

**MONDAY, JULY 21, 2003**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Watne, Commissioners Gipe and Hall, and Clerk Robinson were present.

**PUBLIC HEARING: KISER ZONE CHANGE/EVERGREEN AND VICINITY ZONING DISTRICT**

Present at the July 21, 2003 9:30 A.M. duly advertised public hearing were Chairman Watne, Commissioner Hall, Planner Johna Morrison, Dawn Marquardt and Debbie Shoemaker of Marquardt and Marquardt Surveying, Assistant Avery, and Clerk Eggum.

Morrison advised that this was a request by Louise Kiser for a zone change from a R-5 Two Family Residential and a B-2 General Business split zone to a B-2 General Business zone within the Evergreen and Vicinity Zoning District. The property proposed for rezoning is located on LaSalle Road (Highway 2 East) in Kalispell directly across the highway from the Evergreen Square.

Chairman Watne opened the public hearing to anyone wishing to speak in favor of the zone change. No one rising to speak, Chairman Watne asked for anyone wishing to speak in opposition to the zone change. No one rising to speak, Chairman Watne closed the public hearing.

Commissioner Hall made a **motion** to adopt Staff Report FZC-03-18 as findings of fact. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to adopt Resolution No. 797CI. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**RESOLUTION NO. 797CI**

**WHEREAS**, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 21st day of July, 2003, to consider a request by Louise Kiser to change the zoning designation on property in the Evergreen and Vicinity Zoning District from a split zone of R-5 (Two-Family Residential) and B-2 (General Business) to B-2 (General Business), in order that the entire property will be zoned B-2;

**WHEREAS**, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on July 7 and July 14, 2003;

**WHEREAS**, the Board of Commissioners did hear public comment on the proposed zoning change at said hearing; and

**WHEREAS**, the Board of Commissioners reviewed the recommendation of the Kalispell City-County Planning Board regarding the proposed change in the Evergreen and Vicinity Zoning District.

**NOW THEREFORE, BE IT RESOLVED** that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning designation on property in the Evergreen and Vicinity Zoning District from a split zone of R-5 (Two-Family Residential) and B-2 (General Business) to B-2 (General Business), that area being described on Exhibit "A" hereto.

**BE IT FURTHER RESOLVED** that notice of the passage of this resolution, stating the boundaries of the portion of the Evergreen and Vicinity Zoning District to be changed, the general character of the proposed designation for the area to be changed, that the regulations for said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication thereof, the Board will receive written protests to the change to the Evergreen and Vicinity Zoning District, shall be published once a week for two weeks.

**BE IT FURTHER RESOLVED**, that written protests will be received from persons owning real property within the Evergreen and Vicinity Zoning District for a period of thirty (30) days after first publication of that notice, provided that, in order that only valid signatures are counted, the freeholders who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

**BE IT FURTHER RESOLVED** that if forty per cent (40%) of the freeholders in the Evergreen and Vicinity Zoning District protest the proposed change, then the change will not be adopted.

DATED this 21<sup>st</sup> day of July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: /s/Robert W. Watne  
Robert W. Watne, Chairman

By: \_\_\_\_\_  
Howard W. Gipe, Member

By: /s/ Gary D. Hall  
Gary D. Hall, Member

ATTEST:  
Paula Robinson, Clerk

By: /s/ Vickie M. Eggum  
Vickie M. Eggum, Deputy

**EXHIBIT A**  
**Louise Kiser**  
**Zone Change/Evergreen and Vicinity Zoning District**

### Legal Description

**Location and Legal Description of Property:** The property proposed for rezoning is located on LaSalle Road (Highway 2 E) in Kalispell. The property is directly across the highway from Evergreen Square (Flathead Video, Cardinal True Value). The property can be described as Assessor's Tract 2, Section 4, Township 28 North, Range 21 West, P.M.M., Flathead County.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intention and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

### NOTICE OF PASSAGE OF RESOLUTION OF INTENTION

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 797C1) on July 21, 2003, to change the zoning designation on property in the Evergreen and Vicinity Zoning District from a split zone of R-5 (Two-Family Residential) and B-2 (General Business) to B-2 (General Business). It is the applicant's intention for the entire property to be zoned B-2.

The boundaries of the area proposed to be changed from R-5 and B-2 to B-2 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to a portion of the property from providing for residential uses with minimum lot areas, requiring all public utilities and community facilities and permitting two-family dwellings, to providing for retail sales and service functions and businesses whose operations are typically characterized by outdoor display, storage and/or sale of merchandise, by major repair of motor vehicles, by outdoor commercial amusement and recreational activities, and by businesses serving the general needs of the tourist and traveler.

The regulations defining the R-5 and B-2 Zones are contained in the Flathead County Zoning Regulations on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 9327013500.

For thirty (30) days after the first publication of this notice, the Board of Commissioners will receive written protests to the change proposed for a portion of the Evergreen and Vicinity Zoning District from persons owning real property within that District whose names appear on the last completed assessment roll of Flathead County and who either are registered voters in Flathead County or execute and acknowledge their protests before a notary public.

DATED this 21<sup>st</sup> day of July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

By: /s/Robert W. Watne  
Robert W. Watne, Chairman

By: /s/ Vickie M. Eggum  
Vickie M. Eggum, Deputy

Publish on July 24 and July 31, 2003.

### **EXHIBIT A** **Louise Kiser** **Zone Change/Evergreen and Vicinity Zoning District** **Legal Description**

**Location and Legal Description of Property:** The property proposed for rezoning is located on LaSalle Road (Highway 2 E) in Kalispell. The property is directly across the highway from Evergreen Square (Flathead Video, Cardinal True Value). The property can be described as Assessor's Tract 2, Section 4, Township 28 North, Range 21 West, P.M.M., Flathead County.

### CONSIDERATION OF RESOLUTION FOR EVACUATION

Present at the July 21, 2003 10:00 A.M. Meeting were Chairman Watne, Commissioner Hall, Deputy County Attorney Jonathan Smith, Assistant Avery, and Clerk Eggum.

Commissioner Hall made a **motion** to adopt Resolution No. 1632. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

### RESOLUTION NO. 1632

WHEREAS, due to hot and dry conditions, the fire danger in Flathead County is in the extreme category and the weather forecasts for Flathead County indicate little relief from the very hot and dry conditions;

WHEREAS, due to the hot and dry weather and the fire occurrences in Montana, the Governor of the State of Montana declared a state of emergency in all of Montana, including Flathead County, on July 18, 2003;

WHEREAS, fire occurrences in Northwestern Montana are sufficiently numerous that the Interagency Fire Committee recommended, and the Commissioners issued, Stage I Restrictions for all of Flathead County; and

WHEREAS, the Wedge Canyon Fire is threatening populated areas such that evacuations may be required.

NOW, THEREFORE IT IS HEREBY RESOLVED, that an emergency is hereby declared pursuant to Section 10-3-403, M.C.A., because hot and dry conditions have resulted in the fire danger in Flathead County moving to the extreme category.

BE IT FURTHER RESOLVED that the Incident Commander of the Wedge Canyon Fire, or the Flathead County Sheriff, may direct and compel the evacuation of all or part of the population from the emergency area within that Flathead County when either of them deems it necessary for the preservation of life or for other emergency mitigation, response, or recovery, and may control the ingress and egress to and from the emergency area, the movement of persons within the area, and the occupancy of premises therein.

BE IT FURTHER RESOLVED, that copies of this resolution shall be filed with the County Clerk and Recorder, County Assessor and the Montana Disaster and Emergency Services Division in Helena, Montana.

Dated this 21st day of July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: /s/Robert W. Watne  
Robert W. Watne, Chairman

ATTEST:  
Paula Robinson, Clerk

By: \_\_\_\_\_  
Howard W. Gipe, Member

By: /s/ Vickie M. Eggum  
Deputy

By: /s/ Gary D. Hall  
Gary D. Hall, Member

**PUBLIC HEARING: ARMSTRONG AND WALKER ZONE CHANGE/HIGHWAY 93 NORTH ZONING DISTRICT**

Present at the July 21, 2003 10:00 A.M. duly advertised public hearing were Chairman Watne, Commissioner Hall, Planner Johna Morrison, Assistant Avery, and Clerk Eggum.

Morrison advised that this was a request by Jason Armstrong, Betty Lou Armstrong, and Jennifer Walker for a zone change from a zone of SAG-10 Suburban Agricultural with a 10-acre minimum lot size to a zone of SAG-5 Suburban Agricultural with a 5-acres minimum lot size, within the Highway 93 North Zoning District. The property proposed for rezoning is located on the east side of U.S. Highway 93 North and Schrade Road. It contains approximately 34.92 acres and is bordered by other suburban agricultural zoning districts.

Chairman Watne opened the public hearing to anyone wishing to speak in favor or in opposition of the zone change request. Seeing no one in the audience, Chairman Watne closed the public hearing.

Commissioner Hall made a **motion** to adopt Staff Report FZC-03-22 as findings of fact. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to adopt Resolution No. 837AK. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**RESOLUTION NO. 837AK**

**WHEREAS**, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 21st day of July, 2003, concerning a proposal by Jason Armstrong, Betty Lou Armstrong and Jennifer Walker to change the zoning designation in a portion of the Highway 93 North Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural);

**WHEREAS**, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on July 7 and July 14, 2003;

**WHEREAS**, the Board of Commissioners did hear public comment on the proposed zoning change at said hearing; and

**WHEREAS**, the Board of Commissioners reviewed the recommendations of the Flathead County Planning Board regarding the proposed change in the Highway 93 North Zoning District.

**NOW THEREFORE, BE IT RESOLVED** that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning designation in a portion of the Highway 93 North Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural), that area being described on Exhibit "A" hereto.

**BE IT FURTHER RESOLVED** that notice of the passage of this resolution, stating the boundaries of the portion of the Highway 93 North Zoning District to be amended, the general character of the proposed designation for the area to be amended, that the regulations for said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication of thereof, the Board will receive written protests to the change to the Highway 93 North Zoning District, shall be published once a week for two weeks.

**BE IT FURTHER RESOLVED**, that written protests will be received from persons owning real property within the Highway 93 North Zoning District for a period of thirty (30) days after first publication of that notice, provided that, in order that only valid signatures are counted, the freeholders who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

**BE IT FURTHER RESOLVED** that if forty per cent (40%) of the freeholders protest the proposed change in said district, then the change will not be adopted.

DATED this 21<sup>st</sup> day July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: /s/Robert W. Watne  
Robert W. Watne, Chairman

By: \_\_\_\_\_  
Howard W. Gipe, Member

By: /s/ Gary D. Hall  
Gary D. Hall, Member

ATTEST:  
Paula Robinson, Clerk

By: /s/ Vickie M. Eggum  
Vickie M. Eggum, Deputy

**EXHIBIT A**  
**JASON ARMSTRONG, BETTY LOU ARMSTRONG, & JENNIFER WALKER ZONE CHANGE/HIGHWAY 93**  
**NORTH ZONING DISTRICT**  
**LEGAL DESCRIPTION**

**Location and Legal Description of Property:**

Parcels A, B, and C on Certificate of Survey No. 14669, in Section 7, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana

Commissioner Hall made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intention Highway 93 North Zoning District and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**NOTICE OF PASSAGE OF RESOLUTION OF INTENTION**  
**HIGHWAY 93 NORTH ZONING DISTRICT**

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 837AK) on July 21, 2003, to change the zoning designation in a portion of the Highway 93 North Zoning District from SAG-10 (Suburban Agricultural) to SAG-5 (Suburban Agricultural).

The boundaries of the area proposed to be amended from SAG-10 to SAG-5 are set forth on Exhibit "A".

The proposed change would change the character of the zoning regulations applicable to the property which, in both SAG-10 and SAG-5 districts, are intended to protect and preserve agricultural land for the performance of limited agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential friction of uses will be minimized, by providing for estate type residential development and by reducing the minimum lot size from 10 acres to five acres.

