

\*\*\*\*\*

**MONDAY, OCTOBER 6, 2008**

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

**Chairman Hall opened public comment on matters within the Commissions' Jurisdiction, no one present to speak, Chairman Hall closed the public comment period.**

**COS REVIEW: RIDENOUR**

[9:15:16 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Planner Dianna Broadie, Tom Sands, Karen Ridenour, Glenn Ridenour, Clerk Kile

Broadie reviewed Certificate of Survey #10684. The applicants Glenn and Karen Ridenour are proposing to split a 20 acre parcel into 4 five acre tracts located between Addison Square and Eid Lane off Capistrano Road.

Commissioner Lauman made a **motion** to approve the COS. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**FINAL PLAT: EAGLE'S CREST VISTAS, AMENDED LOT 3**

[9:31:58 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Planner Allison Mouch, Clerk Kile

Mouch entered into record Final Plat FFP 08-40, Eagle's Crest Vistas Amended Lot 3; a 2 lot subdivision located west of Hwy 93 along Eagle's Crest, a private internal subdivision road. Preliminary plat approval was granted on January 10, 2008, subject to 18 conditions. All conditions have been met and staff recommends approval.

Commissioner Brenneman made a **motion** to approve final plat of Eagle's Crest Vistas, Amended Lot 3. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: DPHHS CONTRACT #09-07-5-31-018-0**

[9:46:55 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Clerk Kile

Commissioner Brenneman made a **motion** to approve DPHHS contract #09-07-5-31-018-0 and authorized the chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: SUBDIVISION REGULATION AMENDMENTS**

[9:54:33 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Planning & Zoning Director Jeff Harris, Clerk Kile

Commissioner Lauman made a **motion** to authorize the publication of the Notice of Public Hearing and authorized the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

NOTICE OF PUBLIC HEARING  
FLATHEAD COUNTY PROPOSED REVISED SUBDIVISION REGULATIONS

The Board of Commissioners of Flathead County, Montana, hereby gives notice, in accordance with Section 76-3-503, M.C.A., that the Board of Commissioners will hold two public hearings to consider revisions to the Flathead County Subdivision Regulations, adopted pursuant to Section 76-3-501, et seq., M.C.A.

The proposed Revised Flathead County Subdivision Regulations are available for public inspection at the Office of the Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana, and at the Flathead County Planning and Zoning Office, 1035 1st Avenue West, Kalispell, Montana. It is also available online at the Flathead County Planning and Zoning website at [http://flathead.mt.gov/planning\\_zoning/downloads.php](http://flathead.mt.gov/planning_zoning/downloads.php).

The proposed Flathead County Subdivision Regulation revisions include numerous modifications to Sections 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7 and the Appendices. The revision includes adding a new subsection guiding subdivision activities in stream riparian areas and replacing the subsection on "High or Extreme Fire Hazard Areas" with "Wildland Urban Interface".

A public hearing will be held on the 23rd day of October 2008, and a second public hearing October 30<sup>th</sup> 2008 at 6:00 o'clock, p.m., in Room 139, Flathead Valley Community College/Arts & Technology Building, 745 Grandview Drive, Kalispell, Montana. At the hearings the Board of Commissioners will give members of the public an opportunity to be heard regarding the proposed Interim Flathead County Subdivision Regulations.

Written comments are encouraged and will be reviewed by the Commissioners prior to the hearing if received by the Flathead County Commissioners' Office at least three business days prior to the hearing.

DATED this 6<sup>th</sup> day of October, 2008.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Gary D. Hall  
Gary D. Hall, Chairman

ATTEST:  
Paula Robinson, Clerk

By/s/Diana Kile  
Diana Kile, Deputy

Publish on October 9 and October 16, 2008.

**COS REVIEW: FINNEMAN**

[10:00:22 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Planning & Zoning Director Jeff Harris, Planner Dianna Broadie, Olaf Ervin, Clerk Kile

Broadie reviewed Certificate of Survey #11051. The applicants Joe and Danette Finneman are proposing to split an 8 acre parcel located west of Lakeside into 2 four acre parcels.

Commissioner Brenneman made a **motion** to approve the COS. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**MEETING W/ SUZANNE O'CONNOR & MARCIA SHEFFELS/ SUPT OF SCHOOLS RE: ADJUST SCHOOL LEVIES/ WHITEFISH AND KALISPELL**

[10:33:38 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Commissioner Joseph D. Brenneman  
Assistant Mike Pence, Superintendent of Schools Marcia Sheffels, Suzanne O'Connor, Clerk Kile

Suzanne O'Connor explained the adjustments needed to the tax levies.

Commissioner Lauman made a **motion** to approve the adjustment to the school district tax levies. Chairman Hall **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

SCHOOL DISTRICT NUMBER & NAME	GENERAL	TRANS-POR-TATION	BUS DEPRE-CIATION	TUITION	ADULT EDUC.	NON OPERA-TING	TECH-NOL-OGY	DEBT SERVICE	BLDG RES	TOTAL
1 WEST VALLEY	104.08	24.52		7.78				15.08		151.46
2 DEER PARK	83.29			6.83				6.13		96.25
3 FAIR-MONT-EGAN	126.31						2.78			129.09
4 SWAN RIVER	57.36			5.28				47.16		109.80
5 KALISPELL	94.61	16.64	2.11	4.15	0.91			11.54	11.42	141.38
6 COLUMBIA FALLS	117.38	11.26	8.70	6.55				28.11		172.00
8 WEST GLACIER	33.10	9.15						7.02		49.27
9 CRESTON	79.15	6.00		5.37					4.70	95.22
10 CAYUSE PRAIRIE	82.51	21.41					2.12			106.04
15 HELENA FLATS	116.04			10.97			3.55	52.54		183.10
20 KILA	95.74	2.12		7.07				4.99		109.92
27 PLEAS. VALLEY	60.92								19.06	79.98
29 SOMERS	58.69	14.43		3.34			0.58	13.65		90.69
38 BIGFORK	54.11	6.22		2.21				17.00		79.54
44 WHITEFISH	72.43	7.46		0.61	0.89		1.99	22.52		105.90
48 ROUSSELLE	58.69	14.43		3.34			0.58	13.65		90.69

50 EVERGREEN	124.52	3.65	0.96		0.57			12.10		141.80
54 MARION	68.71	8.22		1.97					3.00	81.90
58 OLNEY/BISSELL	86.63	19.30		10.91			3.99			120.83
68 KUHNS	86.63	19.30		10.91			3.99			120.83
89 SMITH VALLEY	97.54	1.14						34.55		133.23
5 FLATHEAD HS	50.99	10.77	0.96	0.13	0.95			25.55	7.80	97.15
6 COL. FALLS HS	45.25	5.10	4.06	1.16						55.57
38 BIGFORK HS	35.94	5.24	2.15							43.33
44 WHITEFISH HS	45.90	2.82					1.63			50.35
		<b>DEBT</b>	<b>ADULT</b>						<b>**GENERAL SCHOOLS**</b>	
	<b>GENERAL</b>	<b>SERV.</b>	<b>EDUC.</b>	<b>TOTAL</b>						
7 FVCC	8.69	5.74	1.00	15.43	ELEMENTARY GENERAL					33.00
					ELEMENTARY RETIREMENT					27.47
					HIGH SCHOOL GENERAL					22.00
					HIGH SCHOOL RETIREMENT					15.12
					TRANSPORTATION					3.43
					COMMUNITY COLLEGE RETIREMENT					3.29
					<b>TOTAL GENERAL SCHOOL MILLS:</b>					104.31

**TAX REFUND: SEICK**

10:35:38 AM

Members present:

Chairman Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Mike Pence, Clerk Kile

Chairman Hall reviewed the tax refund request submitted by Tyler Seick and noted there is no change in value to base a refund on.

