

PUBLIC MEETING – APRIL 9, 2008

Special Presentation: Sweet Adelines Quartet to promote Rai\$e Your Voice Broadcast in Support of the 2009 International Choir Festival

Sweet Adelines sang, "Harmonize the World" to promote Rai\$e Your Voice.

Chair Curtiss: Just to remind you that on Saturday, April 12 from six to seven p.m. on KPAX, there will be a live fundraiser for the 2009 International Choir Festival, which of course will be here in Missoula, Montana. We're pleased to have them serenade us this afternoon.

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, Assistant Public Works Director Charles Wright, Office of Planning & Grants Senior Planner Mary McCrea, Office of Planning and Grants Planner Vlad Kryukov, Office of Planning and Grants Planner Tim Worley, Office of Planning and Grants Planner Janet Rhoades, and Office of Planning and Grants Planner Michele Reinhart.

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 \$643,647.16. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Decision (from March 26, 2008 Hearing): Petition to Abandon an Extension of Deschamps Lane between Highway 10 and Interstate 90, south of Wye

Chair Curtiss opened the decision.

As required by law, one Commissioner and someone from our Surveyor and Road Department needs to go visit and Charles and I did that. We have a report. Charles.

Charles Wright presented the staff report.

Jean and I went out and looked at that road and we looked at it very extensively. We ran around and looked and looked and looked and we finally decided that this thing is not what we want to abandon. We thought we needed to think about this one and we thought about it and decided not to do that.

Chair Curtiss: Our recommendation is to not abandon at this time. We're not--that's the reason you do a site visit is to decide if there might be some future use for this. We aren't sure exactly what the future use might be, but it seemed that it wasn't in the best interest of the public to abandon at this time. Was there anyone who wanted to make comment on that before we make our decision?

Commissioner Carey made a motion that the Board of County Commissioners **deny** the petition to abandon that certain county road specifically described as Extension of Deschamps Lane, located in East ½ Section 20 & West ½ Section 21, Township 14 North, Range 20 West, PMM as shown in the staff report Exhibit A. Commissioner Anderson seconded the motion. The motion carried on a vote of 3-0.

Hearing (Certificate of Survey): DePhilippis 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 5A, Certificate of Survey 3493; Section 32, Township 15 North, Range 21 West. Cheri Lyn DePhilippis 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 five acres in size located near Frenchtown, Montana. Cheri proposes to create an approximately two and one half acre parcel for transfer to her son, Ryan Scott Hoffman, for residential purposes and to keep the remaining approximately two and one half acre parcel for residential purposes as well.

The history of the parcel is as follows: Certificate of Survey #1213 was filed in August 1977 creating seven tracts greater than 20 acres. Certificate of Survey 3493 was filed in July 1987 creating three parcels of land for family transfer and leaving Tract 5A as the remainder. 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 is that you consider a request to create a family transfer parcel by dividing the parcel described as Tract 5A, Certificate of Survey 3493; Section 32, Township 15 North, Range 21 West.

Chair Curtiss: Thank you, Michael. I'll open the hearing and ask Mrs. Philippis to come to the microphone please. We have some questions we like to ask. That moves so that it's whatever your height is. We do have a list a questions that we ask our Deputy County Attorney, Mr. Sehestedt, to ask on the record.

Mike Sehestedt: Let me apologize in advance if it seems like I'm prying into your private business. In fact, I am but we need to determine whether or not this is a legitimate use rather than an evasion and the quickest way to do that is to cut to the chase as to your intentions and plans. With that apology, how long have you owned the property?

Cheri DePhilippis: Six years

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

Cheri DePhilippis: No.

Mike Sehestedt: Do you intend to transfer the portion you're retaining within the next year?

Cheri DePhilippis: No.

Mike Sehestedt: Do you know if your son intends to transfer the portion he would receive if this is approved within the next year?

Cheri DePhilippis: He'd better not.

Mike Sehestedt: Yes, mother.

Cheri DePhilippis: He just turned 18.

Mike Sehestedt: And he is an adult, which was my next question. Have you talked to anyone at the County about going through subdivision review?

Cheri DePhilippis: I've asked questions down at the Office of Planning and Grants.

Mike Sehestedt: But that's been the extent of it?

Cheri DePhilippis: That's the extent.

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

Cheri DePhilippis: No.

Mike Sehestedt: Is your son in that business?

Cheri DePhilippis: No.

Mike Sehestedt: Are you attempting to evade subdivision review?

Cheri DePhilippis: No.

Mike Sehestedt: What do you know of your son's plans for the parcel he would receive if this is approved?

Cheri DePhilippis: When he gets out of the Navy, hopefully he'll get a large sum of money and build a house.

Mike Sehestedt: Well, one is a prerequisite to the other.

Cheri DePhilippis: I know.

Mike Sehestedt: Do you understand that if the Commissioners should approve this use of the exemption, they're simply determining that this is not an evasion of the Subdivision and Platting Act and they're not reviewing it for adequate access in all weather for all vehicles?

Cheri DePhilippis: Correct, I understand that.

Mike Sehestedt: And that emergency services may or may not be able to get in. It's a matter for you to determine on your own...

Cheri DePhilippis: Okay.

Mike Sehestedt: ...because we're not looking at it.

Mike Sehestedt: Do you also understand that if the Commissioners approve this use of the exemption, it's not a guarantee that you'll get septic approval; that's a different process, floodplain, building permit, or any of the other permits that might be required?

Cheri DePhilippis: I do understand that. It's quite a process it seems.

Mike Sehestedt: Yes, it is. I have no further questions. The Commissioners may wish to follow up.

Chair Curtiss: Okay, are there any questions for Ms. DePhilippis?

Commissioner Anderson: Just a point of clarification, this previous family transfer was done by another party, right, that was in the record there?

Mike Sehestedt: Yes, it was. Ms. DePhilippis has not used any exemption previously.

Cheri DePhilippis: That's correct.

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

Commissioner Carey made a motion that the Board of County Commissioners approve the request by Cheri Lyn DePhilippis 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 Anderson seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: So you'll receive a letter from our office in the next few weeks, but you can have someone go ahead and do surveying before you get the letter. We wish your son well in the Navy.

Cheri DePhilippis: Thank you.

Chair Curtiss: We are also not insulted if you decide not to stay for the whole meeting.

Hearing: Annex Property into Missoula Rural Fire District (19512 US Highway 12 in Lolo - Potomac Corp.)

Chair Curtiss opened the hearing.

[A petition has been received by the Clerk & Recorder's Office to annex a parcel of land, located in Missoula County, into the Missoula Rural Fire District. The petition has been checked and verified. It contains signatures of more than 40% of the freeholders within the proposed district. The owners signing the petition represent 40% or more of the taxable value of the property to be annexed into the Missoula Rural Fire District. The owners signing the petition represent at least 40% of the acreage within the area to be annexed, thereby meeting the requirements of 7-33-2125 M.C.A. for annexation of adjacent territory.

The area to be annexed is described as follows: That particular parcel of land situate in PT W1/2 SE1/4, N1/2 SW1/4, IN SE1/4 SW1/4 Plat E in Section 29, Township 12N, Range 21W, Principal Meridian, County of Missoula, State of Montana more particularly described as 19512 US Hwy 12 in Lolo, records of Missoula County.]

Kathy Wahl: Kathy Wahl from the Clerk & Recording Office. We do have--the only owner of this property is Potomac Corporation and Vice Present is Terry Belly [phonetic], I guess, and it meets the requirements of the 48% of the proposed district.

Chair Curtiss: Thank you, Kathy. Is there someone here from the Missoula Rural Fire District? Is there someone here from the Potomac Corporation? So we've received the petition. I believe we have a letter from the fire district that says they're okay with it. They have to agree, don't they, Mike?

Mike Sehestedt: Yes, they do.

Chair Curtiss: Yes, we have a letter from Larry Hanson, who's the chairman of the board, saying that the fire district trustees met in January and approved the petition. It's always a good idea to have property in a fire district.

Mike Sehestedt: For the record, we have not, I believe, received any written protests to this annexation.

Chair Curtiss: Right. Is there anyone who would like to speak on this proposed annexation into the fire district? Seeing no one come forward, I will close the hearing and accept motions.

Commissioner Anderson made a motion that the Board of County Commissioners approve the petition to annex the property described as 19512 US Highway 12 in Lolo into the Missoula Rural Fire District as stated in the staff report. Commissioner Carey seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: It's approved as submitted.

Consideration: Mountain Acres No. 2, Lot 8 (3 lots on 1.98 acres) - Mountain Drive & Highway 10 in Turah (continued from 11/28/07)

Chair Curtiss opened the consideration.

Vlad Kryukov presented the staff report.

As Commissioner Curtiss has stated, this is a second go-round for Mountain Acres No. 2 Lot 8. Originally the applicant had requested for an extension to revise the design of the original proposal, however, due to inability to purchase additional property, I was notified as of March of this year that the developer will proceed with a three-lot subdivision. I will briefly go over the project itself. Donald Calder, represented by Eli & Associates, is proposing a three-lot residential subdivision on 1.98 acres on the corner of Mountain Drive and U.S. Highway 10 in Turah about eight and a half miles east of Missoula. Access to the subdivision is via Mountain Drive. The property is mostly open with a small number of trees. It is mainly level but for a gentle bench. The property contains an existing residence on Lot 8B, with a detached garage/shop and a small shed. U.S. Highway 10 adjacent to the southern boundary and is designated a primary travel corridor under Article 3.14.2 of the Missoula County Subdivision Regulations. The applicant proposes all three lots to share a multi-user well. Each lot will be served by individual septic systems.

The property is unzoned. The 1975 Missoula County Comprehensive Plan, as an amendment to the 2005 Missoula County Growth Policy, recommends a land use designation of suburban residential, two dwelling units

per acre. The applicant is proposing three lots on 1.98 acres for a residential density of 1.5 dwelling units per acre, which complies with the Comprehensive Plan.

Staff recommends nine conditions of approval. I will highlight five of the conditions related to roads, access, pedestrian facilities, and fire. Condition of Approval #2 requires the subdivider to place a one-foot no-access strip along the eastern boundary of the 40-foot wide private access easement that abuts the western boundary of Lot 8A and along the southern property boundary of Lot 8A adjacent to U.S. Highway 10 frontage road except for the location of the 40-foot access easement accessing the existing garage on Lot 8B. The one-foot no-access strip is shown on the preliminary plat as a red-striped line for your reference. The subdivision regulations do not permit shared driveways. The applicant proposes Lot 8A and 8B will be accessed via a private road within a 40-foot wide private access easement shown in light blue on the preliminary plat. The applicant has requested a variance to the naming the private road and staff recommends approval of the variance as the new private road is only 45 to 50 feet in length and its [inaudible] existing driveway leading to the current house on the property. The subdivision regulations require the installation of pedestrian walkways along Mountain Drive and Highway 10. The applicant has requested a variance. Staff recommends denial of the variance, as there is no hardship.

Condition of Approval # 3 requires the subdivider to provide a 10-foot wide utility easement on the face of the plat along the western property boundaries of Lot 8C in the location where overhead power lines exist and it's shown in green-striped line on the preliminary plat for your reference. Pedestrian facilities, Condition of Approval #4 requires the subdivider to construct paved pedestrian walkways along Mountain Drive and U.S. Highway 10 adjacent to the subdivision prior to final plat approval as I stated previously. Condition of Approval # 7 requires the plat to be revised to show a 25-foot landscaped buffer and a 50-foot building setback on Lot 8A from the edge of the U.S. Highway 10 frontage road right-of-way and the easement is required to be compliance with the primary travel corridor section of the Missoula County Subdivision Regulations. In addition to the conditions of approval that have already been mentioned regarding roads and access, easements, pedestrian facilities, and primary travel corridor, staff also recommends conditions of approval regarding standard requirements such as fire protection, weeds, and living with wildlife.

In conclusion, staff recommended motions, denial of the pedestrian walkways variance request, approval of the road name variance request, and approval of the subdivision subject to conditions and findings of fact in the staff report. That concludes my report on this proposed subdivision. If anyone has any questions, I would be more than willing to answer them.