The regulations defining the SAG-10 and SAG-5 are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

For thirty (30) days after the first publication of this notice, the Board of Commissioners will receive written protests to the change proposed for a portion of the Highway 93 North Zoning District from persons owning real property within that District whose names appear on the last completed assessment roll of Flathead County and who either are registered voters in Flathead County or execute and acknowledge their protests before a notary public.

DATED this 21<sup>st</sup> day of July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

By: /s/Robert W. Watne  
Robert W. Watne, Chairman

By: /s/ Vickie M. Eggum  
Vickie M. Eggum, Deputy

Publish on July 24 and July 31, 2003.

**EXHIBIT A**  
**JASON ARMSTRONG, BETTY LOU ARMSTRONG, & JENNIFER WALKER ZONE CHANGE/HIGHWAY 93**  
**NORTH ZONING DISTRICT**  
**LEGAL DESCRIPTION**

**Location and Legal Description of Property:**

Parcels A, B, and C on Certificate of Survey No. 14669, in Section 7, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana

**FINAL PLAT: WYNDOVER HILL SUBDIVISION**

Present at the July 21, 2003 10:15 A.M. Meeting were Chairman Watne, Commissioner Hall, Planner Johna Morrison, Richard J. Swan of Thomas, Dean and Hoskins, Assistant Avery, and Clerk Eggum.

Morrison reviewed the final plat for Wyndover Hill Subdivision which is an application by Powel and Trudy Clinton for approval of Wyndover Hill Subdivision which will create four residential lots on Three Mile Drive. Preliminary plat was approved on March 8, 2001 subject to 12 conditions. All conditions have been met or otherwise addressed by the applicant. Staff recommends approval of the final plat.

Commissioner Hall made a **motion** to approve the Subdivision Improvement Agreement in the amount of Five Hundred Dollars (\$500.00) for completion of the mailbox, street sign and seeding. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to approve Final Plat for Wyndover Hill Subdivision. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**PUBLIC HEARING: SOKALOWSKI ZONE CHANGE/LOWER SIDE ZONING DISTRICT**

Present at the July 21, 2003 10:30 A.M. duly advertised public hearing were Chairman Watne, Commissioner Hall, Planning and Zoning Director Forrest Sanderson, Ted Sokalowski, Assistant Avery, and Clerk Eggum.

Sanderson advised that this was a request by Ted and Lorraine Sokalowski to amend the Lower Side Zoning map on approximately 115.46 acres from the existing AG-80, an Agricultural use district with an 80-acres minimum lot size requirement, to SAG-10, a suburban agricultural zoning district, with a 10.0 acres minimum lot size requirement. Mr. Sokalowski has come in post the hearings and requested it be SAG-5. The property is located south of Kalispell on Snowline Lane.

Chairman Watne opened the public hearing to anyone wishing to speak in favor of the zone change request. No one rising to speak, Chairman Watne asked for anyone wishing to speak in opposition to the zone change request. No one rising to speak, Chairman Watne closed the public hearing.

Commissioner Hall made a **motion** to adopt FZC-03-07 as Findings of Fact. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to adopt Resolution No. 957AJ. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**RESOLUTION NO. 957AJ**

**WHEREAS**, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 21st day of July, 2003, to consider a request by Ted and Lorraine Sokalowski to change the zoning designation in a portion of the Lower Side Zoning District from AG-80 (Agricultural) to SAG-5 (Suburban Agricultural);

**WHEREAS**, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on July 10 and July 17, 2003;

**WHEREAS**, the Board of Commissioners did hear public comment on the proposed zoning change at said hearing; and

**WHEREAS**, the Board of Commissioners reviewed the recommendations of the Flathead County Planning Board regarding the proposed change in the Lower Side Zoning District.

**NOW THEREFORE, BE IT RESOLVED** that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning for a portion of the area in the Lower Side Zoning District from AG-80 to SAG-5, that area being described on Exhibit "A" hereto.

**BE IT FURTHER RESOLVED** that notice of the passage of this resolution, stating the boundaries of the portion of the Lower Side Zoning District to be changed, the general character of the proposed change in regulations for the area, that the regulations for said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication of thereof, the Board will receive written protests to the change to the Lower Side Zoning District, shall be published once a week for two weeks.

**BE IT FURTHER RESOLVED**, that written protests will be received from persons owning real property within the Lower Side Zoning District for a period of thirty (30) days after first publication of that notice, provided that, in order that only valid signatures are counted, the freeholders who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

**BE IT FURTHER RESOLVED** that if forty per cent (40%) of the freeholders within the Lower Side Zoning District protest the proposed change in said district, then the change will not be adopted.

DATED this 21<sup>st</sup> day July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: /s/Robert W. Watne  
Robert W. Watne, Chairman

By: \_\_\_\_\_  
Howard W. Gipe, Member

By: /s/ Gary D. Hall  
Gary D. Hall, Member

ATTEST:  
Paula Robinson, Clerk

By: /s/ Vickie M. Eggum  
Vickie M. Eggum, Deputy

**Exhibit A**  
**Legal Description**  
**Ted and Lorraine Sokalowski Zone Change**  
**Lower Side Zoning District**

The property proposed for rezoning is located bounded by Snowline Lane on the south and east and Demersville Road on the east. The property contains approximately 115.46 acres.

The property is described as E1/2NW1/4 and NE1/4SW1/4 less the Tract on C.O.S. 9503, Section 33, Township 28 North Range 21 West, P.M.M., Flathead County, Montana.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intention Lower Side Zoning District and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**NOTICE OF PASSAGE OF RESOLUTION OF INTENTION**  
**LOWER SIDE ZONING DISTRICT**

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 957AJ) on July 21, 2003, to change the zoning designation in a portion of the Lower Side Zoning District from AG-80 (Agricultural) to SAG-5 (Suburban Agricultural).

The boundaries of the area proposed to be amended from AG-80 to SAG-5 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from those designed to protect and preserve agricultural land for the performance of a wide range of agricultural functions and to control the scattered intrusion of uses not compatible with an agricultural environment, including but not limited to residential development, to regulations designed to protect and preserve agricultural land for the performance of limited agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential friction of uses will be minimized and to provide areas for estate-type residential development. The AG-80 classification has a minimum lot size of 80 acres; a change to SAG-5 would result in a minimum lot size of 5 acres.

The regulations defining the AG-80 and SAG-5 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

For thirty (30) days after the first publication of this notice, the Board of Commissioners will receive written protests to the change proposed for a portion of the Lower Side Zoning District from persons owning real property within that District whose names appear on the last completed assessment roll of Flathead County and who either are registered voters in Flathead County or execute and acknowledge their protests before a notary public.

DATED this 21<sup>st</sup> day of July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

By: /s/Robert W. Watne  
Robert W. Watne, Chairman

By: /s/ Vickie M. Eggum  
Vickie M. Eggum, Deputy

Publish on July 24 and July 31, 2003.

**Exhibit A**  
**Legal Description**  
**Ted and Lorraine Sokalowski Zone Change**  
**Lower Side Zoning District**

The property proposed for rezoning is located bounded by Snowline Lane on the south and east and Demersville Road on the east. The property contains approximately 115.46 acres.

The property is described as E1/2NW1/4 and NE1/4SW1/4 less the Tract on C.O.S. 9503, Section 33, Township 28 North Range 21 West, P.M.M., Flathead County, Montana.

**FINAL PLAT: ELK MEADOWS**

Present at the July 21, 2003 10:45 A.M. Meeting were Chairman Watne, Commissioner Hall, Planning and Zoning Director Forrest Sanderson, Assistant Avery, and Clerk Eggum.

Sanderson reviewed the final plat for Elk Meadows Subdivision which is an application by Charles Becker on behalf of Elk Meadows LLC for approval of Elk Meadows Subdivision which will create five lots with a remainder. The property is located approximately three-quarters of a mile off of Highway 93 on the north side of Hodgson Road, across from Happy Valley. Preliminary plat was approved on November 4, 2002 subject to 4 conditions. All conditions have been met or otherwise addressed by the applicant. Staff recommends approval of the final plat.

Commissioner Hall made a **motion** to approve Final Plat for Elk Meadows Subdivision. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**MEETING W/CHARLIE JOHNSON, ROAD DEPARTMENT**

Present at the July 21, 2003 11:00 A.M. Meeting were Chairman Watne, Commissioners Gipe and Hall, Road Superintendent Charlie Johnson, Assistant Avery, and Clerk Eggum.

**This meeting did not take place.**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on July 22, 2003.

\*\*\*\*\*

**TUESDAY, JULY 22, 2003**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Watne, Commissioners Gipe and Hall, and Clerk Robinson were present.

**CONSIDERATION OF CORRECTION OF RESOLUTION #955BL**

Present at the July 22, 2003 8:30 A.M. Meeting were Chairman Watne, Commissioner Hall, Deputy County Attorney Jonathan Smith, and Clerk Eggum.

Smith presented the Commissioners with Resolution of Intent 955BK and Final Resolution 955BL. Smith noted that the Exhibit A attached to the Resolution of Intent 955BK correctly contained two pages. However when the Final Resolution was entered into the record, a clerical error was made and the second page of Exhibit A was omitted. Smith requested that a motion be made to correctly reflect the same exhibit for the resolution of intent and the final resolution.

Commissioner Hall confirmed that this was not setting a new policy. Smith responded that nothing is changed between the Resolution of Intent and the Final Resolution. Somehow or another it was just a clerical error in that the second page didn't get attached.

Commissioner Hall made a **motion** to correct the clerical error and amend Exhibit "A" of Resolution #955BL to include page 2 which was inadvertently omitted so as to correctly mirror the exhibit attached to the Resolution of Intent #955BK. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**DOCUMENT FOR SIGNATURE: HEALTH PROMOTION CONTRACT/AOA**

Present at the July 22, 2003 8:30 A.M. Meeting were Chairman Watne, Commissioner Hall, AOA Director Jim Atkinson, and Clerk Eggum.

Chairman Watne reviewed the Service Provider Agreement between Area IX Agency on Aging and Whitefish Golden Agers for Provision of Health Promotion Services to the Elderly.

Commissioner Hall made a **motion** to approve the Service Provider Agreement and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**RECONSIDERATION OF HEALTH PROMOTION SPENDING**

Present at the July 22, 2003 8:30 A.M. Meeting were Chairman Watne, Commissioner Hall, AOA Director Jim Atkinson, and Clerk Eggum.

Atkinson sought clarification as to the Commissioners' decision of expenditure of health promotion money. Atkinson advised that they could either spend the entire amount or retain some of the funds.

Commissioner Hall made a **motion** to approve spending Health Promotion Money in the amount of \$6,460.00. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**DOCUMENT FOR SIGNATURE: DPHHS CONTRACT #04-145-0600/EAGLE TRANSIT**

Present at the July 22, 2003 8:30 A.M. Meeting were Chairman Watne, Commissioner Hall, and Clerk Eggum.

Chairman Watne reviewed the Contract between Montana State Department of Public Health and Human Services and Eagle Transit Flathead County Area IX Agency on Aging Contract Number 04-145-0600 effective July 1, 2003 through June 30, 2004 by Developmental Disabilities Program. The purpose of the contract is for provision of federal Medicaid monies to the State of Montana for the purchase of health care and related services that allows for the payment of developmental disabilities home and community services with Medicaid monies.

Commissioner Hall made a **motion** to approve the contract and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**CONSIDERATION OF PRINTING BIDS: PLANNING AND ZONING OFFICE**

Present at the July 22, 2003 8:30 A.M. Meeting were Chairman Watne, Commissioner Hall, and Clerk Eggum.

Commissioner Hall made a **motion** to award the bid to Wright Impressions for three sets of business cards in the amount of \$51.00 on behalf of Planning and Zoning. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**MEETING W/TOM SANDS RE: ENCROACHMENT**

Present at the July 22, 2003 8:30 A.M. Meeting were Chairman Watne, Commissioner Hall, Tom Sands of Sands Surveying, and Clerk Eggum.

Sands advised that there is some property between Columbia Falls Stage and Fairview Cemetery Road that they are planning on fencing to prevent the elk from damaging sod. However there is a county road that has never been built adjacent to the property and if the fence does not encompass the road it will be impossible to mow, weed and spray resulting in a 30' wide strip of weeds. Sands was requesting permission to fence the portion of the county road adjacent to the property.

