Sehestedt: Did you buy the property with the intention of dividing it?

Beth Streitmatter Heron: Not with the sole intention of dividing it. There's a primary residence on there and we did see that the property was large enough that we'd be able to build another primary residence on it.

Mike Sehestedt: Who is going to reside in these primary residences?

Beth Streitmatter Heron: We are.

Mike Sehestedt: Both of them?

Beth Streitmatter Heron: Our plan is to--well, it's not even really a plan per se; we just want to divide off that area and then slowly develop like a nicer house at the bottom of the property. Then we really haven't thought about what we'd at that point.

Mike Sehestedt: I think you may have kind of answered this question. Do you or your husband intend to transfer either of the parcels that would result from this approval within the next year?

Beth Streitmatter Heron: No. We don't even know if we'll get the [inaudible] next year.

Mike Sehestedt: I think you've also described [inaudible] development plans for the property.

Beth Streitmatter Heron: Yeah.

Mike Sehestedt: Your husband's currently residing on the property?

Beth Streitmatter Heron: Yeah.

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

Beth Streitmatter Heron: We have, I believe.

Mike Sehestedt: What was the nature of that conversation?

Beth Streitmatter Heron: [Inaudible.] We just went in to see what would be approved or not approved based on what the recommendations are for that area to get a better idea of--you know not waste anyone's time as far as--because we originally had thought about maybe splitting off more than one parcel, but we decided that just this one would be fine.

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

Beth Streitmatter Heron: No.

Mike Sehestedt: Are you attempting to evade subdivision review?

Beth Streitmatter Heron: No.

Mike Sehestedt: Do you understand of course that all of the roads in Jordan Ranch Tract are private roads?

Beth Streitmatter Heron: Uh huh.

Mike Sehestedt: And do you understand that the Commissioners are not reviewing this particular parcel for adequate access in all weather for all vehicles, including emergency services?

Beth Streitmatter Heron: Right.

Mike Sehestedt: And that should the use of this exemption be approved, how you get in and out from either of the parcels is your problem, not ours?

Beth Streitmatter Heron: Yeah.

Mike Sehestedt: Do you also understand that if the Commissioners approve this use of the exemption, it does not mean you've received approval for zoning compliance, floodplain, septic, building permit, or any of the other permits?

Beth Streitmatter Heron: Right.

Mike Sehestedt: Thank you, that concludes my questioning. The Commissioners may have additional questions.

Chair Curtiss: Thank you. Any questions from the Commission? I think you already answered my normal question when people are giving a piece to their spouse is you plan on living in separate homes? I guess I can't--or I don't know whether the law was designed to allow you to divide the property in this method. It's usually more of a gift to someone else within the family. Mike, do you think this meets the letter of the law?

Mike Sehestedt: Well, it meets the letter of the law in that it is a gift to a member of immediate family, which is designed as including spouse. Our usual test for family transfer is whether there's separate economic benefit, if you will, to the recipient. This has the additional of being a follow-on to a question of subdivision, which would lead to a belief in possibility of sales. I leave these judgments to you, of course, as the Commissioners. That's why you get paid the big bucks and have to run for your office.

Chair Curtiss: Thank you. This is a public hearing, is there anyone else who would like to make comment on this family transfer? Seeing no one come forward, I'll close the hearing. Discussion by the Commission?

Commissioner Anderson made a motion that the Board of County Commissioners approve the request by Beth A. Streitmatter Heron to create one additional 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 Carey seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: You will get a letter from our office within the next couple weeks, ma'am, but you can have a surveyor begin the work because it has been approved. We also aren't insulted if you decide you don't want to sit through the rest of our meeting.

Hearing: Proposal to Construct Single Rail Track Crossing at Old Grant Creek Road (CHS, Inc.)

Chair Curtiss opened the hearing.

Greg Robertson presented the staff report.

Before you is a request for an excavation permit to install a railroad crossing across Old Grant Creek in the vicinity of Stockyard Road in the tank farm area. Normally, we don't get these types of requests. At the time, I did not feel comfortable in granting administratively such a request, given the fact that we have [inaudible] routine pressures to close crossings rather than open new ones. I took advantage of the part of the excavation resolution that deals with water mains and sewer mains extensions to hold a public hearing on the question of granting such a request. Both CHS and representatives of CHS and Montana Rail Link have developed the attached plans. They've been excellent to work with throughout the process and understanding. Additionally the crossing meets ASHTO [phonetic] guidelines for [inaudible] crossing. There are representatives on behalf of CHS that are here today to answer any specific questions and also give you a little presentation on the proposal.

Mike Sehestedt: One follow-up question, will this be a signalized crossing?

Greg Robertson: Yes, it will be a signalized crossing.

Mike Sehestedt: What is responsibility for maintenance of...?

Greg Robertson: Should the Commissioners grant the request, there will be a maintenance agreement that's currently being in the draft stage that will forwarded to you for your consideration. Essentially CHS and their representatives will be responsible for complete maintenance of the crossing.

Mike Sehestedt: Thank you.

Chair Curtiss: You must read minds, Mike, I'd written the same question down. This is a public hearing, I'll open the hearing. Is there someone here from CHS or Montana Rail Link that would like to speak to the Commission?

John Traeger: Thank you, Commissioners. My name is John Traeger, representative from CHS.

Chair Curtiss: Could you spell your name for us please?

John Traeger: Last name is Traeger, T-R-A-E-G-E-R. As you're aware, we're in the process of constructing a petroleum terminal on Old Grant Creek Road. The purpose that CHS undertook this construction project is to better supply our customers, Cenex and other CHS customers in this area as well as all of Western Montana. The construction allows us to become a shipper on Yellowstone Pipeline. One of the issues today is that Yellowstone Pipeline is limited in capacity. Even once we become a shipper and have access to those volumes, we may need additional supply into that terminal. For those reasons, we need access to volume. There's, first off, there's that issue is the volume we need to bring in by railcar to supplement what comes down the pipeline. The second issue relates to renewable fuels like ethanol. There are no ethanol pipelines and ethanol blended products are not currently allowed on Yellowstone Pipeline. The only two mechanisms are railcar or truck and when you're bringing them in by truck and taking it out by truck, it's tough to maintain your supply position. The railcars are much more efficient, larger volume mechanism for bringing in ethanol and potentially in the future biodiesel. So those are the real driving forces for our needs for railcar access to this facility.

Chair Curtiss: Mr. Traeger, as Greg alluded to, Montana Rail Link is often asking us to abandon because of safety issues. Apparently, you've worked with them and they're in agreement with this access point?

John Traeger: Montana Rail Link has been involved in the design and layout of this facility. They're obviously interested in our business in bringing railcars into the area and it's a business we're interested in as well. I know

there is a representative from MRL here as well as the engineering manager from my company if you have a detailed questions about the crossing itself.

Chair Curtiss: What frequency do you expect to have train cars crossing this spot?

John Traeger: Typically, today I would expect that--let me back up just a--we can bring in eight cars at a whack if you will or a switch. A typical operation would be to bring in eight full cars, so that the engine would have to bring those across, the engine would then back out, so that would be two crossings. Then later, during the night or in that evening, come out and get those empty ones, pull them out, and then the next day bring in another switch. So in a 24-hour period, typically we would expect four crossings in that 24-hour period. We have not set times with MRL although in discussions with MRL typically their preference would be to do that type of work in the evening or at night. There is always the potential, for example, if there was a problem with the pipeline that we would need more switches in a day's period, so that would mean additional crossings. Today, I wouldn't expect more than that one switch of eight cars on a 24-hour period.

Chair Curtiss: I guess in thinking about the concerns that the commuting-to-work public would have, at the location that you're putting this, would there be--if someone was headed to work, I know some people use that back route, would they have other opportunities to get around if you were switching up Grant Creek?

John Traeger: I guess depending on where they're coming from, I know that Scott Road out on the farther east is another way out through that area. I'm not sure which way they'd be coming from that area heading towards trying to get on Reserve Street, I'm not sure there would be another option.

Chair Curtiss: Yeah, it doesn't look like it.

John Traeger: If they wanted to come back in through that area by the rail yards and the petroleum terminals. The one thing we did--we looked at typical crossing rates and those kinds of things. The stretch when we would be bringing in a set of eight cars and the engine pushing them in, typically we would expect that to be about a minute and a half, something in that nature of the time period in which the lights would be. As they go in, they'll clear the road. When the engine comes back out, it would be a much shorter time period of course.

Chair Curtiss: Okay, that's helpful. Any other questions for Mr. Traeger?

Commissioner Anderson: John, there's another railroad crossing just on the--down farther east. Had you pursued that possibility of using that existing crossing?

John Traeger: We did. If you go down along Razer Drive farther east there, there's a couple crossings there and those rail tracks serve Roseberg [phonetic] Forest Products and some of the other areas in there. We did make an attempt to reach an agreement with some of those landowners to get right-of-way across there to bring rail in, but were unsuccessful.

Commissioner Anderson: I guess another question would be if in fact you do have to change your proposed operating times for utilizing those crossings, would that require a variance or would there be a plan put in place to identify when those crossings would be taking place?

John Traeger: I guess I'm not sure how to answer that. My response would be is that we would work with MRL to negotiate timing of when cars would be brought in and out; would be willing to discuss with the county or the Public Works Department some issues of what times they would prefer us to do that. I'm not 100% sure on how free we would be able to negotiate that with MRL.

Commissioner Anderson: I guess I'm just concerned that we would--at least from my perspective, we would prefer it to inconvenience the public the least, which would probably be late evening hours or early morning hours before any kind of traffic starts using that road. Just adjacent to this property is a new business complex that has a number of businesses there. Even though they could--majority of them could probably come from Reserve Street and access that, a number of them would still come across Scott Street area and be impacted by that.

John Traeger: I think CHS would be willing to work with that in whatever way we can. I know that initial discussions with MRL is that most of that work would likely to occur at night. If something more formal than that is needed, we'd be willing to talk about that.

Commissioner Anderson: How long does it take to fill those eight cars?

John Traeger: It kind of depends on the mix of what we're bringing in, whether it's all gasoline or all diesel, but typically, we can do a single car, the rates we would load or unload, in about an hour or hour and 15 minutes.

Chair Curtiss: Further questions? Thank you. Is there anyone else want to make comment? Did someone from MRL want to speak?

Steve Werner: My name's Steve Werner, I'm Public Works Engineer with Montana Rail Link. We don't oppose this plan. We never like to add rail [inaudible] crossing, like you mentioned, but it seems inevitable there or it's the only way to serve this facility, so we will work with them on this.

Chair Curtiss: Do you sort of keep track of when the least impact to morning and evening commuting traffic...?

Steve Werner: Yeah, we'll try, but you can never guarantee...

Chair Curtiss: No, you can't.

Steve Werner: Mostly it will be at night.

Chair Curtiss: Okay. Any further questions for Mr. Werner?

Commissioner Anderson: Just one more question for John Traeger if you would.

Chair Curtiss: Thank you, Mr. Werner.

Commissioner Anderson: John, currently you talk about four switches per 24-hour period. If demand goes up and you move more product, would that number or frequency increase, since it does take you about an hour to load per car, would that--you'd try to get more cycles through a 24-hour period?

John Traeger: Yeah, that would be an approach. Another approach would be you know, typically this facility won't be manned on weekends. I know MRL does operate on weekends and we could provide personnel to do some switches on weekends as well.

Commissioner Anderson: Okay, thank you.

Chair Curtiss: Thank you. This is a public hearing, is there anyone from the public that would like to comment on--so the Commission's role is to decide whether or not to give an excavation permit to build this [inaudible]. Anyone that would like to comment on that? Seeing no one come forward, I'll close the hearing.

Commissioner Carey made a motion that the Board of County Commissioners grant the excavation permit to install railroad crossing for CHS, Inc. across Old Grant Creek Road, subject to signaling and maintenance agreements. Commissioner Anderson seconded the motion.

Mike Sehestedt: Subject to satisfactory negotiation [inaudible] regarding signaling the crossing [inaudible].

Chair Curtiss: That's good and I would also hope that they work with the neighbors, especially some of the business neighbors that Larry referred to in considering that anyway as they set times. So subject to the signaling and maintenance agreements.

The motion carried on a vote of 3-0.

Hearing: Waters Edge Special District Rezoning & Subdivision (21 lots on approx. 8 acres) - Deer Creek Road & Speedway in East Missoula

Chair Curtiss opened the hearing.

Jennie Dixon presented the staff report.

This is the first of two public hearings I'm bringing before you today. Water's Edge PUD Subdivision and Rezoning request. The applicant is Water's Edge Properties LLP, which Dick Ainsworth and Don MacArthur are here today on behalf of this project. The project location is in East Missoula on the south side of Deer Creek Road and it's on the west side of the bridge, so you cross the bridge to get to the Canyon River Development. This is on the other side of the bridge. It's approximately eight acres and it's encompassed in two tracts owned by Water's Edge Properties. The zoning on the property is C-RR3 residential, four dwelling unit per acre and the applicable Comp Plan recommends up to six dwelling unit per acre on a portion of the property with parks and open space adjacent to the river. The zoning is actually a bit less in terms of the residential density, but overall, I think it's comparable given the protections of the open space designation along the river. The zoning would allow for up to 32 dwelling unit on the property and the applicant is proposing 20. The original proposal was for 21. Since Planning Board, they have revised their plat and it's behind me here on the hall. This is actually the landscape plan, but it shows you the lot layout. The change since Planning Board was to reduce the number of lots in this area from five to four and those are--they're all intended as town homes. Effectively they will function as condominium development because the homeowner's association will be maintaining all of the grounds, even the private lots, as well as the exterior of the homes.

The rezoning request is to change the district from C-RR3 to a special zoning district, which is contained in your packet. Staff has three recommended conditions of zoning. Those conditions include attaching the schematic landscape plan to the zoning so that as the site develops, it would generally follow that plan with some--would you like me to continue or would you like me to wait a minute?

Chair Curtiss: Maybe we'll wait a minute to see if he has any luck.

Jennie Dixon: Thank you and thank you to the audience for indulging the delay. As I was saying, the recommended conditions on the rezoning involve attaching the landscape plan and making the plan subject to development in accordance with that landscaping scheme, to restrict the maximum building height to 30 feet, as opposed to 40 that was proposed in the applicant. I don't believe we have the--there's a model that shows the layout of the site, which it doesn't look like we have it today, but in discussing the design intended for the site, the buildings I believe can fit within a 30-foot height as measured as a building envelope from finished grade. Those two conditions were acceptable to the applicant. A new condition that I've included in the pink sheet for you today on the zoning is one that is suggested by the applicant to 20 dwelling units as opposed to the 21.

Jennie Dixon presented PowerPoint slides, which can be found in the file.