Chair Curtiss: Thank you, Vlad. Any questions for Vlad at this time? Mr. Ewart?

Ron Ewart: Good afternoon, my name is Ron Ewart with Eli & Associates. Thank you for allowing us to come back again. The reason that we wanted to go to a two-lot subdivision was so that there would not be a requirement for walkways. We're two-hundredths of an acre short of two acres, therefore, we were going to try to get some land next door. That didn't happen and so we're back to the three-lot proposal and we can make the three-lots work. There might be a little bit of a difference between Lots 8A and B as far as the way that line will run depending upon exactly how we do that, I just wanted to throw that out. Mr. Calder is here; Don lives on the property. Don's doing a subdivision here in town that will be coming to you, I think, in June and he wanted to downsize from the house that he lives in now, a smaller house, and then use some of the capital on his new subdivision.

We are in agreement with the recommended conditions of approval, with the exception of the walkway, which again is why we went to the two-lotter. The walkway, we're looking at about 500 feet on frontage, so that's 25,000 square feet of walkway, which would be quite a bit of outlay. If you go up Mountain Drive, it's a dead end, it doesn't continue on. There's not a lot of traffic, certainly not much pedestrian traffic. As we know, they are building a walkway from Bonner all the way to Turah. There is going to be one through Turah perhaps that could be EPA money or wherever that money's coming from. Of course, he will waive the right to protest an RSID to walkways on Mountain Drive and on Highway 10 West, but there are no other walkways in any of the Mountain Acres. Several of those lots have been divided in the past few years. That's about all I have and I think Don might...

Chair Curtiss: Mr. Ewart, is the 500, is that total, that's Highway 10 and Mountain Drive?

Ron Ewart: Right, that's both of them. There's about 400 on Mountain Drive and about a hundred or a little over on Highway 10. Thanks.

Chair Curtiss: Any questions for Mr. Ewart at this time? Is there anyone else who would like to make comment? Yes, Mr. Calder?

Donald Calder: I'm Donald Calder and I've lived in Turah since 1970, I bought the property. My original intention, like Ron was saying, or just--I love the area, I'm living in a 4-bedroom house with three bathrooms, I'm single. It's ridiculous. I mean, its worth quite a bit of money; it appraises fairly high. I'm having trouble selling it. I would love to stay out there. The upper lot is very nice; it's flat and that that's my intention. Even if this would go through, I really don't want to make a bunch of money off the place or any--not that there is, but what I would like to do is stay on the back lot and build myself a small two-bedroom home with a garage and sell the front property with the house when I sell it, if I'm able to sell it. Right now is a very bad time, as you know. I'm not really planning on developing that front lot. As far as the walkways, it's pretty much of a hardship, there's a lot of money invested in it so far, so it really is a hardship to have to put that much walkway in. What I have thought and I'd like to do, if I can get away from the liability of it, I would like to put a walkway across the front against the highway, a gravel walkway possibly. I [inaudible] backhoed my own and I've done that kind of stuff and I'd like to put a walkway across for the kids that come down for the school bus to go across the front of my property. That much I would like to do and I can do that on my own, which wouldn't be a big expense. My real reason for this whole thing was just to be able to live out there because I do enjoy the area. Right now, the house is way too much for me. I appreciate your time. Thank you.

Chair Curtiss: Thank you, Mr. Calder. Vlad, did this subdivision come in under the old regs or the new?

Vlad Kryukov: I believe it came under the old ones.

Chair Curtiss: I was just wondering about whether--because it says paved pedestrian walkway, I wondered if we have any other options under the new regs if we were looking at it that way.

Vlad Kryukov: Originally the project was under a different planner and it was transferred over to me, so I'm working with the...

Chair Curtiss: Notes from someone else?

Vlad Kryukov: Well...

Chair Curtiss: Mary?

Mary McCrea: This came in under the new regs.

Chair Curtiss: It did. So under the new regs, is there some other options, would a compacted gravel meet the...?

Mary McCrea: Yes, it would.

Chair Curtiss: It would, okay, and it could be a variety of widths?

Mary McCrea: Yes.

Chair Curtiss: Any other questions for staff or comments?

Commissioner Carey: I'd like Mr. Robertson to kind of weigh in with the idea that we might do something along Highway 10 and not on Mountain Drive.

Greg Robertson: Looking at the location of this parcel with respect to the work that we're doing along State Route 210 from Bonner to Turah, the trail that we proposed is along, for the most part, along the north side as I recall where most of the properties are. The trail will end at the Turah exit and head south underneath the interchange and connect in with Rustic Road. Eventually, if folks want to see it happen, the trail will continue on back to make a loop. I think beyond that point we don't really have any further plans to extend the trail, however, this does make sense in terms of a connection. One of the things that we've heard a lot about is the amount of schoolchildren that have to walk along Highway 210 to get to Bonner School. There's been a lot of emphasis on safety and design of the trail to accommodate those kids. It makes sense to make some sort of connection.

What configuration it finally takes I think is up to you. I don't really have any strong opinions one way or the other. I think if we were extending the trail further along State Route 210, east of the Turah interchange that I would have a different opinion.

Chair Curtiss: Although in looking at the aerial photo, it looks like it might be a good CTEP project for sometime in the future because there is...

Greg Robertson: [Inaudible] yeah.

Chair Curtiss: ...little housing.

Greg Robertson: Yeah, CTEP would be very appropriate. What's happening out in Frenchtown as an example is we've built piece--segmentally and what we've concluded is that the community really likes it and they want to continue it. There's continual request to further extend the trail. I see the same thing happening here once it gets installed and becomes used, I think it will more of an amenity than a problem child as viewed by some.

Commissioner Carey: Would it be a practical thing to do to kind of replicate the trail along this section that we've got further west and that...?

Greg Robertson: I would think you'd want--if you want to leave it non-paved surface, graveled surface, then what I'd suggest you do is to build it to the same width, at least in terms of the crushed aggregate below to accommodate future paving fairly easily.

Chair Curtiss: Do you know what that width is?

Greg Robertson: He could answer, Jason could.

Chair Curtiss: Jason, could you come to the mice for us please?

Greg Robertson: It's eight or 10; I've got it narrowed down to those two.

Nathan Lucke: Nathan Lucke for the record, Territorial Landworks. We're working on the Bonner Turah Trail. Actually, I'm not the person working on that trail. We have done eight and 10 and something tells me that [inaudible]. We've been doing eight more recently for projects than 10 feet, so I would venture to guess its eight feet.

Greg Robertson: I believe we had some right-of-way issues in certain areas along here that we had to narrow it down.

Chair Curtiss: Thank you, Nathan. As to the piece that goes up Mountain Drive, is it? If at this time we decided we--if it was our wish not to make them build it at this time, would we need to reserve an easement or something? Could we do that?

Greg Robertson: I think we have...

Chair Curtiss: Or is there plenty [inaudible] right-of-way?

Greg Robertson: I think we have adequate right-of-way; it's a standard 60 foot and looking at the improvements, there's only 22 feet in, so that would more than accommodate a future trail if so desired.

Chair Curtiss: So anything that Mr. Calder would want to build on his own, though, we would still...

Greg Robertson: Most likely...

Chair Curtiss: ...have your input on?

Greg Robertson: Yeah, it would be considered a subdivision improvement if you so required it. We would deal with it like we would any other type of subdivision improvement, where it would have to be engineered or at least

a plan developed for it that could be built from. They would also be required most likely to get a permit from the state since State Route 210 is a secondary highway. It's under their maintenance jurisdiction.

Mike Sehestedt: Are we anticipating that this path will go in the highway right-of-way or outside the right-of-way on the subdivision property?

Greg Robertson: I think for maintenance purposes, the preference would be within the right-of-way.

Chair Curtiss: Vlad, do you know what the proposal was? Was it to be in the right-of-way or to be on the private property?

Vlad Kryukov: I believe it's within the highway right-of-way. I think we could most certainly amend the condition if you so choose to require a gravel walkway along the highway only, if you so choose. If you choose to include both Mountain Drive and [inaudible] to make a decision.

Mike Sehestedt: I think as we craft the condition, if it's going to within the highway right-of-way, would be phrased along the lines to construct an 8-foot gravel path in accordance with plans provided the state grants permit for the construction, so that we're not hung up with--he has a subdivision condition that the state won't give him a permit to comply with. I have no reason to believe the state would not be just tickled pink to have this happen, but...

Chair Curtiss: We don't call our County Parks, Parks and Recreation, do we? Probably should strike that word.

Mike Sehestedt: County Parks. There's no recreation.

Chair Curtiss: We don't allow recreation in our parks, right. Any other comments from the Commission or questions? This is a consideration, is there any one else who would like to make comment?

Mike Sehestedt: Let me just say for the record that this hearing is being conducted based on testimony received here and the minutes of the previous hearing because we did receive significant testimony last time. I know the Commissioners have been consideration it.

Chair Curtiss: We have three folks who live in the area that commented last time, talking about covenants, the scarcity of water in the area. Those were kind of their biggest issues.

Mike Sehestedt: Might I respond?

Chair Curtiss: Yes.

Mike Sehestedt: Generally, covenants are a private contract between property owners and we leave enforcement of them to the homeowners. The only exception to that I can think of is a situation in which we have an almost contemporaneous judicial interpretation of the covenants that specifically says you can't do what's being proposed in the subdivision. In that case, we do look at them, but the general rule is we leave them to the citizens to enforce. With regard to water availability, that's a subject to the Department of Natural Resources, DEQ and they will make that determination during the sanitary review as to whether or not there is available water and septic.

Commissioner Carey: Ready for a go at some motions?

Chair Curtiss: Uh, huh.

Commissioner Carey made a motion that the Board of County Commissioners approve the variance request from Article 3.2.3(3) of the Missoula County Subdivision Regulations requiring pedestrian walkways along Mountain Drive adjacent to the subdivision based on the findings of fact set forth in the staff report and subject to the recommended conditions of approval.

Chair Curtiss: So this is only on Mountain Drive that we approve the variance request.

Commissioner Anderson seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey made a motion that the Board of County Commissioners **deny** the variance request from Article 3.2.3(3) of the Missoula County Subdivision Regulations requiring pedestrian walkways along State Route 210 adjacent to the subdivision. The subdivider shall construct an eight to 10-foot gravel pathway within the State Route 210 right-of-way, subject to review and approval by Montana Department of Transportation and County Public Works. based on the findings of fact set forth in the staff report and subject to the recommended conditions of approval. Commissioner Anderson seconded the motion.

Commissioner Carey: Does that cover it Michael?

Mike Sehestedt: Yes, it does, as long as we understand that should the state for whatever reason determine a walkway is not appropriate within their right-of-way, he's not going to be obligated to build it.

Commissioner Carey: So noted.

The motion carried on a vote of 3-0.

Commissioner Carey made a motion that the Board of County Commissioners approve the variance request from Article 3.2.8(d) of the Missoula County Subdivision Regulations requiring streets to be named, based on the findings of fact set forth in the staff report and subject to the recommended conditions of approval. Commissioner seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey made a motion that the Board of County Commissioners approve Mountain Acres No. 2, Lot 8, based on the findings of fact and subject to the recommended amended conditions in the staff report. Commissioner Anderson seconded the motion.

Chair Curtiss: It's been moved and second. I have a question for Mary, do we need to do any changes to #4.

Mary McCrea: I was just going to state that staff will amend Condition #4 per the motion you approved for the walkway to be installed--no walkway on Mountain Drive and the walkway on Highway 10.

Chair Curtiss: And strike the word, "recreation" after parks.

Mike Sehestedt: One thing we need maybe to clear up here. I was looking at the plat. We have an RSID waiver for Highway 10. We've been referring to it also as State Route 210. Could somebody tell me definitively whether we're Highway 10 or 210?

Greg Robertson: Its State Route 210 is the official name of it. It's a state secondary route.

Mike Sehestedt: I would suggest that you direct staff and the developer to amend any references to Highway 10 to State Route 210.

