

DRAFT – NOT APPROVED BY BOCC

PUBLIC MEETING
December 6, 2005

Chairman Ed Tinsley called the meeting to order at 9:00 a.m. Commissioner Murray and Commissioner Varone are present. Others attending all or portion of the meeting included Ron Alles, Frank Rives, Paul Spengler, Delano & Bonnie Hoge, Michael McHugh, Owen Voigt, Lindsay Morgan, Kim Smith, Thomas & Kimberly Harrison, Adam Pimley, Karen Semple, Dean Retz, Jeremy Fadness, Byron Stahly, Barry Damschen, Kyle Thomas (Damschen), Jerry Shepherd, and Maria Penna.

Pledge of Allegiance. Everyone recited the pledge.

Chairman Ed Tinsley: Good morning and welcome to the regularly scheduled Tuesday morning meeting. My name is Commissioner Tinsley. To my left is Commissioner Varone. To her left is Maria Penna our Executive Assistant. To my right is Commissioner Murray. To his right is Ron Alles our Chief Administrative Officer. To his right is Frank Rives our Deputy Director of Community Development and Planning.

Oath of Office.

The Commissioners will administer the oath of office to Karen Semple to serve as Deputy Disaster & Emergency Coordinator for Lewis and Clark County.

Chairman Tinsley: Gave Oath of Office to Karen Semple.

Paul Spengler: Thank you Commissioner. I would just like to state that Karen has been a part-time employee with us for 1 year now as the Citizen Coordinator for Lewis and Clark County and our Community Emergency Response Team Manager that has been a very successful program for the entire state that we have been doing here in the County and she served as our Logistics Section Chief which is a very big job during our Weapons of Mass Destruction exercise last June at the Helena Airport. We did that for 3 days when we activated our Emergency Operation Center. The exercise was called Last Chance 1 and also she is the past Commander of the Lewis and Clark Composite Civil Air Patrol Squadron, so she brings to the County a host of skills and I can attest to her performance, she is very competent and effective in her job. So I thank you for swearing her in. She will give us great service in the future. Thank you Commissioners.

Chairman Tinsley: Thank you. Karen, do you have anything to say?

Karen Semple: Thank you. (Laughter)

Chairman Tinsley: Next item on the agenda are the Consent Action Items. Mr. Alles.

Consent Items.

Ron Alles:

- a. MDT Construction Agreement for State Maintained Route. This is essentially a agreement with MDT that provides for a signal upgrade at 18th and Hwy 12, left turn arrows off of Hwy 12 and also it removes the existing asphalt shoulders and median on

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- Hwy 12 between Helena and the other side of East Helena.
- b. Montana Arts Council. Final narrative report on behalf of Myrna Loy. It's for their project period of July 1st of 2003 to June 30th of 2005.
 - c. There are 3 Noxious Weed Grant Program Applications:
 - 1) Spokane Hills Vegetative Management Project.
 - 2) A project on the Broken "O" Ranch.
 - 3) The North Prickly Pear Noxious Weed Project.
 - d. Contract and Encroachment Agreements:
 - 1) Elk Creek Colony. It's to install and maintain two irrigation diversion pipes to cross the Augusta Clemons Road. This is one mile south of Highway 434.
 - 2) Contract and encroachment agreement with the Diehl Ranch Co. The purpose is to install and maintain a water line sufficient to provide stock water for livestock which will cross Hart Lane approximately 1.5 miles from York Road.

Chairman Tinsley: Questions for Mr. Alles? Would the Commissioners like to have any of the items separated out from the Consent Action Item agenda? Is there a motion?

Commissioner Murray: Mr. Chair, I move approval of the Consent Items and authorize the Chair to sign any pertinent documents.

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second. Any discussion? All in favor of the motion signify by saying Aye.

Commissioner Varone: Aye.

Chairman Tinsley: Aye. Motion Passes 3-0.

Chairman Tinsley: Next item on the agenda is a proposed minor subdivision, preliminary plat to be known as North Hoge Valley. The Applicants are Delano and Bonnie Hoge. The Planner is Michael McHugh. This was continued from November 22nd and today is decision day. Mr. McHugh.

Proposed Minor Subdivision, Preliminary Plat to be Known as North Hoge Valley.

Michael McHugh: This is before you it was to create 4 lots, 3 residential lots that would range from 1.57 acres to 5 acres in size and then a 50 acre lot that would be used for a wastewater effluent lagoon. Staff did recommend approval of the proposed subdivision subject to 18 Conditions. As noted at the previous meeting there was a typographical error in Condition No. 8 that should read "on proposed Lot 3" instead of proposed Lot 2.

Chairman Tinsley: Questions for Mr. McHugh? Mr. McHugh, there are no variances with this request correct?

Michael McHugh: No Sir.

Chairman Tinsley: Are there any questions for Mr. McHugh? Mr. McHugh, I have a question. Normally we, particularly when we have applications that involve anything dealing with water, we have, and maybe it's different for minors, but I seem to recall we have information or

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comment from our Water Quality Protection District, particularly from Kathy Moore. Do we have anything?

Michael McHugh: I spoke to Miss Moore about it and she didn't have any concerns on it. Since this is going to be reviewed by the Department of Environmental Quality for the community wastewater treatment system.

Chairman Tinsley: Great.

Michael McHugh: I mean there were some issues there about susceptibility of the soils for contamination but if the lagoon is constructed correctly and maintained it shouldn't have a problem.

Chairman Tinsley: Ok. Great. Thank you. Further questions for Mr. McHugh? Hearing none is there a motion?

Commissioner Varone: Mr. Chair, I make a motion to approve the proposed Minor Subdivision, Preliminary Plat to be known as North Hoge Valley Minor and authorize Chair to sign.

Commissioner Murray: Second.

Commissioner Varone: Including the 18 Conditions and the correction on the lot number.

Chairman Tinsley: We have a motion and a second to include the Conditions as corrected with the typographical error. Any discussion?

Commissioner Murray: Mr. Chair?

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. Chair, Commissioner Varone, Mr. McHugh. I've spent a great deal of time reviewing and reflecting on this particular subdivision. I really don't care for the septic proposal. I have great concerns about it but as a lay person without the scientific background I'm going to vote in favor of this particular proposal and what I'm doing is counting on the scientists at DEQ to review the septic for safety, for smell, for acceptability and must rely on their scientific background. As a layman, as I say, I don't have the background or the specific knowledge to turn this down. I personally don't like it; I believe in the letter that we received as part of the testimony from the one neighbor. I think his letter is right on, but I'm lacking in this area for an ability and am counting on the State of Montana that is funded to make scientific decisions on septic systems so I'm relying on them. I will vote in favor of it.

Chairman Tinsley: Further discussion. I to have some problems with the system as it's presented. In more so, along the lines of what Commissioner Murray indicated but also just on the impact to the folks that live immediately accessing this proposal. It just appears to me that they, however the process is, they feel that they weren't able to be involved in the process enough to be able to make an impact on our decision today. I've struggled with this over the last couple of weeks, since November 22nd and again I'm not a scientist. I graduated with a degree in Political Science but I don't think they let us call ourselves scientists particularly in this instance. I do feel good that it is going to go through review at DEQ and there are people there that know a heck of a lot more than we do sitting up here and while I would like to vote against this particular application I can't consciously do that given what I know. I know it's going to go through review with more scientists. The one issue that keeps cropping up on my mind is this North Valley Study Area, ground water study area and how I hope this doesn't turn into some

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big giant science project for that study area that will tell us a few years down the road that we were wrong. I have faith in the scientists and I hope the scientists will do a due diligence and I am going to reluctantly support this subdivision this morning. This application. Further discussion? Hearing none, all in favor of the motion for the proposal known as North Hoge Valley Minor Subdivision with 18 Conditions of Approval as amended signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye.

Chairman Tinsley: Aye. Motion Passes 3-0.

Chairman Tinsley: Next item on the agenda is the proposed Minor Subdivision, Preliminary Plat to be known as Bowhunter. This is a unique one in my opinion because this is the first subdivision I can recall that has a single name. (Laughter) The Applicants are Owen and Becky Voigt. The Planner is Lindsay Morgan. This is continued from November 29th of this year and today is decision day. Miss Morgan after the hearing I know individually the Commissioners, probably all 3 of us, approached you regarding a potential access point or easement that should be included that we didn't have a chance to ask or talk with the Applicant about it. Have you had a chance to go over that with the Applicants?

Proposed Minor Subdivision, Preliminary Plat to be Known as Bowhunter.

Lindsay Morgan: Yes I have. And when the meeting started this morning I didn't see the Applicants in the audience.

Chairman Tinsley: I see them now.

Lindsay Morgan: I haven't a chance to talk with Owen. I did talk with his wife though. So I'm not sure if the Applicant wants to talk about that at all this morning but what I would like to comment on is the e-mail that discussed when both homes were placed on the single lot and the stick built home was constructed on-site in 1988 according to our records and then the mobile home that's on-site it appears it was built in 1985 but I don't have any records of when that was placed on the property. Also, Staff is recommending that an easement be dedicated along the southern property boundary and Staff has given you kind of an either/or option. Either the full 60' on that property or 30' with 30' on the property that is to the south in the event that that is subdivided in the future. It does appear that that property can be subdivided but I don't know if those property owners are willing to do that or what the case is with that. Also, there are 4 variance requests for this subdivision.

Chairman Tinsley: Ok. Questions of Staff?

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Murray. Just for clarification; on the easements, the 2 that you gave us, one was for 60' and the other was for 30' along the southern boundary, if I understand what you said correctly, you looked at the property that's immediately south and it appears that that property could be subdivided in the future and at that time the 30', we split it in half, that 30' could come from that side of the property as well. Is that what I understood you to say?

Lindsay Morgan: Yes, that's possible. I don't know what the property owners to the south plan

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to do with that property or if they would come in with a completely different proposal. I don't know what their plans are for that but there is that potential.

Commissioner Varone: Thank you.

Chairman Tinsley: Any further questions of Staff? Mr. Voigt would you like state anything regarding the proposed easements that Miss Morgan discussed with you?

Owen Voigt: As far as for the 30' easement or easement on the south side of our property I think that would work fine. We don't have any buildings or structures or water lines or power lines or anything that would create a problem for the use of the property so we would not oppose that.

Chairman Tinsley: What about the language for easement for dedication? Ok is that the southern? I'm thinking is it western? The one that goes up towards Birdseye Road?

Lindsay Morgan: That's the southern property boundary. So this is for future road inter-connectivity.

Chairman Tinsley: Right. Ok. Thank you Mr. Voigt. Appreciate your comments.

- 1) Dead end road variance. Currently the dead-end road is 950' approximately, correct Miss Morgan?

Lindsay Morgan: You would also have to include Chapparral Road.

Chairman Tinsley: I'm just going off of the variance request that I have before me. It says dead-end road.

Commissioner Varone: Including Chapparral Road I have written down here that it's 1685' but it's only 400'.

Chairman Tinsley: This is the one that was split.

Lindsay Morgan: It is approximately 950+ feet from the corner of Birdseye and Chapparral to the end of where this road would be if an emergency vehicle turnaround was constructed.

Chairman Tinsley: I recall now when you said they wrote two separate variances when these two should have been together on the same one correct?

Lindsay Morgan: Yeah the construction of Chapparral and the construction of Bowhunter.

Chairman Tinsley: All right. Thank you. Is there a motion?

Commissioner Varone: Mr. Chair, I make a motion to approve the variance for the dead-end road.

Chairman Tinsley: Is there a second?

Commissioner Murray: Second.

Chairman Tinsley: We have a motion and a second. Discussion?

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Commissioner Murray: Mr. Chair?
Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. Chair I'm going to be supporting three of the four requested variances. I feel that there is a reason that in our regulations we allow variances and I believe this particular subdivision meets the reason that we have variances. When we get to the conditions I want to applaud the Voigt's for bringing their subdivision into compliance with County regulations and being progressive and asking to bring their property into zoning compliance as well as subdivision compliance and for their willingness. I think the County has an obligation to, if we can, meet them half way, and that's the reason I will be supporting the variances.

Chairman Tinsley: Further discussion? Mr. Voigt indicated, I believe at the last meeting, that this, when he purchased this property, they had no knowledge of the situation that now brings them to this state where they have to apply for the subdivision to create two separate lots. In my opinion I think Staff, if possible, should pursue looking into the possibility of having Title Insurance Companies come meet with us and talk about getting some kind of notification for the purchaser. This situation should never have occurred. You purchase title insurance for a reason and this appears to be one of the primary reasons for the existence of title insurance yet from what I understand there is no notification from the title companies when the purchaser goes through the process. They should be aware of this and they should make the potential buyer aware of this too so they can have an option of whether to purchase the property or not and know what kind of costs are going to come down the road for them. I have been very reluctant to pass variances but I think this is one of those extraordinary cases that has come down the pike and I will support a couple of these variances as well. Further discussion on the dead-end roads requests? All in favor of the motion signify by saying Aye.

Commissioner Murray: Aye.

Chairman Tinsley: Aye. Motion passes 3-0.

Chairman Tinsley:

- 2) Variance emergency vehicle turnaround, cul-de-sac- or hammerhead requirements in our subdivision regulations. Is there a motion?

Commissioner Murray: Mr. Chair I would move to deny the requested variance.

Chairman Tinsley: We have a motion to deny. Is there a second? Is there a second? I'll second the motion. Discussion?

Commissioner Murray: Mr. Chair?