Commissioner Hall confirmed that the fence would not be blocking any of the neighbors' access.

The Commissioners agreed that it would be acceptable to fence the adjacent road. They advised Sands to work with Charlie Johnson on a permit/contract with wording to the effect that the fence will be moved at the owner's expense at any time at the county's request.

#### **COS REVIEW: BARTEE**

Present at the July 22, 2003 9:00 A.M. Meeting were Chairman Watne, Commissioner Hall, Planning and Zoning Director Forrest Sanderson, Tom Sands of Sands Surveying, Inc., and Clerk Eggum.

Sanderson reviewed the chain of title.

Commissioner Hall made a **motion** to approve the COS as presented. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

#### **COS REVIEW: BRECKENRIDGE**

Present at the July 22, 2003 9:15 A.M. Meeting were Chairman Watne, Commissioner Hall, Planning and Zoning Director Forrest Sanderson, Rick Breckenridge, and Clerk Eggum.

Sanderson reviewed the chain of title.

Commissioner Hall made a **motion** to approve the COS as presented. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

#### **GIS MEETING W/PAULA ROBINSON AND TOM REYNOLDS**

Present at the July 22, 2003 9:30 A.M. Meeting were Chairman Watne, Commissioner Hall, GIS Coordinator Tom Reynolds, and Clerk Eggum.

General discussion was held relative to ESRI Conference in San Diego, redistricting; plan to pick up all the bridges and culverts, 911, new employee, Jobs Now request for information (out of state property owners; over flights of the valley for digital photograph), cama data info available to the public, Wedge fire information needs resulting in overtime requirements possible pager system, Commissioners' districts.

#### **COS REVIEW: CLOYED**

Present at the July 22, 2003 9:45 A.M. Meeting were Chairman Watne, Commissioner Hall, Planning and Zoning Director Forrest Sanderson, Robert Brown, and Clerk Eggum.

Sanderson reviewed the chain of title.

Commissioner Hall made a **motion** to approve the COS as presented. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

#### **CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: LAPP MASTER PLAN AMENDMENT/FLATHEAD COUNTY MASTER PLAN**

Present at the July 22, 2003 10:15 A.M. Meeting were Chairman Watne, Commissioner Hall, and Clerk Eggum.

Commissioner Hall made a **motion** to adopt Resolution No. 790U. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

#### **RESOLUTION NO. 790U**

**WHEREAS**, the Flathead County Planning Board recommended amendments to the Flathead County Master Plan;

**WHEREAS**, the Flathead County Board of Commissioners reviewed the proposals and determined that the proposed amendments to the Flathead County Master Plan should be formally considered;

**WHEREAS**, the Flathead County Board of Commissioners passed a resolution of intention (Resolution No. 790T) on June 24, 2003, to formally consider those amendments and allowed for written public comment regarding the amendment to be received by the Commissioners Office prior to July 10, 2003; and

**WHEREAS**, the Flathead County Board of Commissioners reviewed the Planning Board recommendation and the public comment on the proposed amendments to the Flathead County Master Plan.

**NOW THEREFORE, BE IT RESOLVED**, by the Board of Commissioners of Flathead County, Montana, pursuant to Section 76-1-604, M.C.A., that the proposed amendment to the Flathead County Master Plan, to change the designation of the SE ¼, Section 2, Township 28 North, Range 22 West, P.M.M., Flathead County, Montana, from agricultural to residential, is hereby adopted.

DATED this 22<sup>nd</sup> day of July, 2003.



BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: /s/Robert W. Watne  
Robert W. Watne, Chairman

By: \_\_\_\_\_  
Howard W. Gipe, Member

By: /s/ Gary D. Hall  
Gary D. Hall, Member

ATTEST:  
Paula Robinson, Clerk

By: /s/ Vickie M. Eggum  
Deputy

**CONSIDERATION OF PRINTING BIDS: ANIMAL CONTROL**

Present at the July 22, 2003 10:15 A.M. Meeting were Chairman Watne, Commissioner Hall, and Clerk Eggum.

Commissioner Hall made a **motion** to award the bid to Wright Impressions for two sets of business cards and 5,000 Animal Impound cards in the amount of \$17.00, \$17.00 and \$158.01 respectively on behalf of Animal Control. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**PUBLIC HEARING: MAJESTIC VALLEY (80 ACRES) ZONE CHANGE/HIGHWAY 93 NORTH ZONING DISTRICT**

Present at the July 22, 2003 10:30 A.M. duly advertised public hearing were Chairman Watne, Commissioner Hall, Michelle Bryan, Robert Packer, Jan Gellein, Larry Linne', Planning and Zoning Director Forrest Sanderson, and Clerk Eggum.

Michelle Bryant submitted a letter for consideration.

Caryn Miske submitted a letter via fax.

Sanderson advised that this was one of the projects that they were seeking reaffirmation for Majestic Valley Arena specifically Lots 1 and 2 Patterson Tracts on the Highway 93 North zoning map. The 80 acres is directly across the street from Mr. Fricke's property and tomorrow the public hearing will be held relative to the 62 acres for Majestic Valley to the north. The staff report containing the findings of fact as required by law was adopted unanimously by the Flathead County Planning Board at the public hearing and recommended this for approval by the Commissioners.

Sanderson introduced the following exhibits:

Exhibit A Highway 93 North Zoning District Map

Exhibit B Whitefish City County Master Plan Map. The Whitefish area master plan which is an adopted document of Flathead County specifies the differentiation between certain types of potential zoning districts. This map is relevant as it reflects Flathead County has contemplated and in this circumstance assigned a master plan designation that is specific to suburban agricultural designations.

Exhibit C Blanchard Lake Zoning District Map. The map reflects SAG-5, across the street some SAG-10 again following directly out of the Whitefish City County Master Plan and a different land use designation for the large lot agriculturals. The AG-20s, 40s there isn't any 80 in the Blanchard Lake but you see the differentiation between the large lot AG and the small lot suburban agricultural designations.

Exhibit D Flathead County Master Plan Map. Tape ends. It does contain designations for rural, suburban, urban, high density residential commercial, industrial and public facilities.

Exhibit E Ponds Zoning District Map. The Ponds Zoning District an 80 acre zoning district south of Kalispell solely designated to SAG-5. The agricultural master plan designation resulted in the creation of a zoning district only with a suburban agricultural five acre density requirement. There is not a differentiation of agricultural classifications anywhere on the Flathead County Master Plan map it is agricultural.

Exhibit K Kalispell City-County Master Plan Map again following with what we have seen on the county master plan map and to a limited extent in Whitefish agricultural master plan designation; agriculture, suburban residential, urban, commercial.

Exhibit F Lower Side Zoning District Map suburban agricultural five acre zone that has been in place for at least five years. All of the zoning from five acre to 80 acre agricultural designations supported by the master plan again a duly adopted document.

Exhibit G Bigfork Area Land Use Plan Map is the Bigfork area neighborhood plan. It is an adopted neighborhood plan of the Flathead County Master Plan following the same provisions agricultural, suburban residential, public lands, commercial, resort or CBR.

Exhibit H Bigfork Zoning District and Vicinity Map again all of the SAG five being in existence probably since the time the district was created in 1993 out along the river. The mixture from five to AG-40 all supported by the white or agricultural master plan designation.

Exhibit I Resolution 837A:

Sanderson quoted from the resolution which was adopted May 7, 1991: Be it further resolved that the Flathead County Comprehensive Zoning Regulations contained in the permanent file #16137 Flathead County Clerk and Recorder's Office shall govern that zoning district.

Exhibit J Flathead County Zoning Regulations 2.8 specifies the procedures and process that Flathead County will follow to amend the regulations.

At the time the Highway 93 North District was created, the owners were told that amendments could and would happen and what program Flathead County would follow to make those amendments.

Sanderson advised that the staff report approved by the Planning Board addresses the statutory criteria. Notice requirements were complied with not once but several times. We have proven that the SAG-5 zoning district is consistent with past decisions. It is consistent with the master plan and there really is not an argument left that was raised by the owners association other than they just don't want to see the area changed. The Flathead is growing. Not wanting it to change is not a valid reason to say no.

Sanderson then addressed the letter submitted by Caryn Miske. The only truth in the entire letter is that she represents the Country Highlands Homeowners Association, a group of concerned citizens with potential impacts. At that point, everything that follows is false. Majestic Valley Arena is not proposing a subdivision. They have not submitted a subdivision. I am not aware of a subdivision even being proposed in preapplication form. This letter is not addressed to the matter at hand. I suspect that it is driven towards the planned unit development that Mr. Fricke proposed but it has absolutely nothing to do with the Majestic Valley Arena. They have not submitted a subdivision and I thoroughly and totally discount that letter as irrelevant to the matter at hand.

Chairman Watne opened the public hearing to anyone wishing to speak in favor of the zone change request.

**Bryan** advised that she was from the firm of Church, Harris, Johnson, and Williams. I am very happy to be here today to talk to you about the Majestic Valley zoning and urge your re-endorsement of its SAG-5 zoning. Very rarely do we have the luxury of traveling forward in time to see what a landowner ultimately does with the zoning that it is given but we have that luxury here and we can drive up Highway 93 North and see that the very vision that these arena folks brought in back in 2001 is a reality today. As you will recall, they originally wanted to build this facility for private use for equestrian events. But as their plans got under way, it became very apparent that there was a strong community desire to have a facility such as theirs open to a broader community for a variety of community events. Even though they could have their equestrian facility under the existing AG-40 and it was a no brainer, there was no permissions or permit required or public hearing, they had to look to a different designation to open their doors to broader community events which is why they came to you and asked for your help to get the SAG-5 zoning in place so they could open the doors to the community. That is the genesis of the rationale behind SAG-5. The reason I am here today is to address the opposition for this SAG-5 rehearing and a letter submitted by counsel. I agree with Mr. Sanderson that I don't think today's letter is relevant to the zoning of the Majestic Valley property. I am going to focus on the June 11<sup>th</sup> letter submitted by Ms. Miske:

Bryan continued that this letter reflects a fundamental misunderstanding about what Flathead County Zoning Regulations do and even about the history of this property. First their objection is they don't want the property to lose its agricultural designation. I have trouble with that because what we are asking for is an agricultural designation under the master plan. It is a specific subcategory that remains Ag. They also keep saying the property is better left in its natural condition; it shouldn't be taken out of production. But if you go back in time and look at the property before this facility was located on it, it was unproductive ground and indeed some of it was a land farm depository for petroleum fuels. What these folks have done is come in and turned it into something that is much more agribusiness and focus and actually serves as an anchor for a variety of those agricultural social activities that we have always enjoyed in Montana. I think this year alone they have had calf roping, team penning, cutting horse competitions, equine expos and junior rodeo. That seems to me to be a diversified use of agricultural property and a good use for what was once unproductive property. As Mr. Sanderson mentioned, the opponents also try to argue that the Highway 93 North Zoning District should be frozen in time and that it should never change but indeed on the face of the resolution it says this zoning is to be treated like all other zoning in Flathead County. It is subject to modification and amendment over time as the needs of the community change and grow. One of the biggest needs of the community that we talked about back in 2001 is to figure out how to diversify agriculture in a way that promotes the evolving concept of agriculture in the valley. This facility enables the community to enjoy that but it does much more. It pulls in regional tourism. It provides a community meeting place that is unique for the valley. It provides local employment and increased tax base for schools. It is a recreational center for the valley. Those strike at the heart of the goals of the master plan; the heart of the focus of AG and SAG-5, the suburban agriculture concept discussed by Mr. Sanderson. That is why this application had the support of the staff twice, the unanimous recommendation of the Planning Board and in 2001 the unanimous approval of this commission. That is why it is supported by the Chamber of Commerce, the Convention and Visitor's Bureau, the Business and Industry Association and others. That is why the zoning has been not once but twice recommended as I mentioned and that is why it should remain in place and receive your endorsement today. It was the right decision two years ago. It remains the right decision today.

Bryan then requested that in order to save expense for her client, she requested that today's record be incorporated into the hearing tomorrow which considers the north 60 acres of the Majestic Valley property.