Chair Curtiss: Okay, consider that done. So Cathie from your perspective are you okay with us not reading how #4 might read? Staff's going to give you that wording. It's been moved to approve this subdivision based on the findings of fact, subject to the conditions as amended today and the staff report as amended.

The motion carried on a vote of 3-0.

Commissioner Carey: Thank you, Vlad.

Mountain Acres No. 2, Lot 8 Conditions of Approval

Roads and Access:

1. Driveways in excess of 150 feet in length must be approved by Missoula Rural Fire District prior to building permit approval. A turn around for fire apparatus must be incorporated at the terminus of the driveway. The driveway must provide 20 feet of unobstructed horizontal clearance and 13 feet 6 inches unobstructed vertical clearance the length of the drive. This language shall also be included in a development covenant prior to final plat approval and shall not be deleted or amended without governing body approval. (*Subdivision Regulations Article 3.1(1)(f) and Missoula Rural Fire District recommendation*)

- The subdivider shall place a one-foot No-Access strip along the eastern boundary of the 40-foot wide private access easement that abuts the western boundary of Lot 8A and along the southern property boundary adjacent to State Route 210 Frontage Road except for the location of the 40-foot access easement serving Lot 8B subject to review and approval of OPG prior to final plat approval. (*Subdivision Regulations Article 3.2.2.2(1)*)

Easements:

- The subdivider shall provide a 10-foot wide utility easement on the face of the plat along the western and northern property boundaries of Lot 8C in the location of the overhead power lines subject to review and approval of OPG prior to final plat approval. (*Subdivision Regulations Article 3.5 and 3.6 and Public Works recommendation*)

Pedestrian Facilities:

- The subdivider shall construct paved pedestrian walkways along Mountain Drive and State Route 210 adjacent to the subdivision prior to final plat approval. Engineering plans for the walkway improvements shall be reviewed and approved by Missoula County Public Works and Missoula County Parks prior to final plat approval. (*Subdivision Regulations Article 3.2.3(2) and Public Works recommendation*)

Fire:

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

“Installation of interior residential fire sprinklers that meet NFPA 13D standards are required in each new home for the purposes of fire protection. Plans for installation of interior residential fire sprinklers shall be approved by the Missoula Rural Fire District prior to building permit approval. Sprinkler systems shall be tested and approved by Missoula Rural Fire District prior to completion of interior walls. Failure to install residential sprinklers in any new home may subject the entire subdivision to the cost of installation of a shared water source for fire fighting purposes.”

This section of the covenants may not be changed or deleted without governing body approval.

Weeds:

- The last sentence of Section 6 of the Development Covenants shall be replaced with the following, subject to review and approval by OPG prior to final plat approval:

“Lot owners shall revegetate any ground disturbance created by construction or maintenance with beneficial species at the first appropriate opportunity after the disturbance occurs.”

This section of covenants may not be changed or deleted without governing body approval. (*Subdivision Regulations Article 3.1(1)(b) and Weed District recommendation*)

Primary Travel Corridor:

- The plat shall be revised to show a 25-foot landscaped buffer and a 50-foot building setback on Lot 8A from the edge of the State Route 210 Frontage Road right of way, subject to review and approval by OPG prior to final plat approval. (*Subdivision Regulations 3.14.3(1) and (2)*)
- The covenants shall be revised to include a statement which may not be changed or deleted without governing body approval requiring compliance with Primary Travel Corridor standards contained in Section 3.14.3 (A), (B) and (C), subject to review and approval by OPG prior to final plat approval. (*Subdivision Regulations 3.14.3(1) and (2)*)

Development Covenants:

9. The subdivider shall replace the Living With Wildlife section of the Development Covenants with the following updated version of the Living With Wildlife guidelines as provided by Montana Fish Wildlife and Parks, subject to review and approval by OPG, prior to final plat approval:

Section 1. Living With Wildlife

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as deer, black bear, mountain lion, coyote, fox, skunk, raccoon, and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at www.fwp.mt.gov.

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property, and the wildlife that Montanans value.

- a. There is high potential for vegetation damage by wildlife, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners must be aware of this potential damage. They should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Homeowners should consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. Gardens, fruit trees or orchards can attract wildlife such as bear and deer. Fruit bearing trees and shrubs are strongly discouraged in this subdivision because they are a major wildlife attractant and can regularly attract bears in the fall. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks, and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species electric fencing" designed to exclude wildlife from gardens, fruit trees/shrubs, and/or home areas.)
- c. Garbage must be stored in secure bear-resistant containers or indoors to avoid attracting wildlife such as bears and raccoons. If stored indoors, garbage cans may not be set out until the morning of garbage pickup, and must be brought indoors no later than that same evening. (Consult Montana Fish, Wildlife & Parks for information on purchasing or constructing bear-resistant trash containers.)
- d. Do not feed wildlife or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- e. Birdseed is an attractant to bears, and outdoor birdfeeders are strongly discouraged from April 1st through the end of November. If used, bird feeders must: a) be suspended a minimum of 15 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds. Keep any birdseed that does fall to the ground, cleaned up at all times.
- f. Bears can be attracted to food smells associated with household freezers; therefore, freezers should not be placed outdoors on porches or in open garages or buildings. If a freezer must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.
- g. Pets must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and

small birds and mammals. Under current state law, it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.

- h. Pet food and livestock feed must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. When feeding pets and/or livestock do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- i. Barbecue grills should be stored indoors, and permanent outdoor barbecue grills are discouraged. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- j. Consider boundary fencing that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
- k. Compost piles can attract skunks and bears and should be avoided. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)
- l. Apiaries (beehives) could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- m. These "living with wildlife" covenants cannot be altered or eliminated without consent of the governing body (Missoula County Commissioners).

These sections of the covenants may not be amended or deleted without governing body approval. (*Subdivision Regulations Article 3.1(1)(B) and Montana Fish, Wildlife and Park recommendation*)

Consideration: Garnet View Lots (4 lots on 22.8 acres) - Garnet Court in Potomac (continued from 3/12/08)

Chair Curtiss opened the consideration.

The Commission asked that staff and the developer get together to talk a little bit about road issues, so we'll have staff give us an update. I would like to disclose on the record that I did drive up and visit the site. The owner was there. The only thing we talked about is he pointed where things were, so we didn't discuss good, bad, or indifferent about the subdivision, but I did drive up to look at the site and the roads.

Michele Reinhart presented the staff report.

Just to refresh your memory, this is a four-lot subdivision in the Potomac area. It's accessed via Camas Road to Garnet Court. I won't go through the other conditions of approval or motions, but we did have a meeting last week to discuss the shape of the roads. These are private roads in rough shape and Condition #7 requires a road maintenance agreement be in place for Camas Road from Swanson Lane to Hole-In-the-Wall Road and for Garnet Court. There was some interest in exploring an RSID, so we did have a meeting with the Public Works Director with the owner, the developer representative, and an adjacent landowner to discuss an RSID versus private road maintenance. Greg, if you'd kind of elaborate on the RSID option, that would be very helpful. Thanks.

Greg Robertson: We did indeed discuss the potential for creating an RSID and there's some problems with doing so in the area. As you're aware, your policy requires that a petition be submitted for consideration before an RSID will be started. The process is a two-step process, first is to evaluate the petition and create a resolution of intent. The practice is has been that 60% of the landowners bearing the cost of the improvement within a

proposed district sign a petition requesting you to form one and make the improvements. In this area, most of the parcels were created by certificate of survey, so there are no waivers, that I'm aware of, in the area to do so. So it would be a thumbs up or down vote. In a lot of instances, there are waivers, plat waivers, for creation of RSIDs making it simpler. To my knowledge, there has not been much in the way of interest in this area to create an RSID. There have been iniquities in the past, but just that, limited to inquiries and nothing beyond that. I think it would be incumbent upon somebody, the developer, association, if there is one, I don't there is, to do the legwork to develop a petition. We'd be willing to assist in that, but I've not seen any interest in doing so.

There has been interest expressed on another segment of road that's a public right-of-way, which is Swanson Lane, the non-maintained portion [inaudible] county maintenance, but that's not related to this. Assuming that an RSID is not going to be in the cards, that leaves the option of a maintenance agreement, which brings kind of a bigger policy question about access for emergency services, winter maintenance et cetera on roads of this nature. My experience and in discussing with the Potomac fire chief, he has and has had difficulty navigating these roads during winter time, one due to excessive grade on one side of it, but also just the lack of winter maintenance that occurs on these roads. I guess there was testimony at the last meeting, that people pride themselves on how long they can stand it before somebody does anything about it. Unfortunately, that's a pretty common occurrence on private roads. I won't say that about all of them, some are very well organized and take care of their business. George Cates Boulevard is a good example of that, but for the norm, maintenance is spotty. In this area with the grades the way they are, the condition of the road makes it very problematic for emergency services to get in and out. So that really begs a question and kind of a broader scope of should we be really considering these types of subdivisions? We had that discussion during the meeting with really no resolution to it. My sense of where things have gone, especially with the fire services and their abilities to get in and defend structures in these more remote areas, the voices are getting a lot louder, especially even at the state level with DNRC kind of leading the charge of the urban wildlife interface and some of those discussions that are happening. Really, I think we need to be rethinking it on how we're going about doing these things.

The RSID is not the answer in this case. I don't know that we could get all parties to agree or at least a majority on what should be done, if anything, in the area. Basically, the only remaining activity that's available is what is contained in your condition and again, it's going to be a leap of faith that it will be taken care of. That agreement's only as strong as the parties that are part of it and I think the Potomac fire chief pretty well said that it's not good enough. I mean, that's what I heard just simply because there's really going to be no enforcement of it other than just those parties that are involved. It's definitely problematic.

Chair Curtiss: When I drove up there, luckily I had missed the worst part of the winter, but the road, Camas Road, kind of serves as a drainage area because the road's below the--there are no barrow pits, that's for sure. Is there someone from the developer's rep that would like to speak?

Ron Ewart: Hello again, Ron Ewart, Eli and Associates. Nathan Smith is here. As you know, Nathan lives on the property with his family. There are two parcels here, so he's just dividing each parcel one time basically is what it amounts to. He hauled out a whole bunch of garbage, bunch of trailers, old trailers; he's taking care of the weeds. We're proposing to widen the road on site, build a cul-de-sac. I think that this subdivision is the best thing that could happen to the area. What I've learned about it over the past year or so that I've been working on this subdivision is that there is a lot of interest out there in maintaining the roads and making the roads better, but I believe that that interest is somewhat fractured. I think that the interest can be organized. It seems like there is a lot of motivation to do so, especially on the part of Doug Hall and Mike [inaudible], Jim Costamagna, and...

Chair Curtiss: You didn't pronounce them right.

Ron Ewart: I know.

Chair Curtiss: Good try.

Ron Ewart: Sorry--and Nathan Smith, he has an easy name to say. Anyway, I've heard that there are other people, many other people that live out there that would like to see a better road. It would help their property values; it would help them to get in and out. There's a lot of reason to do this. What we envision is creating basically a road maintenance association where everyone gets together. We'd have meetings at the fire hall and so one and get people talking about it. Eventually, this would lead into an RSID. I feel that right now if you tried to circulate a petition, [inaudible] knock on doors, you're going to get a lot of no's because people haven't been getting together talking yet. I think once--the impetus will start building to create an RSID, but for right now, I think

that the road maintenance agreement is a good idea. It's a good starting point and it's my feeling that this can grow into something good.

Again, [inaudible] sprinklers in the two new houses. There is a condition, Condition #11 that requires or recommends that he install a low-impact pedestrian trail along the onsite portion of Garnet Court. That's not a deal killer obviously. We'd prefer to see that condition removed, but it's not a big deal. The big deal I think in my opinion, the rest of the conditions are good. There was a revision of Condition #7 and that's contained in a separate memo. We're okay with that condition as well. I appeared to me at that meeting, I felt that--Doug felt that the condition as written was the best we could do for now. At least it would be something that would get people together and get them talking. Thank you.

Chair Curtiss: Okay, thank you. Is there anyone else who'd like to speak about this proposed subdivision? I bet you can pronounce your own name.

