

PUBLIC MEETING – APRIL 30, 2008

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

Pledge of Allegiance

Public Comment

Routine Administrative Actions

Commissioner Carey moved that the Board of County Commissioners approve the weekly claims list in the amount of \$546,508.02. Commissioner Anderson seconded the motion. The motion carried on a vote of 2-0.

Consideration: Johnson's Paradise Acres Subdivision for Lease or Rent (10410 Highway 10 West)

Commissioner Anderson opened the consideration.

Chad Newman presented the staff report.

This is for Johnson's Paradise Acres Subdivision for Lease or Rent. Kathe Johnson requests to add a second home to her 10.145-acre parcel located at the terminus of Highway 10 West. The property is bordered by Interstate 90 to the northeast and Dusty Lane to the south and west. There is currently one home and two outbuildings located on the property. The undeveloped portion of the subject property has a gently sloping topography and is being used for alfalfa production. The addition of a second home creates a density of one dwelling unit per five acres, however, as indicated on the site plan layout, the proposed location of the new home preserves the majority of the land that may be continued to be used for agricultural purposes.

Access to the site is from Highway 10 West. The existing home is accessed via a 15-foot wide driveway from Dusty Lane, a 22 to 25-foot wide privately owned and maintained road within a 60-foot wide private access and public utility easement. Because no new lots are being created, no additional easements are required. Both homes will be served by individual wells and on-site septic systems. No variances are requested.

Staff recommends eight conditions of approval related to fire and emergency services access, water supply for fire protection, fire service fee to Frenchtown Rural Fire District, address signage, noxious weed control, final plan revisions, development covenants and living with wildlife covenants. In conclusion, staff recommends approval of the Johnson's Paradise Acres Subdivision for Lease or Rent subject to the conditions of approval.

Commissioner Anderson: Any questions for staff? Would the developer like to make any comments? If so, please come to the microphone. Nothing? Any other comments from members of the public? Seeing none--yes.

Mike Sehestedt: I just want to make sure that the applicant/developer, the developer seems a little heavy handed to describe this project, understands that the new house if firefighting water supply is not provided, the new house will be submit to the requirement for interior fire sprinklers . The record would reflect that she nodded her said and said, yes, she understood. Thank you

Commissioner Anderson: Any other comments?

Commissioner Carey made a motion that the Board of County Commissioners approve the Johnson's Paradise Acres Subdivision for Lease or Rent based on the findings of fact in the staff report and subject to the recommended conditions of approval. Commissioner Anderson seconded the motion. The motion carried on a vote of 2-0.

Johnson's Paradise Acres Subdivision for Lease or Rent Conditions of Approval

Roads and Access:

1. The access road/driveway to the new home shall be approved by Frenchtown 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 drivable unobstructed horizontal clearance and 13 feet 6 inches unobstructed vertical clearance the length of the drive. Driveways shall be constructed to support emergency vehicles in all weather conditions. This language shall be included in the development covenants prior to final plan approval and shall not be deleted or amended without governing body approval. *(Subdivision Regulations Article 3.2.2.2(4)(c) and Frenchtown Rural Fire District recommendation)*

Fire:

2. The applicant shall provide a water supply for fire protection that produces 1000GPM and required storage and a hydrant or, in lieu of a water supply with hydrant, the subdivider shall install interior residential fire sprinklers that meet NFPA 13D standards in each new home that includes the installation of a fire department connection and a domestic valve. Plans for a water supply and hydrant location shall be approved by Frenchtown Rural Fire District prior to final plan approval. If water supply for fire protection is to be provided by interior residential fire sprinklers then the subdivider shall provide verification from Frenchtown 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 plan approval. Plans for the installation of interior residential fire sprinklers shall be approved by the Frenchtown Rural Fire District prior to building permit approval and the development covenants (Section 2 – Interior Residential Fire Sprinklers) shall include the following language, subject to review and approval by OPG prior to final plan 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 Frenchtown Rural Fire District prior to Building Permit approval. Failure to install residential fire sprinklers in any new home may subject the entire subdivision to the cost of installation of a shared water source for fire fighting purposes.”

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

3. The applicant shall contribute a fire service fee of \$530.00 per new dwelling unit to the Frenchtown Rural Fire District for fire protection purposes. Payment of this contribution shall be verified by OPG prior to final plan approval. *(Subdivision Regulations Article 3.7(1) and Frenchtown Rural Fire District recommendation)*
4. All residences within this subdivision shall post address signs visible from Dusty Lane in all light conditions. Plans for visible addressing shall be reviewed and approved by the Frenchtown Rural Fire District and Missoula County Public Works. The approved language shall be included in the Development Covenants prior to final plan approval. *(Subdivision Regulations Article 3.1(1)(f) and recommendations from Frenchtown Rural Fire District and Public Works)*

Weeds:

5. The applicant shall provide a Revegetation Plan, subject to review and approval by the Missoula County Weed District, prior to final plan approval. *(Subdivision Regulations Article 3.1 (1) (f) and Weed District recommendation)*

Utilities:

6. The Final Plan shall show the approximate location of existing and proposed utilities and associated easements including descriptions of their widths and purposes. *(Subdivision Regulations 5.1(4) (g) and 5.1(4) (j))*

Final Plan:

7. A maximum of two dwelling units in the form of stick built homes, modular homes, or mobile homes are permitted on the subject property. The applicant shall amend the plan subject to review and approval of OPG prior to final plan approval:

- a. Provide the plan on an 18 inch X 24 inch sheet of paper and include the full length and dimensions of all property boundaries, the full easement width for Dusty Lane along the south and west property boundaries and the full right-of-way width for I-90 adjacent to the northeastern property boundary.
- b. Remove the fuzzy black contour lines and I-90 road symbol.
- c. Label the Dusty Lane right-of-way width as a private easement, and include the right-of-way width.
- d. Include the total gross area of the subdivision and the net area exclusive of public rights-of-way.

Development Covenants:

8. Development Covenants for Johnson's Paradise Acres Subdivision for Lease or Rent shall be filed with the Missoula County Clerk and Recorder, subject to review and approval by OPG and the County Attorney's Office prior to final plan approval. The following language shall be included in the Development Covenants:

Section 1. Driveways. Driveways in excess of 150 feet in length shall have approved turnarounds for fire apparatus within 150 feet of the building and shall have a drivable unobstructed width not less than 20 feet and an unobstructed vertical clearance of 13 feet 6 inches the length of the drive. Final designs shall be approved by the Frenchtown Rural Fire District.