**Parker** advised that he is the General Manager of Majestic Valley Arena. He stated that they have been operating under their existing conditional use permit and have complied with all aspects. Some of the events that benefited the community: log jam, great bear banquets, Human Society, the Alert banquet. These entities have a larger place to raise more money for their certain groups and organizations and non-profit foundations. High School graduation was pretty awesome this year. 7,000 people attend that plus the students. We saw a lot of ways we can make that into a greater event too. The trade shows, we have had the Home Builders Association, arts and crafts, equine expo with the wild horse adoption, hunting and fishing expos, and car shows. The equine events started off kind of slow being a new facility but each event has come back. They have almost doubled in size which brings a lot of people and a lot of participants from out of this area from around the western United States and brings dollars into the valley because they stay here for three to four or five days; motels, restaurants and all the auxiliary services: Montana Cutting Horse Association, the Big Sky Reining Derby which moved from Billings to here; the quarter horse show, Lippizoners, the USTRC, Montana's Richest Calf Roping which brought well over 40 of the top ranked calf ropers of the world here plus seven world champions. Everybody had a great time. Our goals basically for the facility at this point, have evolved sometimes through the last year, but our main goal right now is to increase horse events through the summer months and mainly start focusing on youth more. Our intent was always to establish high school and college rodeo teams. We have already been talking with FVCC on an equine science curriculum that we can help get established working together. Our whole concept was just to be a part of the community and to benefit the community. It has been a hell of a lot of work. We are willing to work even harder.

No one else rising to speak, Chairman Watne asked for anyone wishing to speak in opposition to the zone change. No one rising to speak, Chairman Watne closed the public hearing.

Commissioner Hall made a **motion** to adopt FCZ-03-04 as findings of fact. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to adopt Resolution No. 837AM. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

#### RESOLUTION NO. 837AM

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 22nd day of July, 2003, concerning a proposal by Majestic Valley, LLC to change the zoning designation in a portion of the Highway 93 North Zoning District from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on July 7 and July 14, 2003;

WHEREAS, the Board of Commissioners did hear public comment on the proposed zoning change at said hearing; and

WHEREAS, the Board of Commissioners reviewed the recommendations of the Flathead County Planning Board regarding the proposed change in the Highway 93 North Zoning District.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning designation in a portion of the Highway 93 North Zoning District from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural), that area being described on Exhibit "A" hereto.

BE IT FURTHER RESOLVED that notice of the passage of this resolution, stating the boundaries of the portion of the Highway 93 North Zoning District to be amended, the general character of the proposed designation for the area to be amended, that the regulations for said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication of thereof, the Board will receive written protests to the change to the Highway 93 North Zoning District, shall be published once a week for two weeks.

BE IT FURTHER RESOLVED, that written protests will be received from persons owning real property within the Highway 93 North Zoning District for a period of thirty (30) days after first publication of that notice, provided that, in order that only valid signatures are counted, the freeholders who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

BE IT FURTHER RESOLVED that if forty per cent (40%) of the freeholders protest the proposed change in said district, then the change will not be adopted.

DATED this 22<sup>nd</sup> day July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: /s/Robert W. Watne  
Robert W. Watne, Chairman

By: \_\_\_\_\_  
Howard W. Gipe, Member

By: /s/ Gary D. Hall  
Gary D. Hall, Member

ATTEST:  
Paula Robinson, Clerk

By: /s/ Vickie M. Eggum  
Vickie M. Eggum, Deputy

**EXHIBIT A**  
**Legal Description**  
**Majestic Valley, LLC Zone Change**  
**Highway 93 North Zoning District**

The property proposed for rezoning is located on the northwest corner of U.S. Highway 93 North and Church Drive, and contains approximately 80 acres.

The property is described as Tracts 1 and 2, Patterson Tracts, a platted subdivision of Section 12, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana

Commissioner Hall made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intention Highway 93 North Zoning District and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**NOTICE OF PASSAGE OF RESOLUTION OF INTENTION**  
**HIGHWAY 93 NORTH ZONING DISTRICT**

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 837AM) on July 22, 2003, to change the zoning designation in a portion of the Highway 93 North Zoning District from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural).

The boundaries of the area proposed to be amended from AG-40 to SAG-5 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from those intended to protect and preserve agricultural land for the performance of a wide range of agricultural functions, intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development, to regulations intended to protect and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development. The AG-40 classification has a minimum lot size of 40 acres; a change to SAG-5 would result in a minimum lot size of 5 acres.

The regulations defining the AG-40 and SAG-5 are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

For thirty (30) days after the first publication of this notice, the Board of Commissioners will receive written protests to the change proposed for a portion of the Highway 93 North Zoning District from persons owning real property within that District whose names appear on the last completed assessment roll of Flathead County and who either are registered voters in Flathead County or execute and acknowledge their protests before a notary public.

DATED this 22<sup>nd</sup> day of July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: /s/Robert W. Watne  
Robert W. Watne, Chairman

ATTEST:  
Paula Robinson, Clerk

By: /s/ Vickie M. Eggum  
Vickie M. Eggum, Deputy

Publish on July 26 and August 1, 2003.

**EXHIBIT A**  
**Legal Description**  
**Majestic Valley, LLC Zone Change**  
**Highway 93 North Zoning District**

The property proposed for rezoning is located on the northwest corner of U.S. Highway 93 North and Church Drive, and contains approximately 80 acres.

The property is described as Tracts 1 and 2, Patterson Tracts, a platted subdivision of Section 12, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana

**1:30 P.M. Commissioner Hall is to attend a meeting w/Ron Wilhelm**

**5:00 P.M. Chairman Watne is to attend the Refuse Board Meeting at Solid Waste District Office**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on July 23, 2003.

\*\*\*\*\*

**WEDNESDAY, JULY 23, 2003**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Watne, Commissioners Gipe and Hall, and Clerk Robinson were present.

**MONTHLY MEETING W/LEE CORAY-LUDDEN RSVP**

Present at the July 23, 2003 9:00 A.M. Meeting were Chairman Watne, Commissioner Hall, RSVP Director Lee Coray-Ludden, AOA Director Jim Atkinson, Assistant Avery, and Clerk Eggum.

General discussion was held relative to rest area for fair; ice cream social; heat; building.

**CONSIDERATION OF AIR CONDITIONING FOR AOA BUILDING**

Present at the July 23, 2003 9:00 A.M. Meeting were Chairman Watne, Commissioner Hall, AOA Director Jim Atkinson, RSVP Director Lee Coray-Ludden, Assistant Avery, and Clerk Eggum.

General discussion was held relative to the needs for air conditioning. The Commissioners advised that Atkinson would need to work with Avery to come up with the money to get it done as it is a health issue.

**CONSIDERATION OF LAKESHORE PERMIT: CRAVEN**

Present at the July 23, 2003 9:15 A.M. Meeting were Chairman Watne, Commissioner Hall, Planner Lindsay Morgan, and Clerk Eggum.

Morgan reviewed Lake and Lakeshore Construction Permit filed by Murray Craven on Whitefish Five to install a three foot by 20 foot walkway that will provide access to the lake. General discussion was held. The Whitefish Lake Protection Committee approved the permit.

Commissioner Hall made a **motion** to approve Lakeshore Permit #WLP-03-26 and authorize the Chairman to sign subject to 14 conditions. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**CONSIDERATION OF LAKESHORE PERMIT: ROCKY MOUNTAIN HABITATS**

Present at the July 23, 2003 9:15 A.M. Meeting were Chairman Watne, Commissioner Hall, Planner Lindsay Morgan, and Clerk Eggum.

Morgan reviewed Lake and Lakeshore Construction Permit filed by Rocky Mountain Habitats on Half Moon Lake to remove dead trees and thin smaller trees to provide lake access for small area of lawn. General discussion was held.

Commissioner Hall made a **motion** to approve Lakeshore Permit #FLP-03-58 and authorize the Chairman to sign subject to 15 conditions. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**CONSIDERATION OF LAKESHORE PERMIT: DAIGLE**

Present at the July 23, 2003 9:15 A.M. Meeting were Chairman Watne, Commissioner Hall, Planner Lindsay Morgan, and Clerk Eggum.

Morgan reviewed Lake and Lakeshore Construction Permit filed by Larry Daigle on Foy's Lake to extend an existing concrete boat ramp. General discussion was held.

Commissioner Hall made a **motion** to approve Lakeshore Permit #FLP-03-36a and authorize the Chairman to sign subject to 30 conditions. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**CONSIDERATION OF LAKESHORE PERMIT: MAHUGH**

Present at the July 23, 2003 9:15 A.M. Meeting were Chairman Watne, Commissioner Hall, Planner Lindsay Morgan, and Clerk Eggum.

Morgan reviewed Lake and Lakeshore Construction Permit filed by Fred Mahugh on Little Bitterroot Lake to install an L-shaped floating EZ-dock, a mooring buoy, and an elevated deck. General discussion was held.



Commissioner Hall made a **motion** to approve Lakeshore Permit #FLP-03-66 and authorize the Chairman to sign subject to 37 conditions. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

#### **CONSIDERATION OF LAKESHORE PERMIT: KREISEL**

Present at the July 23, 2003 9:15 A.M. Meeting were Chairman Watne, Commissioner Hall, Planner Lindsay Morgan, and Clerk Eggum.

Morgan reviewed Lake and Lakeshore Construction Permit filed by Jack Kriesel on Little Bitterroot Lake to install an L-shaped piling dock and a walkway and remove unhealthy trees. General discussion was held.

Commissioner Hall made a **motion** to approve Lakeshore Permit #FLP-03-67 and authorize the Chairman to sign subject to 38 conditions. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

#### **MONTHLY MEETING W/DAVE PRUNTY**

Present at the July 23, 2003 9:30 A.M. Meeting were Chairman Watne, Commissioner Hall, Solid Waste Director Dave Prunty, Assistant Avery, and Clerk Eggum.

General discussion was held relative to modification of by-laws; Phase IIB groundwater protection system improvement; landfill expansion project; fencing; refuse operations; new one month record; rehabilitation of Dew Drop Container Site (old Coram site); one year anniversary in the new cell; new position hiring for.

#### **FINAL PLAT: KENNY-CONN SUBDIVISION**

Present at the July 23, 2003 10:00 A.M. Meeting were Chairman Watne, Commissioner Hall, Planner Melinda Riley, Rick Breckenridge and Peggy Mathiason of Montana Mapping Associates, Inc., Tom Kenny, Assistant Avery, and Clerk Eggum.

Riley reviewed the final plat for Kenny-Conn Subdivision which is an application by Thomas Kenny for approval of Kenny-Conn Subdivision which will create a three lot minor subdivision along Conn Road, approximately five miles southeast of Whitefish. The subject property is 15 acres in size and is located in an unzoned area. Preliminary plat approval was waived on October 28, 2002 subject to six conditions. All conditions have been met or otherwise addressed by the applicant. Staff recommends approval of the final plat.

Commissioner Hall made a **motion** to adopt Staff Report FWP-03-17 as findings of fact. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to approve Final Plat for Kenny-Conn Subdivision. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

#### **FINAL PLAT: WEST VALLEY SCHOOL ACRES LOT 3 SUBDIVISION**

Present at the July 23, 2003 10:15 A.M. Meeting were Chairman Watne, Commissioner Hall, Planner Melinda Riley, Assistant Avery, and Clerk Eggum.

Riley reviewed the final plat for Resubdivision of Lot 3, West Valley which is an application by Lane and LeAnne Hersey for approval of Resubdivision of Lot 3, West Valley School Acres Subdivision which will create two lots on Farm to Market Road. The property is located in the West Valley area on Farm to Market Road just south of the intersection of Farm to Market Road and McMannamy Draw. Preliminary plat approval was granted on January 27, 2003 subject to 12 conditions. All conditions have been met or otherwise addressed by the applicant. Staff recommends approval of the final plat.

Commissioner Hall made a **motion** to approve Final Plat for Resubdivision of Lot 3, West Valley School Acres Subdivision. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

#### **DOCUMENT FOR SIGNATURE: DPHHS CONTRACT #4-07-5-01-015-0**

Present at the July 23, 2003 10:30 A.M. Meeting were Chairman Watne, Commissioner Hall, Assistant Avery, and Clerk Eggum.