Staff recommended approval of this subdivision with 17 conditions of approval. We also recommended approval of the rezoning with two conditions of approval. The Planning Board conducted a public hearing on February 5 and recommended unanimously, 9 to 0, to adopt the zoning request as well as the subdivision and recommended modifications to, I believe, five different conditions. Those are shown in your Request for Commission Action in an underlined, strikeout format. Those include Conditions 5, 8, 12, 13, and 16. What I've presented for you today in the pink sheet takes Planning Board's conditions and adds one new zoning condition, and then revises Conditions 8 and 9 to reflect the new number of lots and the new phasing requested by the applicant. There are no variances with this as it is a PUD subdivision, which does allow for deviations that aren't subject to variance request. I think that's it for my presentation. Thank you.

Chair Curtiss: Thank you Jennie. Did the developer or their representative wish to present?

Dick Ainsworth: For the record, my name is Dick Ainsworth. I'm here today with a little different hat on than usual. I've been here many times representing clients and developers. In this instance, I guess I'm my own client [inaudible] developer. This property belongs to my wife and myself. I'd like to thank Jennie for all her assistance on this. It's been a long process. She said we're here in record time, which tells me the system's broken, but nonetheless, it's been about a year I think, something like that, actually, since we've been talking about it. My wife and I purchased this property along with some adjacent properties about seven years ago from an estate by the name of Barrett [phonetic] was their name. We built a home across Deer Creek Road from this, that's [inaudible] why we purchased the property, but I always knew that at some point, this property had a lot of development potential, I've just not had time to develop it, until now that I'm retired.

The property is in the East Missoula Sewer District, so it's a little bit unique in that it has city sewer. It will be by contract and the city entered into an agreement with the East Missoula Sewer District to not annex areas in that

district for, I think originally 20 years or maybe 15 years left on that. The property has a lot of assets. Obviously, it's on the river, which is an asset. It is zoned C-RR3, which is four to the acre. Comp Plan shows six to the acre. It's close to town; it's got sewer, runs the full length of both the east and the west side of the property. Along the west side, the sewer was put in as part of the East Missoula Sewer District and there was a sewer main put in along the top of the bank along the east side of the property that serves Canyon River. We're surrounded by sewer if you will. Mountain Water has a main that is in Deer Creek Road and goes over to Canyon River, so we'll be served by Mountain Water as well. There is a fire hydrant, existing fire hydrant at the corner of Deer Creek Road and Speedway that I think they pump-tested it close to 1200 gallons a minute, so they got lots of water. We'll have a main down the main road here with fire hydrants at approved locations.

The property also has some unique challenges. It's a very long and shallow property. It's about three times as long as it is deep and the shallowness [inaudible] because there's not enough depth to really double-load the road so we wind up with lots on one side. We need to set back from the river to protect the riparian area along the river, so we wind up with a pretty narrow band of property down through there that we're able to develop. Jennie mentioned there's a need to provide for future access. To the south, there's a couple of properties down there that could ultimately be served by this road. It would have to loop back through and come out somewhere else up in East Missoula, but this would be the northerly end of a potential loop road down through there. As I said this property is rather unique. Over the years, I've had several people try to purchase this property to develop it, some of my former clients, just some people that were interested in buying parcels to build homes on. I decided that it was unique enough that I didn't just want to subdivide it and sell it to individual homeowners or builders and have them build kind of whatever they wanted there. We decided that we'd actually become the developer's and we intend to build these town homes. Not me personally, we're going to have Wade Hoyt [phonetic] with Hoyt Homes [phonetic] will be our builder. I've spent quite a bit of time over the years discussing this project with Don MacArthur with MacArthur, Means, and Wells Architects. Don designed our home a few years ago and I've worked with Don on many projects over the years and respect, not only his architectural abilities, but his planning abilities. We sort of wrestled with what to do here. As Jennie mentioned, the property's eight acres, it's zoned four to the acre. We could have up to 32 units on it. We quite frankly decided that was a little dense, particularly given the constraints. We're at about two-thirds of that density now. I would like to ask Don if he would kind of give you a brief overview of how we developed the plan that we've got, then I'll make a couple of comments after that. Thank you.

Chair Curtiss: Thank you, Mr. Ainsworth.

Don MacArthur: Thanks, Dick. I'm Don MacArthur, MacArthur, Means, and Wells Architects. I just wanted to briefly take you through a couple of the design aspects. As Dick mentioned, it is a pretty long, narrow site. We wanted to really emphasize the amenity of the site, which is of course the riverfront for every house that's on there. We also wanted to really take care of how you get to each of the houses too, so that the experience of moving through the site to the other side of each house was a beautiful one as well and protected the residents from future development impacts to the south. So that was some of our concerns. We developed this scheme of roads where the road actually comes through and then pretty much all of the houses are accessed off of these private access drives. So private access drives, each one of those has an extensive buffering and some--in the form of landscaping, [inaudible] Hagan [phonetic] is working with us on a landscape plan. This is actually her preliminary plan. She's continuing to develop that and we're going to do a beautiful job of landscaping this side quite heavily. On the other side of the site, we anticipate it being a very natural landscape. The idea was that all of the land is really held in common aside from the footprint of your house. All of the landscape that's shown here in the kind of buff or brown color is held in common, maintained in common, and is a naturalized landscape preserving the existing beautiful ponderosa pine trees that are there and replanting in the grassland area a little bit to try to knock the weeds down and control those, but maintain the idea of essentially kind of a meadow, prairie sort of look that goes down to the riparian zone right along the edge of the river.

We have developed some building designs, fairways. These are the actual buildings that we have developed for these two sites here and here. These are two of the three buildings in Phase 1. This building is this duplex here and this one the one to the south. We are in that idea of kind of the prairie and the grassland. We've used a prairie style of architecture. As you can see, we're thinking that native grasses as coming up right to the edge of some walls that form the edge of patios there. We're very focused obviously on creating access to the beautiful view across the river. We are also very interested in the idea of how to have a pretty dense frontage here that still creates a lot of privacy between each one of the units. So that in between these units, they stuck in and out and they have walls between them, so that the private outdoors [inaudible] is really only look out to the river [inaudible]

and don't have any interplay between them and the neighbors. I'm more than happy to answer any questions when we get a little further. I'll turn it back over to Dick.

Dick Ainsworth: Thanks, Don. One thing that I might add that Don didn't mention we've got those private drives also have some parking bays off them. Each one of these units will have a double garage and they'll have two parking spaces in the driveway. The driveways are narrow enough that there won't be parking on the driveways, but across the driveway from the units, we've got parking bays that I think have a total of 16 parking spaces. We've got 20 units that also Waterside Drive on which none of these lots actually abut will have parking on one side. It's really wide enough to have two sides. Well, it depends if you ask the City Engineer or the County Engineer. At any rate, we're only going to have parking on one side of it, but nonetheless, there will be, I think, potentially there's room here for 50 some cars worth of parking other than on your lot. One of the problems typically in projects like this that are a little tighter together is you don't have enough parking if someone has a party. There's a lot of people show up and there's not enough [inaudible], so I think we've more than covered that here.

Just to I guess emphasize a few of the key elements of this thing, which we've hit on is the density we're proposing here is two-thirds of what the zoning requires or permits, let me put it that way. We've got these frontage roads that Don mentioned or private driveways to buffer these lots from that through road, which is Waterside Drive, which will potentially serve the property to the south and could become a fairly busy street. We didn't want these folks backing out into that street. It kind of buffers them from that road. We're providing a full length of the property public riverfront trail. It's about 1100 feet of riverfront along there and we'll have a public trail the whole length of that. The common area here is not public park, it is a private common area, but that trail will be public. The trails, there'll be some connecting trails. Those would connect the sidewalk along Waterside Drive to the riverfront trail. Those will also be public. Of course, the Waterside Drive will be a county road and that will be a public sidewalk. So all of the pedestrian facilities in here--I didn't mention the one along the south side of Deer Creek Road as well. All of those will be public, so the pedestrian facilities are all public.

The open space that we're providing here is about--out of the eight acres, is about three and a half acres or 45% of the property, which is as opposed to requirement of about 11% of the net lotted area. Technically, hard as that is to believe, I think the dedication of a public trail easement for the riverfront trail in and of itself meets the park requirement because it's based on lotted area and our lots are small. Nonetheless we're almost half of the site is going to be--and that's common area that's not encumbered by road easements or any of those sorts of things, so lots of open space.

We're in full agreement with all of the proposed conditions. Again, I'd like to thank Jennie. We're here to answer any questions and would appreciate your approval of this project. Thank you.

Chair Curtiss: Thank you, Mr. Ainsworth. This is a public hearing, is there anyone else who'd like to make comments? We'll be dealing with two things. One is to adopt a special zoning district or not and the other is the subdivision. Any comments from the public? Seems like you must have done a good job since there's nobody here to complain?

Commissioner Carey: Question for either Dick or staff, I suppose is the reason for the new special zoning district the fact that we need to get into the hillsides with the daylight amenity?

Jennie Dixon: That's one of three reasons. The other two reasons are the minimum lot size in C-RR3, I think, is 10,000 and some of the lots go down to--well, the minimum lot size in the proposed district is 5,000. Again, it's to accommodate the proposal, but it still, as Dick said, almost half the site is open space, so we're supporting that. The other reason was to allow for zero setbacks for attaching the units in town home fashion.

Greg Robertson: Deer Creek Road, this is for Dick. Obviously, you're aware we've had issues with tubers and jumpers and other recreationists that like to use Deer Creek Road and the bridge. This is opening up a new corridor and also providing ample parking for more recreationalists in the area. I wonder...

Chair Curtiss: And we thank Dick for that.

Greg Robertson: ...I don't know if I really want to thank him yet or not. I'm just curious to what's planned or what was anticipated with this development in addressing that issue because it's not going to go away.

Dick Ainsworth: Good question. We obviously don't want the public that recreates in there parking on this road anymore than we do on Deer Creek Road. Perhaps--actually the resolution that the county passed, which I think is in the packet, I don't have it right in front of me, but I believe that it says that there's no parking on any public roads within 1500 feet of Deer Creek Bridge, which covers probably half of this property, something like that, would cover the north end of this thing. Perhaps we could post both sides of the very northerly end of this thing, perhaps down to that second loop or something. Once you get so far away, nobody's going to park there and walk anyway or very few, but that might be a thought that would address that. If we perhaps--and there's not a lot of places up there, there's a few, although with that other road coming in perhaps the northerly end of that from that middle private drive could be posted no parking on both sides to address that concern and thinking that south of there, there probably wouldn't be a problem. That's just a thought.

Chair Curtiss: Okay, good luck with that.

Dick Ainsworth: Actually, I should--let me interrupt just one second. That problem's become compounded a little bit when the city annexed Canyon River. The county, and I don't think there's anybody with the Sheriff's Department, but if there was and I'll thank them publicly anyway. The Sheriff's Department has been pretty good at, first of all, Greg's department got Deer Creek Road posted with no parking. They added some signs last year that really helped. Originally, they didn't have quite enough in my opinion and it was a problem. It's now posted very well. The Sheriff's Office has been enforcing it pretty well and on our side of the bridge or the west side of the bridge, last year we had virtually no one parking, very very rarely. Across the river was another situation because it's in the city and the city, at least for most of the season, didn't enforce it. The developers at Canyon River had a meeting with the City Engineering Department that I attended, I don't remember, towards the end of the season. The city was going to post it and said they--and I think they're allowing maybe parallel parking over there. It's a little wider road section and I'm not sure that that makes a lot of sense in light of what's going on on this side of the road, but last year we had very little parking on our side because the county enforced it. They marked it well and enforced it well and across the river, they had more problems because the city didn't do either one, but I think they're coming around and will do better. The problem is, of course, people can access the river, but what they're really accessing is a private beach that the owner has tried to keep them off of and had not much luck. If it was a public beach, it would be another thing, but it's really not, it's a private beach. That was a long, short answer.

Commissioner Anderson: Dick, even though the walkways would be available to the public, the homeowner's association would be required to maintain those walkways and the adjacent land, is that correct?

Dick Ainsworth: We hadn't discussed that in any detail, but yes, I would say so. They certainly are going to maintain their own common area. I think it makes--and particularly as long as that's a--I guess, I don't know, but I guess it would be public, but whether it's city or county. If it was in the city, of course, city has a Park Department and they have the wherewithal to maintain some trails. Although I don't know that the one in Canyon River is a public trail and I don't know that they've maintained it much. I know the county doesn't have the ability to do that. I don't think the maintenance of it would be a big deal and I would say that, yes, in answer to your question, that the homeowners could maintain that.

Commissioner Anderson: So the homeowner's association, each townhouse owner would pay a certain amount that would go into yearly maintenance and upkeep and that sort of thing and that would probably be included in that fee?

Dick Ainsworth: Yeah, they would be maintaining those private drives anyway, the main road, the county would be, but they would be maintaining their private roads, they'd be maintaining the landscaping. Actually, they will maintain the exterior of the units, that will be part of it, so yes, that would all be included in that.

Chair Curtiss: Jennie, did you have something to add?

Jennie Dixon: Yes, Condition #9 addresses maintenance of all common areas and including the pedestrian easement, which also includes the trails and a plan for maintenance of those areas, is going to be reviewed and approved by various departments in the county. All common area, by virtue of being common area, is the responsibility of homeowner's association even if it has a public pedestrian access easement on it.

Commissioner Anderson: The other question I had was on your vegetation plan there or landscaping plan, on the east side of the property, you show a number of trees, and I also note that the sewer line runs down there. Will those three interfere at all, if that utility easement [inaudible] opened so that they can access that?

Dick Ainsworth: The city--the sewer main is in an existing utility easement and the trees are not--they avoided the trees when they put the sewer in. We didn't remove any trees at that time and we don't intend to remove any. We may lose a few trees with some of the buildings, but we'll sidestep them and avoid them down along the river with that trail. We will not lose any of those trees, they'll remain. I think this plan shows some additional trees being planted as well as the existing trees. There are scattered trees on the site and we're going to save all of those that we can. That was another reason we eliminated the middle unit up on the north end. There's a couple of nice big pine trees up there that fall in that gap in between those first two duplexes and we wanted to save those.

Commissioner Anderson: And on the west side, the vegetation you show there would also not interfere with the utility easement on the west?

Dick Ainsworth: No, and most of those don't exist. Those would be planted.

Chair Curtiss: Any further questions for Mr. Ainsworth. This is a public hearing, is there any comment? Seeing none, I can't remember if I closed the hearing or not, too many hearings today?

Jennie Dixon: Could I--in your motion, #2 on the pink sheet, make a note that it says, "According to the timing in the proposed Phasing Plan, I'd like--as you make your motion, I'd like to reference the Phasing Plan dated February 6, 2008 please. That's the one that reflects this plan and the changes that I showed in the slide show.