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. Chair, Commissioner Varone, if I may. The first home on the property as you're going into Bowhunter Drive I believe, and I'm admitting this morning things I'm not also a landscape architect, but I think there's room for a turnaround if you circle the lilac bushes. There appears to be space on both ends of the lilac bushes that lends itself to a simple turnaround and it would meet the safety requirements needed for fire protection and for that reason I believe a turnaround should be added and I'm not supporting this particular variance.

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Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Murray. The reason I didn't second this is I went out and looked at the property and I also talked to Lindsay about this and the reason I'm going to vote against denying it, in other words voting for it, is from the apex of Chapparral to the end of where the two houses are is only about 200'. Yeah, the road supposedly continues on past there and in the event that there is any other homes that are built out there they have to come back and re-subdivide, I think that's the point that a cul-de-sac- or a hammerhead needs to be built. But from the road, from Chapparral to where the two homes are is only 200' and I just don't see the appropriateness of it at this point. Like I said in the future if there are no homes, if there are no homes that are subdivided then I think that's the appropriate time.

Chairman Tinsley: Thank you. Further discussion? Hearing none all in favor of the motion to deny the emergency vehicle turnaround variance request signify by saying Aye.

Commissioner Murray: Aye.

Chairman Tinsley: Aye. Opposed same sign?

Commissioner Varone: Aye.

Chairman Tinsley: Motion passes 2-1.

Chairman Tinsley:

- 3) Bowhunter Drive & Chapparral do not meet current County Road Standards – Bowhunter is 12' wide. Chapparral Drive appears to meet most of our County standards but it doesn't meet our Typical Section No. 1.

Chairman Tinsley: These two are separate variances that we're talking about correct?

Lindsay Morgan: No I consider them under the same.

Chairman Tinsley: So we'll consider these like the other one?

Lindsay Morgan: Yeah you could decide, I guess you could decide them individually.

Chairman Tinsley: Commissioners, what's your pleasure?

Commissioner Varone: Mr. Chair, I make a motion to approve Bowhunter Drive width of the road.

Chairman Tinsley: Is there a second?

Commissioner Murray: Second. Commissioner Varone, did you wish to include Chapparral?

Commissioner Varone: Yes I do.

Commissioner Murray: Are you doing that separately?

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Commissioner Varone: Staff indicates that we can do them together so I think it would be easier.

Commissioner Murray: Thank you. That includes my second. Commissioner Tinsley, Commissioner Varone. The reason I'm supporting this particular variance is the Applicant is bringing his property into compliance; he's not adding new traffic or different traffic that already exists on the road. For that reason I'm voting in the affirmative.

Chairman Tinsley: Commissioners, I just want to clarify because I was clarifying with Staff as you were testifying Commissioner Murray. The Bowhunter Drive width and the Chapparral Road to leave, as it currently exists is the same one. Let's, in the future, let's figure out a way to put these on the same sheet.

Lindsay Morgan: Yeah, the Applicant had already filled them out and I didn't want to make them re-fill it out.

Chairman Tinsley: I understand. It's really hard to read these things because they are on really tiny print, or I'm just going very blind.

Lindsay Morgan: They start out on 8 ½ x 14 paper and they keep getting reduced so they fit in your packets.

Chairman Tinsley: Right. Ok. Further discussion? Any further discussion? All in favor of the motion for the Bowhunter Drive and Chapparral Road width signify by saying Aye.

Commissioner Murray & Commissioner Varone: Aye.

Chairman Tinsley: Aye. Motion passes 3-0.

Chairman Tinsley:

- 4) Bowhunter Drive the width of right-of-way. Currently the width of the right-of-way is 30' and we require 60'.

Chairman Tinsley: Is there a motion?

Commissioner Varone: So moved.

Commissioner Murray: Second.

Chairman Tinsley: We have a motion and a second. Any discussion? All in favor of the motion signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye

Chairman Tinsley: Motion passes 3-0

Chairman Tinsley: Commissioners you now have; first lets take a motion on the subdivision itself. I'm trying to find the conditions. There are 13 Conditions of Approval. Is there a motion?

Commissioner Varone: Mr. Chair, I make a motion to approve the proposed Minor Subdivision,

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Preliminary Plat to be known as Bowhunter and authorize the Chair to sign.

Chairman Tinsley: Is there a second?

Commissioner Murray: Second.

Chairman Tinsley: We have a motion and a second. Commissioner Murray?

Commissioner Murray: Commissioner Varone I wanted to be sure that included all 13 conditions.

Commissioner Varone: Yes Sir. I just didn't want to repeat what the Chair said.

Commissioner Murray: Well, you're working with 2 partners, one that can't see and one that doesn't hear well. (Laughter)

Chairman Tinsley: Ok we have 13 Conditions of Approval. We have some suggestions that have been accepted by the Applicant. Does anybody care to amend the Conditions of Approval?

Commissioner Varone: Mr. Chair? I don't know if this needs to be an amendment or a new Condition of Approval, but I believe we need to add a Condition that says the Applicant shall dedicate a 30' public access and underground utility easement along the full width of the southern property boundary.

Commissioner Murray: Seconds.

Commissioner Varone: Discussion?

Chairman Tinsley: Discussion. Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Murray. Before the meeting I talked to Lindsay about the 30' and the 60' and the difference between those two and she volunteered to take a look at the property that was immediately adjacent and south to and earlier during the meeting she came forward and that's why I wanted a clarification that the property that's immediately south looks like it can be subdivided at that point and that's where the other half of that 30' I believe needs to come from but this property owner I believe also has an obligation to dedicate half of the easement.

Chairman Tinsley: Thank you. Further discussion? All in favor of the amendment signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye.

Chairman Tinsley: Aye. Motion passes 3-0. Lindsay will you make sure that that goes in the right, is that going to be a new one or are we going to amend an existing.

Lindsay Morgan: It will be a new condition.

Chairman Tinsley: Ok. Number 14.

Commissioner Murray: Mr. Chair?

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Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. Chair, Commissioner Varone. Miss Morgan may want to guide us through No. 7 which deals with the variances and I'm not sure if amendments need to be made to No. 7.

Lindsay Morgan: I don't believe any amendments need to be made just because the way I right it up. I put "if the variances are not granted then they have to meet each of those requirements." If you want you could make motions to remove those words. Don't know if you want to do that.

Chairman Tinsley: That's fine. Commissioner Varone & Commissioner Murray are you fine with that.

Commissioner Varone: That's fine.

Chairman Tinsley: Further discussion or amendments? Further discussion or amendments? Hearing none, Commissioners you have before you the proposed Minor Subdivision, Preliminary Plat to be known as Bowhunter Subdivision with 14 Conditions of Approval as amended. All in favor of the motion signify by saying Aye.

Commissioner Murray & Commissioner Varone: Aye.

Chairman Tinsley: Motion passes 3-0. Congratulations Mr. Voigt. Thank you for coming forward and doing the right thing with this. We appreciate it.

Chairman Tinsley: Folks we're having a little Information and Technology difficulties and we're going to take a short break and see if we can get some Staff up here, if you don't mind, to come up here and fix this. We have a really funky color going on with our screens and other problems happening with it so we're going to take a short break and get it fixed and then come back. So just hang around the area here, there's restrooms down the hallway and we'll be back in a few minutes.

*****10 Minute Break*****

Returned 9:43 a.m.

Chairman Tinsley: Good Morning and welcome back to the regularly scheduled Tuesday morning meeting. We had a little technical difficulty which we've resolved now. The next item on the agenda is the proposed Major Subdivision, Preliminary Plat to be known as the Ryan Subdivision. The Applicants are Michael & Susan Ryan. The Planner is Lindsay Morgan. Are the Applicants or their representative here this morning? Mr. Retz, you received the packet and are you ready to go forward this morning? Thank you Sir. Miss Morgan.

Proposed Major Subdivision, Preliminary Plat to be Known as Ryan Subdivision.

Lindsay Morgan: Good morning again Commissioners. This is the Staff report for the Major Subdivision, Preliminary Plat to be known as the Ryan Subdivision. The site is located south of Lone Pine Road, west of and adjacent to Birdseye Road. I have a vicinity map up on the screen for you to review. The Applicants propose to create 5 lots each to be used for one single-family dwelling. And actually since the writing of the Staff report, proposed Lot 12-A-1A will actually be approved to allow for 2 single-family dwellings at the Applicants request. If approved the existing tract will be divided into lots ranging in size from 5.08 acres to 12.08 acres. Proposed

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Lot 12-A-1A is currently developed with 2 single-family dwellings and outbuildings and is served by I believe an individual well and individual on-site wastewater treatment system and utilities, but that's something the Applicant would have to clarify. Proposed Lots 12-A-1B through 12-A-1E are currently undeveloped but will also be served by individual wells, individual on-site wastewater treatment systems and utilities. Access to proposed Lot 12-A-1A will be off of Lone Pine Road, while access to proposed Lots 12-A-1B through 12-A-1E will be off of Birdseye Road via a proposed internal access road. Road construction will be required in order to provide standard physical access. And because each proposed lot is over 5 acres in size parkland dedication is not required. The existing tract is 47.420 acres in size. As of today the County Planning office has received no written public comments in favor of or in opposition of the proposed development.

With regard to effects on agriculture: According to the Soil Conservation Service, soil classifications on site have severe to very severe limitations that either reduce the choice of plants and/or require careful management of these plants or that make them unsuitable for cultivation and restrict their use largely to pasture, range, woodland or wildlife. And even if irrigated these soils still have severe to very severe limitations.

As far as effects on local services: This was something that the Applicant's Engineer discussed with the Planning Board. One comment that we received from Environmental Health was the Applicants will need to clarify the direction of ground water flow on-site because the information provided to the City-County Health Department for Stallion Ridge Major Subdivision indicates a different ground water flow direction than what has been provided for this proposal. And according to the Applicants Engineer the groundwater flow direction was actually amended for Stallion Ridge but I'll let the Applicant's engineer discuss that.

As far as water supply: A review of the well log lithologies indicates wells in this area are completed in both bedrock systems and in what appears to be more shallow deposits along streams and drainages. Well depths in this area range from 10 to 500 feet indicating a wide variation in ground water sources. And that's according to a letter from Kathy Moore of the Water Quality Protection District.

As far as streets and access: Again, access to proposed Lot 12-A-1A will be off of Lone Pine Road while access to the remaining lots will be off of Birdseye via a proposed internal access road. The Applicants shall install a stop sign at the junction of Lone Pine Road and Birdseye Road and at the intersection of the proposed internal access road and Birdseye Road. The Applicants will also need to install a road identification sign at the junction of the proposed internal access road and Birdseye Road. Lone Pine Road and the proposed internal access road shall be constructed to County Road Standards prior to final plat approval and that's to the County Road Standard Typical Section No. 1. The Applicants shall install an asphalt mat apron at the junctions of Lone Pine Road and Birdseye and the proposed internal access road and Birdseye. A hammerhead turnaround shall be installed at the driveway entrance to proposed Lot 12-A-1A off of Lone Pine Road. No access restriction shall be placed along Birdseye Road with the exception of the approach for the proposed internal access road. In cooperation with the County the Applicant shall create a Rural Maintenance District for proposed Lots 12-A-1B through 12-A-1E. Proposed Lot 12-A-1A is currently a part of the Mount Vista-Lone Pine RID. Adding an additional access onto Birdseye Road may be hazardous therefore the proposed internal access road shall line up with the centerline of one of the proposed internal access roads within Stallion Ridge Major Subdivision, which lies on the opposite side of Birdseye Road at this location. Staff recommends that there be a 50' building set back from the right-of-way/easement for Birdseye Road for wells, drain fields, replacement drain fields and irrigation facilities and all structures.

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As far as schools: Due to the distance all middle and high school students generated by the proposed development will be bused at the general taxpayers expense. Elementary students have the option of either riding the bus to a school within School District #1 or having their parents drive them to Trinity School within School District #4. According to the Application there is an agreement between School District #1 and School District #4 stating that the Trinity School Board of Trustees made a long-term commitment to continue paying "district-to-district" tuition for any student living more than 3 miles from Trinity School who chooses to attend a Helena school and for all 7th and 8th grade students attending schools within School District #1. According to the application there is currently a bus stop located at the junction of Birdseye Road and Lone Pine Road that would potentially serve this subdivision.

As far as the effects on the natural environment: Nitrate samples taken at 9 sites within Section 25 which are on file with the Water Quality Protection District range from 1.5 mg/L to 6.9 mg/L with an average of 3.6 mg/L. That is also according to a letter from Kathy Moore. Section 25 the only lot that actually lies within Section 25 is 12-A-1A.

As far as access limitations: There's a drainage traversing proposed Lots 12-A-1B and 12-A-1C. The proposed building envelope for the house lies north of the drainage whereas the proposed internal access road lies south of the drainage. In order to access the future house the property owner will have to construct a driveway that will cross over this drainage. Prior to final plat approval the Applicants will need to specify that exact location of this driveway and the size of the future culvert under this driveway. This driveway shall be located in an area where it will have least impact on the drainage. And the remainder of the drainage shall not be disturbed. At the Planning Board hearing the Applicants engineers stated they would actually use the old railroad embankment for the driveway entrance, and you can see it in the aerial photo here. It's kind of this white line that runs through the property.

As far as additional traffic: 32 to 40 trips per day.

There is one variance request for this proposal. Lot 12-A-1B exceeds the 3 to 1 ratio and the reason for that is because the Applicants relocated this road here further south so that it could line up with one of the roads within Stallion Ridge. By doing that they did create a lot that had an average depth greater than 3 times it's average width.

As far as parkland dedication: again it's not required but all property owners must waive their right to protest joining a rural improvement district for the purpose of equitably funding parks and maintenance of parks in accordance with the County Subdivision Regulations.