Section 2. Road Maintenance. The purchaser and/or owner of the lot or parcel understands and agrees that the 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 road maintenance.

Section 3. Interior Residential Fire Sprinklers. Installation of interior residential fire sprinklers that meet NFPA 13D standards are required in each new home for the purpose of fire protection. Plans for installation of interior residential fire sprinklers shall include the installation of a fire department connection and a domestic value and shall be approved by the Frenchtown Rural Fire District prior to Building Permit approval. Failure to install residential fire sprinklers in any new home may subject the entire subdivision to the cost of installation of a shared water source for fire fighting purposes.

Section 4. Weed Control. Lot owners are required to maintain their property in compliance with the Montana County Weed Control Act, the Missoula County Noxious Weed Management Plan, and the Revegetation Plan approved by the Missoula County Weed District appended by reference to this Development Covenant. Landowners are also required to revegetate any ground disturbance with beneficial species at the first appropriate opportunity after the disturbance occurs.

Section 5. 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 occasional presence of wildlife such as deer, elk, black bear, mountain lion, wolf, 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 elk and 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. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic materials 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 and/or home areas.)
- c. Garbage should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, and other wildlife. If stored indoors, do not set garbage cans out until the morning of garbage pickup and bring them in no later than that evening.
- 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 in bird feeders attracts bears. If used, bird feeders must: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) 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.
- f. 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).
- g. Pet food and livestock feed must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such 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.
- h. Barbecue grills should be stored indoors, permanent outdoor barbecue grills are discouraged, and permanent barbecue pits are not permitted. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife. (Due to the potential hazard of fire and explosion, propane cylinders for gas-fueled grills should be disconnected and kept outdoors. Under no circumstance should propane cylinders be stored indoors.)
- i. 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.
- j. 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. (Due to the potential fire hazard associated with decomposition of organic materials, compost piles should be kept at least 10 feet from structures.)
- k. 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.)

- I. These “living with wildlife” covenants cannot be altered or eliminated without consent of the governing body (Missoula County Commissioners).

Section 5. Amendments. The following sections of the Development Covenants may not be amended without Governing Body approval: Living With Wildlife, Driveways, Address Signs, Interior Residential Fire Sprinklers, Weed Control, Steep Slope/No Build Zone, and Amendments.”

(Subdivision Regulations Article 3-1(1), 3-1(1)(B), 3-1(2), 3-1(10), and 3-2(10)(E), Frenchtown Rural Fire District, Montana Fish, Wildlife and Parks, and Weed District recommendation)

Consideration: Ridge Above Rock Creek (Proposed Condition Amendment) - Bonita Ranger Station Road near Rock Creek Exit on I-90

Commissioner Anderson opened the consideration.

Chad Newman presented the staff report.

This agenda item is a request by Lemb Company LLC represented by Alan McCormick of Garlington, Lohn & Robinson to make a plat adjustment, resulting in the amendment of Condition of Approval #3 for the Ridge Above Rock Creek Subdivision. This is the second modification to this condition of approval. Just as a refresher, the Ridge Above Rock Creek Subdivision is located east of Missoula along Interstate 90 and across from the confluence on Rock Creek and Clark Fork River. This subdivision was approved by the Board of County Commissioners on August 11, 2004. A subsequent action modifying the conditions of approval was approved by the BCC on November 28, 2006. An extension for filing the final plat was approved, extending this deadline to August 11, 2007. The final plat for Ridge Above Rock Creek Subdivision was filed on September 27, 2007.

At this time, the specific action being requested is to abandon the 50 x 100-foot building envelopes approved with the filing of the final plat for the Ridge Above Rock Creek and increase the size of building envelopes for all 20 lots within the subdivision. The reason for this request, as stated by the developer, is because the approved building envelopes constrain potential building sites and in some cases push the dwellings into less desirable locations. The requested building envelopes, according to the applicant, are designed to avoid slopes greater than 25%, avoid drainages that form fire chimneys, and set structures 50 feet back from the crest of slopes, which exceed 25%. These three criteria are in agreement with the recommendations of Missoula County Fire Marshal Scott Waldron.

Upon visiting the site on March 27, 2008 (and based on a subsequent meeting with the Missoula County Fire Marshal), staff has determined that the newly proposed building envelopes for 19 of the 20 Lots are in concert with the recommendations for mitigating Wildland Urban Interface issues. However, one lot, Lot #18, is located directly on top of a small spur ridge above a 25% slope and therefore is not in compliance with what has been recommended by the County Fire Marshal and the Department of Natural Resources and Conservation fire officials. As a result, staff recommends that Condition of Approval #3 be further modified to allow for this proposed plat adjustment as follows (and this is included in your packets): All lots shall have a designated building envelope. An exhibit showing the new building envelopes for all lots, including a revised building envelope for Lot 18, shall be added to the covenants prior to onsite staking. This exhibit shall be titled “Building Envelope Exhibit” and shall replace the revised Supplemental Data Sheet showing the 50 X 100 building envelopes approved on March 22, 2006. The following conditions apply, subject to review and approval of OPG. a, the building envelope for Lot 18 shall be relocated to avoid slopes greater than 25%, avoid natural drainages that form fire chimneys, and set structures 50 feet back from the crest of slopes which exceed 25% subject to review and approval of the Missoula County Fire Marshal and OPG. Building envelopes for all lots shall be clearly defined by onsite staking and reviewed and approved by the Missoula County Fire Marshal prior to building permit approval. C, A note shall be placed on the face of the final plat referring to the building envelopes and the restriction against structures outside of these designated areas. That is already on the final plat and we’re just including that with the revised condition.

In closing, staff recommends approval of the requested plat adjustment for the Ridge Above Rock Creek. If the proposed changes to Condition of Approval #3 are imposed.

Commissioner Anderson: [Inaudible] from staff? Would the developer’s representative like to make some comments?

Alan McCormick: Alan McCormick with Garlington, Lohn & Robinson. Chad has adequately described our request. I just wanted to note for the record that the conditions of approval are acceptable to our client and answer any questions that you have.

Commissioner Anderson: Question from the Commission? Comments from attorney?

Mike Sehestedt: Can't think of a thing this time, thank you.

Commissioner Larry Anderson: Seeing that, I'd entertain a motion.