Commissioner Lauman made a **motion** to deny the tax refund. Chairman Hall **seconded** the motion. **Aye** – Hall and Lauman. Motion carried by quorum.

**TAX REFUND: SAMUELSON CABINETS**

10:38:04 AM

Members present:

Chairman Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Mike Pence, Clerk Kile

Pence explained equipment was taxed twice and a refund was due.

Commissioner Lauman made a **motion** to approve a tax refund for Samuelson Cabinets. Chairman Hall **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

**PRELIMINARY PLAT: ELK TRAIL ESTATES, UNIT NO. 2**

10:45:56 AM

Members present:

Chairman Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Planner Dianna Broadie, Tom Miller, Judy Miller, Narda Wilson, Dawn Marquardt, Debbie Shoemaker, Clerk Kile

Broadie entered into record Staff Report FPP 08-16, Elk Trail Estates, Unit No. 2. She then reviewed the request submitted by Judy Miller with technical assistance from Narda Wilson for preliminary plat approval of Elk Trail Estates, Unit No. 2, a four lot residential subdivision located east of Cayuse Lane half way between Lake Blaine Road and Lake Blaine on 14.39 acres. Lots range in size between 2.3 and 6.27 acres and will be served by individual wells and septic systems.

Commissioner Lauman made a **motion** to approve the findings of fact. Chairman Hall **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

Narda Wilson, representative for the applicant stated a variance has been requested by the property owner to change the paving width from 24 feet to 20 feet, with special circumstances related to the subdivision in that the road will only be serving

six properties and will be a relatively short roadway at 660 feet resulting in very low vehicle speeds with limited traffic. She then suggested condition 21 be added to state:

The internal subdivision road shall be upgraded to county standards for paved roads with a minimum 20 foot wide travel surface and two foot wide gravel shoulders and will incorporate an approved hammerhead turnaround at its terminus. The roadway shall be constructed prior to final plat approval and shall be certified by a licensed engineer that it has been designed and constructed in accordance with the Flathead County Minimum Standards for Design and Construction.

Discussion was held relative to the Flathead County Road & Bridge standards.

Chairman Hall stated he was in favor of leaving the conditions as they were.

Commissioner Lauman made a **motion** to approve Elk Trail Estates, Unit No. 2 as written. Chairman Hall **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

#### **Standard Conditions**

1. The applicant shall receive physical addresses in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by the Address Coordinator. [Section 4.7.17(iv), Flathead County Subdivision Regulations (FCSR)]
2. The applicant shall show proof of a completed approach permit from the Flathead County Road Department indicating the approach has been built and received final inspection and final approval. [Section 4.7.17, FCSR]
3. A dust control plan shall be submitted that addresses measures to minimize construction dust and includes post-construction dust mitigation measures. [Section 4.7.14, FCSR]
4. The applicant shall comply with reasonable fire suppression and access requirements of the applicable fire district. A letter from the fire chief stating that the plat meets the requirements of the fire district shall be submitted with the application for Final Plat. [Section 4.7.27, FCSR]
5. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.26, FCSR]
6. All internal subdivision roads shall be certified by a licensed engineer, paved and constructed in accordance with the Flathead County Minimum Standards for Design and Construction. [Section 4.7.17, FCSR]
7. With the application for final plat, the applicant shall provide a Road Users' Agreement which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision. [Section 4.7.16(e), FCSR]
8. New electrical and telephone utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.24, FCSR]
9. The proposed water, wastewater treatment, and stormwater drainage systems for the subdivision shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 4.7.13, FCSR]
10. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the applicant has met their requirements shall be included with the application for final plat. [Section 4.7.29, FCSR]
11. The following statements shall be placed on the face of the final plat applicable to all lots:
  - a. Address numbers shall be posted at the commencement of construction and be clearly visible at all times thereafter. Numbers shall be placed in the driveway entrance and at any subsequent divergent points of access for shared driveways. All address numbers shall be displayed on a contrasting background using a minimum four-inch numeral height. [Section 4.7.27.c, FCSR]
  - b. All utilities shall be placed underground. [Section 4.7.24, FCSR]
  - c. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.23, FCSR]
  - d. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.26, FCSR]
  - e. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14, FCSR]

f.

#### Waiver of Protest

Participation in Special Improvement District  
[per County Resolution 503-M]

\_\_\_\_\_ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes \_\_\_\_\_ Subdivision, shown on the plat therefore, for any of the purposes related to roads, water facilities and systems, and sewer facilities and systems, set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that \_\_\_\_\_ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District, including the right to object on the basis that the property is not benefited by the Special Improvement District. \_\_\_\_\_ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs,

assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for \_\_\_\_\_ Subdivision.

12. The final plat shall comply with state surveying requirements. [Section 76-3-608(b) (i), M.C.A.]
13. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.4.27 (for major subdivisions) or Section 4.2.19 (for minor subdivisions), FCSR]
14. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.4.22 (for major subdivisions) or Section 4.2.15 (for minor subdivisions), FCSR]
15. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. [Section 4.4.20 (for major subdivisions) or Section 4.2.13 (for minor subdivisions), FCSR]

**Project-Specific Conditions**

16. The following statements shall be placed on the face of the final plat applicable to all lots:  
"Only Class A and Class B fire-rated roofing materials are allowed."
17. A road and utility easement for the legal and physical use of the northern and western section of the internal subdivision road shall be recorded on Parcels A and Parcel B of Certificate of Survey number 18325.
18. The road users agreement will include Parcels A and Parcel B of Certificate of Survey number 18325.
19. A 10 foot bike/pedestrian easement shall be shown along Cayuse Lane.
20. The applicant shall provide an appraisal of the unimproved land from a Certified General Appraiser, dated no more than six months prior to final plat application submittal, to set the baseline value of the parkland cash donation. Cash donation in the equivalent .3253 acres of the appraised land shall be made to Flathead County. Proof shall be provided that the cash donation has been paid to Flathead County at the time of final plat application. [Section 4.7.25(f), FCSR]

**MONTHLY MEETING W/ GUY FOY AND DAVID PRUNTY, ROAD DEPT.**

[11:06:39 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Mike Pence, Public Works Director David Prunty, Operations Manager Road & Bridge Dept. Guy Foy, Clerk Kile

Prunty reported a draft copy of a road maintenance plan was received from Peccia and Associates, that fall grading will start soon on oiled roads with it being the end of the dust season, district lines are being re-drawn for plowing purposes to ensure roads are plowed within a 24 to 36 hour period and discussion was held relative to work done on Holt Stage Road and a dust share control program.