Chair Curtiss: Dated February 28, 2008.

Jennie Dixon: It's actually dated February 6, 2008, because February 28 is tomorrow.

Chair Curtiss: All right, are there further questions from the Commission or are we ready for motions. I guess we deal with the zoning district first.

Commissioner Anderson made a motion that the Board of County Commissioners approve the Water's Edge Special Zoning District as amended by conditions of approval, based on the findings of fact and subject to conditions. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Commissioner Anderson made a motion that the Board of County Commissioners approve the Water's Edge PUD Subdivision according to the timing in the proposed phasing plan dated February 6, 2008 based on the findings of fact and subject to the recommended conditions of approval. Commissioner Carey seconded the motion.

Jennie Dixon: On the pink sheet.

Commissioner Anderson: On the pink sheet.

The motion carried on a vote of 3-0.

Chair Curtiss: We're trying to get past the pink and the green and the purple, so that Cathie doesn't have trouble getting minutes. The conditions, because the pink sheet referred to that #3 with the number of lots?

Jennie Dixon: Uh, huh.

Chair Curtiss: So now, we'll move to the subdivision portion.

Jennie Dixon: I think you just did the zoning and the subdivision. You did it all, you're done.

Chair Curtiss: We'll just make sure that Cathie has the correct paper. Good job, it was so good that we didn't know we did it. Dick, did you want extra copies? There's at least two of them here. We'll take a five-minute break while we get set up for the next thing and we need to sign this resolution so we make sure we get the Clerk & Recorder's Office can close.

Water's Edge Special Zoning District Conditions of Approval

1. The landscape plan presented in Section 5 of the application shall be attached and become a part of the Water's Edge Special Zoning District as a schematic landscape plan for the site.
2. The maximum building height shall be revised to 30 feet, as measured within a building envelope parallel to finished grade.
3. The maximum number of lots shall be 20.

Water's Edge PUD Subdivision Conditions of Approval

Roads and Access

1. The developer shall waive the right to protest future improvements to the Speedway Avenue/Highway 200 intersection, beyond those required of the Canyon River development which they are obligated to provide as a condition of their Phase 2 final plat filing, with language on the plat to be reviewed and approved by Public Works prior to final plat approval of Phase One. (*Subdivision Regulations 3.2(1)(e)*)
2. Private Drives 'A', 'B', and 'C' shall be named prior to final plat approval of the applicable phase, subject to review and approval by Public Works. (*Subdivision Regulations 3.2*)
3. The subdivider shall install "No Parking" and "Fire Lane" signs on the Private Drives to ensure a minimum 20 feet unobstructed width for fire apparatus access, in locations approved by Public Works, as part of the approved signage plan, prior to final plat approval of Phase One. (*Subdivision Regulations 3.1(1)(f) and (j)*)
4. The plat shall be revised prior to final plat approval of Phase One to include the private road statement shown in the Missoula County Subdivision Regulations Section 5.6(4)(K), to apply to the private drives. (*Subdivision Regulations 5.6(4)(K)*)
5. The following language shall be noted on the face of the final plat for each phase:

"Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a future RSID/SID for improvements to Deer Creek Road, Speedway and Waterside Drive, beyond those improvements to the Speedway/Highway 200 intersection required of the Canyon River development which they are obligated to provide as a condition of their Phase 2 final plat filing, including, but not limited to, road construction, paving, drainage facilities, curbs and gutters, pedestrian walkways or bikeways, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land." (*Subdivision Regulations 3.1(1)(f) and 3.2.3(1)*)
6. A street signage plan in conformance with the Manual on Uniform Traffic Control Devices, including, but not limited to, provisions for temporary signage during construction, permanent signage, and cost of installation to be the responsibility of the subdivider, shall be reviewed and approved by Public Works prior to final plat approval of Phase One. The developer must install the temporary signs prior to construction and permanent signs with the filing of the plat. (*Subdivision Regulations 3.1(1)(f), 3.2.2*)

Phasing Plan

7. The note on the phasing plan which states, "The number of units in each phase, the order of filing of the phases, and the dates of filing of each phase may vary depending on the market at the time of each platting" shall be deleted prior to final plat approval of Phase One. (*Subdivision Regulations Article 4.7.2(4)*)
8. The phasing plan and preliminary plat shall be approved as shown in the proposed phasing plan and preliminary plat dated 2/6/08, and attached to this document in Exhibits 1 and 2, except that the plan may be amended to allow for phased construction of the public pedestrian trail along the river corresponding with the applicable phase in which the trail is located.

Common Area

9. A plan for common area, pedestrian easement and boulevard area improvements for each phase, including but not limited to, landscaping, a weed management plan, a trail plan, irrigation, maintenance and any proposed improvements guarantee shall be reviewed and approved by the Parks Department, Public Works and OPG prior to final plat approval of Phase One. The common area and a portion of Lot 1 shall be subject to a public pedestrian access easement for a trail along the riverfront, spur trails connecting from Waterside Drive to the main riverfront trail, and a walkway along Deer Creek Road generally as shown on the approved preliminary plat. These easements shall either be shown on the final plat or recorded subsequent to the filing of the final plat as part of the improvements agreement for each phase, subject to review and approval by OPG, Public Works, and the Parks Department. The subdivider shall install improvements to the common area(s), pedestrian easement and boulevard areas in each phase as detailed in the approved plan for said phase prior to final plat approval of each phase or be included in the improvements guarantee, subject to review and approval by the Parks Department and Public Works. (*Subdivision Regulations Sections 3-8(1)(F), 3-8(10) & 3-2(15)(E)*)
10. The subdivider shall file a development agreement that states the developer shall provide all maintenance of common area(s), pedestrian easements, and boulevard areas until enough development to support the homeowner's association has taken place. The development agreement shall be filed prior to final plat approval of Phase One, subject to review and approval by OPG and the City Attorney. (*Subdivision Regulations Sections 3-8(1)(F), 3-8(10) & 3-2(15)(E)*)

Fire

11. Plans for addressing buildings so that address signs are clearly visible from the street in all lighting conditions shall be reviewed and approved by Missoula Rural Fire District prior to final plat approval of Phase One and shall be included in the covenants which may not be changed or deleted without governing body approval. (*Subdivision Regulations 3.1(1)*)
12. Preliminary driveway plans, including turnarounds/emergency vehicle turnouts for fire apparatus in all weather conditions and driveway widths and grades, shall be reviewed and approved by the Missoula Rural Fire District prior to final plat approval. To ensure compliance with the approved driveway plan, the Missoula Rural Fire District shall review and approve final driveway plans prior to building permit approval. Driveways and turnarounds shall be inspected and approved by the Missoula Rural Fire District prior to occupancy of each dwelling. (*Subdivision Regulations 3.2.2.2(4)*)
13. The subdivider shall install a water supply for fire protection via a hydrant system that provides a minimum 1,000 GPM fire flow 2-hour storage approved by the Missoula Rural Fire District. A maintenance plan for hydrants and water supply systems shall be approved by the Missoula Rural Fire District. Plans for a water supply for fire protection shall be reviewed and approved by Missoula Rural Fire District prior to final plat approval. In lieu of a water supply with hydrants, the subdivider shall provide verification from Missoula Rural Fire District of approval to install interior residential fire sprinklers that meet NFPA 13D standards in each new home for the purposes of fire protection prior to final plat approval. Plans for the installation of interior residential fire sprinklers shall be approved by the Missoula Rural Fire District prior to each building permit approval, and the development covenants shall be amended to include the following prior to final plat approval – which may not be changed or deleted without governing body approval:

“Residential Fire Sprinklers:

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.

Weeds

14. The subdivider shall prepare a Revegetation Plan for disturbed areas in the subdivision requiring the developer, homeowners association, or landowners to revegetate with beneficial species any areas of ground disturbance created by construction on or maintenance of these lots at the first appropriate opportunity after disturbance occurs. The Revegetation Plan shall also specifically address noxious weed management in the

Common Areas and shall be subject to review and approval by the Missoula County Weed District prior to final plat approval of Phase One. The covenants shall be revised to require property owners to comply with the Missoula County Noxious Weed Management Plan and the Montana County Weed Control Act. The covenants shall note that the grass species included in the Revegetation Plan are not turf species but for reclamation purposes and are not suitable for maintained turf or lawn use. The approved Revegetation Plan shall be incorporated into the covenants and may not be changed or deleted without governing body approval, subject to review and approval by the Weed District. (*Subdivision Regulations 3-1(1)(B)*)

15. The covenants shall be amended to include a Weed Management Plan for all undeveloped and planned open space areas (*i.e.* utility lots and common areas) of the subdivision, to be reviewed and approved by the County Weed District prior to final plat approval of Phase One. The Plan shall include provisions making the developer responsible for its implementation until enough development has occurred to support a Homeowners' Association. The Plan shall include a mechanism allowing the Homeowners' Association or other entity to assume weed management duties from the developer. The Plan and the covenant provisions related to weed management shall be reviewed and approved by the County Weed District, the Parks Department, and OPG prior to final plat approval of Phase One. (*Subdivision Regulations 3-1(1)(B)*)

Riparian Resources

16. The Riparian Resources Management Plan and Map shall be amended to require the pedestrian trail to be constructed outside of Riparian Resource Area Zone "A" and to prohibit the construction of any structures, including patios, porches & decks within Riparian Resource Buffer Zone "B", subject to review and approval by OPG prior to final plat approval of Phase One. The Riparian Resources Management Plan and Map shall be included in the covenants. (*Subdivision Regulations 3.13*)
17. The plat shall be revised to identify the Riparian Resource Area Zone "A" and Riparian Resource Buffer Zone "B" as "No-Build / No-Improvement Zones" with definitions referenced in the covenants which may not be amended or deleted without governing body approval, subject to review and approval by OPG prior to final plat approval of Phase One. The designation of Riparian Resource Buffer Zone "B" as a "No-Build / No-Improvement Zone" shall be contingent being so designated only upon completion of the improvements within this area as anticipated on Page 4 of the Riparian Resource Management Plan. (*Subdivision Regulations 3.13*)

Covenants

18. The covenants shall be amended to include the following provisions:
 - a. 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;
 - b. The EPA has designated Missoula County as having a high radon gas potential, and that all new residences should incorporate radon-resistant construction features;
 - c. Missoula City-County Air Pollution Control Program regulations prohibit the installation of wood burning stoves or fireplaces. Pellet stoves that meet emission requirements or natural gas or propane fireplaces may be installed. Pellet stoves require an installation permit from the Health Department; and,
 - d. All new driveways must be paved 20 feet back from the edge of pavement or the right-of-way boundary, whichever is longer;
 - e. Inclusion of the SID / RSID waiver statements required to be shown on the plat.

The language of these provisions shall be subject to review and approval by OPG prior to final plat approval of Phase One. The covenants shall be amended to state that these sections may not be changed or deleted without governing body approval. (*Subdivision Regulations 3.1(1)(d) and 3.2.3(1)*)

Hearing: Bentgrass Meadows (85 lots on 114 acres) - near Pulp Mill Road & Highway 10

Chair Curtiss opened the hearing.

Jennie Dixon presented the staff report.

This is a public hearing on a subdivision to create an 83 residential lot subdivision with two utility lots. Of those 83 lots, one is a larger lot, three are considered multi-family lots for four-plexes, and the other remaining lots would be for single-family.

Jennie Dixon presented a PowerPoint presentation, which can be found in the file.

Since I brought up the yellow sheet, let me stop the slide show here and explain this. The staff recommendation, as I've described, was to--there were several variance and ultimately recommend approval of the subdivision, but a pretty different subdivision. It's shown before you on the trace paper here in terms of a 12-lot subdivision, following that old highway bed. Eleven lots along that highway bed, the 12th lot being the large lot for the Lusher [phonetic] residence where the creek is. The Planning Board deleted the condition that resulted in the 11-lot subdivision and that's Condition #1. That would be shown in your Request for Commission Action Attachment #1 and that's Condition #1 that's shown in the underline, ~~strikeout~~. What they did instead, as I mentioned earlier, they deleted four lots, but allowed for the other lots to become duplexes, so the density stayed the same. The condition that they deleted also had a provision for revising the amount of the park, because it would only be somewhere in the neighborhood of 2 ½ for 5%, whatever the subdivision regulations would require, but to show the park in that same general location with road stub-outs.

Jennie Dixon went back to PowerPoint slides.

So the yellow sheet, what the yellow sheet has done is to take Planning Board's recommendations and assuming an 83-lot residential subdivision or--well, I guess in that case, it would be 79-lot subdivision, but to recommend if staff had gone along with the 83 or 79-lot version, what conditions we would have recommended. As I've mentioned--and that's shown on the yellow sheet, as I've mentioned, one of them would be to remove these four lots, again, just to keep the development in a tighter confined area, which was one concern expressed by several members of the Planning Board. The other recommendations that are shown in double-underline on the yellow sheet would be to enlarge the lots along the southern boundary where there's been interface with agricultural lands to require a 100-foot wide no-build zone prohibiting residences within that area. That comes basically from the county zoning, which in zoning--this land is unzoned, but if it were zoned, it would have a 100-foot setback of residences to any structures that house livestock. So I'm not saying that there are structures right here that house livestock and so I'm using that 100-foot as simply a setback from agriculture and a way to provide a better transition from smaller urban densities at about two per acre in this area to an agricultural acreage tract where we often see conflict on those interface lines. Then finally, under subdivision design, just to require that a new plan be redrawn that reflects those.

The only other new condition that staff would recommend on the yellow sheet is #14, which has to do with one of the variance requests. When staff recommended--I'm not going to last much longer, when staff recommended the 12 lots, we supported not putting a walkway along Highway 10. Planning Board in supporting the 79 lots also felt that the applicant did not need to provide a walkway along Highway 10. Several of the agencies did say that a walkway along Highway 10 would be important. We felt that with this level of development clustered near Highway 10 that--sorry I should have shown it in underline/~~strikeout~~. Variance #3 on the yellow sheet, staff would suggest that you consider, if you go with the denser subdivision, denial of the variance for the walkway on Highway 10 instead require the 6-foot pedestrian walkway on Highway 10. All that Condition #14 is doing is implementing that.

Jennie Dixon returned to PowerPoint slides.

The Coalition of Farming--Missoula County Community Food and Agriculture Coalition did write a letter that we did not receive in time to get in the packet. They spoke at Planning Board, not against the subdivision, but did indicate that they had some concerns about consumption of our Ag soils close to town and in a way that could be done to preserve more area of the Ag and still possibly result in the same number of units when you're just looking at Ag issues. As a staff person for the Planning Department, I had to look at that as well as the goals and objectives of the Comp Plan and the Growth Policies and the urban services areas and resulted in the reduction, not only of land consumed, but the reduction of units.