Commissioner Hall made a **motion** to approve DPHHS Contract #4-07-5-01-015-0 and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

#### **PUBLIC HEARING: MAJESTIC VALLEY (62 ACRES) ZONE CHANGE/HIGHWAY 93 NORTH ZONING DISTRICT**

Present at the July 23, 2003 10:30 A.M. duly advertised public hearing were Chairman Watne, Commissioner Hall, Planning and Zoning Director Forrest Sanderson, Assistant Avery, and Clerk Eggum.

Sanderson requested that all matters covered yesterday relative to the Majestic Valley (80 acres) zone change request be incorporated by reference into today's meeting. Sanderson submitted the following exhibits:

- Exhibit "A" - Highway 93 North Zoning District
- Exhibit "B" - Whitefish City-County Master Plan
- Exhibit "C" - Blanchard Lake Zoning District
- Exhibit "D" - Flathead County Master Plan
- Exhibit "E" - Ponds Zoning District
- Exhibit "K" - Kalispell Area Master Plan
- Exhibit "F" - Lower Side Zoning District
- Exhibit "G" - Bigfork Neighborhood Plan
- Exhibit "H" - Bigfork Zoning District
- Exhibit "I" - Resolution #837A

Exhibit "J" - Section 2.08 of the Flathead County Zoning Regulations

He continued, the Planning Board recommended approval. Majestic Valley does not have any subdivision application pending as of today's date.

Chairman Watne opened the public hearing to anyone wishing to speak in favor of the zone change.

**Parker** requested that everything presented at yesterday's Majestic Valley Zone Change hearing be incorporated into today's hearing as far as what Michelle Bryan and he provided. He advised that this whole plan is continuing to utilize that area in conjunction with the facility.

No one else rising to speak, Chairman Watne asked for anyone wishing to speak in opposition to the zone change. No one rising to speak, Chairman Watne closed the public hearing.

Commissioner Hall made a **motion** to adopt FCZ 03-05 as findings of fact. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to adopt Resolution No. 837AO. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

RESOLUTION NO. 837AO

**WHEREAS**, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 23rd day of July, 2003, concerning a proposal by Majestic Valley, LLC to change the zoning designation in a portion of the Highway 93 North Zoning District from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural);

**WHEREAS**, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on July 10 and July 17, 2003;

**WHEREAS**, the Board of Commissioners did hear public comment on the proposed zoning change at said hearing; and

**WHEREAS**, the Board of Commissioners reviewed the recommendations of the Flathead County Planning Board regarding the proposed change in the Highway 93 North Zoning District.

**NOW THEREFORE, BE IT RESOLVED** that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning designation in a portion of the Highway 93 North Zoning District from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural), that area being described on Exhibit "A" hereto.

**BE IT FURTHER RESOLVED** that notice of the passage of this resolution, stating the boundaries of the portion of the Highway 93 North Zoning District to be amended, the general character of the proposed designation for the area to be amended, that the regulations for said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication of thereof, the Board will receive written protests to the change to the Highway 93 North Zoning District, shall be published once a week for two weeks.

**BE IT FURTHER RESOLVED**, that written protests will be received from persons owning real property within the Highway 93 North Zoning District for a period of thirty (30) days after first publication of that notice, provided that, in order that only valid signatures are counted, the freeholders who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

**BE IT FURTHER RESOLVED** that if forty per cent (40%) of the freeholders protest the proposed change in said district, then the change will not be adopted.

DATED this 23<sup>rd</sup> day July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: /s/Robert W. Watne  
Robert W. Watne, Chairman

By: \_\_\_\_\_  
Howard W. Gipe, Member

By: /s/ Gary D. Hall  
Gary D. Hall, Member

ATTEST:  
Paula Robinson, Clerk

By: /s/ Vickie M. Eggum  
Vickie M. Eggum, Deputy

EXHIBIT A  
Majestic Valley, LLC  
Zone Change/Highway 93 North Zoning District  
Legal Description

Legal Description of Property:

Tract 1 of Certificate of Survey 12407 located in the E½ of the NE¼ of Section 12, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intention Highway 93 North Zoning District and authorize the Chairman to sign. Chairman Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**NOTICE OF PASSAGE OF RESOLUTION OF INTENTION  
HIGHWAY 93 NORTH ZONING DISTRICT**

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 837AO) on July 23, 2003, to change the zoning designation in a portion of the Highway 93 North Zoning District from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural).

The boundaries of the area proposed to be amended from AG-40 to SAG-5 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from those intended to protect and preserve agricultural land for the performance of a wide range of agricultural functions, intended to control the scattered intrusion of uses not compatible with an agricultural environment, including, but not limited to, residential development, to regulations intended to protect and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development. The AG-40 classification has a minimum lot size of 40 acres; a change to SAG-5 would result in a minimum lot size of 5 acres.

The regulations defining the AG-40 and SAG-5 are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

For thirty (30) days after the first publication of this notice, the Board of Commissioners will receive written protests to the change proposed for a portion of the Highway 93 North Zoning District from persons owning real property within that District whose names appear on the last completed assessment roll of Flathead County and who either are registered voters in Flathead County or execute and acknowledge their protests before a notary public.

DATED this 23<sup>rd</sup> day of July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

By: /s/Robert W. Watne  
Robert W. Watne, Chairman

By: /s/ Vickie M. Eggum  
Vickie M. Eggum, Deputy

Publish on July 28 and August 4, 2003.

EXHIBIT A  
Majestic Valley, LLC  
Zone Change/Highway 93 North Zoning District  
Legal Description

Legal Description of Property:

Tract 1 of Certificate of Survey 12407 located in the E½ of the NE¼ of Section 12, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on July 24, 2003.

\*\*\*\*\*

**THURSDAY, JULY 24, 2003**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Watne, Commissioners Gipe and Hall, and Clerk Robinson were present.

**PRELIMINARY PLAT: MCGREGOR LAKE HIGHLANDS, AMENDED PLAT OF PHASE 3**

Present at the July 24, 2003 9:00 A.M. Meeting were Commissioners Gipe and Hall, Planner Johna Morrison, Jane Eby of Eby and Associates, Assistant Avery, and Clerk Eggum.

Morrison reviewed the preliminary plat for Amended Plat McGregor Lake Highlands Phase III filed by Reto Barrington of McGregor Lake LLC. The applicant proposes to create a five lot single-family subdivision on approximately 12.7 acres. The property is located at 1020, 1025 and 1030 McGregor Lane near McGregor Lake southwest of Kalispell. Staff recommends approval of the Preliminary Plat.

Commissioner Hall made a **motion** to adopt Staff Report #FPP-03-16 as Findings of Fact. Commissioner Gipe **seconded** the motion. **Aye** – Gipe and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to approve the Preliminary Plat of McGregor Lake Highlands, Amended Plat of Phase 3 subject to 13 conditions. Commissioner Gipe **seconded** the motion. **Aye** – Gipe and Hall. Motion carried by quorum.

**PRELIMINARY PLAT: CRYSTAL COVE ESTATES, AMENDED PLAT OF LOT 4**

Present at the July 24, 2003 9:15 A.M. Meeting were Commissioners Gipe and Hall, Planner Johna Morrison, Jane Eby of Eby and Associates, Assistant Avery, and Clerk Eggum.

Morrison reviewed the preliminary plat for Amended Plat of Lot 4 Crystal Cove filed by the David R. Engel Trust. The applicant proposes to create a two lot single family subdivision on approximately 20.6 acres. The property is located at 215/234 Lodgepole Drive near Little Bitterroot Lake off of Pleasant Valley Road west of Kalispell. Staff recommends approval of the Preliminary Plat.

Commissioner Hall made a **motion** to adopt Staff Report #FPP-03-18 as Findings of Fact. Commissioner Gipe **seconded** the motion. **Aye** – Gipe and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to approve the Preliminary Plat of Amended Plat of Lot 4 Crystal Cove subject to nine conditions. Commissioner Gipe **seconded** the motion. **Aye** – Gipe and Hall. Motion carried by quorum.

**PUBLIC HEARING: LONG ZONE CHANGE/LOWER SIDE ZONING DISTRICT**

Present at the July 24, 2003 9:30 A.M. duly advertised public hearing were Commissioners Gipe and Hall, Planning and Zoning Director Forrest Sanderson, Assistant Avery, and Clerk Eggum.

Sanderson advised that this was a request by William Long to amend a portion of the Lower Side Zoning District map from the existing AG-80, an agricultural use district to SAG-5, an agricultural use district, with a 5.0 acre minimum lot size requirement. The Flathead County Planning Board approved the request unanimously. This was a reaffirmation of a zone request previously heard.

Acting Chairman Gipe opened the public hearing to anyone wishing to speak in favor or against the request. Seeing no one in the audience, Acting Chairman Gipe closed the public hearing.

Commissioner Hall made a **motion** to adopt Staff Report FZC-03-06 as findings of fact. Commissioner Gipe **seconded** the motion. **Aye** – Gipe and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to adopt Resolution No. 957AL. Commissioner Gipe **seconded** the motion. **Aye** – Gipe and Hall. Motion carried by quorum.

**RESOLUTION NO. 957AL**

**WHEREAS**, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 24th day of July, 2003, to consider a request by William Long to change the zoning designation in a portion of the Lower Side Zoning District from AG-80 (Agricultural) to SAG-5 (Suburban Agricultural);

**WHEREAS**, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on July 10 and July 17, 2003;

**WHEREAS**, the Board of Commissioners did hear public comment on the proposed zoning change at said hearing; and

**WHEREAS**, the Board of Commissioners reviewed the recommendations of the Flathead County Planning Board regarding the proposed change in the Lower Side Zoning District.

**NOW THEREFORE, BE IT RESOLVED** that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning for a portion of the area in the Lower Side Zoning District from AG-80 to SAG-5, that area being described on Exhibit "A" hereto.

**BE IT FURTHER RESOLVED** that notice of the passage of this resolution, stating the boundaries of the portion of the Lower Side Zoning District to be changed, the general character of the proposed change in regulations for the area, that the regulations for said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication of thereof, the Board will receive written protests to the change to the Lower Side Zoning District, shall be published once a week for two weeks.

**BE IT FURTHER RESOLVED**, that written protests will be received from persons owning real property within the Lower Side Zoning District for a period of thirty (30) days after first publication of that notice, provided that, in order that only valid signatures are counted, the freeholders who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

**BE IT FURTHER RESOLVED** that if forty per cent (40%) of the freeholders within the Lower Side Zoning District protest the proposed change in said district, then the change will not be adopted.

DATED this 24<sup>th</sup> day July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: \_\_\_\_\_  
Robert W. Watne, Chairman

By: /s/Howard W. Gipe  
Howard W. Gipe, Member

By: /s/ Gary D. Hall  
Gary D. Hall, Member

ATTEST:  
Paula Robinson, Clerk

By: /s/ Vickie M. Eggum

Vickie M. Eggum, Deputy

**Exhibit A**  
**Legal Description**  
**William K. Long Zone Change**  
**Lower Side Zoning District**

The property proposed for rezoning is located approximately 700 feet west of Lower Valley Road adjacent to the Green Tree Meadows, Wild Goose Acres and Subdivision No. 118. The property contains approximately 28.54 acres.

The property is described as Tract 3, on C.O.S. 9923, Section 28, Township 28 North Range 21 West, P.M.M., Flathead County, Montana.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intention Lower Side Zoning District and authorize the Chairman to sign. Commissioner Gipe **seconded** the motion. **Aye** – Gipe and Hall. Motion carried by quorum.

**NOTICE OF PASSAGE OF RESOLUTION OF INTENTION**  
**LOWER SIDE ZONING DISTRICT**

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 957AL) on July 24, 2003, to change the zoning designation in a portion of the Lower Side Zoning District from AG-80 (Agricultural) to SAG-5 (Suburban Agricultural).