**MEETING W/ DAVID BELL RE: COUNTY PROPERTY OFF GRIFFITH CREEK ROAD**

[11:35:48 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Mike Pence, Public Works Director David Prunty, Operations Manager Road & Bridge Dept. Guy Foy, David Bell, Marcia Sibley, Clerk Kile

Bell explained he is representing his brother and others that have property in the area off Griffith Creek Road in regards to obtaining legal access to properties. He then spoke of his concern of a possible confrontation with a neighbor that feels the property belongs to him.

Commissioner Lauman made a verbal commitment to meet with the Road Department to determine legal ownership of the property.

**8:30 a.m. Weed & Parks Board meeting @ Weed & Parks Office**  
**3:00 p.m. Commissioner Brenneman: Travel to Helena**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on October 7, 2008.

\*\*\*\*\*

**TUESDAY, OCTOBER 7, 2008**

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

**Chairman Hall opened public comment on matters within the Commissions' Jurisdiction, no one present to speak, Chairman Hall closed the public comment period.**

**BI-MONTHLY MEETING W/ VICKI SAXBY, I.T.**

[9:19:43 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Mike Pence, I.T. Director Vicki Saxby, Clerk Kile

Saxby reported flyers were sent to county employees letting them know about the new Intranet site. She then noted citizens can now pay their personal property taxes and apply and pay for marriage licenses on line. She further reported on the programmer projects which included Larry Johnson working on personal property and real estate tax notice processing, John Radar working on web programming for paying real estate taxes online and Mike Salter working on a total re-write of an application for Environmental Health. Saxby then said security upgrades have been made in I.T. by fireproof caulking a large crack that existed between the ceiling and the brick wall in the server room.

**CONSIDERATION OF EXTENSION: HARRIS ESTATES**

[9:33:31 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Clerk Kile

Chairman Hall noted their deadline is January 12, 2009 and they are requesting a one year extension.

Commissioner Lauman made a **motion** to approve an extension for Harris Estates. Chairman Hall **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

**MEETING W/ OLAF ERVIN/ MONTANA MAPPING ASSOCIATES RE: CONDITION #22/ THE ROCK, LOTS 1 & 2**

[9:34:33 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Planning & Zoning Director Jeff Harris, Planner Andrew Hagemeyer, Olaf Ervin, Clerk Kile

Hagemeyer reviewed condition 22 and explained the problem he is having with the Health Departments interpretation of it.

Discussion was held relative to sharing a common drain field site in which Hagemeyer agreed would meet the objective of condition 22.

Commissioner Lauman made a **motion** to amend condition 22 to state: Lot 2 and Lot 3 shall share a well. Lots 1 and 4 shall share a well. All septic drain fields shall be sited to maximize vertical separation to peak seasonal groundwater. Chairman Hall **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

**FINAL PLAT: ROSEWOOD ACRES SUBDIVISION**

[9:45:11 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Planning & Zoning Director Jeff Harris, Planner Dianna Broadie, Kirk Swanson, Marsha Swanson, Donald Pewitt, Bryan Long, Clerk Kile

Broadie entered into record Final Plat FFP 08-36, Rosewood Acres Subdivision; a subdivision creating 22 residential lots located north of Rose Crossing between Hwy 2 and Helena Flats Road. Preliminary plat approval was granted on June 22, 2006, subject to 25 conditions. All conditions have been met and staff recommends approval.

Commissioner Lauman made a **motion** to approve final plat of Rosewood Acres Subdivision. Chairman Hall **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

**MONTHLY MEETING W/ RAEANN CAMPBELL, HUMAN RESOURCE OFFICE**

[10:05:17 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:  
Commissioner Joseph D. Brenneman  
Others present:  
Assistant Mike Pence, HR Director Raeann Campbell, Clerk Kile

Campbell presented the personnel transactions for the month of August and September.

Commissioner Lauman made a **motion** to approve the personnel transactions for the month of August and September 2008. Chairman Hall **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

Campbell then reported the health insurance trust fund balance is up \$628,000 and claims are up \$305,000; with the balance at 1.8 million. She then added Liberty Northwest toured Solid Waste earlier this month where the largest work comp claim has been. Also noted was union negotiations are continuing with the Road Department.

#### **MID-YEAR POLICY VISIT W/ GREG JACKSON, MACo JPIA**

[10:15:24 AM](#)

Members present:  
Chairman Gary D. Hall  
Commissioner Dale W. Lauman  
Members absent:  
Commissioner Joseph D. Brenneman  
Others present:  
Assistant Mike Pence, HR Director Raeann Campbell, Public Works Director David Prunty, Greg Jackson, Robin Boon, Kim Thomas, Clerk Kile

Jackson reviewed the property and liability loss history for Flathead County for the last five years and explained how the Safety Risk Management Committee will proceed in developing an action plan in regards to training in order to reduce claims. He then noted they would like to have this completed by June 30, 2009 and to also have an incentive program within the property and liability program that will identify measurable subjective criteria, that if achieved credit will be received for. Jackson then recommended that specific dates for defensive driving courses be set up for employees.

Discussion was also held relative to jail standards, embezzlement problems that are on the rise and liability insurance in regards to Eagle Transit.

#### **PRELIMINARY PLAT: WHITETAIL PINES**

[11:20:34 AM](#)

Members present:  
Chairman Gary D. Hall  
Commissioner Dale W. Lauman  
Members absent:  
Commissioner Joseph D. Brenneman  
Others present:  
Assistant Planning & Zoning Director B J Grieve, Narda Wilson, Kim Skoczek, Doug Skoczek, Brian Launius, Narda Wilson, Joe Kauffman, Rob Smith, Clerk Kile

Grieve entered into record Staff Report FPP 08-09. He then reviewed the application submitted by Sundance Properties with technical assistance from Narda Wilson, Big Sky Surveying and A2Z Engineering for preliminary plat approval of Whitetail Pines; a proposal to create 45 single family residential lots on 180 acres located approximately 3 miles south of Columbia Falls in the middle of a north-south trending rectangle created by Badrock Drive on the north, Columbia Falls Stage on the west and Middle Road on the east and Trap Road on the south. The project is proposed in three phases, each of which is capable of being self supporting if future phases are not completed. Minimum lots size is 3.017 acres and maximum lot size is 6.256 acres. Phase 1 will consist of lots 1-17, phase 2 will consist of lots 18-34 and phase 3 will consist of lots 35-45. The Flathead County Planning Board voted 6-1 in denial with the primary reasons being lots size and evidence of depth to groundwater.

Commissioner Lauman made a **motion** to approve Staff Report FPP 08-09 as findings of fact. Chairman Hall **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

General discussion was held relative to ground water and density.