I'm going to let the applicant tell you about their sewer systems since they know much more about it than I do. The conditions of approval that the Planning Board amended, I think I've mentioned the one that the Parks

Department could take a look at and determine if the park needed to be common area or parkland. They also added a condition, the Planning Board, that Lot 83 and the utility lot be, what they called, suitably encumbered with protections and the condition says, "such as an easement or a land trust, or an irrevocable deed restriction to retain the agricultural use and character of these areas."

Chair Curtiss: Is that on our yellow sheet?

Jennie Dixon: Yes and I did not put that in underline because, again, the yellow sheet is assuming the Planning Board's conditions and that's Condition #2. I think with that, I'm going to conclude my staff report and be happy to answer any questions. Thank you.

Chair Curtiss: Thank you, Jennie. Is someone for the developer present? We'd like to change the tape before you start.

Mark Bellon: For the record, my name is Mark Bellon, I'm with Territorial Landworks.

Chair Curtiss: Mark, could you spell your name for Cathie?

Mark Bellon: Yes, B-E-L-L-O-N. I'd like to thank Jennie for her presentation.

Mark Bellon presented a PowerPoint presentation, which can be found in the file.

I would like to address some conditions of approval here. As far as the new conditions, I feel I should have got these three weeks ago before Planning Board. There was no staff report supporting our development. It's hard to react the day of the public hearing to some of these, but I can go through these. I guess, like I stated before, there's really not a findings of fact or reason to eliminate these lots. When you're trying to provide affordable housing and you add infrastructure and you subtract lots, it makes it tough.

Chair Curtiss: Although I would argue that if you remove those four lots, you wouldn't have to build that hunk of street.

Mark Bellon: Yeah, sure. Then along the southern boundary--could we go back? Just keep going back until we get to where I had the slide for the one--[inaudible], right there. You can see here, there's not a lot of agricultural ground in this area right here. There's a big bluff here and it's not farmed on this site. Yeah, you put the hundred-foot buffer in there and we're into this hillside. I think this is in dry land crop irrigation. There are no stock fences anywhere near. There's no stock in this area. It gets--and Carl will speak to this, but there's a tractor out here three times a year that takes care of this dry land wheat crop. It's really not an offensive issue with the agriculture ground. I don't think there is a finding of fact that would support a hundred foot setback. I think the developer is willing to mitigate the situation with fencing and possible negotiations with the property owner. I believe he's going to speak to that here momentarily.

Then I guess going back to the original staff report, I'd like to address the conditions of approval there. Basically, Condition #1, subdivision redesign, we're in agreement with Planning Board's modification. They recommended a redesign. Could you go back to the Option 1? Here's the layout eliminated three lots adjacent to the park. We're satisfied with this recommendation of approval, but we would like to add to it the statement that the subdivider shall relocate Lots 41 and 43 to the north end of the park, which [inaudible] 79 prior--let me back up a little bit. Go to Option 2, sorry about this. We have a condition of approval, we would add to the Planning Board's condition of approval and it would state, this would be [inaudible], "Subdivider shall relocate Lots 41-43 to the north end of the park and shall omit Lots 79 prior to final plat approval. The subdivider may recoup Lot 79 by designating one of the lots to the east park, Lot 75-78, as a duplex lot." We would want to just recoup the one-lot loss and make one a duplex. Go back to Option 1. If Option 1 is the preference, would like to add, "The subdivider may have the ability to modify the design or portion of Safflower Way in the area of the park. Final road plans shall be reviewed and approved by County Public Works, [inaudible] Office, the Planning Board's--Planning and Grants prior to final plat approval." Those are two conditions of approval that we would like to modify. Condition #2 has to deal with the primary travel corridor and I would like to maybe enter into further discussion to see whether that's a requirement or not. I'd like to get some input from Public Works.

Chair Curtiss: Condition #2 where?

Mark Bellon: Well, it's--let me see here. Its roads and access.

Commissioner Carey: We have two Conditions #2--there's a miss...

Chair Curtiss: Oh, we have a double--yeah that's right, it got numbered twice.

Mark Bellon: Condition #2 is in reference to that [inaudible] collector. I guess I would like to discuss that further if that's a requirement--I would like to discuss whether that's a requirement or not. If it is a requirement, I'd like to make some recommended modifications, not only to the corridor that we select, but also to the engineering. Then Condition #8 also is related to that primary travel corridor. Actually, it's not--Condition #8 basically has to do with 6-foot boulevard sidewalks. We would like to change--we have a sidewalk plan here. We would like to change that condition to read, "The subdivider shall install curbside sidewalks along one side of each street with [inaudible] subdivision, except Milo Court, Duram [phonetic] Drive"--and this is actually written wrong. This our proposed sidewalk plan. What we would like it to say is the subdivider shall install curbside sidewalks along both sides of each street within the subdivision except Milo Court, Duram Drive, Flax Way, and portions of Safflower Way, and Sorghum Avenue as depicted in the revised sidewalk plan, subject to review and approval by County Public Works Office and the Office of Planning and Grants prior to final plat approval. We would really like to eliminate the boulevard sidewalk requirement. I think we're outside the UGA [phonetic]; we're not even really required to provide sidewalk. We're required to address pedestrian access and we feel it is very important to address pedestrian access. I think this proposal is adequate for access to the park area, to the street area, and accommodates pedestrians in the project. Condition #9, it also relates to sidewalks, it's just a different condition that they want 5-foot--they want--it's another request for boulevard sidewalks and we would like to defer to the same, "The subdivider shall install 5-foot curbside sidewalks"--let's see here. Condition #8 would take care of our objection to Condition #9.

Let me look at Condition #10. Condition #10 is also in relation to the collector street interpretation. We recommend that it be stricken. Then I guess we would like to add a condition. There were some concerns at Planning Board of providing easements for preservation of this agricultural ground. We discussed what type of easements and we're proposing a development coming up with the Commissioners with County that would restrict development of these properties until such time that we were forced to connect to a municipal sewer. This property right here, if it's not irrigated, you know is just going to be [inaudible] grass pasture. It's not going to be functional as dry land agricultural. We want to leave the option open, you know. I don't perceive this being connected to a sewer. Might be significantly down the road, but we don't want to tie this up in perpetual agricultural easement that would encumber the property once the irrigation was removed from it. This property over here might have different options. It's also going to be tied up in the similar deed restriction. Both the properties are going to be absolutely consumed in an easement that runs perpetually with the sewer lagoon system and the application system. That will be a requirement of DEQ that we tie this up with a minimum of a 20-year lease or a very perpetual easement so that when they do irrigate out of here, these are the only areas that we're going to be allowed to apply affluent to. Our condition would be that the subdivider file a development agreement containing items and conditions to be mutually agreed upon by Missoula Board of County Commissioners and the subdivider against Utility Lot 1 and Lot 83 of Bentgrass Meadows for the general purpose of ensuring that a certain portion of open space within Bentgrass Meadows Subdivision be restricted to agricultural and sewage treatment purposes until such time as Bentgrass Meadows Subdivision is required to connect to municipal sewer system. So that would be an additional condition that would be self-imposed.

In closing, this project was well received by the Planning Board as proposed. We are in general compliance with the Comprehensive Plan and meet the objective of protecting open resource land. We do preserve and enhance agricultural use; [inaudible] service is no different than what has been previously approved in this area. We are providing affordable housing to Montana families and we respectfully request that the Commission consider approval of the subdivision as its submitted. I'd be happy to answer any questions.

Chair Curtiss: Okay, any questions at this point? Did Mr. Saunders want to speak before we open it to the public?

Mark Bellon: Yeah. Also, I'd like to state that we do have an engineer from HDR if there's any questions regarding this lagoon system.

Chair Curtiss: I'm sure there will be. Thank you.

Carl Saunders: Carl Saunders, S-A-U-N-D-E-R-S. Contrary to the Missoulian article yesterday, this isn't my land. This land belongs to Stan Lusher [inaudible] who's a friend of mine who contacted me to do the Wheatgrass Subdivision. Jennie's out, but she alluded to the fact that we sat Lot 9 aside as a condition of approval for Wheatgrass Acres, which was not the case at all. I did the Wheatgrass Acre Subdivision for Stan at his behalf and on at least three separate occasions in setting down with OPG; let them know that Stan's intent was to subdivide in the area which this subdivision is proposed. So it's not like this was a big surprise, but each time that I go back there, they tell me it is.

I would just address the agricultural uses [inaudible] because that's what I do. I was raised in a dairy farm at St. Ignatius and it got in my blood and I can't get it out. I have to do lots of other things to afford it, but I farm about 300 acres over on Mullan Road and I lease this piece of property from Stan and 180 acres that's immediately to the south of it from his sister, Lindy Cummins [phonetic] and Bob. Across the road, there are [inaudible] alfalfa fields that I've seeded in the last two years. In my two years of running this piece of property along with the dry land of the portion of the 300 acres that I farm of my own over on Mullan Road, dry land farming is very very marginal. This ground--there's a USDA map somewhere in this thing that shows 68.5 acres of this as being in agriculture. It's been in dry land wheat, winter wheat for the last 42 years. Bill Lusher [phonetic], the brother of the owner of the property farmed it up until about four years ago and they had one guy in for a year, Overlander [phonetic], you might know them from North Dakota. They came in and planted it to winter wheat and claimed a crop failure, and collected insurance on it and decided it was not good enough property for them to run again. There's still farming the Dougherty Ranch and some ground down at Florence et cetera, but it wasn't profitable enough for them to continue the lease. Bob and Lindy approached me to see if I'd be interested in farming it and I took it on and just below what you're looking at, the dark thing there, there's 52-acre field that I planted the spring wheat last year that didn't make a crop. If you don't get water on it at the right time when it's in the boot, it flat doesn't head out, and you don't have anything. That's been a contention with it--I mean, they call it prime agriculture ground. I don't know who it's prime to but it's not prime unless you can water it. So we designed this subdivision with that in mind, that we could create our own water district that we could create enough water to irrigate the 30 acres.

When we lost the block of houses that was shown to you originally, we did so for two reasons. First of all, staff asked us to. Secondly, it didn't leave us enough ground left to do any crop rotation. So when we irrigate, you'll have to--every five or six years, a portion of this is going to have to be tilled and reseeded or your alfalfa will run out. We incorporated enough ground by losing that bank of homes, if you will, so that we could have some crop rotation so that we could plow a portion of it and reseed it and keep a viable alfalfa crop in tact. Last year's wheat crop off of 32 acres of this yielded 22 bushel to the acre, which resulted in \$5.15 a bushel. As I told you Monday, that's a historical high. In 1942 was the last time we got over \$5.00 a bushel. It was \$5.15 a bushel and it resulted in a \$7910 crop, gross and you've got to subtract all your farming expenses out of that. If we have to farm all 68.5 acres of it to keep the weeds down, if we do this subdivision, we can irrigate 30 acres of it and harvest roughly [inaudible] to the acre at \$100 to \$150 a ton. At \$100 a ton, that's 15 grand. We doubled our agricultural take off of the property and cut down our farming expenses in half. We're now only covering 30 acres instead of 68.5 acres with our equipment. So the farming expenses get less, the crop production gets higher, and the profitability to me as the farmer gets viable so that I can stay in farming. I can keep equipment running and make the thing work. At the same time, I've got housing that people are crying for, if you will. This looks to me like a win-win situation that we should--any time that we're in a subdivision area that's encompassing agricultural land, we should look at options where we can keep part of it and increase it's viability as Ag land. I think we've done a good design with that in this subdivision. Any questions? Larry?

Commissioner Anderson: Carl, you've talked what the profitability of irrigating and what is--what if the other farming situation goes bust and you're not able to continue farming, how does that work into this area continuing to grow crops and provide the water treatment for this subdivision?

Carl Saunders: There's always a demand for irrigated Ag land, even for people to rent it to put hay up. I'm 60 years old. This subdivision's going to be here a lot longer than I'm going to be around. Someone's going to farm it, but as long as it's irrigated, agricultural property, there will be people who will farm it. There will be people who will harvest the alfalfa crop.

Commissioner Anderson: Will the ownership of the Ag land be retained with...

Carl Saunders: The ownership of that will be retained with--actually, the way we've got it is we have a corporation set up that is Three Aces LLC that will retain ownership of the utility lot and farm it. Stan is part of that.

Commissioner Anderson: That will be...

Carl Saunders: Yes.

Commissioner Anderson: That will be a...

Carl Saunders: An ongoing...

Commissioner Anderson: [Inaudible, interrupted] ongoing...

Carl Saunders: Right.

Commissioner Anderson: ...situation?

Carl Saunders: And at such point in time that all of us that are Three Aces LLC are gone, obviously, there will be people who will inherit that piece of property. It will be private ownership and will be run as Ag land, no different than my farm at home. When I quit farming it, who's going to farm it?

Commissioner Anderson: I guess the only condition is this is providing that treatment...

Carl Saunders: You bet.

Commissioner Anderson: ...for that subdivision, so.

Carl Saunders: Sure.

Cathie Cichosz: Excuse me, just for future reference, when you interrupt someone on the tape and they're still talking, I can't hear either of you, so then it goes inaudible. Thank you.

Chair Curtiss: I have one question for you, Carl. What is the minimum number of homes--I know that you say that with the 12 that were proposed by staff, that that's not viable to create this land application system. What's the minimum number of homes that you would need to irrigate this land?

Carl Saunders: I'm not real positive of that. Actually, our engineer from HDR could probably address that better. When they came back with their report for us, the 30 acres that we proposed to irrigate was what they said could be irrigated with the number of homes, residents, that we proposed. Consequently, if there were more, we could irrigate more, but if got less, we're going to irrigate less.

Chair Curtiss: Thank you. Mark, did you have something that you wanted to add?

Mark Bellon: [Inaudible, spoke from audience.]

Chair Curtiss: Could you state your name again so Cathie has it on the tape?

Mark Bellon: Mark Bellon. It doesn't really matter when we get the sewer district set up, if there's not a market for alfalfa, this will be harvested. It will be funded through the sewer district, its part of the system. It's just a benefit that we can pull a marketable crop off of this land. If for some reason Carl doesn't farm it or someone doesn't farm it, it's still going to be maintained through the sewer district. It will be planted, it will be irrigated, it will be harvested every year. That's just a condition; it's an all-encompassing system. It's just one component that's going to be there as long as this system's in place.

Commissioner Anderson: Just a question, Mark. Then will--if in fact hay prices drop for some reason and that isn't marketable, will those sewer rates go up then to offset that cost of...

Mark Bellon: No.

Commissioner Anderson: ...maintaining that?