Commissioner Carey made a motion that the Board of County Commissioners approve the proposed plat adjustment resulting in the amendment to Condition of Approval #3 for the Ridge Above Rock Creek Subdivision as amended by staff. Commissioner Anderson seconded the motion. The motion carried on a vote of 2-0.

Ridge Above Rock Creek Amended Condition

3. All lots shall have a designated building envelope. An exhibit showing the new Building Envelopes for all lots, including a revised building envelope for Lot 18, shall be added to the covenants prior to on-site staking. This exhibit shall be titled "Building Envelope Exhibit" and shall replace the revised Supplemental Data Sheet showing the 50 foot X 100 foot building envelopes approved on March 22, 2006. The following conditions apply, subject of review and approval of OPG.
 - a. The Building Envelope for Lot 18 shall be relocated to: 1) Avoid slopes greater than 25%; 2) Avoid natural drainages that form fire chimneys; and 3) Set structures 50 feet back from the crest of slopes which exceed 25% subject to review and approval of the Missoula County Fire Marshal and OPG.
 - b. Building Envelopes for all lots shall be clearly defined by on-site staking and reviewed and approved by the Missoula County Fire Marshal prior to building permit approval.
 - c. A note shall be placed on the face of the final plat referring to the Building Envelopes and the restriction against structures outside of these designated areas.

Hearing: Canyon View Business Park (32 commercial lots on 56.66 acres) - 1.5 miles northwest of the Wye on Highway 10 West

Commissioner Anderson opened the hearing.

Tim Worley presented the staff report.

Before you is Canyon View Business Park, which is a proposal by RC Hobbs Enterprises, represented by Territorial-Landworks, for 32 lots on 50.66 acres located approximately 1.5 miles northwest of the Wye on Highway 10 West. The parcel is located on the east side of the road between Highway 10 and Interstate 90. The parcel is unzoned and the 1998 Urban Comprehensive Plan recommends open and resource uses here. Any residential uses are recommended for a maximum density of one dwelling per 40 acres; commercial or industrial uses are not encouraged by this land use designation. The property has not been farmed for some time, but does have some agricultural history. The property is outside the urban growth area. The nearest location encouraged for commercial uses is the Wye. The nearest light and heavy industrial uses are encouraged in the Stone Container vicinity. Most of the lands in between have an open and resource land use designation. A major residential subdivision proposed for this location in 2005 did not move forward because the City's Sewer Service Review Committee chose to hold the subdivision until other projects in the area are brought to the committee, with the intent that the projects would be reviewed together. The committee did not extend the Missoula Wastewater Treatment Plan boundary to include this parcel at that time. The Comp Plan encourages new development within or immediately adjacent to areas where public services are currently available to maximize local government efficiency and promote a logical growth pattern. Missoula County Subdivision Regulations Article 3.1(5) requires a parcel to be served by adequate public facilities and services, which are established in the subdivision regulations, in state and local regulations, and by the governing body based on the findings of fact.

The applicant proposes the subdivision be filed in three phases, with filing dates of December 1, 2011, December 1, 2015, and December 1, 2018 for Phases 1, 2 and 3, respectively. Because of a lack of Comprehensive Plan compliance and full compliance with Article 3.1(5), staff recommends a condition requiring the phasing plan to be amended to include the final plat filing dates. This is Condition #18 and prohibits the filing of a phase prior to six months before the final plat deadline. This condition essentially prevents an "all at once" filing scenario in order to allow more urban and commercial infrastructure to make its way west to this location over time. Staff at the April 15 Planning Board hearing offered an amendment to this condition to lift any constraints on the filing of Phase 1 while retaining the 2011 filing deadline. Ultimately, what was approved by Planning Board in Condition 18 requires the final plat filing dates to be included on the phasing plan itself. However, Planning Board did not support staff's plat filing restrictions, which are stricken as shown in Attachment 1.

The subdivision is served by Highway 10 West, which is also known is part of the state highway system; it's state secondary 474. Subdivision access onto this road will require an approach permit, which is required in Condition #2. The state will also require a traffic study because of the scale of the subdivision as outlined in Condition #1. An old highway right-of-way runs along the eastern boundary of the parcel. This is the Deschamps Lane Right-of-way. The property owner proposes abandonment of this right-of-way. Condition #5 requires this right-of-way to be either abandoned or monumented in compliance with the Administrative Rules of Montana and as recommended by the County Surveyor's Office. A power line easement along the southern boundary is required to be shown at a specific width in Condition #17. Paved subdivision roadways are proposed within 80-foot wide private access easements. The street sections as originally proposed include 24-foot wide roadways with adjoining 6.5-foot asphalt pathways and 2-foot shoulders on each side of the road. While allowed by the subdivision regulations, 24-foot wide roadways are narrow for a commercial application. As a result, the applicant has agreed to expand to 36-foot wide roadways, which you'll see in Condition #3, as reviewed by Planning Board. Because of road width expansion, Planning Board deleted Condition #4, which required certain road design modifications and no-parking signage that may have been needed considering commercial truck usage on fairly narrow roadways. Staff originally voiced a concern about a lack of either vertical or horizontal separation in the pedestrian walkways for the subdivision. The scale of this subdivision and nearby Bentgrass Meadows would likely contribute a significant number of pedestrians when both projects are fully built out. To address public health and safety needs, staff recommended 5-foot concrete sidewalks with 7-foot boulevards along at least one side of subdivision roadways in Condition #8. Planning Board supported the staff recommendation, and the developer's representative is in agreement with the boulevard sidewalk concept. Condition #9 is a requirement for a pedestrian easement to provide a connection to the property to the south. No pedestrian facilities are required by the condition, which is intended to retain the potential for future connecting pedestrian improvements. Planning Board amended the condition in order to allow for flexibility in timing and location of this easement.

This subdivision is within the Frenchtown Rural Fire District. In order to comply with adequate water supply standards in the subdivision regulations, the applicant has agreed to adequate water storage and hydrants as outlined in Condition #10. Fire sprinklers will also be required for the commercial buildings as detailed on Condition #11. Condition #12 requires a \$300/lot fire service fee contribution to Frenchtown Rural Fire District. Condition #13 requires a fire protection plan for each lot, including lock boxes that provide building access in emergency situations.