Narda Wilson addressed wildlife issues in regards to the lack of response from FWP, traffic flow issues, storm water management, density, ground water and location of building sites.

Discussion included proposed changes to fencing.

Doug Skoczek said that eventually as the property is developed it will all be fenced. He then asked that they be allowed to stake the corners until that time.

Joe Kaufman stated he would be setting property corners and would typically set fence posts at that time.

Condition 16 was amended to state: The homeowners' park and equestrian / pedestrian trail shall be clearly indicated on the ground with signage and future fencing in order to prevent lot owners from inadvertently restricting access to either amenity.

Condition 22 was amended to state: The applicants shall submit a copy of the final Road Users Agreement that includes specific language about the Homeowner's responsibility for maintenance of private internal roads as well as private external roads used to access the proposed subdivision across adjacent private property (Middle Road access).

Commissioner Lauman made a **motion** to adopt finding of fact 15 as amended by the Planning Board. Chairman Hall **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

Narda Wilson then asked that condition 23 and 24 be added:

Condition 23: The through road to the north between the subdivision and Badrock Drive along Garden Drive shall be eliminated and replaced by a cul-de-sac at the intersection of lots 13, 14, 16 and 17.

Condition 24: Building envelopes shall be indicated on the final plat for lots 25, 27, 30, 35, 38, 40 and 44 in a location on those lots where groundwater is more than 8 feet from the surface.

Chairman Hall noted additional language will be added to condition 3.

Condition 3: All internal subdivision roads shall be paved and certified by a licensed engineer and constructed in accordance with the Flathead County Minimum Standards for Design and Construction.

Chairman Hall made a **motion** to approve preliminary plat of Whitetail Pines subdivision with amended conditions. Commissioner Lauman **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

#### STANDARD CONDITIONS

1. The applicant shall receive physical addresses and road names in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by the Address Coordinator. [Section 4.7.17(iv), FCSR]
2. With the application for final plat, the applicant shall provide a Road Users' Agreement which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision. [Section 4.7.16(e), FCSR]
3. All internal subdivision roads shall be paved and certified by a licensed engineer and constructed in accordance with the Flathead County Minimum Standards for Design and Construction. [Section 4.7.17, FCSR]
4. Underground utilities (if placed in the road right-of-way or easement) shall be located between the roadway and the right of way or easement line to simplify location and repair of lines. These underground facilities shall be installed after the road has been brought to grade and before it is surfaced. Utility lines shall be designed by utility firms in cooperation with the subdivider, subject to all applicable laws and all rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities. At the time of final plat, letters shall be provided from the appropriate utilities stating that the lines constructed meet these requirements and any of their additional requirements. [Section 4.7.24, FCSR]
5. Utility easements shall be 10 feet wide unless otherwise specified by the utility company. These easements shall be shown on the face of the final plat. [Section 4.7.24(c), FCSR]
6. The applicant shall submit to the Flathead County Planning and Zoning Office an approved Storm Water Pollution Prevention Plan from the MT DEQ – Water Protection Bureau prior to any construction activity. [Section 4.7.13, FCSR; 75-5-101, MCA]
7. The applicant shall provide an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved and implemented. The Weed Control Plan shall be implemented prior to final plat application. The County Weed Supervisor may charge a fee to inspect the subdivision and approve the implementation. [Section 4.7.26, FCSR]
8. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the applicant has met their requirements shall be included with the application for final plat. [Section 4.7.29, FCSR]
9. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i), MCA]
10. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.4.27, FCSR]
11. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 4.4.23, FCSR]
12. The following statements shall be placed on the face of the final plat applicable to all lots:
  - i. All new subdivision roads are public access easements. All roads in the Road Users' Agreement shall be maintained by the property owners within the subdivision. The County Commission accepts no responsibility for development or maintenance of roads unless accepted by the Commission for maintenance. [Section 4.7.16(e), FCSR]
  - ii. Address numbers shall be posted at the commencement of construction and be clearly visible at all times thereafter. Numbers shall be placed in the driveway entrance and at any subsequent divergent points of access for shared driveways. All address numbers shall be displayed on a contrasting background using a minimum four-inch numeral height. [Section 4.7.27(c), FCSR]
  - iii. All utilities shall be placed underground. [Section 4.7.24, FCSR]
  - iv. Lot owners are notified they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
  - v. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed.
  - vi. No lot shall be further subdivided.
  - vii. All lot owners are required to abide by the policies set forth in the approved stormwater management plan.
  - viii. This subdivision is located in historically agricultural area and potential nuisances such as noise, dust, odors, and irregular hours of operation are commonplace. As such, the right to harvest on adjoining properties shall not be restricted as a result of the development or occupancy of this subdivision.
  - ix. Lot owners are alerted to the presence of potentially dangerous wildlife in the area and are reminded that feeding game is illegal. Lot owners are encouraged to contact the Montana Department of Fish, Wildlife, and Parks to obtain information on safely living near wildlife and minimizing habitat impact, including such things as bear proofing, pet control, and removing food sources.

Waiver of Protest  
Participation in Special Improvement District  
[per County Resolution 503-M]

x. \_\_\_\_\_ (Owner) hereby waives any and all right to protest which it may have in



regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes \_\_\_\_\_ Subdivision, shown on the plat therefore, for any of the purposes related to roads, water facilities and systems, and sewer facilities and systems, set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that \_\_\_\_\_ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District, including the right to object on the basis that the property is not benefited by the Special Improvement District. \_\_\_\_\_ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for \_\_\_\_\_ Subdivision.

#### **PROJECT SPECIFIC CONDITIONS**

13. All water, wastewater and stormwater facility plans (including a stormwater plan specific to the subject property) shall be reviewed and approved for compliance with MDEQ standards by the Flathead City/County Environmental Health Department prior to approval of final plat.
14. The applicants shall provide a school bus loading and unloading facility located and built in accordance with safety guidelines provided by the Flathead County Superintendent of School's office and an approval letter of the site and facility shall be provided by that office prior to approval of final plat.
15. All subdivision roads accessing county roads across adjacent properties shall be certified by a licensed engineer and constructed in accordance with the Flathead County Minimum Standards for Design and Construction. [Section 4.7.17, FCSR]
16. The homeowner's park and equestrian/pedestrian trail shall be clearly indicated on the ground with signage, staking and future fencing in order to prevent lot owners inadvertently restricting access to either amenity.
17. The applicants and future lot owners shall adhere to the dust control and mitigation plan that was submitted with the application for preliminary plat.
18. The applicant shall comply with reasonable fire suppression and access requirements of the Badrock Volunteer Fire District, including a 30,000 gallon tanker recharge system described in the Environmental Assessment. A letter from the fire chief stating that an agreement has been made shall be submitted with the application for Final Plat. [Section 4.7.27, FCSR]
19. The proposed subdivision shall have up to 3 years (with 1, one-year extension possible subject to Section 4.4.20 of the FCSR) to file a final plat for Phase One (Lots 1-17 and Columbia Falls Stage and Badrock Drive access roads). [Section 4.4.20, FCSR] After Phase One final plat is approved, each successive phase (Phase Two, Lots 18-34 and Middle Road access and Phase Three, Lots 35-45 and cul-de-sac road) shall have up to two years to file final plat [Section 4.4.10, FCSR]
20. Approach permits shall be secured from the Flathead County Road Department for proposed new accesses to Columbia Falls Stage Road and Middle Road, as well as modifications to traffic volume utilizing the existing Garden Drive approach to Badrock Drive.
21. The applicant shall retain as many of the original mature trees as is possible during construction of infrastructure.
22. The applicants shall submit a copy of the final Road User's Agreement that includes specific language about the Homeowner's responsibility for maintenance of private internal roads as well as private external roads used to access the proposed subdivision across adjacent private property (Middle Road access).
23. The through road to the north between the subdivision and Badrock Drive along Garden Drive shall be eliminated and replaced by a cul-de-sac at the intersection of lots 13, 14, 16 and 17.
24. Building envelopes shall be indicated on the final plat for Lots 25, 27, 30, 35, 38, 40 and 44 in a location on those lots where groundwater is more than 8 feet from the surface.