The boundaries of the area proposed to be amended from AG-80 to SAG-5 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from those designed to protect and preserve agricultural land for the performance of a wide range of agricultural functions and to control the scattered intrusion of uses not compatible with an agricultural environment, including but not limited to residential development, to regulations designed to protect and preserve agricultural land for the performance of limited agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential friction of uses will be minimized and to provide areas for estate-type residential development. The AG-80 classification has a minimum lot size of 80 acres; a change to SAG-5 would result in a minimum lot size of 5 acres.

The regulations defining the AG-80 and SAG-5 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

For thirty (30) days after the first publication of this notice, the Board of Commissioners will receive written protests to the change proposed for a portion of the Lower Side Zoning District from persons owning real property within that District whose names appear on the last completed assessment roll of Flathead County and who either are registered voters in Flathead County or execute and acknowledge their protests before a notary public.

DATED this 24<sup>th</sup> day of July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

By: /s/Howard W. Gipe, P.T.  
Robert W. Watne, Chairman

By: /s/Vickie M. Eggum  
Vickie M. Eggum, Deputy

Publish on July 29 and August 5, 2003.

**Exhibit A**  
**Legal Description**  
**William K. Long Zone Change**  
**Lower Side Zoning District**

The property proposed for rezoning is located approximately 700 feet west of Lower Valley Road adjacent to the Green Tree Meadows, Wild Goose Acres and Subdivision No. 118. The property contains approximately 28.54 acres.

The property is described as Tract 3, on C.O.S. 9923, Section 28, Township 28 North Range 21 West, P.M.M., Flathead County, Montana.

**CONTINUATION OF COS REVIEW: PORTER**

Present at the July 24, 2003 9:30 A.M. Meeting were Commissioners Gipe and Hall, Planning and Zoning Director Forrest Sanderson, Tom Sands of Sands Surveying, Inc., and Clerk Eggum.

This was a reconsideration of a tabled issued from June 11, 2003. Sanderson reviewed the chain of title.

Commissioner Hall made a **motion** to approve the COS as presented. Commissioner Gipe **seconded** the motion. **Aye** – Gipe and Hall. Motion carried by quorum.

### **CONSIDERATION OF COUNTY-WIDE WILDFIRE PLAN GRANT/OES**

Present at the July 23, 2003 9:45 A.M. Meeting were Chairman Watne, Commissioner Hall, Assistant Avery, and Clerk Eggum.

**This meeting did not take place.**

### **AWARD BIDS: CHIP SEALING/ROAD DEPARTMENT**

Present at the July 23, 2003 9:45 A.M. Meeting were Chairman Watne, Commissioner Hall, Assistant Avery, and Clerk Eggum.

**This meeting did not take place.**

**10:00 a.m. Quarterly Jail Facility Tour**

### **PUBLIC HEARING: TANNER ZONE CHANGE**

Present at the July 24, 2003 11:00 A.M. duly advertised public hearing were Commissioners Gipe and Hall, Sharon Schultz, Jean Bitter, Glen Bitter, Bill Luscher, Kate Luscher, Norm Huffman, Maxine Huffman, Bill Tanner, Planner Johna Morrison, Tom Sands and Erica Wirtala of Sands Surveying, Assistant Avery, and Clerk Eggum.

Morrison advised that this was a request by William Tanner, John and Barbara Bosted, Shirley Postelwait and Charles and Marlene Barton to change the zone from R-1 Suburban Residential use which provides for a one-acre minimum lot size to R-2 Suburban Residential use which provides for a 20,000 square foot minimum lot size. The property proposed for rezoning is located at 415 and 425 Windsor Place in Bigfork just north of the Lake Hills Addition. The area proposed for rezoning contains approximately 20 acres. The Land Use Advisory Committee voted three to three. All the criteria either meets or complies with the statutory criteria based on 76-2-205 MCA. It was seen by the Flathead County Planning Board and the vote was six to one for approval.

Acting Chairman Gipe opened the public hearing to anyone wishing to speak in favor of the zone change request.

**Wirtala** advised that she was representing Bill Tanner. I would like to point out some of the adjoining land uses to our subdivision. She referred to the map. Lands to the north are SAG-5. Windsor Place and some of the surrounding areas do still retain that R-1 designation and they are all on individual sewer and water. Lake Hills Estates is R-4 and those lots are 6,000 square feet in size. They are on Bigfork Sewer and Water. They are very tiny and very typical of the lots you find in the overall area. Eagle Bend is an RC Cluster development and those have typically the same 6,000 square foot lot size. We are proposing to go from an R-1 designation to an R-2 designation. R-1 is one acre minimum and it is typically found in the county designations and that is for properties that propose sewer, on-site septic systems and individual wells. Because this property has access to the Bigfork Water and Sewer District, a better use of the land would be to make smaller lots which would be 20,000 square feet in size which is approximately one-half acre which goes with that R-2 designation. This would be pretty much in keeping with the general overall area of residential development. The Master Plan Bigfork designated in 1990 asks that this land all be residential in character so it is possible to do this master plan amendment; residential to a residential. If we asked for a commercial or an agricultural designation on this property, that would not be compliant and we would have to do an entire master plan amendment to that. A zone change with the Bigfork Master Plan designating this as residential, is in compliance with that master plan designation.

Commissioner Hall confirmed that they would be utilizing Bigfork Sewer and Water for the proposed lots. Wirtala added that it is a state mandate to hook up to sewer and water on lots less than one acre in size. The only way to get the R-2 designation is if sewer and water is available. She noted that this wasn't spot zoning. Mr. Tanner approached several of his adjacent property owners and they joined in the zone change request. This would allow Veterans of the Foreign Wars to potentially split that property sometime in the future. There are no current or immediate plans to split, but this just gives them some investment capabilities for the future. She noted the owners of 3AA and 3AABC have no intention of splitting that land at the moment but perhaps if they would like to sell that land or future heirs of that property, it gives them a nice option. We feel that it is compatible. We feel that it is a good land use. We would like to see infill development and higher density development closer to the city limits rather than marching further and further out with the sprawl.

**Tanner** advised that he has had several years of experience in developing land and doing rezoning. One of the things that struck me with this property is its unique features. Windsor Estates overlooks both the north and the south. You can see Flathead Lake and the mountains to the north and the property in question that I am particularly talking about to this property and the other three properties are to the east of the Windsor Place properties and a lower elevation. The property drops off, plateaus then drops off again down to Highway 35. This property is almost encased in itself. It is really quite unique in the fact that as you drop off the top, it flattens out and there is a nice little cul-de-sac that is well suited for the property and then drops off again down to Highway 35. This being commercial, we feel that because the sewer and water is there it becomes a very useful use of the land to rezone it from R-1 to R-2 to take advantage of the sewer and water that is there. Windsor Drive is a private road that comes down and joins Lake Hills Drive. We are part of a Road Maintenance Agreement for Windsor Drive and will continue to be part of that agreement. We do contribute our proportionate share now. We have committed to the association that if the 16 or 17 lots are approved, we pay our proportionate share of the maintenance of that private Windsor Road. There are new lots being developed in the Crestview 80 Subdivision now. These lots are mostly R-4 lots. Some multi-family lots but most of them are R-4 lots. This provides a nice transition between the R-4 and the R-2 and to these very nice estate lots on top of the hill. The road is fairly steep and we will take particular caution to make sure that there is a safe access onto Windsor Drive. We will maintain the road and stop signs in a very professional and positive manner.

Commissioner Hall confirmed that the approach was a concern for the Commissioners because it comes onto the road at an angle.

**Tanner** advised that he has commissioned an architect to do a drawing of the front entrance to make sure the stop sign is well back so there is no interference in the traffic. In doing a survey of what is available in the Bigfork area, there are really no R-2 lots today of any nature. There are several R-1s, R-4 down in the Crestview area but there really are no lots available of this size in the Bigfork area and it fits an economic need for the area. Tanner anticipates the lots selling for somewhere definitely under \$100,000.00 and would propose selling houses in the neighborhood of \$3 to \$350,000.00. We have engaged not only Sands Surveying but Carver Engineering to assist us in the engineering aspect of this project and will definitely maintain a high level type of development and do all the things that are requested.

Hall confirmed that Tanner was proposing 17 homes in the area. Tanner responded that the present zoning calls for nine or 10 lots on the existing R-1 zoning.

No one else rising to speak, Acting Chairman Gipe asked for anyone wishing to speak in opposition to the zone change request.

**Huffman** advised that he lives Lake Hills Drive. For the last four years we have been trying to get the Highway Patrol to patrol Lake Hills Drive. The speed limit is 20 miles per hour. We succeeded in finally getting the county to put a 20 MPH speed sign on the top of the road. We have one individual at 8:12 every morning comes down that road at 50 MPH and sometimes maybe a little faster than that. The majority of the people go between 30 and 35 MPH. The area of Lake Hills is in a transition where it is changing over from the older people to the family people again because of the age of the community and it is affordable housing. It is very scary for all the kids that are playing on that road and there have been several close calls. There are two signs that say "slow children at play". Well that is ignored. The Highway Patrol keeps giving us the run around saying sure they will patrol but I am home all of the time pretty much and I have never seen a Highway Patrolman up there. They have never sat with their radar on. I have seen about four or five sheriffs in the last four years. The Highway Patrol is responsible for speeders and unless something can be done to maintain a 20 MPH speed limit on that road somebody is going to get hit one of these days and if we add a bunch more traffic to that road it is going to be more scary and more of a chance of somebody being hurt. I am opposed to this zone change. It was zoned in the beginning for a reason. Let's leave it alone.

**Luscher** advised that he lives on Windsor Drive which is directly adjacent and above where this development is proposed. He noted that this area went through a very long and hard journey getting to the zoning that currently exists. The community came up with an R-1 zoning for a good reason and that is what the majority of the community wanted at the time and I think that is what the majority of the community wants today. Most of us don't have any problem with having the area developed. It is just the number of houses that are going to go into that area that are causing many of us the problem. Not only the congestion of traffic but the safety hazards that exist there. In addition to this property emptying in, the development down on Crestview does as well. They opened up that specifically to put more traffic coming out of Crestview onto Lake Hills Drive which is a very dangerous area as has been pointed out and they needed a separate way to go out onto Highway 35 rather than coming in on Crestview Drive. This is just going to compound that problem very definitely. Somebody compared this area to Eagle Bend. That is really like comparing apples to oranges. There is a lot of undeveloped land between us and we are not developed anything near like what the Eagle Bend properties are.

**Bitter** advised that he was a resident of Windsor Drive adjacent to this property. I would echo Mr. Luscher's comments. Our numbers having been diminished now to seven or so people. I don't really understand how the concerns of our neighbors adjacent to this property whose legitimate and heartfelt concerns having been addressed at now three different meetings can be dismissed and perhaps even after today disallowed over and against what certainly must be the profit motive of one outside developer coming in with a proposal, however legal or legitimate. If this process is for the will of the people to be heard and we have tried to be heard this way, I don't understand how it is now outweighed by all of us that live in the area. Mr. Luscher correctly pointed out that those of us who bought property with the understanding that R-1 was going to be the zoning rule and find it difficult to understand how by some circumstances it is so easily switched over above the objections of everybody that lives around the area. At the first meeting which was an advisory committee meeting on May 28<sup>th</sup> we filled and spilled out of the room at the Bigfork Chamber building with our concerns. I don't know how many were there. Well over 30 people. Not everybody rising to speak. At the second meeting June 11<sup>th</sup>, the Planning Board Meeting we were there in great number too and I know that we are less knowledgeable and perhaps less articulate on the subject of zoning changes but the question remains how the proposal of one man with the curious assistance of the zoning staff which I understood was to be neutral in this process and simply advisory and supportive to articulate the proposal. We have found them to be virtually in favor of it right from the very get go. How can that outweigh the will of the people who are living in the area? That is the concern that I have on a personal basis and as I say it is probably over simplistic. This is a concern over the process. Before that first meeting at the Bigfork Advisory Committee meeting, my wife put her concerns down in letter. She called the zoning office and asked how the best way she should distribute the letter. It was suggested to her that she fax these concerns in letter form. Curiously the fax was never received prior to this meeting. My wife thought well of it to bring a copy to the meeting and at the very last minute it was copied and put before the advisory committee. I don't know if they even read it at the time but at least they had a copy. She was then promised that that very letter that she was concerned about would be passed on to the Planning Board members and to be read at that meeting. It was not. At that meeting, we heard a staff member say to a representative of our group well this is a slam dunk in favor of a developer. I found it curious. One of our number decided that they wanted to hire legal representation. That man stood up and in his presentation on behalf of this adjacent resident asked for a show of hands so that the Planning Board would be able to see how many of our number were in attendance even if they didn't rise to speak and that was disallowed with the comment well that is not the way we do things here. All he wanted to do was bring attention to the fact that a number of us were there and we wanted to be seen if not heard. It seems to me that through this process we ought to be heard. We ought to be heard with respect and I need to say I am personally disappointed because it would seem that the impression given to us was this is a slam dunk from the beginning. We have legitimate concerns and with the staff being so cooperative in the favor of the developer, it just seems like the process just didn't quite work.