Mark Bellon: We haven't actually determined--it's going to be somewhat independent funding. You know, the sewer system's not going to be reliant upon the agricultural crop at all. It's going to be independent of that. Any income that comes from the crop will just be a benefit. It'll be maybe in a savings account. There'll be some cost for the farmer. Maybe it'll pay for harvesting; it will be some of his compensation [inaudible] and actually harvested, but it will probably be about a wash. There's not going to be a lot of--from the design perspective, we don't budget or anticipate profit coming out of this alfalfa crop from the developer's perspective [inaudible]. We have to be conservation. We want to make sure that we size everything appropriately and then everything it's based on a market that fluctuates. It's got to be consistent and steady. From our perspective, the price of the crop will just be beneficial to the project and never a detriment.

Chair Curtiss: Thank you, Mark. This is a public hearing, is there anyone else who would like to make comment?

Gary Carlson: I'm Gary Carlson; I live on 9486 Backstretch Lane, which is adjacent to Wheatgrass. I have some objections to this whole plan. Can you all hear me?

Chair Curtiss: Yeah as long as you stay close to it, Gary.

Gary Carlson: I'll try to stay close to my mic. As I understand it, this is a different area than what has been brought up as far as like density of housing, that there's been evidence that we should increase the housing here subsequent from other developments that are being--across the boundary, that's outside the 2002 Regional Land Use Guide in the 1990 Comprehensive Plan. Is that correct? So we should make an exception here because there was an exception made some other place across the boundary? So in the 1990 Comprehensive Plan, I understand that it was supposed to be one home per 40 acres. Right now, it's considered an increase in density of 32 times that for this area to support, I guess, this plan of a sewer system/agricultural area.

I have an objection based on that in general. Then just the idea, what, 80--is there going to be 80 people here? How many people are going to be here next to this Highway 10? I'd imagine, what's the crowd there, it's going to be like 120 people living there. I don't know if any body's been on Highway 10 lately, but there's a considerable amount of truck traffic. This area does not support a higher density of people especially coming out on Highway 200. There's chip trucks, increased logging traffic, it's extremely foggy in the morning. I just see a pending incredible dangerous situation, like two freight trains colliding. Sticking a lot of people here, that was not recommended by a regional land use and there's a couple of reasons for that. Then you're sending them out on a dangerous state highway that's a two-lane highway that just has an incredible amount of increased truck traffic in the last couple of years. Stone Container is booming. They're bringing a lot of logging trucks here and it's just--I don't think it's really been thought out as far as [inaudible] highway density, highway traffic, the increased traffic; it's going to be an impending disaster the way I look at it.

Now, I'm not sure about this sewer system. It sounds like a really good idea, I mean, it's unique, but how unique is it? Do we have any examples of this working? It's going to be in an area where I understand it, as I read it, there's general ideas of what this area's composed of, silt and clay, mixed with some gravels. Is this area where the sewer's supposed to be put in, this open lagoon, is that going to be all clay? What--is that going to be level and how big is it going to be and who's going to maintain it? Is it going to be maintained by the people that live there or is it going to be maintained by the people who farm there? If the farmers are using it, then I would think they would need to maintain it. I'm just not sure who's going to take care of this system. Is it subject to fail since it's unique? According to what I understand, they had a similar system at El Mar Estates and it failed. Why would we make one bigger in an area that's unknown, especially in a place that's geologically--? Maybe I'm--may not be able to sustain any kind of load. I say that because I live out there. There's a lot of area covered with clay and it gets really slippery when it's wet. I'm not sure if you have a holding pond in there, if it's going to maintain its cohesiveness. What the plan is? It's sitting out there, is it going to be lined? Is it going to slip into the creek? Just what is the planning to prevent a disaster from having affluent go into O'Keefe Creek and running down into the river? It just--they say that it won't happen, but I don't see anything in the regulations that say that it won't.

Then, how will it affect the rest of the community? Will it be an eye sore? Will it smell? Will it be a danger to people? A danger to children? A danger to animals? Are animals going to come in there? There's a huge geese population, they fly in, and they like water. They love to run into lagoons. Is this going to be protective against problems where geese get caught up in it? Heavens, I don't know what children are going to do, if they're going to be running around there. So I'm just sure how it's going to be managed. [Tape ended] How unique is this to, you know, to answer those questions that may be problems down the road? I just don't see that that's addressed in this Bentgrass Meadows Subdivision.

So the three points I make, is it dangerous to have 80 people out there, driving up and down the road, Highway 10? How much are we stretching the regional land use plan? How dependable is this system? How permanent is this system? It looks like some of the sidewalks are now being removed, although there's a proposed plan to expand it, yet maybe not to expand it, so you should remove some of the sidewalks. It seems to be kind of a sudden switch; it just doesn't seem to me to answer the question of what's really going to happen with this land. So, thank you, those are my concerns.

Chair Curtiss: Thank you, Mr. Carlson. I'm sure HDR will address a lot of your issues on the lagoon system. Just for one thing, El Mar failed because it had too small of a pond was their biggest issue. This one we know has covered that?

Unidentified Speaker: Can I say something else about that?

Chair Curtiss: Yeah, let Mike add to that.

Mike Sehestedt: The failure of the El Mar system, what's required for a land app system to work is land/storage balance. El Mar, in addition to defect and pond construction, lacked balance between storage and application area with the consequence it was also allowed to run down very badly by the homeowner's association. It didn't have the balance, so storage was at max perhaps before the appropriate time to begin irrigating, so we had issues with that. It served a much larger area and I think had both less application area and less storage than is being proposed for this. Engineering questions should probably be directed to HDR whose here. Fundamentally, the El Mar system was allowed to add units and they were added improvidently.

Gary Carlson: So as I understand it, it failed because the homeowner's association didn't take of it or...?

Mike Sehestedt: The basic fundamental problem was that they allowed others to join in and result, they got more affluent than the system was sized to handle. We had lots of other issues, including location of [inaudible] sprinkling areas, which were widely separated and we had a pipe crossing up a hill. It was difficult to operate and there were, when we took it back over, some deferred maintenance issues that needed to be addressed. One of the reasons now that the Health Department does not allow these community systems to be operated by a homeowner's association is that very sort of issue [inaudible] experienced a variety of context with a variety of different community systems. They require either the county take responsibility through an RSID or that sewer and water district be created, which is a governmental authority that can enforce collections through the tax process, that has independent bonding capacity to address the capital liens. Also has some ability to obtain grants. By and large, those have been successful. Most of ours operate water systems, but I'm trying to think, we have a couple that do sewer, but their subsurface large community drainfield systems, which are not particularly favored for their individual or community because of the voluntary nutrient reduction program...

Chair Curtiss: So all those things that have to be addressed through...

Mike Sehestedt: By HDR.

Chair Curtiss: And the Health Department and DEQ.

Mike Sehestedt: Health Department/DEQ. DEQ will examine...

Chair Curtiss: I mean they would make sure the system was [inaudible]...

Mike Sehestedt: Sizing buffer and [inaudible] I happen to know they're required to be lined. Sizing, buffering of the sprinkling areas is required.

Chair Curtiss: We can let HDR address those maybe.

Mike Sehestedt: Yeah, let HRD do it. I'm giving it secondhand on a briefing they gave me on a system [inaudible].

Chair Curtiss: Did you have further questions?

Gary Carlson: This is Gary Carlson again. So, who is going to control the lagoon or the sewer system here? Is that--that's not addressed yet?

Mike Sehestedt: They're subject, always subject, community systems, to regulation by the State Department of Environmental Quality.

Gary Carlson: But who's going to control it...?

Chair Curtiss: They have to establish a sewer district...

Mike Sehestedt: We're not going to approve this...

Chair Curtiss: ...or system, whatever they call it.

Mike Sehestedt: ...without, I don't believe, without a condition that a sewer and water district be established to operate and maintain both the water system and the sewer system...

Gary Carlson: And this is different than a homeowner's-oh, sorry.

Mike Sehestedt: Yeah, it's completely different than a homeowner's association. It has significant legal abilities that a homeowner's association doesn't have to enforce the payment of fees, for example. Homeowner's associations, if somebody doesn't pay their charges, you wind up having to sue them and go through collection. Sewer and water district, if you don't pay them, they simply get added to your taxes. There's a fairly ruthless procedure, which I hope you don't become familiar with, for enforcing nonpayment of property taxes. So yeah, they have considerable [inaudible] that a homeowner's association does not plus they have the ability to bond for capital improvements either through a revenue bond, funded by charges, or by a tax on the property within the sewer and water district.

Chair Curtiss: So it has much more ability to...

Mike Sehestedt: It has an ability to guarantee its revenue stream, which a homeowner's association does not...

Gary Carlson: Okay.

Mike Sehestedt: ...has a far greater ability to borrow to do capital improvements than a homeowner's association has.

Gary Carlson: Okay, I guess that answers the question what may come down the road as far as the sewer system and the open sewer, the lagoon. I guess has anybody addressed the question about how these people are going to move in and out of Highway 200 safely?

Chair Curtiss: That's part of a--one of the requirements in the letter from the Montana Department of Transportation is a complete traffic impact study based on the development at full build-out. That's where those numbers would come in the--when you build new accesses onto, and the state is responsible for that section of road, they require this study before they grant the access permits.

Mike Sehestedt: I would anticipate based on what they've done with similar projects that they would probably require both entry and left-turn lanes at the principal access. Can't say that for sure because we don't have the traffic study completed yet and we don't have the MDOT requirements [inaudible] historically has been their requirement for the last four or five years, new access serving a significant volume of traffic.

Gary Carlson: Again, like my question is, I understand where the question or clarification is it should build 80-some homes, high-density homes, here because it was done across the road somewhere else in a different...

Mike Sehestedt: I don't...

Gary Carlson: ...land use guide.

Mike Sehestedt: ...maybe, is this the time for me to discuss the ineffectiveness of the Comp Plan?

Chair Curtiss: Sure.

Mike Sehestedt: Okay. One of the problems with comprehensive planning or growth policies is that the legislature has chosen to make them specifically non-enforceable. In and of themselves they are not the basis for any land use decision, other than the adoption of zoning. Zoning actually has regulatory powers in and of itself. If zoning says you cannot have a supermarket here, doesn't matter whether anybody thinks it's a good idea or not, unless the zoning's changed, you can't do that construction. Our comp plans, like comp plans everywhere in the state are now merely advisory. They used to have some regulatory effect in that you couldn't issue building permits if it was inconsistent with the comp plan, now called the growth policy. The legislature specifically took that away and said they shall not be used to make regulatory decisions, but if you zone, you have to follow the comp plan. This area is unzoned, so the comp plan is pretty much purely a statement of future intent, rather than something that the Commissioners can rely to deny a subdivision.

Chair Curtiss: I think that today the fact that there are properties on the other side of freeway that are--have been approved with larger density was used in two ways. One, Jennie showed that it was within the urban growth and that was why it was done. The developer's showing that it's not very far away and so what's the difference? Those are all things we get to weigh today.

Gary Carlson: So it's across the road, but it's in a different planning area right, basically? So it should extend here because it was done somewhere else?

Chair Curtiss: That was one connection that was made, yes.

Mike Sehestedt: The other argument was different areas, different rules.

Chair Curtiss: Right. Okay, thank you, Mr. Carlson...

Gary Carlson: One more...

Chair Curtiss: ...I think [inaudible, interrupted] might get answered by HDR...

Gary Carlson: One more quick question here? Is there any reason why you decided on a manufactured homes rather than stick homes?

Commissioner Carey: You need to ask the questions to us.

Chair Curtiss: Questions are to us, but we can have them address it in a bit.

Gary Carlson: Okay, thank you.

Chair Curtiss: So the question was whether or not--or why manufactured homes, so we'll let you address that in a little bit. In the essence of time, let's try to move on to folks that haven't spoken yet and then we can come back and let the developer wrap up or answer. Yes, whoever would like to come forward, go up and state your name. If you want to say ditto to some points that have been brought up, then hopefully they'll get answered throughout. I know that Jennie has to leave at five; she has a little girl to pick up.

Mark Fitzgerald: Good afternoon, Commissioners, Mark Fitzgerald, F-I-T-Z-G-E-R-A-L-D, Ms. Dixon from Planning and Grants, and other county employees, I'm a member of the Planning Board, as most of you know. I sat through the considerable amount of time that we spent on this a few weeks ago, as Ms. Dixon referred to, about four hours I believe, total testimony. It did come out of Planning Board for approval. I believe on a 6-3 vote that night. I'm just here to speak to why we felt like the developer brought forward a proposal that we thought had legs versus what the staff was recommended, if you want that opinion or not. Sometime I know it's helpful to have somebody outside of the minutes to glean some reasons why we made our decisions and sometimes they're not so clear in the minutes that you all receive or see on the TV. Basically, we had a development here that mitigates a lot of things that come to the table when this type of development is proposed outside of the sewer line. Many times we see a development like this wanting to put in individual septic, individual wells. It's near a river, it's in a wildlife corridor, you've got fire concerns, human safety concerns, traffic concerns on a major

highway, all those things get weighed by us as to whether or not we think the development should go forward or not and whether the developer's has planned well enough.

We just felt like the developer worked hard on this. It's the first time we've seen a development with this size brought to us with its own individual water and sewer system. It preserved agricultural land by using the after-effects, if you will, of this sewer system to irrigate agricultural land that was not irrigated now. We had testimony from a lifelong farmer, Mr. Saunders, who said that he can't make any money off of what he has been doing on this land in the past without having it irrigated. The only thing that we felt that weighed OPG's recommendation of only 12 lots was possibly the fact the statement's premature for development due to the fact that's it's outside the UFDA area that was just recently put forth and somewhat removed from essential services, such as grocery, medical, schools, things like that. We did have testimony I believe from one or two members from the Frenchtown Fire Department that said, you know, it's well within their service area. This area is within the Frenchtown School District, I do believe. It's basically only four miles I think from the airport or maybe four and a half miles. As the previous gentleman said, basically across the way there's quite a number of sizeable developments going in specifically behind Murrault's Travel Plaza there. We just thought that we had a proposal here that addressed a lot of concerns and brought affordable housing to some citizens here in Missoula, truly affordable housing we felt that was on lot sizes that are not postage-stamp sized. That have a little room that, you know, if someone has a pet or boats or vehicles, things like that, that there was enough lot size if you put a home and a garage on it, that you've got a little bit of breathing room too. Park dedication land was more than sufficient and again, there's some things that had to be addressed here along with the traffic impact study and whether or not their system is workable as far as DEQ and all of that approval. We're not engineers that sit on the Planning Board. We look at the main things and put it off to the people that have to make those decisions. On face value, we felt this proposal definitely had legs and that's why we gave it the thumbs up.

Chair Curtiss: Thank you for giving us that summary. Who else would like to speak? Just come forward, you don't have to be recognized.