#### **CONSIDERATION OF PRINTING BIDS: HEALTH DEPT.**

[12:25:10 PM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Clerk Kile

Commissioner Lauman made a **motion** to award the print bid to North Star Printing for \$188.00 for prescription books. Chairman Hall **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

Commissioner Lauman made a **motion** to award the print bid to Insty Prints for \$159.02 for business cards. Chairman Hall **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

#### **AWARD BIDS: BUS/ EAGLE TRANSIT**

[12:27:00 PM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Dale W. Lauman

Members absent:

Commissioner Joseph D. Brenneman

Others present:

AOA Director Jim Atkinson, Clerk Kile

Atkinson reported after reviewing the bids received their recommendation is to award the bid to Davey Coach for \$112,345.00 with an additional \$4,800.00 that would extend the warranty.

Commissioner Lauman made a **motion** to award the bid for a bus to Davey Coach for \$117,145.00 to include the extended warranty. Chairman Hall **seconded** the motion. **Aye** - Hall and Lauman. Motion carried by quorum.

**4:00 p.m. Commissioner Brenneman: Interoperability Montana Project Directors meeting in Helena  
Commissioner Hall: Long Range Planning Task Force meeting @ Solid Waste District  
Conference Room**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on October 8, 2008.

\*\*\*\*\*

### **WEDNESDAY, OCTOBER 8, 2008**

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

**9:00 a.m. Commissioner Brenneman: Intrastate Mutual Aid Committee conference call  
11:00 a.m. County Attorney meeting @ Co. Attorney's Office  
12:00 p.m. Commissioner Brenneman: Speaker at Lakeside Community Club @ Vista Linda**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on October 9, 2008.

\*\*\*\*\*

### **THURSDAY, OCTOBER 9, 2008**

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

**Chairman Hall opened public comment on matters within the Commissions' Jurisdiction.**

Tammi Fisher representing Richard T. Sauerbier a landowner that lives within 150 feet of the proposed Theline Zone Change stated her client doesn't object to what the proposed use would be by Mr. Theline. She then said clearly this proposed zone change is significantly different from past uses and is not in conformance with the current uses for the area and only benefits Mr. Theline. Fisher noted his concerns that include drainage issues and density and stated for the record that until these concerns are addressed this zone change is not appropriate.

**No one else rising to speak, Chairman Hall closed the public comment period.**

#### **CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: THELINE ZONE CHANGE/ EVERGREEN & VICINITY ZONING DISTRICT**

[9:43:16 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Tammi Fisher, Richard T. Sauerbier, Clerk Kile

Commissioner Brenneman made a **motion** to adopt final Resolution 797EW. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

#### RESOLUTION NO. 797 EW

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the on the 21<sup>st</sup> day of August, 2008, to consider a proposal to change the zoning designation on property in the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) and R-2 (One Family Limited Residential) to B-2 (General Business);

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

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed change in the Evergreen and Vicinity Zoning District;

WHEREAS, based upon that recommendation and the public testimony, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 797 EV, dated August 21, 2008) to change the zoning designation from R-1 (Suburban Residential) and R-2 (One Family Limited Residential) to B-2 (General Business); and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on August 26 and September 2, 2008, and the Board of Commissioners did not receive written protests to the change from forty per cent (40%) of the freeholders.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Evergreen and Vicinity Zoning District to change the zoning designation, for the area described as the boundaries of Tracts 5, 5FA, 5F and 5H, in Section 33, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana, addressed as 84 to 108 West Reserve Drive, Kalispell, and containing 7.4 acres, from R-1 (Suburban Residential) and R-2 (One Family Limited Residential) to B-2 (General Business), as those terms are used and defined in the Flathead County Zoning Regulations.

DATED this 9<sup>th</sup> day of October, 2008.

BOARD OF COUNTY COMMISSIONERS

Flathead County, Montana

By/s/Gary D. Hall  
Gary D. Hall, Chairman

By/s/Joseph D. Brenneman  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

By/s/Dale W. Lauman  
Dale W. Lauman, Member

By/s/Diana Kile  
Diana Kile, Deputy

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ANNEXATION TO SOUTH KALISPELL VOLUNTEER FIRE DISTRICT/ HANSON**

[9:33:38 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Lauman made a **motion** to authorize the publication of the Notice of Public Hearing and authorized the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice, pursuant to Section 7-33-2126(3), M.C.A., that it will hold a public hearing to consider a petition to withdraw territory from the Smith Valley Fire District and annex it to the South Kalispell Rural Fire District, said territory being described on Exhibit A as a portion of Parcel 9 of Certificate of Survey 2694 in Section 6, Township 27 North, Range 21 West, Flathead County, Montana, Records of Flathead County, Montana; located mostly in the middle of the Foy's Canyon Road, Kalispell, approximately a 40 foot triangle on a side making it approximately .02 acres and shown on Exhibit B.

The Board of Commissioners has received a petition in writing by the owners of 100% of the privately owned lands of the area to be withdrawn and annexed, who constitute a majority of the taxpaying freeholders within that area, according to the last-completed assessment roll, asking that such area be transferred to and included in the South Kalispell Rural Fire District.

The public hearing will be held on the **28<sup>th</sup>** day of **October, 2008**, at **11:15 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed transfer and will consider whether protests by owners of 40% or more of the real property in either district and owners of property representing 40% or more of the taxable value in either district, were received.