Staff has recommended approval of the proposed preliminary plat for Ryan Subdivision subject to 19 Conditions. The Planning Board did also recommend approval of the proposal. They did however amend a few of the Conditions. One of the things that they amended was in their recommendation, Lot 12-A-1A to be used for 2 single family dwellings and the remaining lots to be used for 1 single family dwelling, which needed to be clarified. Also, they eliminated the "prohibition of raising, keeping or confinement of livestock" that Staff had recommended, and instead they put in language to "prohibit the further subdivision of lots", which is something I know the Applicants representative wishes to speak about. I do have pictures of the sight.

Showing pictures

Chairman Tinsley: As we're looking at the pictures Miss Morgan, have you talked with Deputy County Attorney Stahl regarding the amendment that was put in by the Planning Board regarding the further subdivision of lots.

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Lindsay Morgan: I haven't talked with him about it. It's my assumption we probably can't do that but I can check with him for you and let you know.

Chairman Tinsley: I would agree with your assumption but we need to check on that if we could.

Lindsay Morgan: Ok.

Lindsay Morgan: *****Showing of photos*****

Lindsay Morgan: Do you have questions for me?

Chairman Tinsley: Questions for Staff. Thank you Miss Morgan. Mr. Retz, good morning.

Dean Retz: 155 All Sports Court. Thank you Chairman Tinsley, Commissioners Murray and Varone. I've been hired as the Project Manager of this subdivision. Within my presentation will be Jeremy Fadness of WWC Engineering and he will briefly clarify the direction of the groundwater flow, the 50' no-build setback off of Birdseye Road and the easement drainage. Mr. Ryan was present at the Planning Board Hearing. He is not here today; he's apparently in Las Vegas at the National Rodeo Finals. I want to talk briefly about the variance. I prefer not to have any variances when I'm involved in the subdivision. Initially we did not, and then when we consented we agreed that the internal access road should line up with Stallion Ridge Ranch approach. We moved this, the Planning Board voted 5-0 in favor of the variance because this lot is 8.75 acres and it did not affect neither the well, septic or proposed house. So that is the reason for the variance. I'm going to spend some time discussing the Planning Board comments and recommended Condition of Approval. Before I do that I would like the Chairman a question. Is it possible in my presentation to briefly come up with some comments, have Mr. Fadness talk about the engineering and then have me come back and further talk about comments?

Chairman Tinsley: Without objection I don't have any problem with it.

Dean Retz: Ok, thank you very much. On 5 of the transmittal memo as far as large animals, farther down in the paragraph, I mentioned that I disagreed with Condition of Approval that prohibits livestock. I further stated that the proposed private covenants address this issue very well and also mentioned that this is horse property. Mr. Ryan has anywhere between 3 and 5 horses on his property. He will be staying on the property and I think the covenants that we placed on there basically were agreed upon and I'll read those later on in the presentation. Also on the transmittal memo I'm going to speak more on it but at the bottom of page 5, one of the Planning Board members asked, "if further subdivision could be prohibited within the covenants." The, my comment was that I was opposed to placing them in the covenants. I said that a different owner would buy a future lot and it's up to the owner if he or she wants to go through the subdivision review. I further stated that adding this covenant would restrict the current developer from selling the property if a potential owner wants to further subdivide. Again I would like to expand on this later on in my presentation. I'm going to stop here unless there are any questions, and have Mr. Fadness come up and then I will continue.

Chairman Tinsley: Questions for Mr. Retz at this point?

Dean Retz: Thank you.

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Jeremy Fadness: Good Morning Chairman, Commissioners. I'm at 2840 Dormore Court. There's just a couple of things that I need to clear up. The 50' building setback that the County wants is fine by us, we think it's a good idea as far as planning for the future expansion of Birdseye Road. It's going to have to happen in the future anyway so we may as well plan for it now. This building setback will affect Lots 12-A-1B and 12-A-1E and there are a couple of things within those lots that were planned for that do fall within that 50' setback but we can move those, it's not a probably and we've already started doing that. As far as the drainage easement and no building within that we agree with that also. These drainages do need to be protected so that the water can flow freely. We also propose that the existing abandoned railroad embankment be used for the driveway for Lot 12-A-1B that way we don't disturb that drainage any more than already has been. The only disturbance that will be necessary, the culvert will have to be replaced. It is collapsed on one end and after that, that's about it. The groundwater flow direction is different from what was proposed for the preliminary Stallion Ridge Ranch when you guys saw that. That was kind of a bare bones basic groundwater gradient that we came up with for that. Once we started to get into it we realized it was more complicated than that and we have since used several more wells in the area to come up with a better representation of what is there and it is something that we have met with DEQ several times to come up with the right groundwater gradient and they have since approved that groundwater gradient we have come up with. I do have a map here if you want to see it real quick.

Chairman Tinsley: Is that for us or is that the only copy you have?

Jeremy Fadness: Well it's the only copy I have but you can look at it real quick if you want. I think it is in the packet that we submitted.

Chairman Tinsley: How about we do this. We take a look at it and after the hearing give it to Miss Penna and she'll make a copy of it so we can include it in the record.

Jeremy Fadness: Ok. Sure. As far as everything else, we have performed the non-degradation analysis. We used the background nitrates from the Woody's Lumbar that is directly above the 4 lots. The background nitrate I believe was 0.74 and we will be increasing that to about 0.25 somewhere in that neighborhood which is well below DEQ standards. As far as phosphorus breakthrough we're quite away from any surface water. 7 Mile Creek is the closest surface water and I believe it was in the 1,000 years before phosphorus breakthrough. So that is all I have.

Chairman Tinsley: Ok. Thank you. Questions for Mr. Fadness? Thank you Mr. Fadness. \

Dean Retz: Thank you Chairman Tinsley, Commissioners. I'm going just talk about two things and then that basically is the covenants. In the private covenants not only did we address no hog, goat, sheep or similar animals we did address 4-H animals, the keeping of family milk cows, saddle horses for non-commercial purposes and children club projects is not prohibited no more than 1 horse and 1 cow or combination thereof, per acre, shall be kept on any and all of the 5 lots. The reason we are requesting this is obviously Mr. Ryan could have done something as far as making these lots smaller but because he is a horse person he wanted to have the opportunity to any person to also be a horse person. So we agree with the Planning Board striking that Condition of Approval. On page 14, 11-T, as far as the, I'm going to isolate now and talk about no further subdividing. I was a little bit taken back with the Chairman of the Planning Board had made a motion for a member of the Planning Board that was not present as far as restrict the further subdivision of lots. He further went on to say he preferred to see the intended plan up front and not a piece meal plan. Now maybe I triggered this because in my presentation I mentioned that one of the Planning Board people asked why are we here for a 5

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lot? Miss Morgan explained, I explained, that because the existing lots attractive record we have 6 lots, so he could have easily said OK then lets just take the remaining acreage and make it one or two lots. He preferred not to do that. The thing that also bothered me is that they talked about, he told a new Planning Board member “she will see subdivisions being re-subdivided while she is on the Board.” He said he would like to have the developers present to present everything at once so that the Board can fully evaluate all of the impacts. The classic example of this is Gable Estates Major Subdivision. When we did that there were 5 lots approximately 16 to 20 acres in size. We had 4 separate developers' come back on these 5 lots and further subdivide. Now in my almost 11 years of doing this, I've only seen 2 of prohibition of further subdividing both voluntary by the developers, one was the Hart Minor where a Mrs. Hart, because she lives adjacent, and so does her children live adjacent, she wanted to put a 10 lot, 4 lot minor with no further subdividing. We put that in our covenants and I believe they're in the Board of County Commissioners Covenants. Up off of Glass Drive with the Ogle people on Foothills, the Planning Board, their rationale again was we don't want to have people come back so lets go and put a further subdivision on there because the bulk of those lots were 5 acres or less, the Ogle family agreed on that and I believe that might have been in your covenants too. I think the Planning Board; I have difficulty explaining to them it's different ownership. I don't think you can restrict somebody to that because if a person wants to buy a lot it's buyer beware except to him. I'm putting on my realtor hat for a second, which I don't like to do in front of this Board, I have seen buy/sells where they put in there subject to having a pre-application conference, which Mr. McHugh had one on not too long ago on a proposal, have never seen a buy/sell that says, subject to Board of County Commissioners approval for a subdivision. So because we have different ownership, if I decide to purchase the 12 acre tract and want to subdivide it, that shouldn't restrict Mr. Ryan or any owner/developer. So in conclusion with the recommended Conditions of Approval we agree with the Planning Board to delete the no large animals, we would disagree with Planning Board in putting they're language in there twice, which is very simple that just says no further subdivision. Any questions?

Chairman Tinsley: Any questions for Mr. Retz? Commissioner Varone did you have one?

Commissioner Varone: Mr. Chair, Commissioner Murray. I'm not sure if this is a question for Dean or a question for Staff relative to animals on the property. I know if you have them in your covenants that that's important, but I also know that enforcing covenants you have to go through legal means to do that and often after a subdivision is in place people aren't willing to spend the money to do that. My question is, is there an opportunity for the folks that are subdividing there currently that has animals on their property to grandfather those in and then limit the number of animals on the rest of the property?

Ron Alles: Madame Chair, I would prefer to seek Counsel on that.

Commissioner Varone: Mr. Chair, without objection if that question could be asked?

Chairman Tinsley: I think that's a good idea. Absolutely. Mr. Retz, I have a question and this may be more theory than anything else, but what is your opinion on the number of A.U.M.'s that an acre of land can withstand? What's your vision of Animal Units per Month? You see where I'm getting regarding our prohibition on large livestock. You take a drive down Green Meadow, you take a drive particularly North Green Meadow, any other road in the North Valley, and you're going to see places where animals are on pastures, well I wouldn't call them pastures, they're on rock fields, wheat fields, places where they have grazed it down to nothing but bare dirt, in Prickly Pear, what's the cut off? What in your opinion is the cut off? Where should we.

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Dean Retz: Well there's two answers to that. The first answer would be if you would talk to and I wish Mr. Ryan were here, if you talk to a farmer/rancher they say good irrigated pasture land maybe able to sustain year round 1 horse per twenty acres. The other side of the coin is there's probably very few people in the valley that feed their horses off of their pasture. They're feeding them just like we're feeding our dogs. So, if I have, which I do, 2.5 acres, if I want to put a horse on there my 2.5 acres, I would have to feed him probably year round. I don't think I should be restricted to say hey you don't have the pastureland to handle this.

Chairman Tinsley: What about you're, and I'm not saying you're particular animal, but when a persons animal affects the soil or effects the, and again I have to use the word pasture, the lot to the point that it's affecting his neighbors downstream by virtue of dust, by virtue of smell, by virtue of run-off who doesn't really appreciate the downstream or downwind effects of that large animal?

Dean Retz: I think you're going to have to handle this much like you handled the fire protection. You're going to have to come up with some kind of a standard procedure that would affect everything.

Chairman Tinsley: Put sprinklers on the lots? No I'm kidding.

Dean Retz: Because you know you've got property rights versus.

Chairman Tinsley: But this is a point about property rights. The person who has the horse has property rights, but so does the other person who's being affected by that person's exercising of their property rights. You see the position we're in?

Dean Retz: yes.

Chairman Tinsley: That's where we, that's why we've gotten to the point of these prohibitions of large animals so we don't end up with situations like we're seeing that are so predominant out in the North Valley. And we have to be able to draw the line at some point because everybody has property rights.

Dean Retz: Yeah and I understand, you know, going forward, you're trying to do that but it would appear that the people that are in violation of this, there's nothing you can do because they've already got their 1-acre tract, with 5 horses.

Chairman Tinsley: We can fix it for the future and that's where we're in the position of doing right now. And I'm not trying to debate you on the issue I just wanted to get your sense of where you are on this because it's a huge problem. There are people that are being affected by these large animals that are in places where they may not particularly need to be.

Dean Retz: I fully understand that but keep in mind I do as my clients request and because he's a horse person that's why I'm here.

Chairman Tinsley: I understand. Thank you very much. Any further questions or comments for Mr. Retz?

Commissioner Murray: He looks well in his realtor's hat. (Laughter)

Chairman Tinsley: Thank you Mr. Retz. Commissioners, the review period for this particular application ends on January 6th. What is the pleasure of the Commission?

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Commissioner Murray: Mr. Chair, I move that we render a final decision Thursday, January 5th on this subdivision. That gives everybody time to get back and study the proposal.

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second. Any discussion? All in favor of the motion signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye.

Chairman Tinsley: Aye. Motion passes 3-0. Congratulations Mr. Retz, you have the honor of being the first in the new year. At least at this point.

Chairman Tinsley: Folks we're going to take a short 5-7 minute break and we'll be right back. We will be coming back with the proposed Minor Subdivision, Preliminary Plat to be known as Amended Plat of Lots 11B2A-1 and 11B2A-2. The Applicant is Kim Smith and we'll be right back for that one.

*****Break – returned 10:15 a.m.

Chairman Tinsley: The next item on the agenda is the proposed Minor Subdivision, Preliminary Plat to be known as Amended Plat of Lots 11B2A-1 and 11B2A-2, the Big Valley Subdivision. The Applicant is Kim Smith and Miss Morgan is the Staff person. Mr. Smith, have you received your copy of the packet and are you prepared to go forward this morning?

Kim Smith: Yes, I am.

Chairman Tinsley: Ok. Thank you.

Proposed Minor Subdivision, Preliminary Plat to be Known as Amended Plat of Lots 11B2A-1 and 11B2A-2-Big Valley Subdivision.