The site is planned to be graded to prepare for construction and infrastructure. It is likely that mass grading will occur across most of the acreage by Phase 1 to even out the site, creating a risk for weed invasion and ongoing weed problems. Staff therefore recommends a weed management plan in Condition #21 that requires weeds to be addressed throughout each phase of the subdivision, continuing after the final phase is filed. The site is near O'Keefe Creek but not directly adjacent to it. In compliance with state law and the subdivision regulations, the applicant has completed a flood study that calculates the discharge of O'Keefe Creek in a 100-year event. A portion of the floodwaters are estimated to encompass the northern end of the subdivision. As a result, Condition #15 requires the exhibit showing the floodwater inundation to be recorded with the covenants. Areas of inundation are required to be shown as no-build, no-alteration zones on the plat. A planned drainage swale is allowed to be constructed in this area. Condition #16 requires the lowest floor elevation of all buildings in the subdivision to be at least 2 feet above the 100-year flood elevation as calculated in the approved flood study. This is to be confirmed at the time of building permit review.

Planning Board added one new condition in response to adjacent property owners request for perimeter fencing. This requires perimeter fencing along the western boundary of Lots 1 and 2, the northern boundary of Lots 2-8 and the southern boundary of Lots 14-19. I believe the developer's representative will speak to this condition and may have some potential amendments to it. In summary, staff and Planning Board are in support of Canyon View Business Park.

Commissioner Anderson: This is a public hearing...

Mike Sehestedt: I had one thing. When we talk about hundred-year flood here, we're talking not a FEMA calculation, but a very conservative calculation based on the estimated flow of O'Keefe Creek during a hundred-year event, presuming that all of the water passes under the interstate and further presuming that the culvert under Highway 10 is blocked and the only relief for the floodways is over top of Highway 10 West.

Commissioner Anderson: Would like to hear from the developer's representative?

Jason Rice: Good afternoon, Jason Rice, Territorial Landworks for the record. Didn't realize we'd moved rooms and I should have checked a little bit about the PowerPoint, but we brought a PowerPoint presentation we won't be showing today. I think that we're all--it's been a really good process. We've worked pretty well with planning staff. We just had the one issue on the phasing that I think we worked out with Planning Board quite well, probably going to put some of that on the record here again today just to make sure that we're all understanding the situation. I think overall, the conditions and the process has gone very well.

I think Tim did an excellent job of summarizing where the project is and what the project is and what it consists of. One clarification is we are asking for review of 32 lots as it relates to planning, however, only 30 lots would be developed at this point in time because of the sewer systems. Sewer systems are located on two of the 32 lots and those would be available for development at such time that the city sewer would become available. So touching on that, the project had been presented by another consulting firm to the Sewer Wastewater Committee and the client did receive a letter. Our client, Roger Hobbs, is here today and can speak to any questions that you may have. At the time they tabled it and we did receive a letter that said hey, if you can get some other folks in your area to sign up for sewer service, we'll sure bring the sewer, it's that we don't know where we want to put a lift station at this point in time. It's not that it's not feasible, it's not out of the capacity, it's not out of the question; it's just that there's not a large enough demand for it in the area at this point in time. That's the one clarification.

Moving into the phasing plan, the two main things that seem to be--and unfortunately, your attorney stepped out, but the two things regarding the phasing phase that were there and I don't mean to beat a dead horse, I just want to make sure we talk about, but the three, one, five of the regulations talks about services being adequately available for the subdivision. We're quite proud of the efforts that we've put forward and happy that our client was patient with us to develop and good plan and meet with--you know, we met with, I think, Public Works three times. The roads were adequate and now I think we're going above and beyond where we wanted to be there. We're met with the fire department on multiple occasions and come to a compromise and a solution that they're very happy with. We've met with--the letters that we received from the Sheriff's Office and the City Police Department have been complied with. If you look in the application packet, if it was unclear, there's a modification to the project summary and essentially that's all dealing with all of our agency responses. So when it came down to it, we had no agency responses that said we can't service this project right here, right now, even if it wasn't phased, if we did all 30 lots. The only one that I think that was discussed at Planning Board was potentially the highway access as being a little narrow and that was discussed in Bentgrass quite a bit. However in order to get an approach permit, we need to have the highway fully studied and analyzed. We've begun that process, but there's only so much you can do when you're in preliminary plat stage and so much investment [inaudible] a person's willing to do and that's understandable, especially since we didn't know both projects--whether they'd both be approved, what the full impacts would be, whether we'd get everything going. Chances are there's going to be a highway widening through this stretch of the project to get the turn lanes in, to get traffic flow in through here. That was mitigated through the TIS work that we're going to be doing. In the end, Planning Board and us couldn't really find any other concerns with three, one, five, so we moved to the Comprehensive Plan and actually in our PowerPoint from the Planning Board, which I guess is on the record, actually quotes Mr. Sehestedt from Bentgrass, talking about the Comprehensive Plan and what its use can be in subdivisions, so I won't belabor that. It's been discussed below and he can clarify that further if we need to.

Moving on, being that we don't really have any problems and we're very pleased with the Planning Board's outcome. We did hear that one of the neighbors wasn't--one of the changes that we did was sort of last minute,

people were tired. One of the neighbors wasn't as pleased with the fencing timing with the building permit. Really what was to the staff's credit and to Planning Board's credit, they were trying to find a legally binding timing that we could do the fence. In thinking about it, we actually could time the fencing with final plat. So I emailed some suggestions to Tim and perhaps we could change the condition to, for the fencing, a six-foot tall chain link fence shall be installed along the exterior boundary at the following locations. Actually, I'm going to grab the mic if I can and move over to the map and point this stuff out as I talk. Actually, what I can do is I have a nice model that I brought with me today and he can point out the locations. So Paul Foresting can go ahead and point to the locations as we speak, how about that? Paul Foresting, Territorial Landworks, he's one of the planner technicians that has worked on this project and written a lot of these letters to the agencies. I thank him as well for the efforts. We left off here with following locations, the western perimeter of Lots 21, 22, 32, 1 and 2. Yes, right there and there. The southern boundary of Lot 1, right there and northern boundary of Lots 2, 3, 4, 5, 6, 7, and 8 prior to filing of Phase 1 plat. That would allow the grading to occur as part of the development and road design and road construction prior to installing the fence, but the fence would be installed prior to building construction would be even commencing or even applied for. The second part of this--because it's kind of a two-part condition, the southern boundary of Lots 14, 15, 16, 17, 18, and 19, this is Trap Club, will be fenced prior to filing a Phase 2 plat. What that does is allows us to phase the improvements and before there's an impact to those neighbors. We're actually working on a plan with the Trap and Ski Club. They had intended to fence that boundary already, so lucky them, we're required to do that now, but the timing wasn't quite perfect for them, so we actually may have that done sooner. There's been a couple proposals on the table, but we'd like to have the conditions universal for what everybody would like. Chances are most folks when they start building--you know, buying out here are going to build their fences.