Larry Schmill: Larry Schmill.

Chair Curtiss: Larry, could you spell you last name please?

Larry Schmill: S-C-H-M-I-L.

Chair Curtiss: Thank you.

Larry Schmill: I live just across the highway from where they're putting this in. Got a couple concerns about what's going on. I'd just soon have this down here as up where I hunt elk [inaudible] for it or against it. I'm concerned about where the water's coming from. When I first moved out there, I had a one-horse pump that could run three sprinklers all day long. Since they started putting everything in out there, I'm down to a half-horse pump; I can only run one sprinkler part of the day. Then I'm out of water. The traffic, last year I had two logging trucks tip over there in my yard, one semi, headed towards the pulp mill. Coming the other way, we've had a paper truck that tipped over, loaded with paper [inaudible]. You go up to the Wye, you get ready to stop up there [inaudible] wreck after wrecks, [inaudible] about that. You can't get on that highway unless they're going to have to put in a stop light or something up there. For Wheatgrass, you've got two septic tanks over there already, leaking septic out on the ground. Not a real good deal there and I'm concerned about the sewer treatment plant, will it stink? How much smell do you get out of that over there? Trying to put in affordable housing for everybody, the guy's making money; they're not really affordable homes for what everybody's doing. The guys doing it to make some money, nothing wrong with that but can't say that that's why they're trying to do it, trying to irrigate fields. [Inaudible] did that for years, I've lived out there since 1980, and I've seen hay bales right close to each other all along out there. You run [inaudible] for a while, then you run wheat for a while. He was a good farmer up there. I'm not saying Carl isn't, but well, all I can think of right at the moment. I'm sure I'll be back here shortly when somebody starts talking. Thanks a lot.

Chair Curtiss: Thank you. Yes, come forward sir.

Doug Cummons: Name's Doug Cummons, live at 12327 Triple Fox Court. I have property abuts the proposed sewage lagoon.

Cathie Cichosz: Could you move the microphone so you're talking into it? Thank you.

Doug Cummons: Better? Curious of perhaps a cross-section of the lagoon, is there any proposal for maybe berming landscape, link fence? Carl brought up some good ideas about the safety, you know, what's been proposed as far as that. The traffic issue is a big thing. We've got the 90-degree corner right there. Gentleman's property. My concern is the school bus stops right in the middle of the highway. You come around the corner, is there any proposal for maybe a turnout for the school bus so that's not an issue? It's already been brought up about the trucking traffic that comes down there. It's not a great highway and my concern about the lagoon and odor. I'm curious of what the two squares are? I've never seen these maps. The maps that were distributed amongst our subdivision were poor at best. You could barely read what they indicated. Does anybody know what those squares are?

Chair Curtiss: Those are the lagoons.

Mike Sehestedt: Actually...

Doug Cummons: So they'll be four lagoons the way I look at this?

Mike Sehestedt: Let me try this. The two squares are, first of all, an aeration basin and then second, a sedimentation basin, then the water flows into the larger pond for storage...

Chair Curtiss: After it's been treated.

Mike Sehestedt: After it's been aerated and settled. The other lagoon is a separate catchment basin for stormwater drainage. If they put in streets, houses, hard surface, it will increase the runoff from that area in the event of a rain. One of the requirements is that the water not leave the property any faster than it would in a natural state, so there's a holding area, if you will, detention pond into which this stormwater runs and then it is metered out so that you don't get the sudden rushes. Three of those are associated with the sewage treatment system and one is associated with just the general stormwater requirements that apply to every subdivision.

Doug Cummons: So if I understand this right, there'll be no discharge whatsoever into O'Keefe Creek?

Chair Curtiss: No, there will not.

Doug Cummons: Will not be.

Mike Sehestedt: Stormwater will get into O'Keefe Creek eventually, but at a rate no faster than it would have gone in pre-development.

Doug Cummons: Right, because it is an ephemeral creek; it does not run all year round.

Mike Sehestedt: Right, from the sewage treatment side of it, if water, the affluent starts reaching the creek, they're in big trouble with DEQ, the Corp of Engineers, and a number of other entities you don't want to be in trouble with. Stormwater drainage will get in, but if in a five-year rain event, it adds 10 gallons a minute to O'Keefe Creek after development with that detention pond, it won't flow in any faster after that kind of storm.

Chair Curtiss: So whoever's here from HDR, I hope you're making notes because you have quite a few questions to answer.

Doug Cummons: Okay, then the affluent, exactly [inaudible] concentration are we looking at for the application system and how is that applied? And have...

Chair Curtiss: We'll have them address that, but those are good questions.

Doug Cummons: ...restrictions on, you know, high speed wind event, things like that, you know, are there issues involving ...

Chair Curtiss: Some of it will be applied just like the--and they'll address that, but just like any big wheel system that you see putting irrigation out after it's cleaned.

Doug Cummons: So it's like a pivot system?

Chair Curtiss: Some of it will be put on that way.

Mike Sehestedt: I don't think a pivot system will work here given the layout, but it will be wheel lines or [inaudible, interrupted]...

Doug Cummons: Right, okay, sure.

Paul Hubbard: My name's Paul Hubbard. I'm here representing the Community Food and Agriculture Coalition. I guess first I'd like to--I just have a technical question that maybe can be addressed. Maybe I'm the only one confused in here. In the Planning Board conversation, the numbers [inaudible] talk about that development footprint and the agricultural acres, there's a pretty big discrepancy between what was out there and it was a little confusing. The proposal I have says the netted lot area is 65.5 and I heard 42 acres earlier.

Jennie Dixon: Jean, could I respond to that question?

Chair Curtiss: Sure, Jennie.

Jennie Dixon: Because that's the one, having missed a great deal of this meeting, that's the one correction I want to make to this map. There are some inaccuracies that the applicant pointed out in the staff report and it was me misinterpreting sections of their application. Let me say what I think I understand the proposal to be and I may be corrected if I misstate it. The smaller lots, the multi-family lots, and the park comprise a footprint of about 42 acres.

Unidentified Speaker: [Inaudible, spoke from audience.]

Chair Curtiss: Let's let Jennie say and we'll let you correct it and we make sure it's on the tape please.

Jennie Dixon: I think that's about 42 acres. The entire property itself is 113, so if you take 42 away from 113, you have 71 acres left. Now Lot 83, which is the large lot and if I had the pointer, there's a line straight across, that's a lot and that's 38 acres. Now the utility lot, which has the tributary to the creek and the two squares and it says 60 acres of Ag land, that's about 33 acres. I think what's fair to say and it's shown in there--what I tried to show on a slide in the green area and it's the number that's wrong in my staff report, is that according to the application, approximately 27 acres are proposed for land application. Now what Mark said in his presentation was a minimum of 30. I think what he's doing, what was not shown in the packet, is counting several acres across the creek. I think it's inaccurate to say that there are 60 acres of Ag land left over when you do this development. I think what's more accurate is that somewhere--I mean their land app needs a minimum of 20 acres for the system to work. They're showing 30 in the dark gray area. You can't count the creek and the homesite and the lagoons and all that as Ag. So I think for the purposes of the discussion, you're looking at about 30 acres, plus or minus, as being used for agricultural alfalfa crop. Any correction to that?

Chair Curtiss: Paul, does that answer your question.

Paul Hubbard: [Inaudible, spoke from audience.]

Carl Saunders: One minor correction, Carl Saunders. The riparian areas are being pastured and if I'm not...

Jennie Dixon: That would be in violation of the riparian management plan.

Carl Saunders: They've been pasture for a hundred years and, if I'm not [inaudible], the cows still count as agriculture.

Chair Curtiss: I guess what the question though, Mr. Saunders, is how much of this land do you plan...

Carl Saunders: To farm?

Chair Curtiss: ...to farm and use the irrigation system?

Carl Saunders: The actual acreage of that would have to come from Mark, but our intent is to have at least 30 acres.

Chair Curtiss: Minimum of 30. Did you have more questions, Paul?

Paul Hubbard: No more questions, but some comments. Well, CFAC really appreciates the opportunity to comment and we submitted a letter to Planner Jennie Dixon as she was preparing her staff recommendation for the Planning Board. I'd love to just touch on some of our comments and elaborate on a few. First, I want to make sure it's clear that CFAC is not supporting or opposing the Bentgrass Meadows Subdivision proposal. In fact, this proposal has been fascinating for us to review for its impacts to agriculture because it's not black and white. Frankly, we've discussed--it's brought out a lot of details and issues for us to look at. We haven't agreed on every single detail. We're a coalition of people and it's been fascinating to talk about.

However, we do agree on these following points. The entire 114 acres within the proposed subdivision contains soils that are considered of local importance by the National Resources Conservation Service. These soils are a finite resource and the proposed subdivision will result in the net loss of fertile agricultural land. Without irrigation, that's point 1. Point #2, without irrigation, these soils are not nearly as productive as the other properties in the area. We applaud the wastewater plan because it has the potential to increase productivity on the remaining agricultural land. Still we think that the developed areas footprint could be significantly smaller. More land could remain open for agriculture to co-exist with the residential lots either by reducing the number of lots and/or reducing the average lot size. As a condition, that's point 3. Point four, as a condition for approval, we recommend that the remaining agricultural land be protected in perpetuity with a legally enforced mechanism. We really appreciate having met with Carl Saunders earlier this week or last week to discuss this. It was an informative meeting. Then lastly, we're extremely concerned about the agricultural area around Bentgrass Meadows. The area contains working farms, some of Missoula County's best soils and usually access to irrigation. In fact, the region has been designated as open lands resource area, in large part due to its agricultural character and capacity. We're concerned that the subdivision will not only build on top of agricultural land within the proposed area, but will also become a development pattern that creeps across some of our best farmlands. Here I'd like to make a side note that in order for us to ensure that residential sprawl does not take over our farmlands, we need some concrete growth management tools, such as a mitigation ordinance; a mitigation ordinance for agricultural land. So if for example, a developer could protect a nearby farm or range of soils of equal or greater value, then we would be able to both accommodate housing while also protecting agricultural lands. Without such tools, a subdivision such as this one with a much higher level of density will probably only increase the development pressure on the other farmlands in the area, rather than decrease them. CFAC is investigating this mitigation ordinance idea and we look forward to working with the County Commissioners, neighborhoods, as well as the development community to get it done. Thank you for listening.

Chair Curtiss: Thank you, Mr. Hubbard. Sure. State your name for Cathie again.

Mark Bellon: My name's Mark Bellon. I just want to clarify a couple of things. With this 60 acres is the Ag land that's shown, it does include the pond area. It does not include the riparian area, so this total area right in here is 72 acres. The area in our subdivision's 42 acres. I guess I would like to read-- really appreciate CFAC too and I wish that we would have the opportunity to have dialogue with them. I know Jennie solicited comment from them and at the last minute, we didn't have an opportunity to meet with them. I have read one of the publications that they put out. One thing that I appreciate here and I think that we meet their goals. I'll just summarize this real close, but it says farm [inaudible] urban area have social, cultural, and historic value for the community. Those values suggest interesting opportunities for designing creative solutions so that we can maintain agricultural lands and, underscored, provide housing in close proximity in ways that enhance quality of life. CFAC envisions a future where density and farmland can co-exist. I think that's kind of the model that we're bringing to the table and this is really the only model that I've ever seen brought to the table. I'm glad that they're embracing it.

Chair Curtiss: Thank you, Mark. Other comments? HDR? Okay, Mr. Lucer [phonetic], can we let Stan talk first?

Unidentified Speakers: [Inaudible, spoke from audience.]

Chair Curtiss: Well you never know if people don't talk.

Stan Hendrickson: My name is Stan Hendrickson. I own a small farm north of this property. I'm well aware of the soils out there. I don't know where this soil verification is coming from, but we quit planting wheat out there

because we just couldn't make a living on it. It's just not a win situation, so as far as losing cropland, I think we should be more concerned about the Bitterroot River and Orchard Homes and places where we can take one and half acre and grow more than you can grow in a hundred acres out there. So I think as far as farm ground, that shouldn't even enter into it.

I like the way the thing is designed, it isn't going to take away from the value of my property. I think one of the main issues is affordable housing. You cut that up in 5-10 acre parcels, who can afford it? Who can pay the taxes? Who can cut the knapweed on it? I think we need more density and they've done a good job of keeping the farm ground out there and making a higher density and I think we ought to see more developments like this.

Chair Curtiss: Thank you, sir. The information on soils we get from the NCRS. A lot of times, it does say with irrigation that it's prime farmland. Do you want to go before Mr. HDR? You're leaving, okay. Escape, run.

Matt Gough: Hi, my name is Matt Gough and I'm with HDR.

Chair Curtiss: Could you spell your last name please?

Matt Gough: G-O-U-G-H. Seems like a bunch of folks left before I actually had a chance to talk, but that's okay. There were a number of, I guess, concerns that were brought up and I'll just try to go through them here in order. We were hired on specifically to look at the wastewater. That is something that we do, actually work with the Missoula County quite a bit on wastewater issues. That's all I do, so if anybody has questions on water systems or anything like that, that's not what we did. We purely [inaudible] wastewater system. When Carl came to us, and Mark, the desire was to find as environmentally responsible solution as we could. Ideally, you like to connect to city sewer when you can and we always encourage that if it's available. In this case, they were looking for a higher density. We are seeing developments like this pop up over Montana. Montana's a little different than a lot of other areas in that we have very distinct urban centers and they are separated, everything's three hours away. You can't go anywhere without having to drive three hours, so we don't have a lot of sprawl. Bitterroot's kind of the one that's changed that, but because of that, it's very difficult to get to sanitary sewer. We have a lot of developers that are coming to us, asking for solutions that are a lot different than we've seen, especially in the Bitterroot, the two--the 5-acre parcels that have been split up with your well and your septic. We're finding that those are not environmentally responsible. There was a great study that was done in the Helena Valley on septic systems and what it's done to the aquifer. For a long time, we thought that one-taker parcels on a septic system was acceptable. We're actually realizing now that it might be 10-20-25-30 acres that is acceptable, so our views on septic systems are changing. We've known this and we've been trying to sewer more and more of Missoula County because of that.

In this case, we were looking for an option that would provide a benefit to the community and to the development, and was environmentally responsible. Because of that, we decided to go with a land application system. This type of system is not new. There are communities all across Montana that are using lagoon and land application-type systems. It's been around forever and ever. There's a couple of them. I think still here, I think Jellystone has one. Probably the biggest that's nearby, the one outside of St. Ignatius, that's a pretty large one. You can see as you're going up to Polson.