Lindsay Morgan: Good morning again Commissioners. The site is located east of Applegate Drive and it's north and adjacent to Jeanne Road. I have a vicinity map up on the screen for you to view. The Applicant proposes to create 15 lots each for 1 single-family dwelling. If approved each tract will be divided into lots ranging in size from 1.03 acres to 1.06 acres. Proposed Lot 10 is currently developed with a single-family dwelling served by an individual well, individual on-site wastewater treatment system and utilities. The remaining lots will also be served by individual wells, individual on-site wastewater treatment systems with a share drain field for proposed Lots 1 through 3, and utilities. Access to the lots will be off of Jeanne Road via a proposed internal access road, and proposed Lot 13 will actually access directly off of Jeanne Road. Road construction will be required in order to provide standard physical access. And the Applicant has expressed a preference to provide cash-in-lieu of parkland. The existing tract is 15.603 acres in size. Again proposed Lot 10 is currently developed with a mobile home that will be removed or torn down prior to final plat approval. On-site vegetation consists primarily of native grasses, light sage and prickly pear cactus. The County Planning office received one written public comment in opposition to the proposal.

As far as agriculture: Soil classifications on site have severe to very severe limitations and even if irrigated these soils will still have very severe limitations that reduce the choice of plants and/or require careful management of these plants.

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As far as sanitary sewer: Soil profile pits have been completed and appear to be suitable for the proposed on-site wastewater treatment systems. That's according to a letter from Frank Preskar of our City-County Health Department.

As far as water supply: The proposed subdivision lies within the North Hills Temporary Controlled Groundwater Study Area. According to a letter from Steve Kilbreath of DEQ he has reviewed the pump test and well information and based on his review he states "there appears to be adequate water available for 15 additional lots." One comment that we did receive from Frank Preskar of City-County Health Department, he states " there is a public water supply well just east of proposed Lot 5.

As far as streets and access: It's going to be Jeanne Road via a proposed internal access road. The Applicant is requesting 3 variances from the County Subdivision Regulations: 1) the proposed internal access road will be a dead-end road in excess of 700 ' in overall length, 2) each major subdivision shall provide a minimum of 2 ingress/egress routes, and 3) proposed Lot 15 will be double-fronted once Rancho Deluxe Drive is constructed. And technically because a portion of Rancho Deluxe Drive that lies just east of the development has already been dedicated even though it hasn't been constructed we would consider this a double fronted lot so that's the variance request for that. Down here where North Star PUD is located it has not been dedicated and obviously has not been constructed and so that's not, we're not considering any of that because it has not been dedicated within the North Star PUD. Jeanne Road is measured from Applegate Drive to the proposed western most approach of the internal access road, is approximately 1,760' in overall length. The Applicant is proposing a variance from that requirement that all major subdivisions provide at least 2 ingress/egress routes because he plans to connect Jeanne Road to Rancho Deluxe Road within the North Star PUD. And as you can see, Jeanne Road is constructed all the way to the eastern property boundary and Rancho Deluxe will be located right here, on the map. North Star PUD has recently received Preliminary Plat approval, and upon final approval will provide for a through connection between North Montana Avenue and Applegate Drive via Jeanne Road and a series of internal access roads within North Start PUD. Jeanne Road was constructed to County Standards Peccia No. 3 approximately 1 year ago. The Applicant proposes to reconstruct all of Jeanne Road to the new County Road Standards Typical Section No. 1. The Applicant will be required to construct the proposed internal access road also to Typical Section No. 1, County Standards. Also a "no access" restriction shall be required along Jeanne Road with the exception of the 2 accesses for the proposed internal access road and also proposed Lot 13. A "no access" restriction shall also be required along the eastern property boundary with the exception of the easement for Jeanne Road. This will prevent access to future Rancho Deluxe Drive. Staff also recommended to the Planning Board that somewhere in this location a easement be dedicated to the north for future road inter-connectivity in the case that the property to the north is subdivided in the future. I know that the Applicant has some concerns with that and the Applicant and their engineer will be discussing that when they give their presentation.

As far as the effects on the natural environment: There is a drainage that runs north/south. It's just west of the middle of the property and you can see it between proposed Lots 2, 9 and 12, however no surface water was apparent during an on-site inspection.

Additional traffic generation would be between 120 and 150 vehicle trips per day.

With the exception of the requested variances if all Conditions of Approval can be met the proposal appears to comply with the minimum subdivision standards and therefore recommended approval of the proposal.

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The Planning Board also recommended approval of the proposed development. They also recommended approval of the variance request for the double-fronted lot for proposed Lot 15 where it fronts Rancho Deluxe Drive but the Planning Board did, in both cases recommend denial for the dead-end road in excess of 700' and two ingress/egress routes and their feeling on that is because when North Star PUD is completed there will be no reason to have a variance. The Applicants will simply have their second way in and out using the roads within that approved development.

They did amend some of the Conditions of Approval. Condition No. 7 and this was actually a Staff recommendation also. Staff recommended that No. 7 be re-written to state that when doing parkland dedication it be done by a professional, licensed land appraiser so "professional licensed" that's what's been added. They removed under Condition No. 13-L and that's ii they removed variances granted for dead-end road length and 2 ingress/egress routes. They amended Condition No. 13-U which was something that Staff agreed with. And they added the language "and the one driveway entrance to Lot 13". They also added language to Condition 19 adding the easement dedication to the property to the north. And then they added a Condition No. 23 that talks about the Applicant providing "a second ingress/egress route through the previously reviewed and approved road network to the east."

I do have pictures of the site and an aerial photo.

*****Showing photos*****

Lindsay Morgan: Do you have questions for me?

Chairman Tinsley: Questions for Staff?

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Murray. Where the North Star PUD road will be built, the Rancho Deluxe Drive, I'm assuming it will attach to Avian Road or somewhere near there, does the Applicant own any of the land that's there?

Lindsay Morgan: No.

Commissioner Varone: So the denial of the variances, if this Commission also denies those variances will in effect prohibit the subdivision from being built, is that correct?

Lindsay Morgan: No, in this situation if North Star PUD does not happen then the applicants for this subdivision will be prevented from further dividing. If North Star PUD is final platted through all of it's phases then the Applicant would just have to wait until that road network is constructed for them to meet that Condition of Approval for a second ingress/egress route.

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Murray. But in essence if this subdivision is approved without granting the variances, the Applicant can't move forward unless or until the North Star is completed which may be never.

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Lindsay Morgan: That's correct.

Chairman Tinsley: Further questions for Staff?

Commissioner Murray: Mr. Chair.

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. Chair, Commissioner Varone. Are there any kind of standards or regulations that if you're within a certain distance of a public water supply you're required or encouraged to hook up to the water supply.

Lindsay Morgan: There are but I believe that both Town View and Sky View are at capacity. But they are going to be required to get DEQ approval and I think that's something that they would address.

Commissioner Murray: Thank you.

Chairman Tinsley: Further questions for Staff? All right, thank you Miss Morgan. Mr. Smith, welcome.

Kim Smith: Thank you Chairman, Commissioners. My name is Kim Smith, I reside at 3734 McHugh Drive. I will be very brief, I'll speak now but I may not be available later for questions because I am going to Missoula for Continuing Education and I'm scheduled to leave shortly. Commissioners, I think you would probably agree that traffic and roads in general are a huge issue for Counties, in Lewis and Clark in particular and I guess therefore I'm not surprised this was one of the main issues with this subdivision. We are requesting a variance for the road network. I think that if you look at it the Lewis and Clark County Planning certainly has as one of their very top priorities and have worked diligently on inter-connectivity and roads and I think simply that the Planning has enough faith that these other things are going to happen or there will be later connectivity that granting this variance, they actually called it a temporary variance, I don't know if that's accurate or not, but I hope you trust their judgment on it and I think that's pretty much the main issue with this proposal. The other thing I would say is that this subdivision does fit the character of the neighborhood. There's 2 minor subdivisions immediately to the west that are about the same size lots, basically the same layout, and I hope that you find that it fits the neighborhood and that it's worthy of your approval and that's pretty much all I have to say and I'll answer your questions.

Chairman Tinsley: Thank you Mr. Smith. I appreciate you being here this morning. You indicated the importance of the road networks etc. There was something brought up in Miss Morgan's presentation regarding an easement, a potential easement to the north and that you might have some difficulty with that. Would you please address that for us?

Kim Smith: I guess Mr. Stahly going to also address that. We feel that, and we talked with Lindsay about this also, and she said that it's not that much heartburn for her, but we're fairly close to Rancho Deluxe Drive to the east, I think that if anybody develops the land to the north that they will not only come off of Applegate but they will also tie into the Sky View Roads and possibly come in from the north off of Prairie. So, I guess as "a developer" I mean if you do run an easement between some of those lots, Lot No. 2, would, if you run an easement through it, is almost going to become un-buildable and that is our concern.

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Chairman Tinsley: If it were to happen where would you prefer it to happen? Obviously not in 2 and it looks like that drainage just would preclude that.

Kim Smith: Yeah, well they said just pick a spot between 1 and 4 and I guess I would like to have that ability to look at it and, you know so it should be between Lots 1 and 2 and 2 and 3 or 3 and 4 and quite frankly for construction purposes it looks easiest between 3 and 4 and then you're really getting close to Rancho Deluxe so, I don't know.

Chairman Tinsley: And I didn't mean to put you on the spot about picking something now, if you need to go out and look at it before we make our final decision I'll give you an opportunity to come up or whoever is Chair, will give you an opportunity to come up and state your preference. Asking you to do it right now wouldn't be very fair I don't think. I remember her bringing it up and thought we should address it.

Kim Smith: And talking with Planning when we were first talking about this at the combined Planning Board, I honestly haven't given it that much thought because it was kind of presented that we would just work with Planning and kind of figure it out what we liked and so I, at this point in time, I don't know that I could make a very good choice at this point in time because I really haven't looked at the ground north of it and spent time. I just thought that that is something we could do with Planning.

Chairman Tinsley: Ok. Thank you. Further questions for Mr. Smith?

Commissioner Murray: Mr. Chair?

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. Chair, Commissioner Varone. Mr. Smith, it's my understanding that you oppose Planning Board Condition 23.

Kim Smith: 23 being the ah

Commissioner Murray: Second ingress/egress route through previously reviewed approved road network to the east.

Kim Smith: Yes I do.

Chairman Tinsley: Further questions for Mr. Smith? Thank you for your time this morning and drive careful to Missoula.

Kim Smith: OK.

Chairman Tinsley: Mr. Retz.

Dean Retz: Chairman Tinsley, Commissioners Murray and Varone. My name is Dean Retz, I reside at 155 All Sports Court and I want to be real brief and turn it over to Mr. Stahly, who's going to wrap up. Earlier when we did a minor subdivision a few weeks back we do have some continuity in planning. Lindsay Morgan was also the Planner in the Leib Subdivision just recently approved to the west of this and also the Taylor Minor adjacent to this property to the west. A brief history: This Board approved the 5 lot Hoy Minor Subdivision. Back in April of 2003 Mr. Hoy sold it to a developer who completed the subdivision and then Mr. Smith bought the 5 lot minor subdivision. As you can see on the map there the 3 lots below Jeanne Road are

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all 5 acres. There are homes being built on Lots 5 & 4 and then Mr. Stahly will talk about Lot 3. As far as, before I get into the presentation, as far as a couple of questions brought by the Commission and I will let Mr. Stahly follow-up. The new regulations, which I really like this part of it where you have to come up with the adjacent landowners, the adjacent landowners to the north, it's a 28 acre tract and I think that might have prompted why Planning decided they wanted to have an ingress/egress up there, or at least an easement up there. The Planning Board was very astute that they did mention that we didn't have an access lot 13 which had been changed. They also mentioned that if we did an access between Lot 4 and 5 then we may have a double-fronted lot because of Rancho Deluxe Drive, but Mr. Stahly has a drawing of that and he can clarify that. Want to talk a little bit about the variance. At the Planning Board hearing it was mentioned that they felt, one of them felt that a variance should only be granted if there was a hardship. As you well know, first off I don't like variances either, but in the regulation, variance does talk about hardship but there are 5 criteria that you have to answer to get a variance. So, it's not only "hardship". Also on the Leib Minor that you approved, we asked for a variance for the road length of 700'. You may recall the cul-de-sac there was 710'. We did realign that so it is now in conformance, but the problem I have with this is exactly what Mr. Smith said. When you look at the new proposed Condition of Approval No. 23 on page 21, it says "previously reviewed and approved." Like Commissioner Varone said, what happens if North Star PUD does not continue, then this subdivision is dead, or if North Star PUD decides to take their total 3 years and request a 4th year then does Mr. Smith have to wait all that time? The situation here, I think I can clear up, in fact I probably made it a little bit cloudy with the Planning Board because they asked me specifically, I am the project manager of North Star PUD also. That proposal is going to the DEQ next month, that was approved by you on August 25th. We had to wait until, quite frankly today, to make sure they had the effluent filter and lagoon system, that is going forward to DEQ because it's community water, community sewer, DNRC water rights, it could take maybe 6 months to a year, and then of course the final process is the final plat, road network, installation of utilities, installation of sewer and water so at best, the developers of North Star PUD are hoping something by next late summer. So with that I should be talking more about Mr. Smith's project and I'm going to have Mr. Stahly wrap up, unless there are any questions.

Chairman Tinsley: Questions for Mr. Retz? Thank you Dean.

Dean Retz: Thank you.