Talking a little bit about that and that actually pertains to the phasing plan. The types of folks that are going to move out there are going to be construction contractors and they might be dry-wallers, pipefitting-type places, maybe siding and they're going to need a lot they can store their equipment one or their materials on, so they're going to want security fencing. The lots are relatively on the small size for commercial, on the two-acre size I believe is where we're at. The design being that some people may want to buy more than one lot and overlapping lots over phase lines could make it very problematic for the condition that was previously provided by staff. The second problematic side of the phasing plan that was proposed by staff with a six-month prohibition was this area is already abutted by pretty much what you'd consider industrial uses. We have a Trap and Ski Club and then we have the feed or the farm and ranch supply. That's for sale right now so they have storage and equipment. Who's to say they're not going to come in and they're also in, I believe, a lot of the same Comprehensive Plan that we are. How do you phase them into the whole mix? Is it even necessary? Our evidence and our proof and our homework has shown that it's not necessary and that if they go through the same homework and find those services are available, they should also be approved.

That's my arguments in a nutshell. I know you have the Planning Board minutes and we went into a lot more belaborment on that, but there has been a lot of growth in this area. You've seen that. The Bentgrass project was recently approved. We've got other industrial development in the area as well. I think that being said, I want to make sure that I have covered all the other key critical points. We're very pleased with the Planning Board comments. I don't think there's much else there other than we did do a pretty extensive review of the six criteria in our applicant that really subdivisions are based upon, don't feel that we're out of compliance with any of the regulations, and want to just open it up for questions when you guys get to that point. Thank you.

Cathie Cichosz: Excuse me, sir? I'm not sure why you decided not to do your PowerPoint, but we can show it on the wall.

Jason Rice: Well, I didn't bring the PowerPoint because I thought you'd have it set up, so I apologize...

Cathie Cichosz: Me?

Jason Rice: [Inaudible] the office, they would normally set up at our other meetings. We should have checked ahead, so sorry. My fault...

Cathie Cichosz: I didn't know that you had...

Jason Rice: No, it's my fault, sorry. Thank you.

Commissioner Anderson: Thank you, Mr. Rice. Any other comment?

Linda Cummons: I'm Linda Cummons and I own the property that [inaudible] O'Keefe Creek runs through. I guess he answered my question because we wanted the fence up. We have hay and then we have the creek and we really didn't want all the debris from the construction site and everything. My husband spoke with Jason yesterday and assumed that it wouldn't be--the fence wouldn't be up until after Phase 1 was--when Phase 2 was started, but that's not correct, Jason, it's going to go...

Unidentified Speaker: [Inaudible, spoke from audience.]

Linda Cummons: Okay, yeah. It's going to go up as soon as the first business...

Unidentified Speaker: [Inaudible, spoke from audience.]

Linda Cummons: ...is in. Okay. I just had a question about the zoning, when I talked with Andy, when he was nice enough to bring out the map--Andy Short that's from Territorial Landworks; he brought out the maps so we could look at it and see how everything was going to go. He said that there would be just light industrial, that was all it was going to be in there, however, then learning, I think, from Tim that night at the Office of Planning and--their meeting, that there is no zoning on there. We're just a little worried about what type of businesses--say this gentleman sells it to someone else, who ends up developing the Phase 2, Phase 3. Is that going to change--can that change down the road? Are we going to look at--we have our--my son and his family live right beside us, the west side, and we have grandchildren. We're just wondering where does that leave us with the zoning?

Tim Worley: We did speak, as Linda noted, a few days ago on the whole issue of zoning. I believe she asked me or somebody asked me the question of could you have a rendering plant on this property? There would be no zoning restrictions against such a use at this location. I don't know about the likelihood of such a use, but there would be no zoning restrictions against more heavy industrial-type of uses at this location.

Rachael Cummons: I'm Rachael Cummons and our home is just right adjacent to Lots 1 and 2 there that stick out. We are fairly close to that property line. It's another question about the fencing, I didn't fully understand. Once the property is graded, is the fence going up or they're still going to do roads or do all that type of construction prior to the fence? My other question is, I guess, I lost my train of thought. My concern with it being fenced prior to any construction going on is because of my small children. I view it as a security issue because we're rural and it's spread out, so you don't have the security of a neighborhood. I have young children so it's a major concern for me. My other concern was what they have proposal for noise allowances. In the application, it seemed like it would be allowed for really pretty high levels of volume going on there. That's a concern, especially being such a close neighbor. It could really affect our quality of life. I think that's all.

Commissioner Anderson: Thank you.

Jason Rice: I think there's two concerns. I'll talk about the fence first. The problem is the way the phasing works, there's requirements, and I guess I speak to you guys, but it's to her. There's requirements, key points when you as a county can enforce having a fence up. Usually it's the filing of plat. In order to file the plat, we do have to build the roads, sewer, and do the grading. Then basically have all the improvements done and we can file the plat, so somebody can't buy a lot and build until all those improvements are in. Unless there's some other way to do that, I mean, we definitely would want to get the grading done before we put the fence up, but what's the trigger point to do that? I think from my perspective as the consultant on behalf--this is a pretty flexible position, you know, we're trying to do something nice or work out above and beyond the regulations, so we're trying to figure out how to do this and structure it and make sense about it. I'm just--this is the best we would come up with, I guess, it's the best catch point to make sure the fence is in. The fence will be in before the plat's filed, it's just where's the timing allowed in there? There's no real permits that we could hold up and say you need a grading permit, those don't exist. Maybe Mr. Sehestedt would have something to offer on that. Yes, before the buildings go in, the fence would be up, but the road grading and all that stuff would occur. There would be silt fence and low barriers because of the grading that's going on, so that would help somewhat as far as deterring kids and that's a stormwater pollution prevention requirement. That would be in place and potentially help with some of the concerns because it's on the downhill side, so we would need those preventions in place.