The system consists of three ponds. The first two here, the first one is a treatment pond. It has big mechanical aerators in that. That's to stabilize the wastewater. The second pond is a sedimentation pond and it does nothing more than remove the solids, the heavy particles. Then the big pond is our storage pond. It also acts for disinfection. The water does have to be disinfected before it can be land-applied. This area here is fenced off; the whole area has to be fenced out. It's a DEQ requirement. Screening is not required, but it's something that I know the developer is looking into. Obviously, you don't want it to be a big eyesore. They are ponds. These two look a bit unnatural only that they're square in color. There's very little odor. A system that is aerobic, meaning that there's oxygen added, doesn't really smell. It smells like earth, dirt. A lot of people are actually surprised when they go to a wastewater treatment plant. Kind of the first process is what we call a head works, which removes large particles. That is a bit stinky and it's because you're moving everything, trash and that sort of stuff and it is a bit smelly, but from that point on, everything is aerobic. When things are aerobic, they don't smell. In this case, this whole system is aerobic. The storage pond itself is very natural looking. It looks nothing more than like a large pond.

DEQ does have very strict regulations on how it's designed, how it's sized, as does Missoula County, Department of Health. The irrigated area has been discussed earlier, is about 20 acres. Again, DEQ requires these things to

be designed from a very very conservation standpoint. They base it on the number of bedrooms per house. In this case, we assumed a four-bedroom house, which equates to about 350 gallons per house per day. Typically, wastewater generated from most new construction on a four-bedroom house is about 200 gallons per house per day. It's grossly oversized, but it's just the way that DEQ works. The ponds are much larger than they need to be, as is the required area of irrigation. That 20 acres in reality is probably a little bit smaller than that. Access is going to be restricted to those folks that operate it only. The water and sewer district will be formed to manage it. This was alluded to earlier. It's completely different than a homeowner's association. There're water and sewer districts all over Montana and it's very similar to any other public utility. I was trying to think, were there any other questions that the Commission had?

Chair Curtiss: Go ahead, Mr. Carey.

Commissioner Carey: I think there's one Commissioner Curtiss had about what's the minimum threshold in terms of the number of units necessary to do this kind of system?

Matt Gough: That's a great question. Typically, a mechanical system of this size, you'd want to have probably a least 40 homes. Much less than that and it's real difficult. The operational costs get such that it's much more expensive than you have customers connected, you're sewer fees get a little bit out of control.

Chair Curtiss: Forty homes to do 20 to 30 acres?

Matt Gough: No, again, it's proportional, so if we were cutting the number of homes in half, you're area of irrigated would also cut in half. So 10 acres is probably the irrigated area. Again, that's probably a little bit oversized. It's assuming a much worse case scenario from a loading standpoint.

Jennie Dixon: I need to make sure I understand as well. The question's really what makes it cost effective and to do this type of system with the minimum number of homes and your answer was about 40 to even make it worthwhile.

Matt Gough: Right.

Jennie Dixon: Was that...?

Commissioner Carey: That was part of it; the other part is how many homes does it take to do this system? I mean...

Matt Gough: I mean you...

Chair Curtiss: ...[inaudible] 12 homes you couldn't do it.

Matt Gough: It wouldn't be economical. I mean, you could.

Commissioner Carey: You're talking at least 40/

Matt Gough: Yeah. You certainly could set it up. From a technology standpoint, it's not a big deal. I mean it's just an aerated pond. However, from a cost standpoint, it wouldn't be--it just wouldn't work.

Commissioner Anderson: Some of the road design is anticipated a possible future development to the south. If that were to occur, would that be possible to hook that into this existing system?

Matt Gough: The way it's laid out, there is room for expansion. As I mentioned, DEQ requires you to oversize things to begin with. What would happen in this case, let's say that we had the 80 homes connected to this? We can show DEQ that instead of generating the 30,000 gallons per day, that they're requiring us to size it for--it's actually generating approximately 20,000 or maybe even 18,000 gallons per day. Then there's additional capacity. You've sized it for this amount, yet you're only producing some smaller portion. You can actually go back to DEQ and ask that the system be allowed to take on more customers. This happens quite a bit. We do it with our [inaudible] clients all the time where we will re-rate a treatment plant and allows them to have more connections. The same thing would be true here.

Chair Curtiss: As was stated earlier on the record, we screwed up--somebody did in regard to El Mar. So you think there are new things in place now that we would not connect more than we should?

Mike Sehestedt: Let me be perfectly clear...

Chair Curtiss: It wasn't the county that did it, no.

Mike Sehestedt: ...HDR was not the engineer...

Chair Curtiss: No, and the county didn't own it. Somebody...

Matt Gough: And I'm not familiar with the El Mar project and I apologize, I don't know what the...

Chair Curtiss: I guess...

Matt Gough: ...issue...

Chair Curtiss: ...my question is do you think that there's sufficient safeguards in place now that you're company and DEQ would not hook too many people up?

Matt Gough: Yeah, DEQ is ultra-conservative with their designs. This design in my estimation is probably 30 to 40% too big from what we'll actually see once these homes get in there. That's just a requirement. When you go through subdivision review and they want to see the drawings showing this treatment system, they're just going to go through and start checking off boxes. They're going to look at the number of homes. They're going to plug in how many bedrooms per home, you're estimating, and [inaudible] quick equation. Three hundred and fifty gallons and there you go. For other developer's what we are suggesting they do especially on even a more advanced mechanical plant, is to build a portion of it--get a portion of their homes build, show that the flow is lower and then go back to DEQ and say [tape ended]...X amount of gallons and allows them to actually have more connections.

Chair Curtiss: So how could you build part of it?

Matt Gough: This one you really can't. This is a kind of a different animal. It's more cost effective to just build it. These ponds are all lined with a [inaudible] liner even though the clay's out there are probably are impermeable enough to hold the water as it is. They will be lined.

Chair Curtiss: There were two other issues that I wrote down that people asked about. One is maintenance; what kind of maintenance is required, and how would we make sure that happens. The other ways, I think you talked about a fence, so hopefully that keeps children out, but geese fly over fences, so about wildlife.

Matt Gough: Yeah, that big storage pond, you probably will see geese in there. If you go to any of the other lagoon systems throughout the state, they have the same problem. Truthfully, we have ducks and, not necessarily geese, but certainly ducks in our wastewater plants.

Chair Curtiss: It's not harmful to them?

Matt Gough: No, no, it's really not a big deal, other than it's just you have birds in your ponds. The operations, okay, so the water and sewer district would actually be tasked with maintaining the collection system and the treatment system to the storage pond and then that at that point in time, the farmer who is taking care of the land would then be responsible for doing the irrigation portion of it. That person, actually there would be a cost associated with that as Mark discussed earlier. There is actually a cost to the development for the actual irrigation. We're not relying on harvesting the crop to supplement that cost.

Commissioner Carey: Question for Jennie, with regard to the attractant for birds, did the airport comment on this at all?

Jennie Dixon: No, they did not. It's outside of the airport influence area.

Chair Curtiss: It's four miles away.

Commissioner Carey: I know but if we're going to start attracting flocks of birds to a new pond, I don't know I was just curious if they...

Jennie Dixon: No, they did not.

Chair Curtiss: Did you have anything that you'd like to add or another other questions for Matt? Thank you, Matt. Other comments? Sure, you said you were going to think of one.

Larry Schmill: Larry Schmill. About the mosquitoes, do they put something in there to stop the mosquitoes? Wife is allergic to them.

Chair Curtiss: Okay, we can ask that question too.

Larry Schmill: If this sewer treatment does not work, are they going to make everybody pay for it like they did along Mullan Road to fix the goof ups like they did out the El Mars? Just wondering if all get stuck with paying for this if it don't work.

Chair Curtiss: That's a good question. I'm not sure how far we decided they were from the sewer service area. If they had to run a main line out there, I think if it was their system that failed--okay, I'll back up. When the El Mar system failed, the Golden West system failed, the reason the county did the--we knew that the clay soils were a problem in the whole area of the Mullan Road and that the whole area should be served by it. Rather than just having those two serve it--or pay for the system, we did it that way. This one, seems like it's different. Bill?

Commissioner Carey: Can I take a run at it? What I understood our Deputy County Attorney to say is that a new sewer and water district, sewer district, would be created. They will have the legal and financial responsibility to fix anything that goes wrong and, if need be, raise taxes to do that for the people who are members of that district.

Mike Sehestedt: That is the situation here. I can't--[inaudible] the Mullan interceptor sewer was addressed, the individual septic problems they were experiencing in Country Crest, issues with Golden West and El Mar systems, and a problem with Mullan Trail Subdivision system. Plus it provided development opportunities for the other property owners, including the Dougherty property, reached up into what as Charlie Deschamps and is now the airport property. It was a cooperative basis. Our biggest opponents were the people in Country Crest who have subsequently been splitting their lots at the rate of--a very high rate and coining money like it was going out of style selling them, but that's another story.

Chair Curtiss: You have also, if there was such a system designed and an RSID was proposed for other people, you would have the right to protest. Which in the Mullan area, only 24% of the people protested, that was why that was formed.

Mike Sehestedt: Right.

Chair Curtiss: As to mosquitoes, can somebody address whether--Greg, do we have an issue with mosquitoes, for example, at our Lolo plant?

Greg Robertson: No, I think during the time that we were maintaining El Mar, I can tell you that it was an issue, but we were spending more time trying to get rid of the water just simply because we had inadequate land app area to deal with and cell or lagoons that were filling up faster than we could expend the water. I think that activity compounded the problem that we had. We had a lot of standing water, that sort of thing. I can't say, since we don't have land app in Lolo, I can't speak to that. I can tell you that being around a plant during the summertime, which would be prime-time mosquito, there is not a problem.

Chair Curtiss: It sounds like if it doesn't stand too long, if it's being used as land app, it potentially won't be a problem.

Unidentified Speaker: [Inaudible, spoke from audience] nobody hollering about it don't mean have the problem [inaudible].

Chair Curtiss: The only place in Missoula County that we have a mosquito district is Lolo. That seems to tell us that--and it isn't because of the mosquito plant--or the...

Greg Robertson: It's not a mosquito plant.

Chair Curtiss: We don't have a mosquito plant.

Greg Robertson: We don't manufacture them there.

Unidentified Speaker: Down there by...

Chair Curtiss: Can you stand close to the microphone?

Unidentified Speaker: By LaVoi Lane along the river there, there's so darn many mosquitoes that people can't even barbeque outside after three o'clock in the afternoon.

Chair Curtiss: But we can't drain the swamp or the river.

Unidentified Speaker: Well, I realize that. [Inaudible] fish, but that park right there full of water around there, it won't be worth--be worthless if you've got 10,000 mosquitoes where the kids can't get out there and play in it.

Chair Curtiss: Thanks for bring that up.

Unidentified Speaker: I got one more question and I'll be done. That subdivision across the street, who do we have to see to get the road fixed. It's falling in, power meters are falling over, septic tanks are all leaching out.

Chair Curtiss: Which road are you talking about? Oh, in Wheatgrass?

Unidentified Speaker: Wheatgrass, yep.

Chair Curtiss: Is Wheatgrass a county road?

Greg Robertson: I don't believe it is.

Chair Curtiss: I think it's a private road.

Mike Sehestedt: It's a private road.

Unidentified Speaker: So...

Mike Sehestedt: The septic issues should be reported promptly...

Chair Curtiss: To the Health Department.

Unidentified Speaker: To the Health Department.

Mike Sehestedt: ...to the City County Health Department.

Greg Robertson: They can take action on that.

Unidentified Speaker: Does the guy that put in the subdivision have to go back and fix that or does it just--each individual who bought the land get stuck with it?

Mike Sehestedt: One of the issues with individual septics is they're an individual responsibility. If they fail, we need to go after the property owner that owns and operates the system. They do fail and we've had to take enforcement action, no doubt, we'll do it again. The road, if it's a private road, is really an issue for the property owners who share it.

Chair Curtiss: Probably the homeowners association if there is one could take action against somebody, I don't know, but it's a private road.

Unidentified Speaker: So same was as this here, if it caves in and everything, it's each person who buys the property.

Chair Curtiss: I think these are being proposed as public roads, however, so we make sure they're built to county standards. We try to make sure the private ones are too, but we would have more say in this case. They'd be public roads.

Unidentified Speaker: Okay, thanks.

Commissioner Carey: I have a question for Mr. Robertson if he would. I visited the site over the lunch hour and I think there is a real concern about the safety of turning onto and turning off of that road, huge trucks going by in large numbers, driving over the speed limit. Do you have any sense at all how that will be proposed to be mitigated? That's a pretty special condition I think out there, Greg. There's that long downhill heavily loaded trucks, big trucks. We've heard about spills and turnovers and getting on and off that road with 80 new homes is problematic I think. Do you have any observations?

Greg Robertson: All of those factors are taken into consideration when performing a traffic analysis. You look at both trip generation and what's created by the subdivision, but you also look at surrounding conditions, current and future, in terms of traffic volumes that are utilizing the corridor. Also, accident histories are evaluated and looked at to see if they can be mitigated by new development or if new development makes it worse, they can insist on improvements be done. I do know, as an example, out on the Mullan Road area when the 44 Ranch Subdivision, which is a city subdivision, came in, the Department of Transportation required that they install a continuous left-turn lane in front of the subdivision for a very significant length of space, as well as proposed traffic signal. Now granted that's a much larger subdivision. I would think in this particular case what the DOT would be looking at would be right-turn bays, if appropriate, most likely be a left-turn lane, maybe during it's entire length just to accommodate a safe refuge or harborage for vehicles waiting to make the maneuver into the subdivision. I can't tell you what they're plan is nor have I seen any sort of traffic analysis to really tell you, but for this size of development, I would think that would be something that the DOT would be looking at.

Commissioner Carey: Thank you.

Chair Curtiss: One question that I have written down here that I don't think that the developer's addressed yet is why you decided to say manufactured homes would be used and he could also address what kinds of things you have in place to make sure they're not just one that have been drug off the hillside out by Frenchtown, even though Scott would like to get rid of them?

Carl Saunders: I helped Scott drag some of those off after the fire last year. Carl Saunders. We decided to allow this for manufactured homes because I need for it. I see a huge number of subdivisions that have been approved in the past two years that [inaudible] site-built homes only. I used to own great homes, opened it, manufactured homes are close to my heart and I know that there's scrounging all the time for a place to put them. In our restrictive covenants, they are new manufactured homes on permanent foundations that will be required.

Chair Curtiss: Do they have like a certain pitch to the roof or...?

Carl Saunders: Well, a manufactured home has a certain...

Chair Curtiss: At least a 4:12.

Carl Saunders: ...pitch to the roof. No actually, they're about a 3:12. Yeah, they're standard for that. We did not include a roof pitch.

Chair Curtiss: But somebody could build a stick home here too?

Carl Saunders: They could build a stick home, yes.