Byron Stahly: Good Morning Mr. Chairman, Commissioners. My name is Byron Stahly, Stahly Engineering, 3530 Centennial Drive. First thing I'll hand out is a map that kind of shows this road network. I had a similar exhibit not quite as detailed for the Planning Board as far as understanding, because it's confusing and I also have a copy I'll hand to Lindsay. Basically what I'm going to discuss is the road issues and the variance requests. The map I put before you, what I've done because it gets really convoluted when you start talking about all these roads and you don't have a map that says where are they, or where will they be, which ones are there and which ones aren't so the map is really useful. What we have is I show a portion of North Star, I show a portion of Town View and then Green Meadows which all abut each other. And it shows the relationship of Jeanne Road which exists on this outside of what Kim Smith is proposing in relationship to the other road networks which aren't there at this time. Condition 10, I guess is the first one I need to speak to and that one says, and I've actually sketched it that way. It actually says Jeanne Road must connect to Antares Road and I think Mr. Smith was thinking all along, and I think Lindsay was too, these roads were probably only about 50 to 60' apart from each other. When I put these maps together they're about 200' apart from each other. So that connectivity gets problematic, you start cutting up other existing lots with a road, but the bottom line is with those two roads having that kind of separation they meet minimum

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requirements of that separation, so I guess I like Condition 10 to say that it will connect unless there's not the minimum separation between the two roads and I think that's 125' but don't quote me on that because I'm not sure of that. Second condition I'd like to talk briefly about, and I think Chairman Tinsley you came a little bit on that second route. Again this map shows platted Rancho Deluxe Drive a north/south collector in this area, and so my first question is do we want to encumber a local street system within this development with a north/south connection or when this property develops to the north just have the connectivity be Rancho Deluxe which is a collector by nature and not encumber a local street network. I'm speaking of Condition 19-F that was added. This isn't a deal breaker, to answer the question that was asked the most logical point that is feasible for this connectivity would maybe be between Lots 1 & 2. It would make a very small building space available on Lot 2, but that's really the only place between drainages and drain field easements, it's really the only place we could do. We could do it there so it's not a deal breaker but I prefer not to encumber any of those lots with another easement when we have Rancho Deluxe not too far to the east of us. Lastly, again, Condition 23 is, as far as Mr. Smith is concerned I think that's the deal breaker. If that condition stays in he'll wait 1, 2, 3 years or never I guess for North Star with that condition. So, I guess you have to, as a body, you need to look at what it sure appears North Star is moving ahead. They have Phase 1 complete and actually this portion of Rancho Deluxe to get our connectivity is scheduled for Phase 2 & 3, so there's 6 phases in North Star, I looked at it long enough now and actually to get that Rancho Deluxe built to here it's Phase 3, so if North Star goes through half of it's proposed phases we'll have that road connectivity. I think that's all I can add to the discussion, I'm sure, I would be happy to answer any questions.

Chairman Tinsley: Questions for Mr. Stahly?

Commissioner Murray: Mr. Chair?

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. Chair, Commissioner Varone. Mr. Stahly, I want to thank you for the map. It makes it easier for me as a Commissioner to understand and grasp what you're trying to explain.

Byron Stahly: You're welcome.

Chairman Tinsley: Further questions for Mr. Stahly? Thank you Byron.

Byron Stahly: You bet.

Chairman Tinsley: Ok, Commissioners we have before us, lets see, the review period for this particular application ends January 6th as the previous one did as well. What's the pleasure of the Commission?

Commissioner Murray: Mr. Chair, I move we render the final decision, second on the agenda, January 5th.

Commissioner Varone: Second.

Chairman Tinsley: We have a motion and a second. Any discussion?

Commissioner Varone: Discussion Mr. Chair?

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Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, after Byron gave us this map and taking a look at Condition No. 10 if I could make a request if it would be agreeable to the other 2 Commissioners, to have Byron and Lindsay get together to come up with language that may be appropriate, if in fact it should need to be changed or modified and provide that to us before we make our final decision?

Chairman Tinsley: Without objection I think that's fine. Thank you. Further discussion? All in favor of rendering a final decision on January 5th signify by saying Aye.

Commissioner Varone & Commissioner Murray: Aye.

Chairman Tinsley: Aye. Motion passes 3-0

Chairman Tinsley: Thank you folks for being here this morning. Next item on the agenda is the proposed Major Subdivision, Preliminary Plat to be known as Lincoln RV Park Major Subdivision. The Applicants are Thomas and Kimberly Harrison. The Planner is Michael McHugh. Are Mr. & Mrs. Harrison here this morning, or their representative? Are you prepared to go forward? Have you received your packet and are you prepared to proceed this morning? Great. Thank you. Good morning Mr. McHugh.

Proposed Major Subdivision, Preliminary Plat to be Known as Lincoln RV Park Major Subdivision.

Michael McHugh: Commissioners the proposal before you this morning is to create 31 lots. 26 of these lots would be for single-family residential lots. 4 of the proposed lots will be used for a common area for water supply and wastewater treatment. The proposed property is a 27+-acre parcel that's located north of Lincoln Road and adjacent to the Jim Darcy School. The proposed lot size would range from approximately .27 acres to .50 acres in size. The existing property, the western portion is developed with a 79-unit mobile home park, which is located in the western part. This is served by a community water and wastewater supply. It was approved in 1992 for 6 cabin sites which have not been developed but there are some community buildings located in the southern portion of the property.

As far as the adjacent land uses in the area: Land uses to the east include the Jim Darcy School, then to the north of Jim Darcy School and to the east of that is a working ranch known as the Jacovack Property. To the north and to the west of the subject property is the Helena Irrigation Canal. There's some commercial development located farther west and then it's predominantly open space with some single family residential and gravel pits located to the south of the subject property.

As far as development on the property: Besides the existing mobile home park that is located out here to the west there are storage of RV's and other materials here. There's also located over in the southeastern portion of the property, two mobile homes. At the time of the site visit these 2 mobile homes appeared to be occupied. They did not have any water or wastewater facilities and this is in non-compliance with the Subdivision and Platting Act and I'll readdress these things in a moment.

As far as zoning: There is no zoning in this area.

As far as Covenants: There's limited covenants that are placed on the property associated with

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the 1992 approval by the Board of County Commissioners. And this mainly dealt with liability because of the proximity to the irrigation canal.

The Applicant is proposing to place covenants on the property that would establish a homeowners association, establish architectural controls, water and wastewater users association, limit the land use to single family residential use and establish set backs.

As far as the review criteria: There were 2 soil-mapping units identified on the property. These do have limits to cultivation due to excessive permeability, lime content and limited water capacity. As I mentioned before, there are some agricultural uses to the east of this subject property and this is a working ranch and there are some issues that again I'll address later, associated with that.

As far as water rights: The Helena Valley Irrigation Canal is located north of the property. The Applicants do not have any existing water rights and there would not be any transferability of water rights to any of the proposed lots.

As far as water and wastewater: The Applicants are proposing to have a separate community wastewater treatment system. The system would consist of individual septic tanks and then a gravity feed down to a treatment re-circulating sand filter here and then the effluent would be dosed to 3 drain fields on a periodic basis and that would be depended upon what the daily use of the wastewater in that. This system would be required to be approved by the Department of Environmental Quality. The City-County Health Department has conducted on-site site evaluations for these proposed drain field sites and they have been found to be acceptable for subsurface drain fields in this area. The Applicants are proposing to utilize the community water system. The proposed well sites would be located up here in the northeastern portion of the property. The subject property is located within the Department of Natural Resources and Conservations temporary groundwater control area. In April of this year the Applicants did conduct a 25-hour pump test on the wells that are located on the site. During that pump test there was a draw down of approximately 6.7 feet during that period in the static water level of the test well and then there was a recovery within 12 hours. Again the preliminary estimation of the average daily use in this area would be 12,500 gallons per day or in excess of 175,000 gallons per year.

As far as streets and access: There is an existing road that accesses the RV Park. The Applicants are proposing to utilize a new access approach to the east adjacent to Jim Darcy School. On this preliminary site plan they have it listed as an emergency access easement but to comply with County Subdivision regulations this would have to be constructed and identified as a public access easement to comply with the 2 approach or ingress/egress routes as stated in the County Subdivision regulations. There is a necessary separation distance between these 2 approaches onto Lincoln Road.

As far as Fire protection: The subject property is located within the West Valley Fire District. The Applicant in compliance with County Subdivision regulations would be required to install 120,000-gallon storage tank and have a water supply capable of delivering 1,000 gallons per minute at 20 psi for 2 hours. And the Applicant has discussed this with the fire district, the water supply site would need to be located centrally to provide service to all of the proposed lots.

As far as the impacts on school: I did mention that Jim Darcy School is located immediately adjacent to the subject property however the school is experiencing severe capacity constraints at this time and there's no guarantee children generated by this proposal will actually attend Jim Darcy School. In discussions with the School District the Applicant and the School District are

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proposing to provide an access to the school site so the children will not have to go all the way down to Lincoln Road and then go over, so there will be some access point to Jim Darcy located slightly to the north.

As far as surface water: We do have the irrigation ditch located north of the subject property. There's just seasonal water there. Because of the soil mapping units in this area and because of runoff of agricultural materials and also because of the high arsenic concentration in the Missouri River water this area is susceptible to shallow ground water being contaminated by either agricultural chemicals or the arsenics associated with the natural levels in the Missouri River water, however, most of the wells will be much deeper into the aquifer and probably will not be susceptible to this groundwater contamination.

As far as nitrates in this area: This area does have extremely variable nitrate concentrations. Nitrate concentrations have been monitored at the RV Park from the year 2000 to the present and they have ranged from .19 mg/L to approximately 2mg/L, however just immediately to the east at the Jim Darcy School the nitrate concentrations have ranged from 2.78 to 5.25 mg/L and in discussions with the Water Quality District, the District thinks that the difference is because of the direction of groundwater flow in this area and because of the agricultural use of the properties to the north and to the east of Jim Darcy. The Applicants and Jim Darcy and School District #1 have had discussions and they're talking about connecting the Jim Darcy's domestic water supply to the water supply that would supply this subdivision and hopefully rectify any of the nitrate concerns that we have at the Jim Darcy School.

As far as physical hazards: We do have the irrigation district and Staff has recommended that a fence be installed along the boundary from the existing RV Park to this section right here. There is an existing 6' high security fence in that area and the Staff's recommended condition of approval doesn't require a chain-link fence only that it be a woven wire fence be extended all the way to the eastern property boundaries.

As far as traffic in this area: The new subdivision would generate approximately 208 to 260 additional trips per day. It's estimated on average the RV Park generates approximately 108 trips per day, however this does vary seasonally because the occupancy at the RV Park ranges from approximately 15% of the spaces in the winter to 85% of the spaces during the summer.

As far as impacts on level of services: The intersection, existing intersection of the road to the RV Park and Lincoln Road is operating at a level of service "B" during the AM & PM Peak hour times. The LOS, level of service at North Montana and Lincoln Road is operating at a level of service C during the AM and B in the PM during peak times. In 2008 without any additional development in this area it's estimated that these level of services will diminish to both D & C for AM & PM periods. The Applicants in their initial study it indicated that there will probably need to be a right turn lane for eastbound traffic on Lincoln Road to the southbound on North Montana. The Department of Transportation is looking at some of these potential improvements to be associated with the interchange improvements that will occur in the near future.

As far as parkland requirements: The Applicant is required to dedicate 11% of all of those lots to be utilized for residential uses. Preliminary estimates indicated that approximately 1.8 acres would be required. The Applicant has expressed preference to do a cash payment in lieu of the parkland dedication and preliminary estimates of per acre value is \$5900.00 per acre which would be equivalent to \$10,643. for a parkland dedication requirement. However, the Park Board at their last meeting indicated that they would like to see the extension of a Jim Darcy bicycle path be extended along the front of the property and at the Planning Board hearing the Applicant indicated a willingness to dedicate that easement also to help pay for the

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reconstruction of that bicycle path. And again, the Applicant has indicated that there will be some type of an approach to the school site without having to actually go down to Lincoln Road.

At the Planning Board Hearing Staff did recommend approval of this proposed subdivision with 20 conditions. At the Planning Board hearing there was numerous discussions. The Applicant and their consultants concurred with most of the Conditions of Approval. There was some discussion about the variable nitrate concentrations in this area, about the need to establish these separate water and wastewater supply systems and they did have some questions about how the wastewater treatment system mechanically worked. At that public hearing public comment was taken. One of the owners from the property located to the east of the subject property, Mrs. Jakovac-Mook was there. She indicated that she did not object to the proposal but she did have some concerns about the safety of children and pets of being located adjacent to a working ranch property. She also indicated that the covenants that the Applicants were proposing banned unsightly uses in the front of the property but because they're property would be the back yard that she would be the beneficiary of junk located in that area. There was some discussion about a boundary line relocation that occurred between the school district and the property owners several years ago. The School District, when they acquired the Emma Hoge Property here realigned the boundary to straighten these boundaries up, this aerial photograph is probably 2.5 years old, but she indicated that at one time there was an easement that extended northward from Lincoln road to the irrigation canal. Subsequent to that the Applicants had indicated that that easement had been a private easement that had been dedicated for a potential subdivision that was going to be located north of the canal known as the Bartness property and that easement had been mutually abandoned by the two parties associated with that easement.