The other question was about usage. I think in talking to Mrs. Cummon's husband, I think there had been some confusion between what Andy said and what wasn't understood. The covenants don't allow those uses that she spoke of. What we did was in the covenants, rather than having to build a whole set of covenants that are already

created, we could use the county zoning by reference. What we did was we said all uses as allowed in the C-II zoning will be allowed on this property, along with the same setbacks and that. It was a way of doing things that keep it consistent with other commercial growth in the county. Those allowances are retail and service facilities, public utility offices, industrial mini-warehouses, natural resource management offices. Then we also allowed the conditional use because we were trying to have a light industrial-type project, which includes anything that--any industrial which conforms with all light industrial standards of Section 405 (c) and none of those include the storage yard or the rendering plant-type things, but special exemptions we don't allow in this particular instance, which were uses which conform with the heavy industrial standards of Section 405 (b), so we don't include those and so those did have those other allowances. We've tried to make it where it would fit for everybody.

The noise side of it, I haven't memorized these covenants, but they're going to be enforced by the developer. These are 30 lots and he's protecting the investment by making sure the right uses going in here that are compatible with each other. To allow somebody to come in here that would not be compatible with another use wouldn't make sense as far as the protection of his investment. That's the answer we have, it's probably the best answer we have in this situation, but the covenants are controlled by the architectural control committee and the owner. Certainly, I know there's times when we're allowed to put restrictions on changing covenants or certain pieces of covenants in there to being approved by the County Commissioners and they do that in an area where we can improve upon on this particular project.

Mike Sehestedt: Just a couple of comments, right now, the entire area is unzoned, so there is no restriction on what could go on site that isn't subdivided. Right now, if it's not subdivided, the rendering plant could go in, heavy manufacturing, rock crusher, who knows what. I did when the question came up look at the covenants briefly. They do, as Jason indicated, restrict the uses on the site to those light industrial uses authorized by the Missoula County Zoning Resolution for light industrial areas. I would qualify Jason's statement that the developer's in charge of the covenants to the extent that once he starts selling lots, he loses that ability. This has a fairly high threshold for amendment. It would take 75% of the lot owners to amend these covenants, which means if the project was [inaudible] lots were sold, there's decreasing likelihood that those other lot owners would be willing to depreciate their property values by allowing heavy industrial use or something like that in the area. That's a practical statement, that's not a guarantee.

Commissioner Anderson: Tim, do you have any more comments on noise issues or anything like that?

Tim Worley: No, I just thought it interesting what Jason suggested that maybe the section of the covenants that restrict uses to essentially C-I1 uses, maybe that could be added to the amendment section as a section that couldn't be amended without governing body approval. I'm not sure where that is though, I was digging around for it, and I couldn't find it.

Jason Rice: You're looking at the filed covenants. It's Section 1 of the proposed covenants and so it's Article 1, Section 1 of the protective covenants.

Tim Worley: If I would ask what's the title of that section?

Jason Rice: Land use and building types.

Tim Worley: Thank you.

Commissioner Carey: Tim, I didn't catch whether or not taken a look the developer's suggestion amendment to Condition #24, the perimeter fencing?

Tim Worley: Yes, I did. Unfortunately, I didn't print it off, so I don't have it in front of me, but I took a look at OPG when Jason sent it to me this morning and it looks like it would work. It would accomplish the neighbor's goals, I believe.

Commissioner Carey: Good, so you can give that to Cathie.

Tim Worley: To Cathie, right and then she can just script it.

Commissioner Bill Carey: It's got the amended language?

Tim Worley: Uh, huh.

Commissioner Bill Carey: Thank you.

Commissioner Anderson: Any other comments?

Roger Hobbs: Good afternoon, my name is Roger Hobbs, 2215 Raymond Avenue, Missoula, Montana. I just wanted to thank Tim and his staff for an extensive review and working with closely with Mike [inaudible] Jason and I'm glad to meet Rachael and Linda, correct, and work out the fence situation because I think it works both ways. We would want them to be happy, we want to be happy, and we wouldn't want some sort of attractive nuisance that the children would run over and get on a pipe or do anything like that. We think it made a lot of sense to do that and we support the Trap Club suggestion too for a fence on their border. Thank you very much.

Commissioner Anderson: Thank you. Any further comment? I'd ask Tim, in the Planning Status meeting, we talked about that easement between 14 and 15 and talked about possibly moving that. Was there any further discussion about that?

Tim Worley: I think the condition as modified by Planning Board works because it just allows for flexibility. It doesn't dictate a particular location or a particular phase at this point. I think unless Jason and Territorial Landworks and Roger, unless they would have any other ideas, I think the Planning Board language works okay.

Commissioner Anderson: If there were a perimeter fence around there, would there be any kind of a gate or anything to provide for access or would that be fenced off at the property line?

Jason Rice: The purpose of the easement was for future developer of that property. What we did is Health Department didn't really look at the grading or any of that kind of stuff, they just sort of recommended the easement. The reason we actually have a problem with it, is--I actually do have a pointer--right here is a steep bank and so when we took a look at an existing easement that is actually dedicated to this property that runs right through here, it's dedicated as pretty much just flat out access easement. We talked to the Health Department about well, what about, it makes more sense for pedestrians to come across the corner if they ever develop in this area, closer to the center of the project, closer to the highway. They seemed to think that that was going to be agreeable. Since we couldn't go back through the agency comment period, making the condition the way it is where we just have to get their approval after the fact seems to work. Worse case scenario we would just move the easement over to here. The answer to your question finally, it's an easement for the future to reserve the right for a trail. A gate would be installed at the time that they build the trail. That would be the best way to do it, but there will be gates, by the way, required in the covenants as a result of Fish, Wildlife, & Parks requirements that open on the backside of the lots if deer get stuck in there or some animal gets stuck in. The idea is that you can open it and not have the deer exit onto the street right away, but onto the backs of the lots and [tape ended]. So certainly, there would probably be gates on the backs of these lots. If one of them lined up with an easement, we'd certainly put the gate in the location of the easement, so, not really. It's not really a planning for the immediate future type of think.

Commissioner Anderson: Thank you. Tim, I have one more question, you talked about--you said given the size of the subdivision, this would require a traffic study. Is there a trigger on how many lots require a traffic study?

Tim Worley: I think in the county regulations, 40 might be the threshold, but I think that was a Montana Department of Transportation requirement actually. In conjunction with Bentgrass Meadows across the road, I think because both of those are going in close together, that was--I think they have to do a traffic study, both developments, in conjunction with one another actually because of their impact on the state highway.