Jim Costamagna: Cozee, Jim Costamagna, Potomac resident.

Chair Curtiss: Could you spell it for Cathie please?

Jim Costamagna: C-O-S-T-A-M-A-G-N-A. Just a couple questions, I heard one comment here on the previous review, shared driveway, clarification on that because that one lot is a shared driveway, is it not, that goes to the existing house? I thought I heard somebody say something about that that's not accepted in the subdivision review process or the county's plan, just a clarification.

Chair Curtiss: Oh, the comment on--from the previous one?

Jim Costamagna: The previous one.

Chair Curtiss: The comment--Vlad made that comment, Mary could remember what it was.

Jim Costamagna: Something about a shared driveway wasn't acceptable and that...

Chair Curtiss: It didn't need to be a road, named road is what...

Jim Costamagna: Oh, just a road name?

Mary McCrea: The requirement is a road or a driveway serves one residence. On this parcel, the driveway for Lot 2 comes directly off the new cul-de-sac bulb...

Jim Costamagna: Okay, so it would be...

Mary McCrea: ...[inaudible] the extension of Garnet Court. That long driveway is just to serve Lot 1 and I believe there's a one-foot no-access strip along it on the east side and a no-build zone--well, I guess north side and south side, so it is just an easement to serve Lot 1.

Jim Costamagna: Okay, thank you. The other question is, I know Nathan--like I said Nathan is trying real hard to make this the right thing to do and I appreciate his efforts. But my concern still is with the road, not only as a resident that [inaudible] representative DNRC, the access issue is still big for us and [inaudible] roads are a major issue up there. I know a stretch of my road is still covered with ice. We try--I mean I plow, a lot of neighbors plow, but it isn't regular maintenance, so we're not going to get away from that and we're going to be adding people, so it just pounds the snow down quicker road than you can plow it. I'm still concerned about the road access.

The only other question I had is if this goes through, if Nathan's able to subdivide these lots and make four lots, does that exclude another--a family re-subdivision of those two lots? Is that the last time they can be subdivided?

Chair Curtiss: Yes, I'll let Mike answer that.

Mike Sehestedt: The answer is yes, it does eliminate the family transfer. Once it becomes a platted lot, it would be divided again, but it would require subdivision review and the subdivision process. Family transfer's only available outside of platted subdivision and this would become platted.

Jim Costamagna: Thank you, Mike. Again, I just have major concern, having lived out there for 34 years, having been chairman of the homeowners association for about 20 of that and worked pretty hard and long to try to keep that thing alive. I'd like to see that somebody get that effort going and I have great joy to see it get off the ground, but I don't think we can do with anything less than that kind of commitment to a road maintenance agreement with the landowners up there. Thank you.

Chair Curtiss: Thank you. Anyone else who'd like to make comment?

Nathan Smith: My name's Nathan Smith. I'm the landowner and developer up there. I just wanted--I don't want to take a lot of your time, but I just wanted to go over real quick, you know, there already is a third residence up there, so I'm actually adding one residence up there. I think beyond that, I've spoken with several of the people you've met already and then a few others in my neighborhood and I think people really are starting to get behind this road maintenance idea. They realize it's going to improve values; it's going to increase access for safety vehicles, and whatnot. That is important to people and I really feel like there's a lot of improvements going on in Potomac right now and people are becoming more and more willing to invest in something like this. I guess that's what I want to say is that I feel like we can put something together here and make an improvement for Potomac, that more people than just myself are going to reap the benefits of. Thanks for your time.

Chair Curtiss: Thank you. I have one legal question that you hate to ask out loud, but what is county's liability if we approve a subdivision that has access and in the middle of winter somebody has a heart attack and needs an ambulance that can't get there? I'm sure it happens in lots of places, but does this put us in any worse position?

Mike Sehestedt: You don't like to answer that question, but I believe the answer is it probably does not create liability for the county in a strict sense. Things would be fact-dependant. I live in the city of Missoula on a city street and during a snow event, one of my neighbors had what later turned out to be a fatal attack. We got a fire truck and an ambulance stuck on my street, had to carry her on a backboard up out of the cul-de-sac to a second ambulance and then send a snow plow to recover their emergency vehicles. These sorts of things happen unfortunately and it's, to some degree, an act of nature. On the other hand, we need to be cognizant of the risk and work toward improving access. This particular development, I mean, it actually has a lot of really good people that live up there, but it is--it's a poster child for why subdivision review on the front end is a good idea. These are all private roads; they're maintained solely by the collective efforts of the people. I'm sure there are problems, because maybe the most common of all human principles is there's an opportunity to let George do it, let's see if he actually will. As a result, people bear disproportionate costs; you can't plow the road and close it up behind you so the freeloaders can't use it.

Commissioner Carey: Michael, I guess if I can follow-up on that. In this particular case, it appears we're being--the proposal is to condition approval based on the creation of a road maintenance agreement, which will be fully enforced year around and what if that's a condition and it never ever comes to pass?

Mike Sehestedt: Well, we will [inaudible] the agreement will be entered into and it will be recorded as a part of the subdivision approval process. The real question is people have agreed to do something and now they don't or they're not, who has [inaudible], who's going to go out on these private roads and say hey, you've got maintenance agreement here and so what are you doing to maintain the road? To what degree if the only signatories, or the only people bound by it, are the four people that live or the four families that live on the lots created by this subdivision. What level of maintenance is good enough? We have one standard for school bus routes, we have another for--we meaning the county, just in terms of our priorities for when we do snowplowing. We start with the school bus routes and we work our way down and pretty much based on traffic and we take the higher traffic first and the lower traffic second. What level of maintenance would be adequate? If I were the fire chief, I would like to see these roads maintained like Highway 200, plowed that wide and that regularly. Is that a reasonable expectation for a homeowner's association? How do you determine? We don't really have a standard by which to say this is enough and this isn't. To some degree, I mean, I think it has to be worked out by the people that reside there. An RSID improving and paving these roads would more than pay for itself in terms of increased property value for everybody up there. The problem is you've got to eat the cost of that improvement and you don't see the gain until you sell your house and, even for those that could afford to do that, it's a tough pill to swallow. It's really a challenging problem because we will have people, other lots in this, it's not a subdivision,

they're just surveyed tracts. We will have and have had other people coming in to do a division by use of an exemption, the family transfer, typically. If it's a bonafide use, a bonafide family transfer, the division happens, we have the same impact that this subdivision would cause, but we get nothing back out of it in terms of increased safety. Those are beyond our ability to control and we carefully tell people that. I don't know what to say, it is challenging. I don't think our liability is high, but what happens with this agreement once it's in place really depends on the parties to the agreement.

Chair Curtiss: And how many of them there are.

Mike Sehestedt: Right.

Chair Curtiss: Any further questions? Is there anyone else who would like to make comment about this subdivision in Potomac, Garnet View lots? I think that one of the things that we talked about was Condition #5 at the last hearing; we talked about striking the word between Lot 4 and 150 feet, instead of within inserting a maximum of. At least that's the notes I have on mine.

Commissioner Carey: Right, mine too. Good catch.

Michele Reinhart: So replace "within" with "a maximum of?"

Chair Curtiss: Uh, huh. Are there motions, this is a consideration, not a hearing, so I don't need to close the hearing.

Commissioner Anderson: Michele, I guess I'm asking that the recommendation in Condition #7, is that the way the motion would be drafted?

Michele Reinhart: Yes, there has been...

Commissioner Anderson: ...put the roads there to be named, would that be inclusive? And add the Public Works Department in addition to the volunteer fire department.

Michele Reinhart: Okay, so just to clarify, add Public Works after Greenough-Potomac Volunteer Fire Department prior to final plat approval?

Commissioner Anderson: Yeah.

Chair Curtiss: Of course, this is a year-around maintenance agreement that Greg's not going to see. Do you want to see this one?

Greg Robertson: We're not a party to it.

Chair Curtiss: Because they're not building the roads to county standard or not in that one.

Commissioner Anderson: So leaving that with the approval of the Greenough-Potomac Volunteer Fire Department.

Michele Reinhart: And there has been no change to that condition since the last hearing.

Commissioner Anderson made a motion that the Board of County Commissioners deny the variance request from Article 3.2.3(3), requiring pedestrian facilities on Garnet Court based on the findings of fact. 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 conditionally approve the variance request from Article 3.2.2.6, requiring cul-de-sacs to be constructed with a 45-foot turnaround radius within a 60-foot right-of-way to permit a 35-foot turnaround radius within a 50-foot right-of-way based on the findings of fact. 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 Garnet View Lots Subdivision based on the findings of fact and subject to the recommended conditions of approval as amended. Commissioner Carey seconded the motion.

Chair Curtiss: The only amendment is that one in #5 right? To clarify maximum?

Michele Reinhart: Right.

The motion carried on a vote of 3-0.

Commissioner Anderson: Thank you all.

Michele Reinhart: Thank you.

Mike Sehestedt: By way of background, for the record again this hearing included both the testimony received now and the testimony and information received at the earlier Commission meeting.

Garnet View Lots Conditions of Approval

Roads and Access

1. Plans for and installation of a cul-de-sac bulb with a 35-foot turnaround radius within a 50-foot wide private access easement at the location of the proposed Emergency Vehicle Turnaround easement and the junction of the driveways for Lots 1, 2, and 3, shall be reviewed and approved by County Public Works and the Greenough Potomac Volunteer Fire Department prior to final plat approval.
2. Plans for and installation of an 18-foot surface width with 2-foot gravel shoulders on each side for the onsite portion of Garnet Court, shall be reviewed and approved by County Public Works prior to final plat approval.
3. Driveways in excess of 150 feet in length must be approved by the Greenough Potomac Volunteer Fire Department prior to building permit approval. A turn around for fire apparatus must be incorporated at the terminus of the driveway. The driveway must provide 20 feet of unobstructed horizontal clearance and 13 feet 6 inches unobstructed vertical clearance the length of the drive. The maximum grade shall not be more than 10% with a stabilized sub-grade and appropriate surfacing to support all emergency vehicles. This language in the development covenants shall not be deleted or amended without governing body approval.
4. The following statement shall be placed on the final plat, subject to review and approval by OPG prior to final plat approval: "The purchaser and/or owner of the lot or parcel understands and agrees that private road construction, maintenance, and snow removal shall be the obligation of the owner or property owners' association and that Missoula County is in no way obligated to perform such maintenance or upkeep until the roads are brought up to standards and accepted by Missoula County for maintenance." (*Subdivision Regulations Article 5.6(k) and OPG Recommendation.*)

Fire

5. The developer shall reconfigure the property line between Lots 3 and 4 to accommodate the location of a new home on Lot 4 a maximum of 150 feet from Garnet Court, to be reviewed and approved by OPG and Greenough Potomac Volunteer Fire Department prior to final plat approval.
6. An RSID/SID for a water supply for fire protection shall be placed on the final plat subject to review and approval by OPG prior to final plat approval stating:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for a public water system for fire protection, providing a 1000 gpm fire flow, 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."
7. Road maintenance agreements providing for year-round maintenance on Garnet Court and Camas Road shall be reviewed and approved by the Greenough Potomac Volunteer Fire Department prior to final plat approval. The agreements shall be appended to the development covenants and shall address year-round maintenance of Camas Road from Swanson Lane to Hole in the Wall road.

8. The developer shall provide a water supply for fire protection that stores 10,000 gallons of water with a dry hydrant, to be located adjacent to the cul-de-sac at the end of Garnet Court. In lieu of a water supply with hydrant, the developer shall install interior residential fire sprinklers that meet NFPA 13D standards in each new home. Plans for a water supply and hydrant location including an access easement for fire truck access shall be approved by the Greenough Potomac Volunteer Fire Department prior to final plat approval. If water supply for fire protection is to be provided by interior residential fire sprinklers then the subdivider shall provide verification from the Greenough Potomac Volunteer Fire Department 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 Greenough Potomac Volunteer Fire Department prior to building permit approval and the development covenants shall be amended to replace Section 2 of the Development Covenants with the following prior to final plat approval:

“Installation of interior residential fire sprinklers that meet NFPA 13D standards are required in each new home for the purpose of fire protection. Plans for installation of interior residential fire sprinklers shall be approved by the Greenough Potomac Volunteer Fire Department 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.