**Schultz** advised that she lives on Lake Hills Drive. The people on Lake Hills Drive don't have any real concerns about the development. Our concern is the road; the traffic; the maintenance and the safety of the road. There is one way into this development and it is just getting more and more crowded all the time. I would hope that when you consider this, you really make an effort to find other means of entering and exiting those lots in that subdivision. Maybe the other property owners in the area would be willing to give an easement for a road. This is a time to consider those things before you get all the houses and all the people into the area and then you discover that there are definite problems of access. When you say Los Angeles has way more people on their roads well I would be willing to bet that Los Angeles has a lot better supervision, a lot more planning involved in the stop lighting, patrolling access and that kind of thing. If we are going to have the people, that is fine, but be ready for them before they come rather than after.

**Kate Luscher** advised that she lives on Windsor Drive. A private individual has had to draw stripes across the highway in order for people to even walk from Lake Hills Drive over to the IGA parking lot. We have no stop light there. The access is impossible. Sometimes you have to go to the right down to the next stop light into Bigfork turn around and come back to get onto the highway. The traffic is impossible. Lake Hills Drive has not been maintained. There is a water puddle in front of Sharon's house that has been there ever since we moved here 13 years ago. It has never been taken care of properly. The water sprays up. The school bus has no place to turn around except on a dead end area



which they did up until this last year when they fixed Lake Hills Drive to put the Crestview access road to go down there. This is a neglected neighborhood in the county and I think all of this has to be considered.

No one else rising to speak, Acting Chairman Gipe closed the public hearing.

Commissioner Hall advised that the fax letter was contained in the Commissioners' packets and has been read. He questioned why when Mr. Nolde asked for a show of hands in support why would that not be allowed. Morrison responded that at that point the meeting was getting out of hand. There was no order to the meeting. She advised she didn't honestly know why they wouldn't want to show hands but Mr. Nolde was quite expressive and a bit out of control and it was getting more out of control. The worse thing in the world is for a planning board meeting to get totally out of control and I think the president was concerned about keeping the meeting orderly. It is not that the people were not allowed to speak. They could get up and speak.

Commissioner Hall confirmed that the R-2 designation would be adding approximately seven more families than the original R-1 zoning. He noted that Mr. Larson did suggest a traffic study could be done. Morrison noted that Mr. Tanner did a traffic study of his own. Wirtala presented the commissioners with the findings. The numbers are from a Saturday count and from a Monday count to reflect a weekend and a week day. They were done in half hour increments on the Saturday 33 cars went by within a half an hour. If we were to take that to an engineered traffic study, those numbers don't even hit the lowest register on their scales whether or not that is a collector on an arterial. It is such a low overall volume of traffic that is traveling that roadway. The low number I think is 2000 cars an hour before they move into an arterial designation.

The Commissioners acknowledged that they had some concerns on the intersection not only where it will intersect the road but also the steepness of the approach and if it can be mitigated some the way it is built. Commissioner Hall conformed that 10 lots could still be put on the property if the zone change failed. Morrison responded that they would probably not be on Bigfork Water and Sewer because it wouldn't be feasible at that point. DEQ would accept individual septic and water on one acre lots. She noted that one acre lots on city water and sewer would be great but it is not going to happen as the cost would be astronomical.

Commissioner Gipe questioned whether there was any opportunity for a road going another way. Morrison noted that it is possible to travel out on Crestview Drive. It is not the way of choice but there is a second way out of there.

Morrison spoke to the concerns raised relative to the Planning and Zoning Office working on behalf of the developers. She confirmed that she was not. She advised that she talked to Ms. Bitter two or three times on the phone sometimes for 45 minutes explaining to her how she should go about objecting to the subdivision. What is constructive and what is not constructive. Morrison was unaware of the fax machine was not working and she could provide proof of that fact. I was glad that she did bring the letter to the Land Use Committee and those letters were in the Planning Board packets and they were in your Commissioners' packet. Morrison received a letter from a concerned citizen at the Bigfork Land Use Committee and it was handed out to all of the members. The letter was subsequently lost and already deleted from the computer by the author. Luckily somebody did have a copy and Morrison was then able to provide it to the Planning Board members as well.

Morrison advised that she did walk the road after the Bigfork Land Use Committee to address concerns that were raised. She stopped at five or six different points and walked off the width measurement of the road. For the most part, the road is in good condition which is not what was relayed at the Bigfork Land Use Committee.

Commissioner Gipe the road down below is not in good condition and is need of repair. The road narrows up above and the private road is actually better than the county road. Commissioner Hall stated that one of their major concerns is the condition of the road and access.

Tanner advised that one of the conditions of the subdivision was that we would not oppose any improvement district. We would be in favor of it. I am in favor of improving the road. Obviously it is not that economically feasible. He noted that he investigated use of other private property in the area for another road. He added that the subdivision will increase by seven families. It is not a significant increase.

Morrison prompted that these issues were subdivision related and the zone change needed to be addressed first.

Commissioner Gipe confirmed that there was nothing that would require them to be on the city sewer if it was available. Morrison responded if they the zone change is approved to an R-2 they have to be on city sewer and water. It says right in the master plan that they will hook up to city water and sewer if they go to an R-2. It is very clear in the master plan. The reason that the Top of the Mountain Estates is not on city water and sewer is because that was developed prior to water and sewer being up in that area. Morrison speculated that the area was first initially zoned R-1 because the sewer and water was not available at that time.

Commissioner Gipe expressed concern for adding anything in there on septic tanks. He noted he would rather have 17 in there on city sewer than 10 in there on septic tanks acknowledging that he still had concerns about that road and approach.

Sands advised that Carver Engineering was working on some preliminary designs now and one of those things is sewer and water availability. The road will have to dig up when the sewer is installed. This will necessitate part of this road being rebuilt as part of the construction process to get the sewer installed. When that is done, an intensive topographical survey of the site will be done so an approach can be designed that is going to work and cut that inside down and widen out the sight distances. Sands stated he was confident a design can be prepared to arrange a very safe intersection.

Commissioner Hall conclude that the neighborhood brings some compelling arguments but they can be mitigated and to weigh them out there is probably more positive to doing an R-2 than there is negative.

Commissioner Hall made a **motion** to adopt Staff Report FZC-03-26. Commissioner Gipe **seconded** the motion. **Aye** - Hall and Gipe. Motion carried by quorum.

Commissioner Hall made a **motion** to adopt Resolution No. 956AP. Commissioner Gipe **seconded** the motion. **Aye** - Gipe and Hall. Motion carried by quorum.

**RESOLUTION NO. 956AP**

**WHEREAS**, the Board of Commissioners of Flathead County, Montana, held a public hearing on the - 24th day of July, 2003, concerning a proposal by William Tanner to change the zoning designation in a portion of the Bigfork Area Zoning District from R-1 (Residential) to R-2 (Residential);

**WHEREAS**, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on July 12 and July 19, 2003;

**WHEREAS**, the Board of Commissioners did hear public comment on the proposed zoning change at said hearing; and

**WHEREAS**, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed change in the Bigfork Area Zoning District.

**NOW THEREFORE, BE IT RESOLVED** that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning designation in a portion of the Bigfork Area Zoning District from R-1 (Residential) to R-2 (Residential) that area being described on Exhibit "A" hereto.

**BE IT FURTHER RESOLVED** that notice of the passage of this resolution, stating the boundaries of the portion of the Bigfork Area Zoning District to be changed, the general character of the proposed designation for the area to be changed, that the regulations for said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication of thereof, the Board will receive written protests to the change to the Bigfork Area Zoning District, shall be published once a week for two weeks.

**BE IT FURTHER RESOLVED**, that written protests will be received from persons owning real property within the Bigfork Area Zoning District for a period of thirty (30) days after first publication of that notice, provided that, in order that only valid signatures are counted, the freeholders who file protests are either registered to vote in Flathead County or execute and acknowledge their protests before a notary public.

**BE IT FURTHER RESOLVED** that if forty per cent (40%) of the freeholders within the Bigfork Area Zoning District protest the proposed change in said district, then the change will not be adopted.

DATED this 24<sup>th</sup> day of July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: \_\_\_\_\_  
Robert W. Watne, Chairman

By: /s/ Gary D. Hall  
Gary D. Hall, Member

By: /s/Howard W. Gipe  
Howard W. Gipe, Member

ATTEST:  
Paula Robinson, Clerk

By: /s/ Vickie M. Eggum  
Vickie M. Eggum, Deputy

Exhibit A  
Tanner Zone Change, Bigfork Zoning District  
R-1 to R-2  
June 11, 2003

Tract 1: A tract of land situated, lying and being in the Northeast Quarter of the Northwest Quarter (NE1/4NW1/4) of Section 25, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana and more particularly described as follows: Beginning at the SE corner of the NE1/4NW1/4 of Section 25, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana; thence South 89°24'47" West, a distance of 85.64 feet to a point in the center of a 60 foot private road easement, said point being on a 270.00 foot radius curve concave Southwesterly, having a radial bearing of South 86°13'52" West; thence Northwesterly and along said center line through a central angle of 27°38'05" an arc length of 130.23 feet to the P.T. of said curve; thence North 31°24'13" West, and continuing along said road centerline, 130.00 feet to a point; thence North 13°34'52" East, and leaving said centerline, 42.49 feet to a found iron pin on the Northeasterly R/W of said road; thence North 56°13'40" East, a distance of 215.40 feet to the center of a corner post and being on the Easterly boundary line of the NE1/4NW1/4 of Section 25; thence South 00°28'55" East, and along the Easterly boundary line of the NE1/4NW1/4, a distance of 394.07 feet to the Place of Beginning.

Tract 2: A tract of land in the Northwest Quarter of the Northeast Quarter of Section 25, Township 27 North, Range 20 West, M.P.M., described as follows: Beginning at the Southwest corner of the NW1/4NE1/4, said Section, Township and Range; thence North along the Quarter line 400.00 feet; thence East 845.9 feet to an intersection with the West Right-of-Way line of Montana Federal Aid Highway No. 35; thence S03°18' East, along said Right-of-Way line 400.6 feet to an intersection with the South boundary line of the NW1/4NE1/4 of Section 25; thence West along the South boundary line 869.00 feet to the Point of Beginning. Recorded in Book 481, Page 417. EXCEPTING THEREFROM: A tract of land in the NW1/4NE1/4 Section 25, Township 27 North, Range 20 West, M.P.M., Flathead County, Montana, described as follows: Commencing at the Southwest corner of the NW1/4NE1/4; thence North 89°41' East a distance of 560.6 feet to the Point of Beginning of the tract to be described; thence South 89°41' West a distance of 194.4 feet to a point; thence North 22°21'26" East a distance of 335.14 feet to a point; thence South 80°17' East a distance of 123.25 feet to a point; thence South 10°43' West a distance of 293.0 feet to the Point of Beginning. ALSO EXCEPTING THEREFROM: That part of the NW1/4NE1/4 Section 25, Township 27 North, Range 20 West, M.P.M., Flathead County, Montana, described as follows: Commencing at the Southwest corner of said NW1/4NE1/4 of said Section 25; thence North 89°41' East along the South boundary a distance of 560.6 feet to the Point of

Beginning; thence North 10°43' East a distance of 340.8 feet to a point; thence North 89°41' East a distance of 217.31 feet to a point and the intersection with the Right-of-Way line of Montana Federal Aid Highway No. 35; thence South 3°18' East along said Right-of-Way line a distance of 335.00 feet to an intersection with the South boundary line of the NW1/4NE1/4 of said Section 25; thence South 89°41' West along the South boundary line a distance of 300.00 feet to the Point of Beginning.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Passage of Resolution Bigfork Area Zoning District and authorize the Chairman to sign. Commissioner Gipe **seconded** the motion. **Aye** – Gipe and Hall. Motion carried by quorum.