Commissioner Anderson: On a different subject, where is the community drainfield located on here?

Tim Worley: I think maybe Jason could point that out, there's two locations I think.

Commissioner Anderson: Okay. Any other comments? Any further comments on this? I'll go ahead and close the public hearing and consider any motions.

Commissioner Carey made a motion that the Board of County Commissioners amend Condition #24 to read, “A six-foot tall chain link fence shall be installed along the exterior boundary at the following locations: The western perimeter of Lots 21, 22, 32, 1, and 2; southern boundary of Lot 1; and northern boundary of Lots 2, 3, 4, 5, 6, 7, and 8 prior to filing the Phase 1 plat and the southern boundary of Lots 14, 15, 16, 17, 18, & 19 prior to filing the Phase 2 Plat.” Commissioner Anderson seconded the motion. The motion carried on a vote of 2-0.

Commissioner Carey made a motion that the Board of County Commissioners accept Planning Board’s revisions to staff conditions.

Commissioner Bill Carey: Do I need to spell those out?

Mike Sehestedt: No, I think they’re presented in the document before you. One thing, before you go forward, there was some discussion about adding uses to the provisions that couldn’t be amended without governing body approval. Not that I’m taking a position on it one way or another, but if you choose to do that, it would be an amendment I believe and you could correct me if there’s a better place. Condition 22, which limits amendment medication of covenant provisions relating [inaudible] radon and so on, we would simply add to that list, any amendment of permitted uses.

Commissioner Carey: Is that the verbage we can move?

Tim Worley: Yeah, or we could just plug in the section of the covenants as it is titled now, land use and building types, so we could just add that as the first part of that Condition #22.

Commissioner Carey made a motion that the Board of County Commissioners amend Condition #22 to read, “The ‘Amendments’ section of the covenants shall be amended prior to Phase 1 final plat approval to prohibit deletion, modification, amendment of or addition to sections relating to land use and building types, address signs, driveways, radon, living with wildlife, weed control, the Weed Management Plan, commercial fire sprinklers and the approved flood exhibit without prior written consent of the governing body.” Commissioner Anderson seconded the motion. The motion carried on a vote of 2-0.

Commissioner Carey made a motion that the Board of County Commissioners approve the amended conditions contained in staff report based on the findings of fact and conclusions of law. Commissioner Anderson seconded the motion. The motion carried on a vote of 2-0.

Commissioner Anderson: Thank you for your comments.

Canyon View Business Park Conditions of Approval

Roads and Sidewalks

1. The proposed subdivision shall complete the Montana Department of Transportation (MDT) guidelines for a Systems Impact Action Review Process (SIAP), including a Traffic Impact Study and shall comply with all regulations and MDT required mitigation subject to review and approval by MDT and County Public Works prior to final plat approval of Phase 1. (*Subdivision Regulations Article 3.1(1)(e) and MDT recommendation*)
2. An approach permit for the subdivision shall be reviewed and approved by the Montana Department of Transportation prior to Phase 1 final plat approval. (*Subdivision Regulations Article 3.1(1)(e) and MDT recommendation*)
3. Plans for paving Autumnwood Lane, Blazing Star Lane, Blazingwood Lane, and Autumnwood Court to a 36-foot width with 2-foot gravel shoulders shall be reviewed and approved by County Public Works prior to Phase 1 final plat approval. Plans for paving the looped portion of Autumnwood Court proposed to serve Phases 2 and 3 to a 36-foot width with 2-foot gravel shoulders shall be reviewed and approved by County Public Works prior to Phase 2 final plat approval. (*Subdivision Regulations Article 3.2.2.6(10) and OPG recommendation*)
4. The Deschamps Lane county road right-of-way along the eastern boundary of Phase 3 shall either be abandoned or shown on the Phase 3 final plat and monumented prior to Phase 3 final plat approval. (*ARM 24.183.1101(e)(ii) and County Public Works, Surveying Division recommendation*)

5. Final plans for grading, drainage and erosion control shall be reviewed and approved by County Public Works prior to final plat approval of each phase. (*Subdivision Regulations Article 3.4*)
6. The developer shall present evidence of petitioning for annexation into the Missoula Urban Transportation District prior to Phase 1 final plat approval. (*MUTD recommendation*)
7. Plans for 5-foot wide concrete sidewalks with minimum 7-foot boulevard/swales along (at minimum) one side of the proposed subdivision roadways shall be reviewed and approved by County Public Works prior to Phase 1 final plat approval. Plans for extending boulevard sidewalks along (at minimum) one side of the looped portion of Autumnwood Court proposed to serve Phases 2 and 3 shall be reviewed and approved by County Public Works prior to Phase 2 final plat approval. (*Subdivision Regulations Articles 3.2.3(3), 4.1.13(2)(d)(vi) and OPG recommendation*)
8. A 20-foot pedestrian easement shall be shown leading to the southern property boundary, and shall be reviewed and approved by OPG and the City-County Health Department prior to final plat approval of the appropriate phase. (*Subdivision Regulations 3.2.3(5) and Health Department recommendation*)

Fire

9. Plans for fire hydrant locations and 1000 GPM fire flow with adequate minimum storage shall be reviewed and approved by Frenchtown Rural Fire District prior to Phase 1 final plat approval. Fire hydrants shall be installed prior to combustible construction as required by the Frenchtown Rural Fire Department-approved plan. (*Subdivision Regulations 3.7(1) and Frenchtown Rural Fire District Recommendation*)
10. Plans for installation of interior commercial fire sprinklers that meet NFPA standards shall be approved by the Frenchtown Rural Fire District prior to building permit approval. The development covenants shall be amended to state the following prior to Phase 1 final plat approval:

“Installation of commercial fire sprinklers that meet NFPA standards are required in each new commercial or industrial building for the purpose of fire protection. Plans for installation of commercial fire sprinklers shall be approved by Frenchtown 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 Frenchtown Rural Fire District recommendation*)