9. Fuel mitigation work meeting Montana State Department of Natural Resources Fire Protection Guidelines for Wildland Residential Interface Development is required prior to combustible construction. Plans for wildland fire suppression shall be reviewed and approved by the Greenough Potomac Volunteer Fire Department prior to building permit approval.
10. All residences within this subdivision shall post address signs visible from Garnet Court, in all light conditions. Plans for visible addressing shall be reviewed and approved by the Greenough Potomac Volunteer Fire Department and included in the Development Covenants prior to final plat approval.

Pedestrian Facilities

11. Plans for providing a low-impact pedestrian trail along one side of the on-site portion of Garnet Court shall be reviewed and approved by OPG and County Public Works prior to final plat approval. Easements for pedestrian trails/walkways shall be not less than 10 feet wide and shall remain clear and open and shall not be obstructed with fences, structures, utility pedestals, or other above ground utilities that obstruct pedestrian use of the easement.

Utilities

12. The developer shall show all existing and proposed utility easements on the face of the plat subject to review and approval by OPG prior to final plat approval. The developer shall recognize Garnet Court as a utility easement or revise the preliminary plat to show Garnet Court as a private access easement, minus the utility easement, subject to review and approval by OPG prior to final plat approval.

Weeds

13. A revegetation plan for the disturbed areas of the subdivision shall be reviewed and approved by the Missoula County Weed District prior to final plat approval.

Development Covenants

14. The Development Covenants shall be amended as follows subject to review and approval by OPG prior to final plat approval:
 - A. Wood Burning Stoves: Missoula City-County Health Department encourages property owners that choose to install solid fuel burning devices to install pellet stoves or EPA-approved wood stoves that emit less than 4.1 grams of particulate per hour to reduce particulate pollution in the area.
 - B. Amend the last sentence of Section 5 as follows: “Lot owners shall revegetate any ground disturbance with beneficial species at the first appropriate opportunity after the disturbance occurs. “

Hearing: Pontiac Commercial Development (8 commercial/industrial lots on 20.5 acres), and Proposal to Rezone 2.59 acres of the parcel - Roller Coaster Road

Chair Curtiss opened the hearing.

Janet Rhoades presented the staff report.

I'm here today presenting Pontiac Commercial Development Subdivision and Rezoning.

Janet Rhoades presented PowerPoint slides, which can be found in the file.

Staff recommends approval of the subdivision, subject to the recommended conditions of approval and Planning Board also recommends approval subject to the recommended conditions of approval as amended in Attachment 1, which I think that you all have. This concludes the staff report.

Chair Curtiss: Thank you, Janet.

Commissioner Carey: Janet, why, under drainage, Condition #9 from the Planning Board's notes, why did they strike the including plans to direct storm water runoff from Lot 8 to the swales?

Janet Rhoades: It was getting pretty late by then, but my understanding is Don McArthur in particular--let me go back to the--he felt that--he was the one who came up with the idea for the 15-foot no-build zone. He felt it would be better instead of regarding Lot 8 to point towards--to drain towards Grand Am Way to have it drain towards the riparian area and put a swale in on the eastern side of the berm and drain it that way. I think that--they were sort of in combination; I think the reason for striking the drainage was related to the 15-foot no-build zone for the riparian area.

Chair Curtiss: So he wanted it to drain towards the riparian area but just not get into it?

Janet Rhoades: That's my understanding, yes.

Chair Curtiss: Further questions? Thank you, Janet. Is the developer's representative ready?

Nathan Lucke: Good afternoon, Commissioners, Nathan Lucke with Territorial Landworks, representing Matt Whetzel, who's proposing Pontiac Commercial Development.

[Nathan Lucke presented PowerPoint slides, which can be found in the file.]

What I'd like to do now is just walk through the conditions. I appreciate Janet's report. We're generally in agreement with all the conditions. There's just a couple things that I want to talk about. It may take a little bit of time to walk through all this stuff. In particular, going to--I'm going to come back to the variance request, so we'll be coming back to Condition #14. Now, talking about the--this is Condition #19 that I'm on and what OPG staff would like to do is increase that buffer area, and I'm looking back up on this slide, on Lot 1 and 2, they want to increase it here and move it up to the road to the south there. One of the things that we talked about at Planning Status is that the fire department wants an apparatus for storage and for a hydrant on this property and the best location for their concerns are to put it right there in that area. We don't have any issue whatsoever in increasing that riparian area as long as it doesn't affect our plans with the fire department. I think Michael had some comments at Planning Status how we might be able to word that into the condition, increasing the area as long as it doesn't preclude fire department working in there, so I would just like to see that amended if we could. Janet...?

Janet Rhoades: I just wanted to add and I forgot to add this in my original presentation, but I talked to Brent Christopherson yesterday. He doesn't have any problem at all putting the storage tank and the fire hydrant, actually on the east side of the road, which is the left here because south is up, on Lot 1 instead of in that area on Lot 8. In other words, extending the riparian buffer [inaudible] would not affect his plans for fire at all.

Chair Curtiss: Although it would encumber that lot.

Janet Rhoades: Yeah.

Nathan Lucke: It would and that's great that Brent made that comment because that makes me feel better, but I want to also point out that--I'm going to go to this slide. This is the berm here and we have a very defined line that's very apparent on the ground, so to increase it there--anyway, that's something that we can talk about more, but it would be our proposal not to increase that [inaudible]. That would be a revision of Condition #19, which would then also affect Condition #20, same type of issue, and then the first Condition 22, we have two of those. The first Condition 22 talks about this 15-foot no-build zone from the berm and this is actually perfect to have this slide up here still. Going to the meeting minutes from the Planning Board, which are in the packet that Janet handed out, I highlighted something. This is page 49 of 64 and where I'm heading with this, we discussed this at the Planning Status meeting too. My recollection during the Planning Board meeting was that they were looking for it to be just a building setback line from the top of the berm, not a no-improvement zone. If we go to page 49 of 64, Don McArthur says, "I guess I'm thinking there ought to be a setback off the top of the berm towards the building somehow. I mean if we put a building in there, you're going to need to drain away and you're going to need the channel along the backside there..." meaning the backside of the berm, "...to maybe deal with your runoff storm drainage issues and so what could that be?" I just wanted to point out that my recollection and it appears to be correct from that statement that the discussion was a building setback line. So going back to the first Condition 22, we would like to see that revised to be a building setback line, not just a no-build because what's currently proposed in no-improvement for [inaudible] surfaces or anything like that. That's really it on the conditions.

Then I just want to go to the variance requests. There was some good discussion at the Planning Board regarding the variance requests. We would like to, I guess, withdraw our variance request for the interior subdivision road. Planning Board was recommending denial of the variance and then a gravel pathway and we are in agreement with that. I think that the staff's recommendations that there be a fabric put underneath the gravel makes a lot of sense, given the fact that we're in the clay area. The only thing we'd like to do is, because I think the regulations do allow it, to have that as alongside the road instead of having a boulevard. That would be our request for the pedestrian pathway interior to the subdivision.

Then I'll bring up the last slide on Roller Coaster Road. This is the road we're talking about. It's a little bit dark, I wish we could see that a little bit better, but there's a fence on the left-hand side. Can you see the fencepost sticking up there? Then the gravel road itself [inaudible] the property in kind of a darkish brown on the left, that's the property. This is the road we're dealing with and Public Works did not comment on the variance request for this. Perhaps Greg would have some comments today regarding that. From my perspective, I just don't see that this road is ready for pedestrian pathways to be installed, whether they're going to be boulevard, what type of surface they'll be. Going to the six--or the five criteria, excuse me, on variance request, the first criteria is the granting of this variance does not result in a threat to public health and safety--public safety, health, welfare, and is not injurious to other persons or property. Of course, we don't have any current pedestrian pathways on Roller Coaster Road and so there's not any public that would be all of a sudden forced to walk along the road in this area. I don't see that there's a threat to public health and safety.

The second criteria, the conditions upon this request for variance is based are unique. Of course, if we did put pedestrian pathways along Roller Coaster Road, that would be a unique situation. There aren't currently any along Roller Coaster Road in this area. Physical conditions preventing it, I'm not going to argue that there are. There are some complexities to putting the trail in the northwest corner, which is why, part of the reason why the Planning Board recommended removing that and not having it installed along that section. There's the drainage way as it comes into the property and so it's kind of a deeper area and the culvert would need to be extended, so it just provide some logistical issues that we can deal with and that's why the Planning Board, it's my understanding, recommended not having that section of it.

The fourth criteria, the variance will not in any manner violate the provisions of the Missoula County Zoning Resolution or the Missoula County Comprehensive Plan or Master Plan areas. I think you can look at those either way. We're all familiar with picking and choosing what we want out of those plans, but it's our contention that we do not violate any of those documents. The variance will not cause a substantial increase in public cost. Again, we go back to this being a county road with a county trail [inaudible] along it and is it going to cost money to maintain it and yes, it would. So in some respects, installing the trail is actually going to increase public costs versus not installing it.

Those are our thoughts for the Roller Coaster Road variance and that concludes my presentation. Thank you very much for your time.

Chair Curtiss: Greg, do you happen to know what the right-of-way is on Roller Coaster?

Greg Robertson: Sixty feet.

Chair Curtiss: Sixty feet. There's some comment in the Planning Board minutes and there was some at Planning Status this week about fire hydrants in the right-of-way. Do you have an issue with fire hydrants in the right-of-way?

Greg Robertson: As long as they're maintained by a public entity or semi-public entity that's regulated, such as the county water and sewer district, an RSID, or Mountain Water. Where it gets into difficulty is with private associations, homeowners associations and maintenance or lack of, that's where it becomes an issue.

Chair Curtiss: So do the fire departments not periodically go and check them [inaudible]?

Greg Robertson: You know I couldn't tell you. I believe they do, I mean I would expect them to, but I couldn't tell you for certain.

Chair Curtiss: I periodically see them, the city one, running them on the street, washing the road.

Greg Robertson: I know the few that we have in El Mar and Lolo, we'll exercise the valves periodically. I don't know that the fire department does, but we'll do it just to ensure that they're loose when needed.

Chair Curtiss: Okay. This is a hearing, so I'll open the hearing. Is there anyone else who wants to make public comment? Could you hand the microphone...

Bob Zimerino: Bob Zimerino representing Matt Whetzel from a real estate perspective. I just want to add a couple things to what Nathan said, first off, about the sidewalk on Roller Coaster Road. Part of the discussion that evening was that at some point, they're going to be paving that road and they'd just tear it up anyway. So they didn't have a specific time when they were going to do that, but it was at that point brought up that that was part of the discussion they'd put in the sidewalk and whenever it got around to getting paved, that probably end up having to come out as part of the paving process and remediation of that road.

The other one is, the portion of the property to the--I have to get my bearings straight, to the west side of the road, which is the six-acre portion of the property, only about a little over two of those acres would be used for Mr. Whetzel's own use. The rest of it is part of the riparian way and no intention--we have no intention of breaking that property up any further to be any more invasive to the riparian way than--in the way that it is now, it's actually not because of the berm, just adding those two points.

Chair Curtiss: Thank you, Mr. Zimerino. Anyone else who wants to speak?

Jim Brown: I'm Jim Brown with Five Valleys Audubon Society. I'd like to tell you what our concerns were with this area and what could have been done and what should have been done. Janice already told you some of our concerns, but I'd like to elaborate a little bit on this just isn't an ordinary place in the Missoula Valley and that's why we are concerned. That combination of grasslands and brushy draws is very important wildlife habitat. It's basically, the northern boundary of something called an important bird area, which some of you know about. I'll leave a couple little brochures here in case somebody doesn't know about that. I won't go into any detail, except that important bird area is something recognized because of it contains many species of conservation concern. So this whole area actually has a number of species of conservation concern. One of them happens to be this long-eared owl, which at Christmas counts are some 2,000 Christmas counts around the country, done every year. Consistently every year, Missoula ends up with the most long-eared owls of any of these 2,000 Christmas counts around the country. It's a very important wintering area for this long-eared owl.