The Planning Board did recommend approval of this subdivision with conditions. They did not make any amendments to that, but in Mrs. Jakovac's discussion at the Planning Board she indicated that the property is for sale and that it has a high potential for development and the type of development was not discussed at that time. However, Staff has recommended after that meeting, that there probably needs to some type of easement extended to the east that would provide and inter-connectivity between North Montana Avenue and this subdivision and to alleviate some of the traffic interferences that could occur on Lincoln Road. So, Planning Board did accept Staffs recommendation and subsequent to that Staff has recommended that we added an additional condition that does allow for an easement extend into the east property line to all for some inter-connectivity in the future.

Chairman Tinsley: Thank you Mr. McHugh. Questions for Staff?

Commissioner Murray: Mr. Chair, Commissioner Varone.

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. McHugh, a 120,000-gallon storage tank appears excessive. I'm not questioning Chief Shepard's need for the water. Is there not an availability of a well or a pump station that could be utilized by the Fire Department rather than try and store this much water?

Michael McHugh: I'll let the Applicant's engineer talk about the specifics of it but part of it, the delivery requirement is to deliver it at 20 psi for 2 hours and most of the wells in that area don't have the capacity to deliver just straight from the well with their pumps.

Commissioner Murray: Thank you

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Chairman Tinsley: Further questions for Staff? Thank you Mr. McHugh. All right, Mr. And Mrs. Harrison or your consultants, Mr. Damschen please come forward.

Barry Damschen: Good morning, Chairman Tinsley, Commissioner Murray & Commissioner Varone and Staff. Again, I'm Barry Damschen, I reside 5531 York Road and the Harrison's have retained my services to help them design this and run this through the subdivision bureau and the County Planning and yourselves here this morning. I think Michael touched base on pretty much everything that we, but we need to go through all these issues, so what I'd like to do is spend my time and just give you a little bit of an update on where we are at on these. Some of these different facilities that we would need to construct and then maybe touch base on these other things that Michael brought up here a minute ago. Basically, as Michael indicated this subdivision is going to have it's own central water system, water sewer system and lots that are basically $\frac{1}{4}$ to $\frac{1}{2}$ acre, very high density something that you would visualize here in the City of Helena and so we have a central water system that would consist of two brand new wells, a pumping station and then a distribution system and then a separate system, and Mr. Murray alluded to the fire, and I'm going to talk about that again here in a minute, but the fire protection system, the 120,000 gallons and the 1000 gallon a minute fire pump is not the part of this water system although our system is going to feed that tank. I'll come back again to that. We have submitted the design of this water system to the DEQ back in September and we're very close to receiving approval from the DEQ on our design. We also, back in I believe it was July, submitted to the DNRC the water rights application and as you know if you've ever worked with the DNRC on water rights that that's a long drawn out process and we think we are very close to getting our, obtaining the water rights approval too. So assuming that if our subdivision here is approved with you folks we're probably not far away from receiving from the DEQ and water rights approvals as well. As far as the sewer system, as Michael indicated, there is a central sewer system. I just wanted to correct one thing that you said Michael and this is we do not have individual septic tanks, everything comes to a central 8" collection gravity sewer system and then that will then go to a central large 20,000 gallon septic tank and then that effluent will then go through a dosing chamber, a re-circulating sand filter and then just be pumped to pressure dose drain fields. And that system has also been submitted to the DEQ and we are very close to receiving approval on that. We also have submitted to the Department of Highway an access permit for our new access to the subdivision and we're very close to receiving their approval to. So I think we've gotten most of our approvals or are getting very close to them. As far as a couple of these other issues we don't have any problem updating our plan to show the emergency access be an actually County road just like the other County new County loop road would be so and we indicated that to the Planning Board. Also the bike path in lieu of the park dedication, we think that's an excellent idea, whatever we need to do to work out the dollar figures as far as the land easement for the bike path down there along Lincoln Road we will do and if that isn't enough then we will make up the difference in helping pay for the bike path construction, so we just need to sit down with them and work out those numbers and we don't have any problem there. Again we don't have any problem putting the fence along the irrigation ditch as the Planning Board requested. As far as the fire protection, the new County Subdivision requirements that were approved in February basically say for a subdivision with this density and this many lots, this is what you would have to do and we went and talked to the Fire Chief and he said if that's what it says that's what we'll make you do. It does seem a little high and excessive as far as the 120,000 gallons but if that is what the subdivision regulations require we're not asking for any variances. If we get through this process and it becomes obvious that maybe it would make more sense rather than to build this fire system to work with the fire department and give them money, because maybe they already have enough water from all these new subdivision going in, we'll work with the fire department and the Chief and we'll do whatever they want but as a minimum we will do what the subdivision requirements are asking. The one thing that Michael also mentioned is that Jim Darcy School has very high

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nitrites and it's probably because of the agricultural situation and the fertilizers and what not directly north of the school. We are working with the Jim Darcy people as we speak here on an agreement where the RV Park is planning to run a water service line from the RV Park over to the Jim Darcy School and then the Jim Darcy Schools well will then not be connected to the school for drinking, they will be then drinking with this new agreement the RV Parks water. I believe Michael you mentioned something about the subdivisions water, it actually would be the RV Parks water, it is how that agreement is being put together. One thing about it is that the new service line will cross over our distribution line for the new subdivision and so that agreement also is going to read that if the RV Park ever went away or whatever, that the subdivision then would and the homeowners association would be required to provide the school water so the school is pretty confident that they have a good situation and so do the Harrison's who right now own this property and the situation. So we should have those agreements in, here probably, in fact we have a meeting here with the School Board next Tuesday to present this contract. So I think that's a good situation. And brings us to the last thing I want to bring up and that is this easement that Michael brought up as far as the Jakovac property to the east. Basically the first we actually had heard of this requirement was when we got Michael's transmittal report about a week ago and so we have not had a chance to talk to the Staff about it but we have had a chance to talk amongst the Harrison's and myself, and have talked about it ourselves basically to make a long story short, we don't feel that there is a real high need to have an access, at least a 60' easement type of an access from this subdivision to the Jakovac property. Normally when you think of accesses like you talked about with other subdivisions just like with Kim Smith just this last time you know you're trying to get flow through from one subdivision to the next in terms of arterials so people don't have to go around subdivisions to access many blocks or miles. In this particular case we're only about 1,000 feet from Montana Avenue. You can see Montana and you can see Lincoln Road and you can see the Jakovac property and when you think about this there isn't too many people, especially the fire department or the ambulance people or any of the emergency people that whatever need to get from our subdivision to their subdivision, if you're going to come put out a fire your going to go down Lincoln Road or Montana to access these, you're not going to go through one subdivision to access it because you know where you're going. The ambulance people are going to be the same. Primarily the only people that we envision that want to our subdivision to that subdivision would be people that would want to go visit, you know your neighbor, so what we were thinking that would maybe make more sense rather than a 60' easement to drive from our subdivision to that subdivision, because you could simply go out down Lincoln Road and drive into it on the other side of Jim Darcy, we would be more than happy to maybe give you like a 20' bike path easement through a couple of these lots as Michael has mentioned earlier to let these neighbors from the 2 subdivisions access each other because that's the traffic that I think we're talking about here. It isn't any inconvenience and doesn't make a lot of sense for people have to go see their neighbor have to drive when it's only a couple of blocks away. And the reason I guess why we're objecting to this more than anything is if you look at the layout of our subdivision we are really stressed to try and figure out how we could put in a 60' easement across there and a road easement without losing a lot, and if we lose a lot by the time you redo the survey and the engineering and the price of the lot the Harrison's would lose, you know we're talking maybe \$50-70,000.00 and that's a lot of money when you think that would get you, the advantages we're gaining from that versus a bike path easement to allow these people to be able to get from one to the other to the walk, because that's all you would need to do. The emergency services people and everybody else aren't going to be using that to get to and from the hospital and the fire departments. Thank you and I'll take any questions.

Chairman Tinsley: Thank you Mr. Damschen. Questions for Mr. Damschen?

Commissioner Murray: Mr. Chair?

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Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. Chair, Commissioner Varone. Mr. Damschen as I understand you correctly you're proposing two 20' bike easements?

Barry Damschen: We're talking about 2 different things. One would be this new easement that would maybe cross one of these lots on the east side to take care of this new proposal that Michael brought up, to access the Jakovac property. The other bike path easement is the one that would go along Lot No. 1. That would give us a new bike path. Because if you go out there and you look there's a bike path from Montana Avenue on the north side of Lincoln Road all the way to the school and past the school, right up to our property and so it would make a lot of sense for us to continue that bike path right across our subdivision. So, that's the second one.

Commissioner Murray: Mr. Chair, Commissioner Varone. The other one you're proposing then is through Lots 6 and 7 or some where in there?

Barry Damschen: Somewhere. And we were actually thinking the top of Lot 9 since that's the largest lot, maybe the top of Lot 9 and that would also get you to about the center of that property to the east.

Commissioner Murray: Thank you.

Chairman Tinsley: Further questions for Mr. Damschen? Thank you Sir. Appreciate you being here this morning.

Barry Damschen: Thank you.

Chairman Tinsley: Commissioners, this particular subdivision has a review period that ends on December 30, 2005. I'm not sure that we're going to have a full Commission for the rest of the month after today, is that correct?

Commissioner Varone: No Mr. Chair, I'll be here all next week. If I could make a motion to render a final decision next Thursday, the 15th?

Commissioner Murray: Second.

Chairman Tinsley: We have a motion and a second. Any discussion? All in favor of the motion to render a final on December 15th signify by saying Aye.

Commissioner Murray & Commissioner Varone: Aye.

Chairman Tinsley: Aye. Motion passes 3-0. We will render a final next Thursday at our regularly scheduled meeting. Thank you very much for being here this morning.

Chairman Tinsley: We're going to go into the next subdivision meeting. I will step out momentarily while we're going and hand the reins over to Commissioner Varone but I will return after I introduce it, in lieu of having another break. Unless the Commissioners would like to have another break?

Commissioner Varone: Yes, about 5 minutes?

Chairman Tinsley: 5 minutes, OK. We do need 5 minutes. Folks the coffee is what gets us up

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here and it also requires us to take frequent breaks so we'll be right back in 5 minutes.

Break 11:25 a.m.**

***Returned from break 11:30 a.m.

Chairman Tinsley: All right folks, we're back. The final item on the agenda this morning is the proposed Major Subdivision, Preliminary Plat to be known as the Pimley Major Subdivision. The Applicant is Adam Pimley. The Planner is Michael McHugh. Before I begin I want to point out that I'm an acquaintance of Mr. Pimley. We don't socialize that often, but we have socialized in the past with him. I do feel however that I'm more than capable of making an informed decision without the influence by my acquaintance. But I would leave it up to my fellow Commissioners, for their pleasure if they would rather I step back or not.

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, I don't see that as a problem and as a matter of fact, since Commissioner Murray was born and raised here he probably knows just about everybody in town, he would have to recuse himself every time he came up here. (Laughter)

Chairman Tinsley: Ok, then without objection we will continue. Mr. McHugh.

Proposed Major Subdivision, Preliminary Plat to be Known as Pimley Major Subdivision.

Michael McHugh: Commissioners, the proposal before you is to create 9 lots, 8 for single-family residential uses and proposed Lot 9 has 3 existing residences on it. The subject property is a 20-acre property located south of Deal Road and west of York Road. This is a preliminary site plan, as you can see on Lot 9 you have a mobile home here, you have a modular home here, you have a shop/garage structure here with a smaller residential unit over here. Two of these residences on this property are currently in non-compliance with the County Subdivision regulations. By approving this subdivision as it's proposed and as the language in the approval statement is it would bring everything into compliance with the County Subdivision regulations.

This is an aerial of the property and you can see the adjacent land uses in this area. Currently it's predominantly an agricultural area that has lot of irrigated hay ground around it. The south boundary of the subject property there is the irrigation ditch. You can see the irrigation ditch located to the north here. There have been some discussions about the potential development on the property directly north and also the property to the northwest of the subject property. And that will come in later.

As far as covenants: Currently there are no covenants on the subject property. The Applicants are proposing to place covenants on there that would restrict the land uses to newly constructed single-family residences with no less than 1500 square feet on the ground floor. The covenants would also prohibit mobile and modular homes, non-residential land uses, junk vehicles and large animals and weeds on the property. As those covenants are currently drafted it would make the existing development on proposed Lot 9 in non-compliance with these covenants which would either require removal of those 3 existing structures or would require the Applicants to amend that to exempt proposed Lot 9 from those covenants. And the Applicants have indicated a wish to amend the covenants to exempt Lot 9 from that.

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As far as notice: We did not receive any public comment on this proposal.

As far as the review criteria: One soil-mapping unit was identified on the subject property. This mapping unit was identified as being prime if irrigated. Currently the property is irrigated. Again the irrigation ditch is located along the southern boundary and the wheel lines are located throughout the property. Approximately 16 acres is being cultivated at this time. The Applicants do have an allotted water right, irrigation water right for a 54 acre feet per year in this area. Currently they're only using about 16 or 17 acre-feet per year. The Applicants EA indicated that he was going to divide the water right proportionally to these new proposed lots, however, it's an Irrigation District's policy there cannot be an irrigation allotment unless they have a beneficial agricultural use and these lots are too small, the proposed lot sizes are too small to have a beneficial agricultural use so he will not be able to transfer any of those water rights.

As far as impacts on local services: The Applicant's proposing to utilize individual on-site wastewater treatment systems on Lots 1 through 8. Those would be the new lots. Lot 9 currently has a system, has individual systems, the most recent one was approved in August of this year. All of the existing systems on all of the new lots would need to be reviewed. Site tests have been conducted on the site and suitable sites have been identified on all of the proposed lots.