11. The subdivider shall contribute a fire service fee of \$300 per new lot to the Frenchtown Rural Fire District for fire protection purposes. Payment of this contribution shall be verified prior to final plat approval of each phase. (*Subdivision Regulations Article 3.7(1) and Frenchtown Rural Fire District recommendation*)
12. A Fire Protection Plan for each lot, including, but not limited to, commercial sprinkler systems, Knox Boxes, smoke detection systems, fire alarm protection equipment, and fire department connections shall be reviewed and approved by Frenchtown Rural Fire District prior to building permit approval. (*Subdivision Regulations 3.1(1)(b), Frenchtown Rural Fire District, and OPG recommendation*)
13. An address signage plan, including size and location, shall be reviewed and approved by the Frenchtown Rural Fire District and the approved signage plan shall be incorporated into the covenants prior to Phase 1 final plat approval. (*Subdivision Regulations Article 3.1(1)(f) and Frenchtown Rural Fire District recommendation*)

Floodplain

14. The O’Keefe Creek Floodplain exhibit depiction of the 100-year floodplain when the creek overtops State Secondary 474 (Highway 10 West) shall be reviewed and approved by the Floodplain Administrator and DNRC prior to Phase 1 final plat approval. The approved exhibit shall include an engineer’s certification, be referenced on the final plat of each affected phase, and be recorded with the subdivision covenants prior to Phase 1 final plat approval subject to review and approval by the Floodplain Administrator. All areas depicted as being inundated on the approved exhibit shall be designated as “No-Build, No-Alteration Zones” on the final plat and final plat legend of each affected phase. This definition may allow for the construction of the proposed drainage swale on the north side of the subdivision, but shall prohibit all other disturbance. (*Subdivision Regulations Articles 3.1(2)(a), 4.1.13(2)(d)(vi), Floodplain Administrator, and DNRC recommendation*)

15. Language shall be included in the Covenants prior to Phase 1 final plat approval and a note shall be placed on the final plat for each affected phase that states the following: "The lowest floor elevation, including mechanical equipment and ductwork shall be a minimum of 3137.52' (NAVD-88). Pre-construction elevation certificates shall be required at the time of Building Permit submittal documenting the lowest floor and utility elevations, with post-construction elevation certificates submitted upon building completion." (*Subdivision Regulations Articles 3.1(2)(a), 4.1.13(2)(d)(vi), Floodplain Administrator, and DNRC recommendation*)

Plat and Phasing

16. The electric power line and communication system easement per Book 2 Micro, Page 1237 noted on the plat along the southern boundary of the subdivision shall be depicted at a specific width to be reviewed and approved by the appropriate utilities prior to final plat approval of each affected phase. (*County Public Works, Surveying Division recommendation*)
17. The Phasing Plan shall be amended to show final plat filing dates of December 1, 2011 for Phase 1, December 1, 2015 for Phase 2 and 2018 for Phase 3. (*Subdivision Regulations Article 3.1(5)*)

Natural Environment

18. Areas of 25% slopes shall be designated "No Build Zone-Steep Slopes" for commercial, industrial or accessory structures on the final plat, to be reviewed and approved by OPG prior to final plat approval of each phase. (*Subdivision Regulations Article 5.2(13) and OPG recommendation*)
19. A Revegetation Plan for disturbed sites shall be approved by the Missoula County Weed Board prior to Phase 1 final plat approval. (*Subdivision Regulations Article 3.1(1)(f) and Weed District recommendation*)
20. The covenants shall be amended to include a Weed Management Plan (Plan) for all undeveloped areas of the subdivision, to be reviewed and approved by the County Weed District prior to Phase 1 final plat approval. The Plan shall include provisions making the developer responsible for its implementation, beginning at Phase 1, until enough development has occurred to support the Lot Owner's Association. The Plan shall include a mechanism allowing the Lot Owner's Association to assume weed management duties from the developer, continuing after the final phase of the subdivision has been filed. The Plan and the covenant provisions related to weed management shall be reviewed and approved by the County Weed District and OPG prior to Phase 1 final plat approval. (*Subdivision Regulations Article 3.1(1)(f) and OPG recommendation*)

Covenants

21. The "Amendments" section of the covenants shall be amended prior to Phase 1 final plat approval to prohibit deletion, modification, amendment of or addition to sections relating to land use and building types, address signs, driveways, radon, living with wildlife, weed control, the Weed Management Plan, commercial fire sprinklers and the approved flood exhibit without prior written consent of the governing body. (*OPG recommendation*)
22. The applicant shall include the following items in the covenants, prior to Phase 1 final plat approval, and these sections of the covenants shall not be amended, deleted, modified, or added to without consent of the governing body:
 - a. DRIVEWAYS: Dead-end driveways in excess of one hundred and fifty (150) feet in length shall have approved turnaround for fire apparatus. A turnaround shall be located within one hundred and fifty (150) feet of the building. A minimum unobstructed width of not less than twenty (20) feet and an unobstructed vertical clearance of 13 feet 6 inches shall be provided for any driveway over one hundred and fifty (150) feet. The opening through a gate should be two feet wider than the road. Final design shall be approved through the Frenchtown Rural Fire District. (*Frenchtown Rural Fire District recommendation*)
 - b. 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. (*Health Department and OPG recommendation*)

- c. Replace existing Article I, Section 12.1.g with the following, and re-title the entire section "LIVING WITH WILDLIFE:"
- i. Use wildlife-friendly fencing. For wooden rail fences: no more than 3 rails, with the bottom of the bottom rail at least 18 inches off the ground and the top of the top rail no higher than 42 inches off the ground. For wire fences: use smooth wire, no more than 3 wires, with the top wire no higher than 42 inches off the ground and bottom wire at least 18 inches from the ground. These designs allow fawn deer and other wildlife to crawl under the fencing, while allowing adult deer to jump the fence.
 - ii. If tall security fencing is utilized and if lot location relative to adjacent lots allows, consider installing a second egress gate in the back of the lot, away from the main entry gate. It is not uncommon for wildlife such as deer to become trapped inside large fenced compounds, and being able to leave a back gate open for awhile when this happens can often facilitate getting the wildlife out of the compound without risking animal or human injury by wildlife leaving through the main gate onto a potentially busy road. (*Fish, Wildlife and Parks recommendation*)

24. A six-foot tall chain link fence shall be installed along the exterior boundary at the following locations:

- The western perimeter of Lots 21, 22, 32, 1, and 2; southern boundary of Lot 1; and northern boundary of Lots 2, 3, 4, 5, 6, 7, & 8 prior to filing the Phase 1 plat.
- The southern boundary of Lots 14, 15, 16, 17, 18, & 19 prior to filing the Phase 2 Plat.

Other Business

There being no further business to come before the Board, the Commissioners were in recess at 2:21 p.m.