Maybe even more important than the long-eared owl in some respects is that this whole area, the grass valley area with these brushy draws and the grasslands are a very important raptor area, especially in the winter. Supports along of [inaudible] and attracts a lot of raptors. There's two species that are considered watchless species by the National Audubon Society, meaning their populations have really plummeted, partly--for various reasons, but a big one is or course loss of habitat. The [Inaudible] hawk is one of them and there is a pair that nest in the base of that draw that's alongside the property. The other is a short-eared owl, which we see

periodically in that area and it's a grassland species. So raptors in that general area are very important, they need the grassland and the brushy draws. The songbirds are very important. One, the clay-colored sparrow, it's one of the few places in this Missoula Valley that you can find that. These are migrant songbirds. This is a very important area and that's why we are concerned.

When we were invited to comment on the development, we were really disheartened when we arrived on the site and found it already had been leveled. In other words, development was already underway as far as wildlife habitat was concerned. I'll come back to that in a minute. What could have been done, I think if we had been in on the ground floor at the start is probably potentially a better road location instead of right next to the draw and a better buffer, but what should be done? I was gratified because Matt Whetzel wanted to meet me onsite and talk about what we could do and I did. I met with Matt, I walked the area, we talked about things that could be done to mitigate and improve the situation as it was. The 15-foot buffer is important and, after walking the site and looking at it, it's even more important than I thought initially. We recommended a much bigger buffer, so 15 feet didn't sound like much, but I think it is substantial, given that particular location. We recommend that that buffer be grassed in with vegetation and shrubs planted along the base of that berm, where the water would run so that these shrubs would get a little bit of water besides just the ordinary rainfall, which the shrubs would need in that location. Reducing disturbance is a really important part of mitigating some of these impacts. The berm and the buffer help reduce that disturbance to this draw and then the planting of shrubs and the reseeding of nature plants helps just recreate some habitat that's been taken away.

We're basically now in agreement with what we've arrived at with Janet and in taking with Matt onsite of what could be done to make the best of this. I hope the Commissioners would take a look at this problem of arriving on a site and finding the development underway because really the horse is out of the barn at that point. There's some developer's that may not know the wildlife values on their site. If we can get in earlier and get there, it's going to be less expensive, less strife, and a better result in terms of creating something that's favorable to the wildlife. We thank you for hearing our concerns and how we can try and mitigate the impacts. I'll leave a couple of these here for whoever would like to look at one.

Larry Weeks: My name is Larry Weeks; I live at 2428 West Kent here in Missoula. I'm also with Five Valleys Audubon. I scheduled a field trip for the society and every other year, I schedule a field trip to this area to trap long-eared owls. I have Denver Holt [phonetic] from the Owl Institute up at Charlo come down with his crew and they set up in these draws mist nets to capture the long-eared owls and then they bring the long-eared owls back to the field. The participants on the field trip to talk about the owls and answer the questions that the people have. Just to illustrate how important these long-eared owls are to the public, these field trips are the most well attended field trip that we have, that we offer to the public. We've had three in this particular area where this subdivision is taking place and we've had anywhere's from 30 to 65 people come on these field trips and considering this is in January, I think it's pretty striking that that many people would come out when it's cold, unpredictable weather just to see these owls. So it illustrates how important these owls are to the public. It was disturbing to find that these areas had already been disturbed before we got a chance to comment on it. That slope that we're looking at right there on that slide that goes down into that draw on the west side of Lot #8 is all weeds right now. The weeds need to be taken care of and that slope needs to be revegetated with native grasses, blue bunch [phonetic] wheatgrass would be one suggestion, but I don't think shrubs would survive on that slope, so I think it ought to be limited to grasses on that slope. The shrubs would have to be put someplace where there's a little bit of water can get to them. Thank you.

Chair Curtiss: Thank you, sir. Other comments?

Matt Whetzel: Hello, I'm Matt Whetzel, so everybody had their piece, so now I'll get mine a little bit. I guess to start with Mr. Carey your concern on the drainage on the berm, a couple things. The berm was put there, we graded the lot originally, started doing part of it, so I had a place to park my trailers. The economics of it were that we had to do so much work to get part of it flat where we were wanting to build up next to the road, that we ended up doing the whole thing with the idea that the economics of it, if we ever decided to do any more of it, we'd be kind of doubling our money type thing. The berm was put in with the idea of keeping the water out of drainage without a direct shot and we, at the time, realized that we'd be putting in a retention pond of some sort. Along that berm also, in order to keep that--the drainage as it is, if we tipped the drainage back towards the road on that site, we're, in effect, going to eliminate the berm without rebuilding it again above what's already there due to we've got about a foot and a half of fall from the roadway across that lot to the berm. If we tip the drainage back the other direction in order to drain into a swale on the road, then we're back plus--then we also put [inaudible] water up next to the roadway, which in that clay area is not real good idea. The berm is there with the idea of catching

the water and diverting it down to the pond. It will also be able to soak in along that whole length of the berm, eliminate a little bit of the need for the water to soak in at the pond, which is the idea of that.

The shrubs that Mr. Brown has suggested we put in, that's kind of what we had in mind to start with. The 15-foot easement off the top is not an issue at all with me. I use it for parking trailers and storing materials. We'll probably put a building, right now it looks like about on that map; about where the "B" on the berm is roughly, where my building will end up being. Then the pond is being behind my building to the south basically where the "8" is on the lot is the area that I'll be using for parking trailers and equipment and such. That part of it works out all well.

The fire apparatus, I guess you call it, that they're talking about maybe moving onto Lot 1. It may work well there, other than we've got a grade off the corner of Lot 1 down to the road and the way that road's in there right now, if you go out onto the site is we had to straighten the road in order to get the access off the highway to be legal. Right now, it's more angle off to the west, so there's going to be room there more so than what it looks like at this point. The underground fire area, if we could put it probably on the border between Lot 1 and Lot 2 on the west side of the road, there's area there that's basically unusable even if we put the berm up on there, due to where the berm is now, that fire area's kind--that area's kind of the natural place for the fire, we're got to have a turnout for the fire department. We talked to them and at that point, they saw that it looked like a good idea. Whether we want to move it on the other side, we possibly could, but it would take away some of the area off of Lot 1 that would be usable. The driveway on Lot 1 is going to have to be right on the Lot 1, Lot 2 boundary in order to get off of Grand Am Way due to the grading. So we're going to end up putting it down farther maybe if we have to, but the room isn't really there like it is on the other side of the road.

The sidewalks, I don't intend--or I don't see anybody out there business-wise, as far as any kind of a retail thing. It's--we originally had a couple guys that, when I bought this, that were looking for places to rent to put equipment similar to what I am, contractors-type thing and that's still kind of what it looks like [inaudible] people that are looking at buying into these lots. Most of us are in in the morning, grab our equipment, et cetera, et cetera out and then back in the evenings, park it, and go home type thing. As far as very much pedestrian traffic, we don't see it. If we need to put in a gravel walkway to meet everybody's requirements, that's [inaudible] we would request whether it's boulevard or otherwise, but between the easements and some of the utilities, it makes a little bit more sense to us to put it right alongside the road. Then some of the utilities are then--are outside the road and have room to work with.

Back to, I guess, the riparian area is kind of the biggest kind of issue here. I met with Mr. Brown and, you know, I think we've kind of come to the same conclusions of what I can do now is whatever I'm stuck with. We've looked at it and the lot [inaudible] picture right there, that slope from the top of the berm down is pretty much a gradual flat slope, if you will. I kind of talked it over with him and maybe we came up with an idea if I can put some pockets in there, basically make some draws on that slope and still not inhibit the drainage of it, so it's too steep for erosion and then revegetate it, which is kind of what we had in mind anyways. That's what we're kind of looking at doing, if we can get shrubs to grow in some of those pockets, even if it's just snowberries, which is what the pockets on the other side of the draw and down on the bottom, that's about all that's growing there. Weed management, the original lot, the whole 20 acres, was fairly well infested with knapweed, even down in the draw now. I'd like to get rid of that before we even start anything and that's below the silt fence more. Above the silt fence, the knapweed's just barely growing, we don't have any going to seed yet. This was graded a year and a half ago from now. We've got one year's worth of weeds on there, [inaudible] weed and that type of thing. [Inaudible] regarding the lot and then maybe we're going to have to want to spray it before we reseed it, that's what we need to do to get going good, that's fine.

The water area, the retention pond area, we're going to do the same thing with that. That was kind of my whole idea, that's kind of out the back window of my shop/office. The idea is I'm going to move that and it on this plan it shows it on part of Lot 7. We're going to try to move it over onto Lot 8 completely, so that it's on my lot and doesn't infringe on Lot 7, #1 and, #2, its area that I'm not going to be using anyways. That's kind of the idea there. So I'll have my own little backyard pond or park or mosquito trap, we'll see what time of the year it is. Any other questions for me, I'll be glad to answer.

Chair Curtiss: Any questions for Mr. Whetzel? The lady in the back, yes?

Susan Doores: My name is Susan Doores, D-O-O-R-E-S. We own property, one lot to the east of this property on Roller Coaster. I have to agree with the opinions of the walkway on Roller Coaster being just a little bit absurd at

this time. I would be in favor more of the landowners on Roller Coaster saving our money to put toward the sewer should there be an RSID for the sewer because our properties are not included in the current sewer project out there and being in the clay hills, we're going to need the sewer. I would be in favor of Matt being able to save his walkway money and join in with the rest of us landowners there to eventually have to afford the sewer. Thank you.

Chair Curtiss: Thank you, Ms. Doores. Other comments? Nathan, did you have something you wanted to add?

Nathan Lucke: The only thing I wanted to add that Janet did pass out that green sheet and I think that addresses--there's a condition in there that's proposed that addressed the ability for Matt to come in and do some of the plantings and address some of the concerns from the Audubon Society down along the riparian area. Just want to clarify that we're in agreement with that condition as proposed. Thank you.

Chair Curtiss: Thank you. Did you have something you wanted to add, Janet?

Janet Rhoades: If I could just add a couple clarifications about a couple things, with the berm in Lots 1 and 2. It's staff's understanding that the berm kind of fades away around Lots 1 and 2, so there isn't really a berm there. It's staff's understanding with that. Second, with the fire apparatus and the encumbrance with Lot 1, I just wanted to add a point for perspective, that Five Valley's Audubon had recommended deletion of Lot 8 all together. I wanted to make sure that I brought that up as staff looked at a lot of different concerns and deletion of Lot 8 was certainly one of them. The 15-foot setback, Nathan, did we kind of work it out or...?

Nathan Lucke: [Inaudible, spoke from audience.]

Janet Rhoades: Okay, yeah, I [inaudible] and I pulled out of a different part of the Planning Board's minutes, but it looks like were okay with that as written.

Commissioner Carey: Was that Condition #22 then in the Planning Board minutes that is deleted now and replaced by the language on the green memo?

Janet Rhoades: No, Condition #22 is not replaced by anything on the memo.

Commissioner Carey: It stands as it's written?

Janet Rhoades: It stands as written, right.

Chair Curtiss: So the Planning Board's was--because this didn't automatically renumber itself, so the Planning Board's...

Janet Rhoades: Yes, and that was my staff error...

Chair Curtiss: First #22...

Commissioner Carey: The first 22, yeah.

Chair Curtiss: So where does the one on the green memo fit then? That's a new one?

Janet Rhoades: Yes, both the ones on the green memo are new. Just another point of clarification, I believe the applicant has proposed dry laid sewer for the site in case you missed that.

Chair Curtiss: So these would be--the green one's if we go with them, would be new #26, I think, with the renumbering...

Janet Rhoades: I was going to number them, but then it changed the numbers after them, so I will just add them in where appropriate if you approve them.

Commissioner Carey: That's fine.