DATED this 9<sup>th</sup> day of October, 2008.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Gary D. Hall  
Gary D. Hall, Chairman

ATTEST:  
Paula Robinson, Clerk

By/s/Diana Kile  
Diana Kile, Deputy

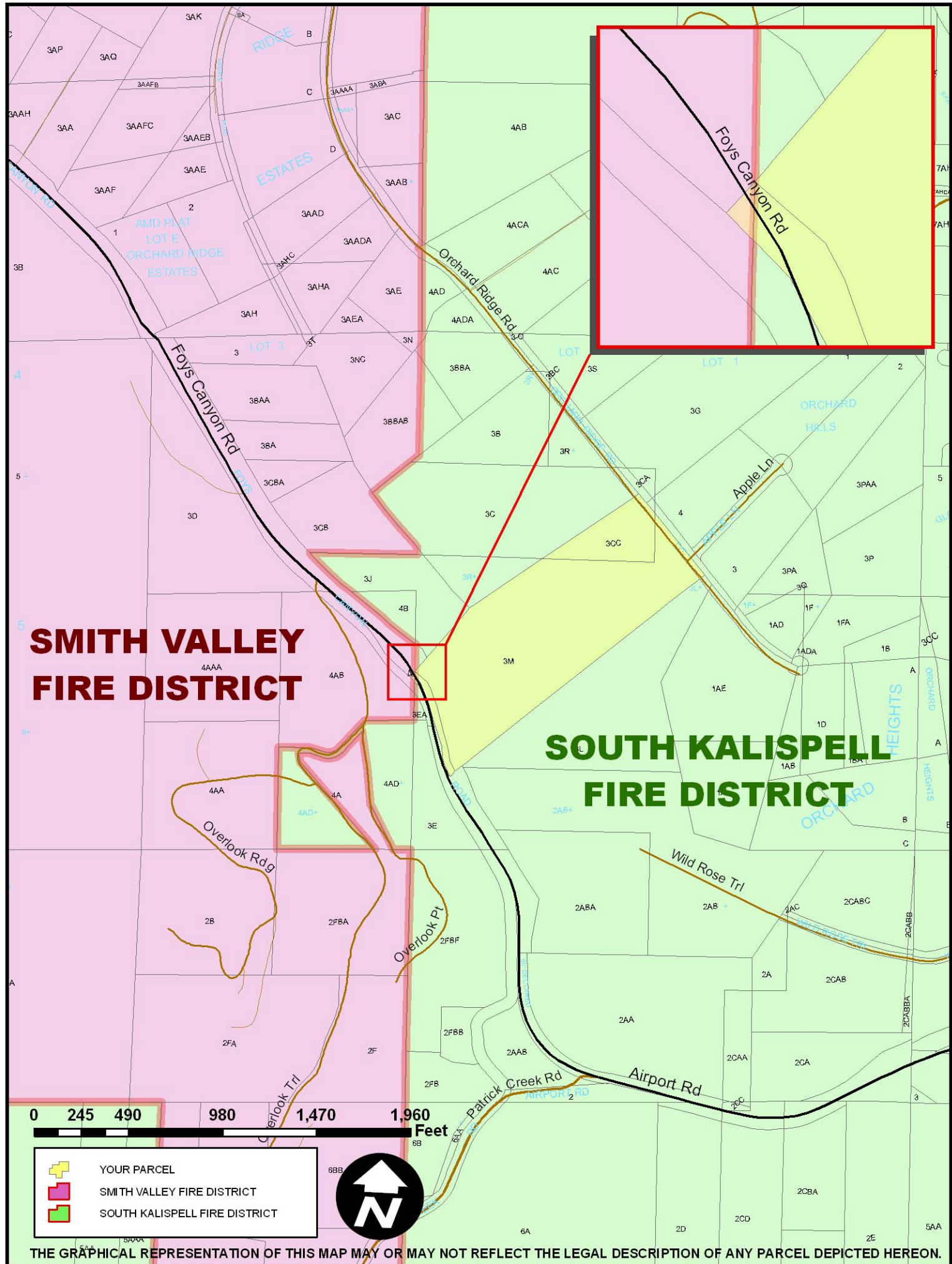
Publish on October 14 and October 21, 2008.

Exhibit A

That portion of the North ½ of Section 6, Township 27 North, Range 21 West, Flathead County, Montana, described more particularly as follows:

Commencing at the Southeast corner of the Northeast ¼, of Section 6 thence along the South line of the Northeast ¼ South 88°45'09" West 860.00 feet; thence North 76°45'18" West 298.25 feet; thence North 89°51'51" West 1039.94 feet to a point on the Easterly line of a County Road, which point is on a 1239.22 foot radius curve concave Southwesterly having a radial bearing of South 60°27'12" West; thence along the Easterly line of the County Road Northwesterly along the curve thru a central angle of 9°27'17" 204.49 feet; thence continuing along the Easterly line of the County Road the following courses: North 39°00'05" West 137.25 feet to the beginning of a 411.19 foot radius curve to the right; thence Northwesterly along the curve thru a central angle of 3°38'43" 26.16 feet to the Point of Beginning; thence continuing Northwesterly along the 411.19 foot radius curve (concave Northeasterly having a radial bearing of North 54°38'38" East) thru a central angle of 11°50'38" 85.00 feet to the beginning of a 1111.45 foot radius compound curve to the right; thence Northwesterly along the curve thru a central angle of 6°01'02" 116.72 feet; thence North 17°29'42" West 227.73 feet to the beginning of a 283.66 foot radius curve to the left; thence Northwesterly along the curve thru a central angle of 30°51'12" 152.75 feet; thence leaving the Easterly line of the County Road North 47°32'33" East 442.69 feet; thence North 53°52'19" East 1047.80 feet; thence South 40°00'00" East 535.00 feet; thence South 51°09'19" West 1648.23 feet to the Point of Beginning.

Parcel 9 on Certificate of Survey No. 2694.



**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROAD NAME/ KIENAS PINES**

9:34:10 AM

Members present:

- Chairman Gary D. Hall
- Commissioner Joseph D. Brenneman
- Commissioner Dale W. Lauman

Others present:

- Assistant Mike Pence, Sara Wilkinson, Karen Yerian, Clerk Kile

Sara Wilkinson noted multiple branches snake off into different directions on Kienas Road and re-addressing of properties is necessary.

Commissioner Brenneman made a **motion** to authorize the publication of the Notice of Public Hearing and authorized the chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **KIENAS PINE ROAD**.

**The portion of Kienas Road that is currently in question and all of Kienas Pine Road are located in the S ½ of Section 6 T28N R22W, the S ½ SE ¼ S.1 T28N R23W, the E ½ S.12 T28N R23W and in the W ½ S.7 T28N R22W ,P.M.M., Flathead County, Montana.**

The public hearing will be held on the **28<sup>th</sup> day of October, 2008, at 11:00 A.M.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed naming of **KIENAS PINE ROAD**.

This notice shall be mailed to each landowner who has access off of the proposed **KIENAS PINE ROAD**, who has an address assignment on the proposed **KIENAS PINE ROAD** or who owns property along the proposed **KIENAS PINE ROAD**.

Dated this 9<sup>th</sup> day of October, 2008.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Gary D. Hall  
Gary D. Hall, Chairman

ATTEST:  
Paula Robinson, Clerk

By/s/Diana Kile  
Diana Kile, Deputy

Publish on October 14 and October 21, 2008.

**CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: SCOPE & EXTRACTIVE INDUSTRIES/ ZONING TEXT AMENDMENT**

[9:37:06 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Assistant Planning & Zoning Director B J Grieve,  
Planner Dianna Broadie, Clerk Kile

Commissioner Lauman made a **motion** to adopt final Resolution 955GY. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

RESOLUTION NO. 955 GY

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the 18<sup>th</sup> day of August, 2008, concerning a proposal to change the text of the Flathead County Zoning Regulations;

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

WHEREAS, the Board of Commissioners reviewed the recommendation of Flathead County Planning Board regarding the proposed amendment;

WHEREAS, based upon that recommendation and the testimony of the public, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 955 GX dated August 18, 2008) to amend Section 4.10.040 of the Flathead County Zoning Regulations, setting forth the process by which conditional use permits for gravel pits are issued, by deleting the sentence thereof which requires that "When such a (development) plan is also required by the Open Cut Mining Act, the submitted plan shall have been approved by the Department of Environmental Quality," and replacing it with a sentence that states that "When such a plan is also required by the Open Cut Mining Act, the submitted plan must include all information required by the Department of Environmental Quality for such an application."; and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on August 21 and August 28, 2008, and the Board of Commissioners did not receive written protests to the change from forty percent (40%) of the freeholders.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Flathead County Zoning Regulations by amending Section 4.10.040 of the Flathead County Zoning Regulations, setting forth the process by which conditional use permits for gravel pits are issued, by deleting the sentence thereof which requires that "When such a (development) plan is also required by the Open Cut Mining Act, the submitted plan shall have been approved by the Department of Environmental Quality," and replacing it with a sentence that states that "When such a plan is also required by the Open Cut Mining Act, the submitted plan must include all information required by the Department of Environmental Quality for such an application."

DATED this 9<sup>th</sup> day of October, 2008.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Gary D. Hall  
Gary D. Hall, Chairman

By/s/Joseph D. Brenneman  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

By/s/Dale W. Lauman  
Dale W. Lauman, Member

By/s/Diana Kile  
Diana Kile, Deputy

**CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: GENERAL PROVISIONS SCOPE/ ZONING TEXT AMENDMENT**

[9:38:27 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Assistant Planning & Zoning Director B J Grieve,  
Planner Dianna Broadie, Clerk Kile

Commissioner Brenneman made a **motion** to adopt final Resolution 955GW. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

RESOLUTION NO. 955 GW

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the 18<sup>th</sup> day of August, 2008, concerning a proposal to change the text of the Flathead County Zoning Regulations;

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

WHEREAS, the Board of Commissioners reviewed the recommendation of Flathead County Planning Board regarding the proposed amendment;

WHEREAS, based upon that recommendation and the testimony of the public, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 955 GV dated August 18, 2008) to amend Section 1.04.020 of the Flathead County Zoning Regulations to state as follows:

The growth policy and neighborhood plans are not regulatory and do not confer any authority to regulate. The growth policy and neighborhood plans are intended to provide direction and guidance when consideration is given to adopting, amending and interpreting zoning regulations;  
and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on August 21 and August 28, 2008, and the Board of Commissioners did not receive written protests to the change from forty percent (40%) of the freeholders.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Flathead County Zoning Regulations by amending Section 1.04.020 of the Flathead County Zoning Regulations to state as follows:

The growth policy and neighborhood plans are not regulatory and do not confer any authority to regulate. The growth policy and neighborhood plans are intended to provide direction and guidance when consideration is given to adopting, amending and interpreting zoning regulations.

DATED this 9<sup>th</sup> day of October, 2008.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Gary D. Hall  
Gary D. Hall, Chairman

By/s/Joseph D. Brenneman  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

By/s/Dale W. Lauman  
Dale W. Lauman, Member

By/s/Diana Kile  
Diana Kile, Deputy

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: CREATION OF FISH HATCHERY ZONING DISTRICT**

[9:40:53 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Deputy County Attorney Jonathan Smith, Assistant Planning & Zoning Director B J Grieve,  
Clerk Kile

Commissioner Brenneman made a **motion** to authorize the publication of the Notice of Public Hearing for creation of the Fish Hatchery Zoning District and authorized the chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing concerning the creation of a new zoning district to be known as the "Fish Hatchery Zoning District."

The boundaries of the "Fish Hatchery Zoning District" to be created cover 132.51 acres of currently unzoned property along the shores of Flathead Lake between Somers and Lakeside and located on the east side of Highway 93, west of Flathead Lake, between the southern boundary of the Old Highway 93 Shoreline Zoning District, Spring Creek Road, on the north, and south to the Mission View Terrace subdivision. There are 107 separate parcels in the proposed district with the largest being 11.48 acres and the smallest parcel is 0.01 acres.

Adoption of the proposed district would apply the Flathead County Zoning Regulations to the property described, and would classify the property within the District as R-1 (Suburban Residential). The R-1 classification provides for a residential district to provide estate type development. These areas would normally be 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.

The regulations defining the R-1 zone are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana, at the Flathead County Planning and Zoning Office, 1035 1st Avenue West, Kalispell, Montana, and on the Flathead County Planning and Zoning Office's website, at: [http://flathead.mt.gov/downloads/documents/document\\_228\\_1213654574.pdf](http://flathead.mt.gov/downloads/documents/document_228_1213654574.pdf) Documents related to the proposed creation of the "Fish Hatchery Zoning District" are also on file for public inspection at the Office of the Clerk and Recorder and the Flathead County Planning and Zoning Office.

The public hearing will be held on the **30<sup>th</sup> day of October, 2008, at 10:00 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the creation of a new zoning district to be known as the "Fish Hatchery Zoning District."

Written comments are encouraged and will be reviewed by the Commissioners prior to the hearing if received by the Flathead County Commissioners' Office at least three business days prior to the hearing.

DATED this 9<sup>th</sup> day of October, 2008.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By/s/Gary D. Hall  
Gary D. Hall, Chairman

By/s/Joseph D. Brenneman  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

By/s/Dale W. Lauman  
Dale W. Lauman, Member

By/s/Diana Kile  
Diana Kile, Deputy

**CONSIDERATION OF HR TRANSMITTAL: DENTAL ASSISTANT/ HEALTH DEPT.**

[9:44:54 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Brenneman made a **motion** to approve the classification and HR Transmittal for a Dental Assistant at the Health Department. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**CONSIDERATION OF EXTENSION: WACHSMUTH ESTATES**

[10:07:45 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Planner Allison Mouch, Clerk Kile

Commissioner Brenneman made a **motion** to approve the extension for Wachsmuth Estates to December 8, 2009. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: MSU EXTENSION SERVICES AGREEMENT/ EXTENSION OFFICE**

[10:08:41 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Clerk Kile

Commissioner Lauman made a **motion** to approve the MSU service agreement. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**CONSIDERATION OF MAJOR LAND USE PERMIT: BRIAN KELLY/ CANYON ADVISORY LAND USE REGULATORY SYSTEM**

[10:24:48 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Planner George Smith, Clerk Kile

Smith entered into record Staff Report FCMU 08-02. The applicant is requesting a permit to construct six additional guest cabins on 68.6 plus acres with the building site on a bench at the foot of a sloping heavily forested area of the property. All access is either via Dickey Creek Road to Essex Creek Road or the pedestrian overpass connecting the Isaak Walton Inn to the southern tracts owned by the applicant.