As far as water supply: The Applicant's proposing to utilize individual wells on proposed Lots 1 through 8 and then a shared system on Lot 9. The source of ground water in this area is a superficial layer of alluvium over bedrock. There is necessary water there to provide for domestic use.

One of our main concerns about this proposal is the properties proximity to Deal Road. Deal Road has become a connector between York Road and Lake Helena Drive. Currently the road does not meet the requirements on the eastern edge for paving however the western portion going to the intersection of Lake Helena Drive is in excess of the pavement requirement. Staff figures that in the near term particularly if all of this other development happens to the north of the subject property that there will be a need to pave Deal Lane all the way from York to Lake Helena Drive and Staff has requested that there be a waiver to pay a pro-rata share at some time in the future. There is a Condition of Approval and in the Staff report, the Applicants have indicated that they wish to amend the language to limit that pro-rata payment reimbursement period to 3 years after the date of the final plat, and we will talk about that later.

On this proposal 90% of the traffic generated by the proposal will exit and go to the east and utilize York Road as it's major access point. One of our concerns also is that there is an existing driveway approach located on the Deal Lane serving these 3 units on proposed Lot 9. With this, with the original site plan, the Applicants propose to keep this individual approach and then have 2 additional approaches off of Deal Lane. Staff has recommended that this approach be abandoned and vacated and that all access to Lot 9 should be from this internal road here. The Applicant has indicated a willingness to comply with that recommended Condition of Approval.

Currently there is an existing easement that's located along the western property boundary of Lot 5. The preliminary site plan shows it remaining. The Applicants have indicated that there's not a possibility of extending the roadway to the south here because of the development on adjacent southern properties, both because of topography and existing development. Staff, in the original Staff report recommended that if this easement was to remain that the road actually be constructed; if there's no need for this easement because of the lack of ability to extend it

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just to vacate this easement. Properties located to the south are currently accessing through an easement located on the eastern portion of the property. Another of Staff's recommendation is on the preliminary site plan the applicant shows a cul-de-sac between lots 7 and 8. Staff and the Planning Boards recommendation was to extend this cul-de-sac to the southern property boundary, and that is reflected in the Planning Boards recommendation.

As far as fire protection: The subject property is located within the Tri-Lakes Fire Service Area and each of the new lots would need to pay \$1,000.00 to the district.

As far as groundwater: Groundwater in this area, the nitrate concentrations are low. They're only about 1 mg/L and preliminary non-degradation analysis does not see a significant increase in the nitrate concentrations.

One of our major concerns about this and there was long discussion with the Planning Board is that there is a earthquake fault that transects the property generally in a northwestern direction. In Staff's preliminary approval, Staff recommended that there be a reconnaissance geological survey be done on the subject property to identify the specific location of this and that the location be identified on any future plats, that there be notification to future property owners and that there be an indemnification of the County because of it. Staff also recommended a 100-foot setback, construction setback from that site and I'll go into that a little bit later.

As far as storm water runoff: There is a proposed storm water drainage area to be located in the northeastern portion of Lot 2 down here.

As far as parkland: Parkland dedication, each of the new lots would be required to dedicated parkland but because 2 of these existing residents here are not in compliance with County Subdivision regulations there would be an additional .03 acres per residential unit. This comes out to be approximately 1.06 acres in size. The Applicant has indicated a willingness to make a cash payment in lieu of parkland dedication.

At the Park Board, the Park Board recommended that these monies be collected and that they be utilized to extend a potential bike, non-motorized path along the northern, along the property north of Deal Lane. The reason they didn't recommend that the bike path be located on the southern portion of Deal Lane is because the landfill is located to the west of this property and it would be unable to extend the path all the way, but because of the development along the north there's plenty of room to extend a bike path if that ever comes to fruition.

As far as County Subdivision regulations: I've already mentioned that the existing development on the property does not comply with County Subdivision regulations which indicates there's only one development right per parcel and there's an excess of that right now. By approving this subdivision it will bring everything into compliance. Staff did recommend approval of this subdivision with 24 Conditions of Approval. At the Planning Board hearing that was conducted on November 17th of this year, there was the Applicant indicated a willingness to comply with most of the suggested Conditions of Approval. They did recommend amending the language in Condition No. 7 that would have the sunset for the reimbursement limited to 3 years after the final plat. They also indicated that they wanted to amend the condition referring to livestock on the property. Staff's recommendation was to prohibit all livestock. The Applicant indicated that they would like to have 4-H projects on there and the Planning Board did consider that. They did amend the language that prohibit all livestock except for one 4-H project animal per year on the property, however, Staff, subsequent to that has talked to the Extension Agent and a lot of these 4-H animals aren't necessarily sold at auction, they can be kept for breeding and show and things like that so there is a strong possibility of more than 1 head of livestock on the

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property.

There was some discussion about the earthquake fault, what was entailed in a reconnaissance geological survey. The Applicant's engineer Mr. Prothro stated that he had spoken to Mr. Michael Stickney at the Montana Bureau of Mines and Geology and he had suggested several techniques to identify the earthquake fault. One of them was trenching parallel to the proposed earthquake fault to identify the site and Mr. Prothro also brought out that there's not any existing superficial expression of the earthquake fault on the property, as you can tell by this over-head. The Applicant indicated a willingness to research further about this earthquake fault and attached to your transmittal memo are some additional communications between Mr. Stickney and the Applicant and the Applicants consultant. In the Applicants consultant with Mr. Stickney he's indicated that earthquake fault activity can usually be determined by the age of the earthquake fault and whether there has been movement in the last 10,000 or so years. The Applicant has also indicated they have talked to Dr. Jim McCaplan and this was just presented to me before the meeting, he's a consultant in Crescent, Colorado, talking about earthquake faults and definitions. He indicates that the definition of a fault is where there is an average historic slip of 1mm per year or more and geological evidence of seismic activity within the whole state, that's past the 1100 years. Active faults are designated by appropriate regulatory agencies and addressed by building codes. Now the County does not administer building codes, while we are aware of it you can construct homes to a higher seismic level of standards, we don't have any way to enforce that, but based on the research that the Applicant and their consultants have done, it's Staff's opinion that they've already complied with the requirement to do a reconnaissance geological survey. Staff is still recommending that the earthquake fault graphically be illustrated on the final plat and that there be notification and indemnification of the County in any of the covenants.

There was further discussion about keeping of 4-H projects on the property and why they should be exempt from the prohibition on other ones. It's a difficult to have a blanket rule on how many animals can be kept on a property per year. It's based on topography, vegetation and precipitation, just management practices. Again these lots are going to be rather small in this area and so Staff would still recommend the total prohibition of it. And I know the Applicants have some discussion of that.

At that public meeting there was some concern by adjacent property owners about the change in character of the area. This area is, as I stated, predominantly agricultural in use and that there needs to be some provision of keeping livestock out of these newly created lots. It was suggested by the speaker that they be required to have cattle guards across the entrances to it. It's Staff's opinion that that can be addressed through the approach permit process and make sure that the specifications and the widths and everything do comply with it. There was also some discussion about requiring fencing along the roads because currently Deal Lane is used to move livestock between winter and summer pasture however the County really does not have the necessary authority to require specific types of fencing on there.

So based on that the Planning Board did recommend approval of this subdivision. They did amend the language in Condition No 6-C that dealt with extending the proposed road to the southern boundary of Lot 8 and then they also amended it to have the exception for one 4-H project animal per year. And then, like I said there's that additional information between the correspondence between the Applicant, Staff and Mr. Stickney at the Bureau of Mines and Geology. Are there any questions?

Chairman Tinsley: Questions for Staff?

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Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: Mr. Chair, Commissioner Murray. Michael, based on your presentation for Condition of Approval No. 17 regarding to the geological survey, do you recommend that the language be changed on that Condition of Approval?

Michael McHugh: No, I think that the Applicant has complied with it. I mean they've done what, with Mr. Stickney's opinion which is much more knowledgeable than mine, that the reconnaissance has already been done, but it just makes everybody aware.

Commissioner Varone: Thank you

Commissioner Murray: Mr. Chair, Commissioner Varone. Michael, I noticed there's not a condition in here suggesting that they're close to a landfill, the noise, the odors, smells etc.

Michael McHugh: You're correct, there's not a Condition in there, we can include that in the, we can have a notification in there and then also an indemnification requirement.

Chairman Tinsley: Since we are coming up on the 12:00 hour and we have a meeting at noon, Mr. Retz, how about 2:30? Would you folks be available to come back at 2:30 if we recessed until then to finish this up? I don't think it would take that long to finish.

Michael McHugh: Staff's not available at 2:30.

Chairman Tinsley: Will Staff be able to have a representative here? We have a meeting at noon that we need to get to and we need all 3 Commissioners here. I was hoping we could get it done before noon but apparently we are not going to be able to. What would be a good time for folks if we recessed? I can give you anytime this afternoon.

Commissioner Murray: I'm available all afternoon.

Commissioner Varone: Let me ask, the TCC is not meeting today.

Chairman Tinsley: Right.

Commissioner Varone: When will Michael be available?

Michael McHugh: I have a meeting between 2:30 and 3:30.

Chairman Tinsley: Would you folks be able to come back at 4:00? Would that be too big of an inconvenience?

Dean Retz: No that won't be a problem.

Chairman Tinsley: You sure? Thank you for that. Ok what we'll do then is lets recess this meeting, this portion of the meeting and we'll recess until 4:00 p.m. where we will finish this last item and I'm confident we'll be out of here fairly quickly after that. I appreciate you allowing us to do that. They normally don't go this long but it happened that way this morning. So, we'll stand in recess until 4:00 p.m. in these Chambers, today. Thank you folks.

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Recessed until 4:00 p.m.

Chairman Tinsley: Opens the meeting at 4:00 p.m.

Chairman Tinsley: Good afternoon and welcome to the continuation of the Tuesday, December 6th Subdivision Public Meeting. For the record we had to break at noon for other meetings that were going on and we decided to recess until 4:00 p.m. We were at the point where Staff finished with their presentation and I will ask again if there are any questions of Staff before we move on to the Applicant. Any questions for Staff? All right, will the Applicant or his representative like to give a presentation? Hello again Mr. Retz.

Dean Retz: Thank you Chairman Tinsley, Commissioners Murray and Varone. My name is Dean Retz and I reside at 155 All Sports Court. One reason I am here on this subdivision is because I did the Tronrude Family transfer. Very familiar with the property, the family transfer is directly south of this and I just wanted to mention that I think this is one situation where Planning worked. At the pre-application, Mr. Pimely had presented we wanted to do a 5 lot minor. We're talking this is a 20 acre tract. Because the existing structure was a tract of record even though it was a remainder, Planning Staff said as long as you've got to go 6 lots, why don't you look and see what's the most feasible, so we did come up with 9 lots. The review period on this by the way, just up front, ends December 30th. Lindsay's majors were January 6th, Michael's were December 30th, so keep that in mind. I'm going to just mention briefly about a couple of Conditions of Approval and then Mr. Pimley will take it from there. Recommended Condition of Approval, basically I don't want to beat to death but we have this large animal situation. What had happened was you have in your packet a memo that I did, I went to the Planning Board with. It was in here no large animals and I put in here a copy of information that was presented by the Board of County Commissioners as far and approved on Hahn Tracts. This was 19 tracts, all 1 plus acres and basically it said "a prohibition on raising, confinement and/or keeping of livestock" which is in your proposed No. 20-S now. I recommended the language "with the exception of animals used for 4-H projects." A little bit confused with what the Planning Board come up with is their recommendation was "one large animal". And of course if you have a family of 3 or something, so I don't think that language works either, so I'm going back to the language that I proposed because the covenants right now talk about "including 4-H animals under supervision of the authorized Con extension agent which can be kept without any continuous or audible disturbances or nuisances to the other persons residing in the area." I understand, based on another subdivision this morning this is something we can look at to come up with some language, but I do want to mention that. The other thing I want to mention, in my memo is a sunset clause on proposed Condition of Approval No. 14, on page 7. Planning Staff is amenable to some sort of a sunset clause, this is where we're talking about a pro-rata share. This goes back, I started in 2001 with Mr. Grebenc. We had a similar situation, we've talked about this numerous times. I would like to come up with some sort of language, because we like the idea of pro-rata share, we think that's only fair and the only reason I'm proposing my language that says "this condition would expire 3 years from the date of filing the final plat", because as you know, all of the Conditions of Approval, you're last condition talks about "this preliminary approval shall be in force for not more than 3 calendar years or less than 1 calendar year", so I'm trying to come up with some kind of rationale that we can track. The problem we have here is that if we have no sunset clause, 1) how are we going to govern this? 2) if the owner sells property to a buyer and the buyer builds a home and 10 years later somebody comes along and says "guess what?" So we need to talk about that. But, 2 nice things about this presentation, 1) there is no variance request, and 2) it's a refreshing change, I don't have an engineer here, I don't have a hydro-geologist, thank God I don't have an attorney, but Mr. Pimley, the Applicant, owner, developer, is going to be talking about the recommended Condition of Approval No. 7 on page 6 which deals with abandoning the existing road, talk

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about No 14 on page 7 which is the fault line, and then No 14 as the sunset clause, and then talk about the fault line. So with that I'm going to let him wrap this up unless there are any questions.

Commissioner Murray: Mr. Chairman, Commissioner Varone. Mr. Retz, one issue that you haven't spoken to is Mr. Winterburn's concern that he's going to trail 800 head of livestock by this subdivision with no gates or cattle guards twice a year. One of the two of you needs to...