Commissioner Anderson: What do you anticipate, we're talking about affordable housing, what do you anticipate a price range?

Carl Saunders: I've read some numbers of this and from what we anticipate lots selling for, some of the smaller lots to the larger lots, they'll be little range, but I'm guessing that if they put a house and a garage on there that they'll be running between 180 and 235.

Chair Curtiss: Yes, Mr. Carlson

Gary Carlson: Gary Carlson speaking again, C-A-R-L-S-O-N, take a few minutes. I know this area talked about as far as settling pond and stick houses and it's unique geologically because I live out there. The clays are much different than most areas. HRD presentation seem to have a template of a tried and true mode on the settling ponds, however, I think these clays wouldn't be able to hold the liner simply because of the cohesiveness of the clays, speaking as a geologist. I don't think--I think this is a unique, site-specific situation that a template settling pond wouldn't really work. That's something to be addressed later, but I'm just voicing my concern now on it. As far as the manufactured homes, I've seen a lot of good stick homes that are in the same price range and yet they really help the neighborhoods and they really help as far as if you're going to have a future plan here. If you're going to go ahead and develop it to stick homes are much more valuable in the future. They hold their value. Couple of comments at the end here.

Chair Curtiss: Thank you, Mr. Carlson. Matt, could you talk about the soil, the clay holding a liner. Have you looked at the exact soils on site?

Matt Gough: Yeah, these soils are pretty typical for the [inaudible] Missoula Valley; you know Glacial Lake Missoula laid those down. There isn't a concern with a liner. I guess I'm not quite understanding what's he's meaning by being held. These ponds are excavated and a liner is put down to make sure that the water doesn't infiltrate and that's the only reason that the liner is there. It's not meant to hold anything other than just to create an impermeable layer.

Chair Curtiss: For the minutes, that was Matt Gough.

Commissioner Anderson: Matt, I have a question before you--do you have issues--I think Mr. Schmill raised a question of mosquitoes, do you have in your experience in working with these types of systems, do you have any concern about that or how do you deal with that issue?

Matt Gough: Mosquitoes are always a tough issue. The two smaller ponds, what we found typically do not attract mosquitoes, especially the aeration pond. The one that would be a bit more of a concern is the final, the larger storage pond. The one thing we do have going for us though is that that would be filled throughout the winter and then drained over the course of the dry season, the growing season. By the time--most of the--the water's going to be continually pulled down. It's not [inaudible], so things we've done in the past, you can put in like a mosquito-eating fish. It is a tough issue and there probably isn't a good answer for that larger pond.

Commissioner Anderson: How big is that pond?

Matt Gough: It's approximately--well, if it were square, it's approximately, I think, 240 by 240.

Commissioner Anderson: So a couple acres.

Matt Gough: Correct.

Chair Curtiss: Thank you, Mr. Gough. Others who want to make comment? Yes, sir.

Tim Kuntz: My name's Tim Kuntz.

Chair Curtiss: Tim, could you spell your last name?

Tim Kuntz: K-U-N-T-Z. I live in Lolo right next to the wastewater treatment plant out there. We have a lot of surface water and we don't have a mosquito problem out there at all. All pretty good deal and we need affordable housing around here. That's about the bottom line. That's about all I've got to say.

Chair Curtiss: Thank you, Mr. Kuntz. I'm glad we don't manufacture them there.

Greg Robertson: Independent validation.

Chair Curtiss: There we go. Did you pay him to come? Any other comments? Some of you just came in to get out of the cold? Does the Commission have further questions that you want to ask of the developer or anyone else?

Commissioner Anderson: I guess my question to Jennie before she left was if she had seen the option that the developer's representative had proposed and she had not, so I guess that raises concerns about the proposed pedestrian facilities there and the reallocation of lots around the park area. I have some concerns about giving those proposals some consideration here. I realized we haven't closed the public hearing yet, but I just wanted to raise those issues.

Commissioner Carey: I think we've got a lot more work to do on this subdivision than we can accomplish at this point, or at least do it well.

Chair Curtiss: Jennie did leave me a note that the deadline for us to make a decision is today, so if we want to continue the hearing, we need to have the subdivider's permission to grant an extension of time so that we can weigh some of the things you brought forth today, some of the things that came up. As we--anytime we make changes, we like to have the staff here to help us craft the conditions and statements and such so that we don't miss something. If we're not ready to make a decision today, is that kind of the consensus, that we think we have a few things to think about?

Commissioner Anderson: If the developer agrees, I guess.

Carl Saunders: Can I ask a couple questions? If we go with Option 1, that's all been reviewed and approved by staff, is that correct?

Chair Curtiss: Uh, huh. Well, yes, it's in our staff report, yes.

Carl Saunders: So that's stuff that's she's all aware of and...

Chair Curtiss: That's the Planning Board's proposal, yes.

Carl Saunders: ...[inaudible] new or changes. I'm of the opinion to vote on Option 1 and disregard these other items that we brought up...

Chair Curtiss: If we're ready to do that.

Carl Saunders: ...if you're ready to do that as a Board of Commissioners. Of you want to--if we want to table it to discuss these things for a later date, is there a timetable?

Chair Curtiss: We would have to set a time.

Mike Sehestedt: We would have to get an extension with a new agreed deadline. I can't remember what we have on next week's meeting, but I'd like to go...

Cathie Cichosz: A lot.

Mike Sehestedt: A lot, that's what I was thinking. Would two weeks work?

Chair Curtiss: I guess does the Commission wanting to vote on Option 1 today or would you still like more time?

Commissioner Anderson: I guess I have some concerns about the Safflower Lane being a collector and the other alternative proposed out there. I don't see either of those addressed in Option 1. I guess if we're going to look at that, I would like to have that discussed with staff and also the ideas of the pedestrian facilities. Another thing that I have not heard yet is the relationship with Mountain Line. I understand they have a route that goes past here to the mill. I haven't seen them respond in any agency comments and I think if we're trying to provide affordable housing and if this is location where mill workers might want to locate, that would certainly alleviate a lot of the transportation concerns and impacts. I guess that's another issue I would like to see at least considered here, at

least hear from Mountain Line on something like that. I guess would you be willing to consider a two-week extension?

Carl Saunders: Oh, yes, yes. I just wanted to establish some ground rules for it. You know when you're into it two or three years, it kind of seems like it's dragging on. I think that the comments have been very valid along here and as Mark was making his presentation, I'm thinking boy, there's a lot of changes in this thing for people to vote on. It may be a lot cleaner to come back in two weeks and have it nailed down as to what we're voting on instead of voting on it piecemeal.

Commissioner Anderson: I guess with the--my understanding would be that there would be a presentation by staff on what the changes that are being discussed, then would probably close the public hearing and go into an executive session to make a decision, is that right?

Mike Sehestedt: I think that it would be a fairly abbreviated continuation of this public hearing, an opportunity to respond to whatever new issues were presented by staff's evaluation of what we've heard today in terms of alternatives. Then all of the testimony we've received, of course, continues in the record and bears on the final decision, but...

Chair Curtiss: So Jennie's not also said that she's available next week, which we know our meeting is very busy. I'd like to ask if you'd consider a continuation to the 19th of March with the goal of being on the--for the 12th, but we don't know what Jennie's schedule is. Sometimes she has way too many subdivisions to do it one week.

Carl Saunders: Can I have just a minute to talk to my attorneys?

Chair Curtiss: Sure, we'll recess for five minutes.

We'll come back to order and ask Mr. Saunders for his response.

Carl Saunders: Carl Saunders. Well, we're willing to grant the extension to the 19th or the 12th, whichever fits your agenda, as long as we're notified in adequate time...

Chair Curtiss: We will.

Carl Saunders: ...but are we limiting the scope of this discussion, no more public comment? That's done, is that right?

Chair Curtiss: We haven't closed the hearing, no.

Carl Saunders: Okay, is it going to be open for public comment later?

Chair Curtiss: It would depend. If we made any changes, we would want to provide opportunity for comment.

Mike Sehestedt: I think that if...

Chair Curtiss: We're expecting it to be limited comment.

Carl Saunders: Okay, because what we would like to see is that we limit the discussion to Option 1, Option 2, and the sidewalk changes.

Mike Sehestedt: Let's not...

Carl Saunders: Can I do that? That's where I'm at.

Mike Sehestedt: I think we have to let--I mean the public's commented on everything that's been here today, which includes Option 1, Option 2, and the sidewalk changes. We will have staff report and response. I think we need let the public and your representatives respond to those changes, but I don't think we're going to open it up to general public comment on issues that aren't covered in any kind of staff report.

Carl Saunders: Okay and is staff report limited to Option 1, Option 2, these sidewalks or are we going back to this 12-lot subdivision?

Mike Sehestedt: Well,...

Chair Curtiss: That's something that's before the Commission. It's a choice that we have.

Mike Sehestedt: It's on the table now. I mean, I wouldn't presume that by extending the time the Commissioners will take the 12-lot or other changes to design off the table, but I think that the staff report is not going to be addressing those things. They're going to be responding to the two options that were put up here now.

Carl Saunders: That's my concern, honestly, is that is staff going to be dedicating their time to, for lack of a better word, reloading for the 12-lot subdivision or...?

Chair Curtiss: No.

Carl Saunders: ...or will they be...

Chair Curtiss: Anything [inaudible] get from staff [inaudible] response to the new things you presented. I'm sorry, I'm the one that interrupted.

Carl Saunders: Okay.

Chair Curtiss: Staff...go ahead, you talk.

Carl Saunders: That's what I'm concerned about is dedicating staff's time to firing back at me or addressing the concerns that you guys are asking for the extension for.

Chair Curtiss: Staff needed to present to us the 12-lot because that was what went to Planning Board, that was why this is here today. So it is an option that the Commission definitely could say that's the one we like. Anything new that we ask for from staff would be in regard to this. The Commission has also stated that we would like staff, probably Greg's staff, to respond to whether such and such a road is a collector--some of the things you brought up. So it's more going to be the newer things that came up today. Could you state your name again?

Mark Bellon: Mark Bellon. We would like to limit staff to consider Option 1, Option 2, and the items that are on the table that we need clarification from. We would also like to limit the public hearing to those items [inaudible]. Be nice if you could instruct staff to concentrate on these since you do not have her comment from these--this is all that we want brought to the table. We want to move this project towards approval. We want to limit it to review of what's presented and what hasn't been addressed and address any concerns you have with this project and not, like Carl says, reload, bring more public issues to the hearing, bring another option [inaudible] to the table. We just want to--if we grant this extension, we just want it to be for the purpose of reviewing material that you haven't had time to review that's presented here today.

Chair Curtiss: And a couple other items that came up, like the busses and that kind of thing. Yes?

Commissioner Carey: I'll just share my perspective. That's what I think we'll do, but I have a problem sort of saying in advance we'll limit public input. The focus needs to be on these kinds of things, but if somebody wants to come up and say something about something else, personally I feel like we need to listen to that and then move back to what we're really here about.

Chair Curtiss: In all honesty, staff doesn't have time to go design Option 3. That's not going to be what they're going to do. They're going to say, you know--Larry said we want comments from Mountain Line, so we'll probably again solicit comments from Mountain Line. The school bus turnout might be something we want to talk about, but I think it's mostly going to be on new information. Like I said, we expect limited comment, then close the hearing, and go into more executive discussions so that we are the one's discussing, not the public.

Mike Sehestedt: I want to be careful. It's not really new information, so much as it is consideration of responses to information because that's what we're doing.

Chair Curtiss: Right, you're exactly right, we don't want to say new information.

Carl Saunders: Do I need my name again?

Chair Curtiss: Because she listens to the tape, yes.

Carl Saunders: Because someone else talked in there. Carl Saunders. We don't have a problem with it. Let's do the extension.

Chair Curtiss: So if you could--either you or staff tomorrow send an email, so that we have that saying that you grant extension to the 19th. Our goal would be to have it on the 12th if it works for our schedule and Jennie's.

Mike Sehestedt: And yours.

Carl Saunders: And that email goes to...?

Chair Curtiss: You could say it to Jennie Dixon or to our office. Sure.

Unidentified Speaker: There's just one piece of information...

Cathie Cichosz: Hold on a second.

Jason Rice: Oh, I'm sorry, Jason Rice, R-I-C-E, for the record, sorry. There's just--I won't be here for that meeting if it happens next week and there was--I've been working on the project that's across the street. It's kind of the first time I've ever seen a proposed subdivision discussed at another one, but interestingly enough, we'll continue. The TIS report was also requested for that project and so we actually were requested by MDT to consider both projects, so that's why I want to speak real quick. Regarding transportation, Mountain Line did comment on our project already for some reason and they do want to come out to these. We were requested to request a--to be part of their connection loop and so we do know that they come to this area. When we talked to MDT, they also said the school bus will not be stopping on this highway anymore if this project is approved, regarding Bentgrass. They said, you'll have to--since they'll be public right-of-ways, the buss will have to loop into the project, so MDT will put that restriction on their access permit. Then the only other thing is that MDT is asking these folks to work together on mitigation to highway design issues since they're coming together at similar time. If a larger issue comes up that is sort of already there from the background traffic like we've heard about, we may be coming to you to talk about memorandum of understanding or something we can work on with MDT because there is a large truck traffic that we won't be generating that's MDT's responsibility already. So those are just some of the issues that we want to lay out there that are related to Bentgrass. Thank you.

Chair Curtiss: Is there any other comment today? We will recess the hearing, not close the hearing...oh, yes? Yes, I see that. Mr. Mickelson?

Mike Mickelson: My name's Mike Mickelson, M-I-C-K-E-L-S-O-N. We've been working on this project since 2004. We're right down to the nitty gritty what it looks like Option #1 or #2 and we got all the chiefs here. I think with the--if we buckle down and look at this thing right, it's pretty simple what needs to be done here. I think it's just going to cost everybody more money, more time, more effort if we drag this on for another two weeks. I don't think it's a really big deal here. We've got Option #1 and Option #2; I think Option #2 is more desirable with the collector route being on Milo Court. It makes sense. I'm a developer, I've built these things, I've looked at it, it's the way to go.

Chair Curtiss: Thank you, Mr. Mickelson. Further comment before I recess the hearing? Is there a motion to delay, I guess.

Commissioner Carey made a motion that the Board of County Commissioners delay the hearing on Bentgrass Meadows until March 19, with the desired date being March 12 if that date works with staff's schedule. Commissioner Anderson seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: So the hearing's recessed until that date. We'll notify the developer and, hopefully, get the information to the Missoulian so it can be notified to the public too.

Mike Sehestedt: We'll list it on our agenda and it will...

Chair Curtiss: It will be on our agenda and probably OPG's website.

Other Business

There being no further business to come before the Board, the Commissioners were in recess at 5:25 p.m.