Chair Curtiss: This is a public hearing, are there any more comments before we close the hearing? Mr. Lucke.

Nathan Lucke: Just one additional comment, just to be perfectly clear for the record. Matt is agreeing to the 15-foot no-build, so that would be a setback plus no infrastructure whatsoever including hard surfaces, but we would still like to have the ability of the fire apparatus on Lot 8. Thank you.

Commissioner Carey: Janet, how do we address that? Where does that fit in to what we've got here?

Janet Rhoades: The encumbrance on Lot 8? There's no condition for it. You could choose to remove Condition #19--or sorry, strike certain language from...

Chair Curtiss: #19?

Janet Rhoades: Number 20 actually. You could if you want just strike the language, "extend to the western edge of the proposed Grand Am right-of-way west of Lots 1 and 2. You could strike that language.

Mike Sehestedt: We could add...

Chair Curtiss: Or we could clarify...

Mike Sehestedt: ...#20 and say "provided this should not prohibit the installation within this area of fire department apparatus." I'm looking at Condition #20, which would expand the eastern boundary to the western edge of the right-of-way west of Lots 1 and 2. It would still continue to extend the buffer area, but it would be subject to the ability to install the fire apparatus within that area. My understanding what we're talking about is underground storage tank for water and a hydrant. Of course, the surface would be subject to the revegetation requirements, weed control provisions of other conditions in here.

Janet Rhoades: So did you also want to add, "if the fire district deems it necessary" or not?

Mike Sehestedt: We'd just make it an exception and if the fire district does it now or deems necessary later, we're not prohibited from doing it there.

Chair Curtiss: It could say something as simple as, "The installation of apparatus for fire protection..."

Unidentified Speaker: ...and maintenance.

Chair Curtiss: ...fire projection installation and maintenance of apparatus for fire protection would be an allowable exception."

Mike Sehestedt: Allowable exception in that particular extended eastern boundary of the riparian area.

Chair Curtiss: If we just added it to that #20, would that be clear enough?

Mike Sehestedt: That's what I think because that's where we extend and so that's also the area we want to limit it to. What I'm hearing, that's the thought.

Chair Curtiss: Is that what the Commission would like to do, that if that's where the fire department would like it?

Commissioner Carey: Sounds [inaudible].

Chair Curtiss: It would just be a new sentence at the end of #20 to state, "The installation and maintenance of apparatus for fire protection would be an allowable exception in the extended buffer area."

Mike Sehestedt: That is perfect. Again, let me be very clear, when I make these suggestions, I'm not suggesting it's a good or a bad idea, I'm just suggesting language to accomplish what may or may not be the Commission's pleasure.

Chair Curtiss: Thank you, Mike. Is there further discussion before I close the hearing? Seeing none, I'll close the hearing and we'll look at some motions.

Commissioner Carey: I'm just wondering if there are there any other loose ends that anybody...?

Chair Curtiss: Well, we have the--the one's that I have noted is whether or not they'd like to have--or whether or not we're going to require some sort of pathway or sidewalk along Roller Coaster, whether we want them paved or we consider it gravel with geotech fabric under it enough, whether we want them curbside or boulevard, and then I think the other things that are on the green memo.

Commissioner Carey: So as I understand it, the developer's dropped their request for a variance for a walkway along--what is it...?

Chair Curtiss: Grand Am.

Commissioner Carey: Grand Am, yeah.

Chair Curtiss: I believe they did, but they would prefer it was gravel, curbside gravel with geotech fabric. We wouldn't have to do the variance, but we would have to somehow--well, you've got that right here. We could clarify that on the green. Then the other would be to deny or approve along Roller Coaster Road. Greg is paving Roller Coaster Road in any of your near future plans?

Greg Robertson: No, not currently, although given the amount of development that is starting to occur out in this area, it is likely that it will come up. Given the geometrics of Roller Coaster Road, just by its given name, there's going to be some fairly significant revisions to the vertical profile. I think it will need to be done to meet minimum MASTO [phonetic] requirements for paved roads. I think anything that's built out there, such as a trail or something, would get obliterated. The other thing, this area is going to be dry laid. For some reason, not understood by myself, when we were looking at the Wye sewer RSID, this area was asked to be included by several of the property owners and the city decided that they did not want to serve Roller Coaster Road at this time. Reasons were not given, at least that I'm aware of. Given the fact that this whole area is going to be sewerred or at least around it and the obvious want and need for it, in fact, planning for dry lay sewer in the area, anything out on Roller Coaster Road is going to be pretty well done. I think it's a waste of money for somebody to put anything in at this time, especially given the fact that the geometrics are going to have to change.

Chair Curtiss: And we have an RSID waiver for future improvements.

Greg Robertson: Yup.

Chair Curtiss: I don't feel as bad about putting them off in a commercial subdivision as I do when a homeowner tries to buy a new house and finds out somebody put an RSID waiver and they have to pay for that in the future, commercial's a little different.

Janet Rhoades: Just as a matter of procedure, I recommend that instead of withdrawing the variance, that you do vote on it...

Chair Curtiss: Conditionally?

Janet Rhoades: ...or vote on it, so that it's clear what your intent for the pedestrian walkways for that area are.

Chair Curtiss: Okay.

Mike Sehestedt: I think make a motion describing where you want them located and what you want them made out of and...

Commissioner Carey: Shall we go ahead and amend Condition #14 then first, pedestrian facilities on page 5?

Chair Curtiss: So would we insert the last underlined section off the green there then? Yeah, okay, go ahead.

Commissioner Carey: Shall we see if we can amend it here?

Commissioner Carey made a motion that the Board of County Commissioners amend Condition #14 to read, "Plans for a 5-foot wide gravel pedestrian sidewalk, along the eastern side of the proposed Grand Am Way shall be reviewed and approved by County Public Works prior to final plat approval. This required walkway shall be underlain with an appropriate geotextile fabric that addresses, at minimum, weed control and migration of any base or aggregate, to be reviewed and approved by County Public Works prior to final plat approval, subject to an improvements guarantee."

Chair Curtiss: Should the word say sidewalk or walkway then? Just walkway? Gravel pedestrian walkway?

Commissioner Carey: Okay.

Commissioner Anderson seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey: Then I guess we can get back to the motions for variances.

Commissioner Anderson: Want to go ahead and zone, rezone that?

Commissioner Carey made a motion that the Board of County Commissioners rezone the portion of the property currently zoned C-RR1 to C-I1 based on the findings of fact and subject to the recommended conditions of rezoning approval. Commissioner Anderson seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey made a motion that the Board of County Commissioners approve the variance request from Article 3.2.3(3), requiring installation of pedestrian walkways on Roller Coaster Road to require installation of pedestrian walkways on Roller Coaster Road. Commissioner Anderson seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey made a motion that the Board of County Commissioners deny the variance request from Article 3.2.3(3), requiring installation of pedestrian walkways on the proposed Grand Am Way to require installation of pedestrian walkways on the proposed Grand Am Way with reference to amended Condition #14. Commissioner Anderson seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey: Then somewhere in the green memo's verbage on the restoration plan for this site?

Mike Sehestedt: I would suggest...

Chair Curtiss: And the new language for 20.

Mike Sehestedt: I would suggest that you do those as separate motions that you could move the addition of an additional condition pursuant to the green memo and make it 25 or 26, I've lost track of the numbering.

Chair Curtiss: Or to have it just be numbered appropriately.

Commissioner Carey: ...staff number appropriately. Jean, since you have that verbage written down, would you mind going ahead with #20?

Chair Curtiss: Sure.

Chair Curtiss made a motion that the Board of County Commissioners amend Condition #20 to read, "The subdivider shall expand the eastern boundary of the 'Riparian Buffer Area/No-Build/No-Alteration Zone' to extend to the western edge of the proposed Grand Am Way right-of-way west of Lots 1 and 2, and to the eastern edge of the berm on the remainder of Lot 8. The installation and maintenance of apparatus for fire protection would be an allowable exception in the extended buffer area." Commissioner Anderson seconded the motion. The motion carried on a vote of 3-0.

Commissioner Carey made a motion that the Board of County Commissioners add Condition #23 to read, "The subdivider shall provide a Restoration Plan for the site, subject to review and approval by OPG based on the advice and guidance of Five Valleys Audubon Society prior to final plat approval. The Restoration Plan shall be compatible with the County-approved Revegetation Plan and County-approved Weed Management Plan and shall include, but not be limited to, the following: a. Native plants, shrubs, and/or trees shall be planted in and along the riparian buffer boundary, in and around the detention ponds, and between the detention pond at the southern end of the cul-de-sac and the riparian area. b. The berm shall be built up to a greater height, and topographical 'pockets' shall be constructed on the western side of the berm to provide topographical variety and support more diverse vegetation. c. The proposed site restoration shall be illustrated in an attached 8.5" x 11" Exhibit. The approved Restoration Plan and related Exhibit shall be recorded with the Development Covenants. The Riparian Resource Area, Riparian Buffer Area, and 15-foot wide No-Build Zone definitions shall be amended in accordance with the approved restoration plan, subject to review and approval by OPG prior to final plat approval. Commissioner Anderson seconded the motion. The motion carried on a vote of 3-0.

Chair Curtiss: Okay Janet, did we get them all we think?

Janet Rhoades: Did you get the main motion?

Chair Curtiss: Not yet.

Commissioner Carey: Not yet.

Mike Sehestedt: We're trying to make sure we...

Chair Curtiss: Trying to make sure we have [inaudible].

Commissioner Carey: Ready for that?

Commissioner Carey made a motion that the Board of County Commissioners approve the Pontiac Commercial Development Subdivision based on the findings of fact and subject to the recommended conditions of approval as amended. Commissioner Anderson seconded the motion.

Chair Curtiss: Should it be as amended by both us and the Planning Board or we just know that?

Mike Sehestedt: We work from the Planning Board recommendation.

Chair Curtiss: So that was automatic? Okay.

Mike Sehestedt: I think you can say as submitted. How would you like to phrase it Janet?

Janet Rhoades: I think that you're motions are pretty clear for the condition language, so I'm fine with it. I feel like I understand what you want.

Commissioner Carey: Thank you.

The motion carried on a vote of 3-0.

Chair Curtiss: The zoning and subdivision has been approved.

Pontiac Commercial Development Conditions of Approval

1. The rezoning for Pontiac Commercial Development shall be adopted prior to final plat approval. (*Subdivision Regulations Article 3.1(1)(b) and OPG recommendation*)

Roads and Access:

2. All proposed subdivision road names shall be approved by Missoula County Public Works prior to final plat approval. (*Public Works recommendation*)

3. The final plat shall include a one-foot no-access strip along the northern boundary of Lot 1 from the eastern property boundary to the western edge of the proposed Grand Am Way right-of-way, subject to review and approval by County Public Works prior to final plat approval. (*Subdivision Regulations Article 3-2(1)(E) and Public Works recommendation*)
4. Plans for constructing the proposed Grand Am Way to a minimum 24-foot wide paved surface width within a 60-foot public right-of-way shall be approved by County Public Works and Missoula Rural Fire District prior to final plat approval. (*Subdivision Regulations Article 3.2.2.2(4)(c) and 3.2.2.6(2) and Missoula Rural Fire District recommendation*)
5. Driveways in excess of 150 feet in length shall be approved by Missoula Rural Fire District prior to building permit approval. A turn around for fire apparatus must be incorporated at the terminus of the driveway. The driveway must provide 20 feet of unobstructed horizontal clearance and 13 feet 6 inches unobstructed vertical clearance the length of the drive. Driveways shall not exceed 10% grade and shall be constructed to support emergency vehicles in all weather conditions. This language shall be included in the development covenants and shall not be deleted or amended without governing body approval. (*Subdivision Regulations Article 3.2.2.2(4)(c) and Missoula Rural Fire District recommendation*)
6. Plans for installation of "No Parking" signs for the proposed Grand Am Way shall be reviewed and approved by County Public Works and Missoula Rural Fire District prior to final plat approval. (*Subdivision Regulations Article 3.2.2.2(4)(c) and Missoula Rural Fire District recommendation*)
7. The following statement shall appear on the face of the plat and in each instrument of conveyance:

"The purchaser and/or owner of the lot or parcel understands and agrees that road construction, maintenance, and snow removal shall be the obligation of the owner or property owner's association and that Missoula County is in no way obligated to perform such maintenance or upkeep until the roads are brought up to standards and accepted by Missoula County for maintenance." (*Subdivision Regulations Article 5.6(4)(k) and County Public Works recommendation*)
8. The RSID/SID waiver statement on the plat shall be amended to state the following and shall appear in each instrument of conveyance:

"Acceptance of a deed for a lot within this subdivision constitutes assent of the lot owner to waive the right to protest a future RSID/SID for improvements including but not limited to the installation of dust abatement, paving, drainage facilities, curbs and gutters, pedestrian walkways or bikeways to Roller Coaster Road and all streets within the Pontiac Commercial Development Subdivision, 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 Article 5.6(4)(m) and OPG recommendation*)

Drainage:

9. Drainage easements shall be shown on the final plat, subject to review and approval by County Public Works prior to final plat approval. Drainage facilities maintenance responsibilities shall be reviewed and approved by County Public Works and recorded in the covenants prior to final plat approval. Final drainage plans shall be reviewed and approved by County Public Works prior to final plat approval. (*Subdivision Regulations Articles 3.4(3), 3.13.1, and OPG recommendation*)

Fire:

10. Plans for fire hydrant locations with adequate fire flow and installation of a storage tank(s) supplied by a well shall be reviewed and approved by Missoula Rural Fire District prior to final plat approval. Fire hydrants shall be installed prior to combustible construction as required by the Missoula Rural Fire District-approved plan. (*Subdivision Regulations 3.7(1) and Missoula Rural Fire District Recommendation*)
11. Plans for installation of interior commercial fire sprinklers that meet NFPA 13 and NFPA 1 standards shall be approved by Missoula Rural Fire District prior to building permit approval. The development covenants shall be amended to state the following prior to final plat approval:

“Missoula Rural Fire District may require the installation of commercial residential fire sprinklers that meet NFPA 13 and NFPA 1 standards in each new commercial or industrial building for the purpose of fire protection. Plans for installation of commercial residential fire sprinklers shall be approved by Missoula Rural Fire District prior to Building Permit approval.”

This section of the covenants may not be changed or deleted without governing body approval. (*Subdivision Regulations Article 3.7(1) and Missoula Rural Fire District recommendation*)

12. A Fire Protection Plan for each lot, including, but not limited to, commercial sprinkler systems, security lock boxes, smoke detection systems, fire alarm protection equipment, and fire department connections shall be reviewed and approved by Missoula Rural Fire District prior to building permit approval. (*Subdivision Regulations 3.1(1)(b) and Missoula Rural Fire District recommendation*)
13. Plans for address signs, including size and location, shall be reviewed and approved by the Missoula Rural Fire District prior to final plat approval and the approved signage plan shall be incorporated into the covenants, subject to review and approval by OPG prior to final plat approval. (*Subdivision Regulations Article 3.2.2.2(4)(c) and Missoula Rural Fire District recommendation*)

Pedestrian Facilities:

14. Plans for 5-foot wide gravel pedestrian walkways along the eastern side of the proposed Grand Am Way and the south side of Roller Coaster Road adjacent to Lot 1 of the subdivision shall be reviewed and approved by County Public Works prior to final plat approval. Required walkways shall be underlain with an appropriate geotextile fabric that addresses, at minimum, weed control and migration of any base or aggregate, to be reviewed and approved by County Public Works prior to final plat approval, subject to an improvements guarantee. (*Subdivision Regulations Article 3.2.2.6(2) and County Public Works recommendation*)

Sewer:

15. The following statement shall appear on the face of the final plat and shall appear in each instrument of conveyance:

“Acceptance of a deed for a lot within this subdivision constitutes a waiver of the right to protest a future RSID/SID for public sewer systems, based on benefit. The lot owner shall connect to public sewer within 180 days of when the public sewer main is available to the subdivision. 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 Article 3-1(1)(D), City-County Health Code, and OPG recommendation*)

Airport Authority:

16. An aviation easement shall be recorded for this subdivision in compliance with the Airport Influence Area Resolution and subject to review and approval by the Missoula County Airport Authority prior to final plat approval. Article I, Section 7 of the Development Covenants shall be amended to reference the recorded easement. (*Subdivision Regulations Articles 3.1(2) and Missoula County Airport Authority recommendation*)
17. A statement shall appear on the face of the plat and in the Development Covenants for the subdivision, notifying owners that the subdivision is located within the Airport Influence Area and informing the owners of the requirements of the Airport Influence Area and the associated noise levels and soundproofing measures to reduce noise levels. The language of the statement shall be subject to review and approval by the Airport Authority prior to final plat approval. This section of the covenants may not be changed or deleted without governing body approval. (*Subdivision Regulations Article 3-1(2) and Missoula County Airport Authority recommendation*)

Riparian Area:

18. The subdivider shall amend the plat, the Riparian Management Plan and Map, and the Development Covenants to refer to the “Riparian Resource Area” as a “Riparian Resource Area/No Build/No Alteration Zone,” subject to review and approval by OPG prior to final plat approval. The “Riparian Resource Area/No Build/No Alteration Zone” shall be defined on the plat, in the Riparian Management Plan and Map, and in the Development Covenants as follows, subject to review and approval by OPG prior to final plat approval:

“Riparian Resource Area/No Build/No Alteration Zone - The “Riparian Resource Area/No Build/No Alteration Zone” is the area from the western property boundary to the eastern edge of the riparian vegetation, as indicated on the plat and the Riparian Management Plan Map. The “Riparian Resource Area/No Build/No Alteration Zone” shall include the prohibition of all buildings, structures, fences (except for a silt fence during construction), utilities, parking, roads, motorized vehicle access (except for routine maintenance activities), storage, containment of domestic animals, or any other development. It shall also prohibit any mining, cutting, burning, or removal of live or dead vegetation (except as needed for wildfire prevention, noxious weed control or conservation management), modification of the stream bank or streambed, filling with substances such as gravel, soil, slash or other debris, the use of pesticides, herbicides, or fertilizers, or the planting of non native vegetation such as lawn grasses.” (*Subdivision Regulations Article 3.13.2*)

19. The subdivider shall amend the plat, the Riparian Management Plan and Map, and the Development Covenants to refer to the “No Build Zone/No Disturbance Zone” as a “Riparian Buffer Area/No Build/No Alteration Zone,” subject to review and approval by OPG prior to final plat approval. The “Riparian Buffer Area/No Build/No Alteration Zone” shall be defined on the plat, in the Riparian Management Plan, and in the Development Covenants as follows, subject to review and approval by OPG prior to final plat approval:

“Riparian Buffer Area/No Build/No Alteration Zone - The “Riparian Buffer Area/No Build/No Alteration Zone” is a strip of land of varying width extending from the edge of the Riparian Resource Area to at least the western edge of the proposed Grand Am Way right-of-way west of Lots 1 and 2 and to the eastern edge of the berm on the remainder of Lot 8. The “Riparian Buffer Area/No Build/No Alteration Zone” shall include the prohibition of all buildings, structures, fences (except for a silt fence during construction), utilities, parking, roads, motorized vehicle access (except for routine maintenance activities), storage, containment of domestic animals, or any other development. It shall also prohibit any mining, cutting, burning, or removal of live vegetation (except as needed for wildfire prevention, noxious weed control or conservation management), filling with substances such as gravel, soil, slash or other debris, the use of pesticides, herbicides, or fertilizers, or the planting of non native vegetation such as lawn grasses.” (*Subdivision Regulations Article 3.13.3(5)*)

20. The subdivider shall expand the eastern boundary of the Riparian Buffer Area/No-Build/No-Alteration Zone to extend to the western edge of the proposed Grand Am Way right-of-way west of Lots 1 and 2, and to the eastern edge of the berm on the remainder of Lot 8. The installation and maintenance of apparatus for fire protection is an allowable use in the Riparian Buffer Area/No-Build/No-Alteration Zone, subject to review and approval by Missoula Rural Fire District prior to final plat approval. (*Subdivision Regulations Article 3.13.3(5)*)
21. The subdivider shall amend Section D of the Riparian Management Plan to include planned mitigation of impacts from construction, subject to review and approval by OPG prior to final plat approval. (*Subdivision Regulations Article 3.13.3(4)*)
22. The plat shall be revised to include a No Build Zone for the area between the top of the berm and a line 15 feet east of the top of the berm on Lot 8. The No Build Zone shall be defined on the plat and described in the covenants with an appropriate reduced-size exhibit as follows:

“No structures or pavement/hard surfaces are permitted in the area between the top of the berm and 15 feet west of the top of the berm. Construction of a drainage swale is permitted in this area. Revegetation shall be required for this area, in accordance with the site’s County-approved revegetation plan and County-approved weed management plan.”

Plat and covenant revisions shall be subject to review and approval by OPG prior to final plat approval. (*Planning Board recommendation*)

23. The subdivider shall provide a Restoration Plan for the site, subject to review and approval by OPG based on the advice and guidance of Five Valleys Audubon Society prior to final plat approval. The Restoration Plan shall be compatible with the County-approved Revegetation Plan and County-approved Weed Management Plan and shall include, but not be limited to, the following:

- a. Native plants, shrubs, and/or trees shall be planted in and along the riparian buffer boundary, in and around the detention ponds, and between the detention pond at the southern end of the cul-de-sac and the riparian area.
- b. The berm shall be built up to a greater height, and topographical “pockets” shall be constructed on the western side of the berm to provide topographical variety and support more diverse vegetation.
- c. The proposed site restoration shall be illustrated in an attached 8.5” x 11” Exhibit.

The approved Restoration Plan and related Exhibit shall be recorded with the Development Covenants. The Riparian Resource Area, Riparian Buffer Area, and 15-foot-wide No Build Zone definitions shall be amended in accordance with the approved restoration plan, subject to review and approval by OPG prior to final plat approval. *(Subdivision Regulations 3.1(9), Five Valleys Audubon Society, and OPG recommendation)*

Weeds:

24. A Revegetation Plan including, but not limited to, situation-specific revegetation of the site’s riparian area, roadside ditches, and detention ponds shall be approved by the Missoula County Weed District prior to final plat approval. Disturbed riparian areas shall be revegetated with native riparian vegetation. *(Subdivision Regulations Article 3.1(1)(f) and Weed District recommendation)*
25. The covenants shall be amended to include a Weed Management Plan (Plan) for the “Riparian Resource Area/No Build/No Alteration Zone” and “Riparian Buffer Area/No Build/No Alteration Zone,” to be reviewed and approved by the County Weed District prior to final plat approval. The Plan shall include provisions making the developer responsible for its implementation, beginning at final plat approval. The Plan shall include a mechanism requiring all subsequent lot owners to assume ongoing weed management duties from the developer, continuing after the subdivision has been filed, into perpetuity. The Plan and the covenant provisions related to weed management shall be reviewed and approved by the County Weed District and OPG prior to final plat approval. *(Subdivision Regulations Article 3.1(1)(f) and Weed District recommendation)*

Development Covenants:

26. The subdivider shall amend the development covenants as follows, subject to review and approval by OPG prior to final plat approval:
 - A. The subdivider shall add the following language to Article 1:

“Radon. The EPA has designated the Missoula area as having a high radon gas potential (Zone 1). Therefore, the Missoula City-County Health Department recommends that all new buildings incorporate radon-resistant construction features.” *(Subdivision Regulations Article 3.1(2) and Health Department recommendation)*
 - B. The subdivider shall replace Article II Section 2 of the Development Covenants with the following language:

“No covenants or sections thereof relating to weed control, radon, address signage, riparian resource management, driveways, or interior fire sprinklers, may be changed or deleted without prior written consent of the OPG or other relevant governing body.” *(Subdivision Regulations 3.1(2) & 3.1(10))*

Other Business

There being no further business to come before the Board, the Commissioners were in recess at 3:42 p.m.