**NOTICE OF PASSAGE OF RESOLUTION OF INTENTION  
BIGFORK AREA ZONING DISTRICT**

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 956AP) on July 24, 2003, to change the zoning designation in a portion of the Bigfork Area Zoning District from R-1 (Residential) to R-2 (Residential).

The boundaries of the area proposed to be amended from R-1 to R-2 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from a residential district, with a minimum lot size of one acre, intended to provide estate type development, normally located in rural areas away from concentrated urban development, or in areas where it is desirable to permit only low density development, e.g., extreme topography, areas adjacent to flood plains, airport runway alignment extension, etc., to a residential district, with a minimum lot size of 20,000 square feet, intended to provide for large tract development, in suburban areas, beyond sanitary sewer and/or water lines.

The regulations defining the R-1 and R-2 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

For thirty (30) days after the first publication of this notice, the Board of Commissioners will receive written protests to the change proposed for a portion of the Bigfork Area Zoning District from persons owning real property within the Bigfork Area Zoning District whose names appear on the last completed assessment roll of Flathead County and who either are registered voters in Flathead County or execute and acknowledge their protests before a notary public.

DATED this 24<sup>th</sup> day of July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

By: /s/Howard W. Gipe, P.T.  
Robert W. Watne, Chairman

By: /s/Vickie M. Eggum  
Vickie M. Eggum, Deputy

Publish on July 29 and August 5, 2003.

Exhibit A  
Tanner Zone Change, Bigfork Zoning District  
R-1 to R-2  
June 11, 2003

Tract 1: A tract of land situated, lying and being in the Northeast Quarter of the Northwest Quarter (NE1/4NW1/4) of Section 25, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana and more particularly described as follows: Beginning at the SE corner of the NE1/4NW1/4 of Section 25, Township 27 North, Range 20 West, P.M.M., Flathead County, Montana; thence South 89°24'47" West, a distance of 85.64 feet to a point in the center of a 60 foot private road easement, said point being on a 270.00 foot radius curve concave Southwesterly, having a radial bearing of South 86°13'52" West; thence Northwesterly and along said center line through a central angle of 27°38'05" an arc length of 130.23 feet to the P.T. of said curve; thence North 31°24'13" West, and continuing along said road centerline, 130.00 feet to a point; thence North 13°34'52" East, and leaving said centerline, 42.49 feet to a found iron pin on the Northeasterly R/W of said road; thence North 56°13'40" East, a distance of 215.40 feet to the center of a corner post and being on the Easterly boundary line of the NE1/4NW1/4 of Section 25; thence South 00°28'55" East, and along the Easterly boundary line of the NE1/4NW1/4, a distance of 394.07 feet to the Place of Beginning.

Tract 2: A tract of land in the Northwest Quarter of the Northeast Quarter of Section 25, Township 27 North, Range 20 West, M.P.M., described as follows: Beginning at the Southwest corner of the NW1/4NE1/4, said Section, Township and Range; thence North along the Quarter line 400.00 feet; thence East 845.9 feet to an intersection with the West Right-of-Way line of Montana Federal Aid Highway No. 35; thence S03°18' East, along said Right-of-Way line 400.6 feet to an intersection with the South boundary line of the NW1/4NE1/4 of Section 25; thence West along the South boundary line 869.00 feet to the Point of Beginning. Recorded in Book 481, Page 417. EXCEPTING THEREFROM: A tract of land in the NW1/4NE1/4 Section 25, Township 27 North, Range 20 West, M.P.M., Flathead County, Montana, described as follows: Commencing at the Southwest corner of the NW1/4NE1/4; thence North 89°41' East a distance of 560.6 feet to the Point of Beginning of the tract to be described; thence South 89°41' West a distance of 194.4 feet to a point; thence North 22°21'26" East a distance of 335.14 feet to a point; thence South 80°17' East a distance of 123.25 feet to a point; thence South 10°43' West a distance of 293.0 feet to the Point of Beginning. ALSO EXCEPTING THEREFROM: That part of the NW1/4NE1/4 Section 25, Township 27 North, Range 20 West, M.P.M., Flathead County, Montana, described as follows: Commencing at the Southwest corner of said NW1/4NE1/4 of said Section 25; thence North 89°41' East along the South boundary a distance of 560.6 feet to the Point of Beginning; thence North 10°43' East a distance of 340.8 feet to a point; thence North 89°41' East a distance of

217.31 feet to a point and the intersection with the Right-of-Way line of Montana Federal Aid Highway No. 35; thence South 3°18' East along said Right-of-Way line a distance of 335.00 feet to an intersection with the South boundary line of the NW1/4NE1/4 of said Section 25; thence South 89°41' West along the South boundary line a distance of 300.00 feet to the Point of Beginning.

**PRELIMINARY PLAT: LAKE HILLS ESTATES**

Present at the July 24, 2003 11:00 A.M. Meeting were Commissioners Gipe and Hall, Planner Johna Morrison, Tom Sands of Sands Surveying, Assistant Avery, and Clerk Eggum.

Morrison reviewed the preliminary plat for Lake Hill Estates filed by Bill Tanner. The applicant proposes to create a 17 residential lot subdivision. The subdivision is proposed on 9.904 acres and will be served by Bigfork municipal water and sewer. The property is located in Bigfork just west of Highway 35 amongst like subdivisions, commonly known as the Lake Hills and Crestview 80 area.

Commissioner Hall made a **motion** to adopt Staff Report #FPP-03-13 as Findings of Fact. Commissioner Gipe **seconded** the motion. **Aye** – Gipe and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to approve the Preliminary Plat of Lake Hills Estates Subdivision subject to 17 conditions. Commissioner Gipe **seconded** the motion. **Aye** – Gipe and Hall. Motion carried by quorum.

**CONSIDERATION OF RESOLUTION: TREASURER TO TAKE TAX DEEDS**

Present at the July 24, 2003 11:00 A.M. Meeting were Commissioners Gipe and Hall, Assistant Avery, and Clerk Eggum.

Commissioner Hall made a **motion** to adopt Resolution No. 1633. Commissioner Gipe **seconded** the motion. **Aye** - Hall and Gipe. Motion carried by quorum.

RESOLUTION NO. 1633

WHEREAS, Flathead County assessed taxes on the properties listed on Exhibit "A" attached hereto;

WHEREAS, taxes on the properties listed on Exhibit "A" have been delinquent from between 1992 and 1998;

WHEREAS, the Flathead County Clerk and Recorder gave notice to interested parties, pursuant to Section 15-18-212, M.C.A., that a tax deed to the properties could be taken if all delinquencies were not paid on or before either June 30, 2003, or July 21, 2003; and

WHEREAS, the taxes on the property listed on Exhibit "A" attached hereto have not been paid and remain delinquent.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby directs the County Treasurer to issue a tax deed to Flathead County for each of the properties listed on Exhibit "A" hereto.

Dated this 24<sup>th</sup> day of July, 2003.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: \_\_\_\_\_  
Robert W. Watne, Chairman

By: /s/Howard W. Gipe  
Howard W. Gipe, Member

By: /s/ Gary D. Hall  
Gary D. Hall, Member

ATTEST:  
Paula Robinson, Clerk

By: /s/ Vickie M. Eggum  
Vickie M. Eggum, Deputy

Exhibit A

<u>Assessor No.</u>	<u>Description</u>
0577110	Improvement No. 300 – Tower on Big Mountain
0221250	Tract 3 in Lot 5, 22-27-19
0979047	Tract 3G in Lot 3, 30-27-21
0974312	Lot 8 (Tract in 1 <sup>st</sup> ST), Steeles Addition, Columbia Heights, 15-30-20
0977596	1/32 interest in Tract 1YP in Lot 5, 4-31-22
0923100	Tract 3A in SW4SW4, 5-29-22

0924355 Tract 1JM in SE4SE4, (60' private road) 32-30-22  
 0980251 Tract 2D in SE ¼ 28-27-24  
 0470060 Tract 2 in W2NW4, 20-26-20  
 0977555 Lot 3 S 10' of W 75', Block 256, Kal Addition 8 Resub Div 36,  
 18-28-21  
 0328981 1/32 interest in Tract 1YP in Lot 5, 4-31-22  
 0922100 Tract 3 in NW4SE4, 34-27-19  
 0976215 1/28 Interest in Tract 1-16 in Lot 3, 16-27-24  
 0983571 Tract 2CBB in NW4NW4, 35-29-21  
 0144628 Lot 1 PTN, Block 1, Lenonville 17-30-20  
 0795000 Tract 3DC in W60', SW4SE4, 18-29-21;  
 Tract 4A in W2NE4, 19-29-21  
 0977554 Portion of Lot 14, Buffalo Head Addition, 6-28-21  
 0979048 1/9 interest in Northwoods 3 Park, 20-31-21



**12:00 P.M. Commissioner Hall is to attend the Disaster Services Committee Meeting at Salvation Army Building**

**1:00 P.M. Commissioner Hall is to attend the AOA Boardwalk at United Way Conference Room, Gateway West Mall**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on July 25, 2003.

\*\*\*\*\*

**FRIDAY, JULY 25, 2003**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Watne, Commissioners Gipe and Hall, and Clerk Robinson were present.

**CONSIDERATION OF DOCUMENT FOR SIGNATURE: FLATHEAD COUNTY FIRES**

Present at the July 25, 2003 1:00 P.M. Meeting were Commissioners Gipe and Hall, Assistant Avery, and Clerk Eggum.

Commissioner Hall made a **motion** to support the letter to Bob Harrington. Commissioner Gipe **seconded** the motion. **Aye** – Gipe and Hall. Motion carried by quorum.

**Flathead County  
 Board of Commissioners  
 (406) 758-5503**

Howard W. Gipe  
 Gary D. Hall  
 Robert W. Watne

July 25, 2003

Mr. Bob Harrington, State Forester  
 Department of Natural Resources and Conservation  
 2705 Spurgin Road  
 Missoula, Montana 59804

RE: Flathead County Fires

Dear Mr. Harrington,

The Board of Flathead County Commissioners formally and respectfully requests assistance from the Department of Natural Resources and Conservation under the County Cooperative Agreement on Flathead County fires.

These fires are burning in heavy timber under extreme conditions, which are not expected to change in the extended outlook. County resources are fully committed on these uncontrolled wild land fires.

Thank you for your assistance and support in this fire suppression effort.

Sincerely,  
 BOARD OF COMMISSIONERS  
 FLATHEAD COUNTY, MONTANA

\_\_\_\_\_  
 Robert W. Watne, Chairman

/s/Howard W. Gipe  
Howard W. Gipe, Member

/s/ Gary D. Hall  
Gary D. Hall, Member

800 South Main \*\* Kalispell, Montana 59901 \*\* Fax (406) 758-5861

Commissioner Gipe reviewed the Cost Share Agreement between USDA Forest Service, Flathead National Forest and Flathead County, Montana. He advised that Deputy County Attorney Jonathan Smith and OES Director Alan Marble have reviewed and approved the agreement.

Commissioner Hall made a **motion** to approve the Cost Share Agreement. Commissioner Gipe **seconded** the motion. **Aye** – Gipe and Hall. Motion carried by quorum.

Commissioner Gipe reviewed a Unified Incident Agreement.

Commissioner Hall made a **motion** to approve the Unified Incident Agreement. Commissioner Gipe **seconded** the motion. **Aye** – Gipe and Hall. Motion carried by quorum.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on July 28, 2003.

\*\*\*\*\*