Dean Retz: I'm glad you brought that to my attention. Mr. Pimley is going to address that. We met with Mr. Winterburn after the public Planning Board hearing and volunteered to put in cattle guards. The problem there, and I don't know if Michael addressed that or not but when we apply for the 2 approach permits maybe the County will not want cattle guards. But Mr. Pimley will address that. Thanks for bringing that to my attention.

Commissioner Murray: Mr. Chair, Commissioner Varone. Mr. Retz, one other issue. You're approximately a mile away from the County Landfill. Normally, and I'm inclined to request a condition that deals with noise, odors and general appearance of a landfill, be one of your conditions that would go on the plat. At our landfill west of the subdivision we fire up the diesel about 7:00 in the morning and they run until 6:00 at night. I feel if I'm going to approve this some need to give the people that buy these lots and build their homes here notice that they're east about a mile east of a landfill. The other thing that occurs is the, we occasionally get strong winds and the plastic bags from grocery stores become parachutes. We hire people, as soon as the wind stops, to go out and pick them up. It's part of our good neighbor policy but I want your Applicant be aware of the landfill, does cause some pollution but we pick up as soon as we can, and see if he objects to a condition that notify people there a mile down wind or a mile away from a landfill and perhaps they won't hear diesels when we fire up the compactor in the morning.

Dean Retz: Well Commissioner Murray I'm assuming you're proposing to put these in the Board of County Commissioners restrictive covenants and I'm assuming you're talking about the same language you've been putting on Emerald Ridge. And I'm aware of that language. It's not in here now but I would assume if you do that I'll Mr. Pimley speak to it too but I'm assuming the language would be pretty much the same as that.

Commissioner Murray: It would be exactly the same but I wanted to give you a heads up so you and Mr. Pimley are not blindsided by it.

Dean Retz: Yeah, Thank you.

Chairman Tinsley: Further questions for Mr. Retz? Thank you Dean.

Dean Retz: Thank you. Mr. Pimley will now talk to you. Thank you very much.

Adam Pimley: 1315 Hauser Blvd. Agrees with cattle guards and added condition of approval regarding landfill. Speaks to Condition 6-C – extending the cul-de-sac past Lots 7 and 8 down to the edge of the irrigation easement - no problem with this. Condition 7 – granting of the driveway - no problem with this. Condition 14 – has no problem helping to improve the road, however if another subdivision that is proposed directly north of my subdivision, which will bring the traffic on Deal Lane up to a point where it needs to be paved, if that doesn't go through or for some reason they decide not to go forward with their subdivision, it could be 10-20 years realistically before something else happens, and we don't want in that time period the cost of improving the road are likely to increase significantly, we don't want, if we still own property out

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there, which we still do plan on hanging onto Lot 9, or the folks who will then be our neighbors in Lots 1 through 8, to pay the cost of the road which exceeds expected costs. We Used 3 year sun-set because that's the same period in Condition of Approval No. 24 which states if we don't apply for final plat in 3 years then our approval is taken away. We would be fine with 5 years. We just feel it's important to have some sort of sunset on that just to protect the folks who are going to be buying the lots. Condition of Approval 20-S – I think it's important that we keep as much of the reason why people like to live in Montana, which is their children can learn about agriculture, I think that's an important piece. I do understand Mr. McHugh's concerns, it's not important enough to degrade the water, and I will defer to Michael McHugh judgment degrading the water. As a compromise putting something in their covenants if they have "4-H project after said project is done, animals must be removed immediately when the project is over" – The Planning Board brought up one animal per lot however, I think it needs to be one animal per child max to 3 animals. Condition 17 – geological survey is OK with this, I think we have met this condition. I spoke with Mr. Stickney the Director of Earthquake Studies office at the Montana Bureau of Mines and Geology and basically a fault can be considered at risk for rupture based on its age. In the state of California I think we could all agree is that a lot of work and have a lot riding on the fact that they have a lot more active faults than we do. In 1972 they past what is called the Alquist-Pirillo Earthquake Safety Act, they define a active fault as having had erupted in the last 11,000 years and any fault that is considered active that has ruptured or moved in the last 11,000 years, they do have requirements for setbacks and notifying folks who are buying property in that hazard zone. Their setbacks are generally 50 feet and they require that they be notified. There are actually 2 faults, the Spokane Hills Fault and the Helena Valley Fault, Mr. Stickney mapped this area in 1987, he does not show the fault going through my property because he didn't find any evidence that it did, is worth noting that it probably does, however nobody can really say exactly where. It's an "inferred" fault, which is why the lines are dashed up there. They can't find any surface expression of that fault and therefore don't have an exact location. In the letter from Mr. Stickney and also some follow-up conversations and e-mails that I have with him, he does not believe or can say with certainty that this fault has not ruptured in the last 11,000 years. It could have been 150,000 years, it could have been 1.6 million years, but certainly not within the last 11,000 years and there's doesn't pose any realistic danger. Therefore, in accordance with Condition of Approval No. 14 we feel we have met that condition and we and don't feel a setback is necessary. And as far as placing that on the plat the only concern that I have is that if we place it on the plat we have to be able to accurately place it on the plat and if three geologists have looked at it and don't, can't say with certainty exactly where that fault goes because it's so old, then whose line do we use? And once again I don't have a problem putting it on there, and for certain we are going to put on our covenants there is a inferred fault going through the property and any inherent risk that go along with having a fault in the property, we'll state it in there, however, like I said the only concern I have with platting it is I don't know where to draw that line and if Mr. Stickney doesn't know where to draw that line, I don't know who would. I don't have anything else, and I'd be happy to answer any questions you may have.

Chairman Tinsley: I have a quick question regarding 4-H animal and I thought we put this to bed a while back but apparently we haven't and we, the Commission, we had a discussion this morning on a previous subdivision regarding large animals, we expressly put in 4-H animals for the purpose of allowing youngsters to compete in the County Fair or State Fair or the original Montana State Fair which is located right here in Lewis and Clark County, we put that in there with a purpose, not anticipating the potential of whatever, we didn't anticipate a large number of large animals, I think instead of changing, something I thought of while you were talking, I'm wondering what you think about instead of changing the intent of our original proposal for the exception for 4-H projects, is to put a limit per lot on the number of large animals, instead of setting a bottom line of saying you can only have 1 per lot, maybe saying you can't have more

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than 2 per lot. I mean when a kid does a 4-H project with a cow, it's usually one cow, it's not a herd of cows, or llamas or whatever, however, taking away the 4-H projects would also take away the ability and having one animal would take away the ability for a kid to raise numerous ducks or geese or rabbits or whatever, so I'm thinking maybe what's your thoughts on that and maybe when we come to decision day we make an amendment that puts in an expressed prohibition against more than 2 large animals, large being, we can define them as cows, horses, llamas, etc. What are your thoughts on that?

Adam Pimley: I think that's a very good point. And I hadn't thought, you know, 4-H as you put, as I pointed out is important to Montana and you know, chances are, like I said, if one kid, you know, kids don't do cows unless they're generally older. I don't know if anybody here was involved in 4-H, I wasn't, but I had a lot of friends who did and both of my sisters were, by the time I was old enough, my parents were sick of it so they didn't let me partake in that. But the point is, at any one time, both of my sisters didn't have a cow. My older sister a cow, my other sister had a sheep because it's a lot of work and parents understand that and they know that they're probably going to do a majority or a larger share of the work, so I, Chairman Tinsley, think that's, I know that's something that I could be in agreement with if it would allow folks who buy property in this subdivision to have their children participate in 4-H.

Chairman Tinsley: Thank you. One other point I want to make, you mentioned the earthquake condition, you said 14 and it's not 14 because that's the, something else.

Adam Pimley: 14 is the pro-rata share.

Chairman Tinsley: Yeah, I was looking for the setback condition and I couldn't see it on the earthquake.

Adam Pimley: Condition 17 setback condition regarding fault line.

Chairman Tinsley: Does that have the setback requirement in it or does it just state the earthquake?

Michael McHugh: Condition 17 requires the reconnaissance survey and then it states that if the study identifies any area of earthquake fault lines or any hazard potential these areas shall be graphically illustrated. As Mr. Pimley's indicated, we haven't found any high hazard areas or anything, I mean it may be semantics but if you haven't found anything you don't have to show it, Ok. And then Condition 19 has, which talks about the preparation of the final plat that requires that earthquake fault lines are high hazard areas so you could delete "E" on No. 19 and we could amend proposed Condition of Approval 20 B to include some of the language that Mr. Pimley suggested about if there's an inferred fault line to be more specific than just the generic boiler plate language that we have in 20-B.

Chairman Tinsley: That's what I was looking for. Thank you. Any further questions for Mr. Pimley? Any further questions?

Commissioner Murray: Mr. Chair, I have a question for the Commission. Is there any support from another Commissioner to list a condition dealing with noise and odors from landfills and have Mr. McHugh and Mr. Retz jointly work it out similarly to what we've used on Emerald Ridge?

Michael McHugh: Commissioners, if Staff can interrupt that would go under as a sub-section of No. 20 and then 20-J which deals with the indemnification of the County with the irrigation ditch

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and earthquake fault, you would also put proximity to the landfill or some language to that.

Chairman Tinsley: I'm satisfied with it when we get to that point.

Commissioner Varone: Mr. Chair, I'm satisfied with that to, but I just have a question with the other Commissioners, since we've been kind of bantering around this Condition of Approval No. 17 and ultimate, and maybe I'm ahead of myself if I am I apologize, the information that we received from the Earthquake Studies Office and that he say's here "I think the only statement that I can make from the available evidence is that the fault has definitely not moved during the past 10,000 years. Any statements about movement history older than the age of the glacial lake deposits are very speculative. It may have moved 150,000 or more years ago but we can not say with certainty." That being the case, do we even need No. 17?

Michael McHugh: As Staff has already pointed out the Applicants have already completed the condition and for the record if we, make sure that in the future somebody comes back and reviews this that the County was diligent in looking out for the public health and safety.

Commissioner Varone: Then if we need to leave it in there can we said that there doesn't need to be anything on the final plat?

Michael McHugh: The language says "if found", OK and in that statement I think we've already proven that it hasn't, we can take that language out, we can amend it to meet the.

Chairman Tinsley: So, on your check off list for the final plat this is the first one he's done and it's checked off?

Michael McHugh: Yeah, he's met it and the date that it's been presented to us by a recognized expert in earthquakes is it's not there, it's not going to move or anything like that.

Commissioner Varone: So it doesn't need to be on the final plat?

Michael McHugh: No.

Chairman Tinsley: Of course this is all assuming that this passes, Mr. Pimley. Ok. Any further questions or comments for the Applicant and/or his representative?

Commissioner Murray: Mr. Chair, Commissioner Varone.

Chairman Tinsley: Commissioner Murray.

Commissioner Murray: Mr. Winterburn may own the field north of you and I believe in testimony to us a couple of years ago, that's where he drives his heard into rest and then moves them further up York and so it may be a non-issue but require or asking you to put in cattle guards if I forget where the gate is on Mr. Winterburn's pointed out to us, but in reading his testimony it's in close proximity to your proposed subdivision and is on the opposite side of Deal Road from it. So you may want to take a look at that. If you don't need a cattle guard there's no point in putting one in.

Adam Pimley: Yeah. And I don't know exactly where? Dean do you know where his property is? Like I said, I mean we'll, Mr. Winterburn seemed to think that it would be a problem with two more roads in there and I would probably defer to his judgment, he's the one that drives the cattle, if he thinks we need it. Unless like I said the County Road Department doesn't want us

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to put one there, I would defer to his expertise on driving cattle. I don't know if that answers your concerns.

Commissioner Murray: Mr. Chair, Commissioner Varone. In the future I was trying to save you money. If it's not needed there's no point in putting it in.

Michael McHugh: Commissioners, we did have a long discussion about the requirement for a cattle guard at the Planning Board Hearing. It's probably best, since this is not a standard approach and it's not in our subdivision regulations to leave that, the final decision to the Public Works Department and we're not only dealing with cattle there, we're dealing with drainage and also traffic movement and it was Staff's recommendation at that time that we, since we're aware of the request that when we do our review of our approach permit that we bring that up as an option and let our Public Works Director make the final decision.

Commissioner Varone: Mr. Chair?

Chairman Tinsley: Commissioner Varone.

Commissioner Varone: As I saw Michael flip back and forth it looked like you have some photos to show us? I'd really like to see them if we could when the Applicant is finished.

Michael McHugh: Ok.

Chairman Tinsley: Ok. Further questions for the Applicant? Thank you Mr. Pimley.

Michael McHugh: Showing photos of property and current dwellings.

Chairman Tinsley: Ok. Further questions or comments? Commissioners, the review period ends on December 30th and I believe we've got one date where we're all available for decision, which will be next Thursday. Do we have a motion?

Commissioner Varone: Mr. Chair, I make a motion that we render final decision this next Thursday on the 15th.

Commissioner Murray: Second.

Chairman Tinsley: We have a motion and a second for a final decision day being December 15th. Any discussion?

Commissioner Murray: Mr. Chair, I want to be sure that Mr. McHugh and Mr. Retz understood that the Commission agreed to have you folks draft some language on landfill.

Chairman Tinsley: And they are both nodding in the affirmative. All in favor of the motion signify by saying Aye.

Commissioner Murray & Commissioner Varone: Aye.

Chairman Tinsley: Aye. Motion passes 3-0. Thank you for accommodating us this afternoon, we apologize that normally doesn't happen but something was scheduled in between and we had to do it. Is there any public comment on anything not mentioned above? Seeing none we stand adjourned.

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Public comments on matters not mentioned above. None

Adjourn. Adjourned 4:32 p.m.

Announcements
Holidays - Monday, December 26 & January 2