Commissioner Brenneman made a **motion** to adopt the findings and approve the permit for major land use permit FCMU 08-02. Commissioner Lauman **seconded** the motion. **Aye** - Hall, Brenneman and Lauman. Motion carried unanimously.

**MEETING W/ SEAN FRAMPTON RE: EAGLE'S NEST HOMEOWNERS ASSOCIATION ROAD (HAYES' GATE)**

[10:30:35 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Deputy County Attorney Peter Steele, Operations Manager Road & Bridge Dept. Guy Foy, Sean Frampton, Earl Applekamp, Rick Blake, Becky Smith-Powell, Clerk Kile

Sean Frampton reviewed the circumstances surrounding the request by Mr. Hayes and Rick Black to install a gate on a county road on Forest Service land in the Big Mountain area. He then noted the road has no public utility and is only a road that leads to the Eagle's Nest Homeowners Association; it does not provide any access to lands that are not already provided by Big Mountain Road. Also noted was the Big Mountain Fire Chief wrote a letter in support of installing a gate. Frampton then presented his overview of the law.

Legal Support

1. General Duties of Board of Commissioners:

- a. (7-14-2101): Commissioners to control and manage county roads.
- b. Attorney Generals opinion provides for temporary closure under this statute when liability of the county is at issue for failing to maintain a county road in a safe condition.

2 Gate:

- a. No statute specifically prohibits you from installing a gate.
- b. Authorization for gate would fall under your general authority to control and manage county roads.

3. If discontinue:

- a. (7-14-2103): A board may discontinue or abandon county roads when fee holders properly petition. Thus, distinction between discontinue and abandon.
- b. No definition of "discontinue" in code or case law.
- c. Could mean cessation of use with intention to reclaim. Definition of abandonment is cessation of use or right-of-way with no intention to reclaim use again. (7-14-2602)
- d. Note that the restrictions on abandonment are specific to abandonment and do not apply to "discontinue (d)" use.
- e. County might be able to retain all "control" of land rather than reverting back to forest service, and would retain title to the land owned by the county.

4. If abandon,

- a. "abandon" defined as cessation of use or right of way with no intention to reclaim use again. (7-14-2602).
- b. All county roads once established must continue to be county roads until abandoned or vacated by (a) operation of law (b) judgment or (c) the order of the Board of Commissioners. (7-14-2615). [We are asking for an order of the Board].
- c. The Board may not abandon a county road or right-of-way used to provide existing legal access to public land or water unless another public road or right of way provides substantially the same access. (7-14-2615(3)).
  - i. Does not provide access to public lands. Only provides access to homes. Access to public lands is already provided for by the new Big Mountain Road.
  - ii. Also, the new Big Mountain Road provides essentially the same access. A person wanting to gain access to the lookout could park at the turnout and walk to the lookout.
- d. The Board may not abandon a county road or right-of-way used to access private land if the access benefits two or more landowners [which it does] unless all the landowners agree to the abandonment [which they have]. (7-14-2615(4)).
- e. Petitioners will agree to allow all governmental agencies access since their intention is to only prevent vehicular traffic.

Rick Blake then spoke about his concerns with vehicle accidents, the condition of the road, vehicle noise late in the evenings, partying and camping that goes on in the area. He noted their proposal was they would take over maintenance of the road if they were allowed to install a gate at the top.

Sean Frampton noted there is a liability concern not only for the county but for the private property owners as well.

Earl Applekamp stated the Forest Service chose not to make any comment until they saw what the commission proposed to do; with it being a county jurisdiction road. He then noted their position is to keep the road open with it accessing national



forest lands all along until it reaches the private property and then it switches back and accesses it again. With fuel treatment responsibilities put on the Forest Service they could anticipate needing the road and the public using it for recreation. He then spoke about a federal code in appropriations that authorizes funding from the federal highway administration that clearly states if it is going to be a public road that it must be open to public travel, which means that the road section is available except during scheduled periods which could be snow coverage or maintenance. It is available to four wheel drive standard passenger cars and open to the general public for use without restrictive gates or prohibitive signs or regulations other than restrictions based on size, weight or class. Applekamp then stated the Forest Service wants to be on record as needing and wanting to keep the road open for the public.

Chairman Hall stated if a gate was installed and they had access to it for fuels reduction that they would have access.

Earl Applekamp said for management purposes they would but not for the public; he then strongly encouraged keeping the access open to the public.

Peter Steele stated that Guy Foy and Dave Prunty went with him to look at it and feel that safety issues need to be addressed so people wouldn't drive off the steep edge onto the new road. He then said the county will put boulders there and a sign. The MDT installed chevron signs at the end of the pavement. Steele then said the commission can temporarily close a road for the purpose of repair but cannot permanently close the road unless it is abandoned, and you can't abandon a road that provides access to public lands. He then added there is nothing he has found to give authority to install a gate.

Guy Foy said they have had cases where gates have been installed and they have had to make them remove them.

Commissioner Lauman stated he understood their desire to install a gate.

Commissioner Brenneman asked if there was Forest Service land below the switchback.

Earl Applekamp said the county retained easement to the land.

Sean Frampton said the whole area is Forest Service that there is a little island of private land that is private property.

Commissioner Brenneman then said that the case cannot be made that the road would provide substantially the same access to the piece of property and in light of that they would not be authorized to abandon the road. He then said that he disagrees that we would be able to discontinue the road that discontinue and abandon are the same. Brenneman stated that he agrees boulders need to be put there to make it extremely difficult if not impossible to access the new road via the old road going down.

Chairman Hall stated the health, safety and welfare issues brought up by the landowner would be their concern.

General discussion ensued relative to abandonment and maintenance responsibilities.

#### **MONTHLY MEETING W/ JAY SCOTT, FAIRGROUNDS**

[11:11:03 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Joseph D. Brenneman  
Commissioner Dale W. Lauman

Others present:

Assistant Mike Pence, Fair Director Jay Scott, Clerk Kile

Scott reported on the events held at the Trade Center Building as well as the upcoming events that are scheduled which include a Halloween Party. Also noted was those promoting horse racing are presenting their case before the Fair Board this week.

**12:00 p.m. Commissioner Brenneman: Bigfork Steering Committee Public Forum @ Bethany Lutheran**  
**2:00 p.m. Commissioner Lauman: AOA Board meeting @ Kalispell Senior Center**  
**3:00 p.m. Commissioner Hall: Whitefish Donut Transition Team meeting @ Earl Bennett Bldg.**  
**7:30 p.m. Fair Board meeting @ Fair Office**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on October 10, 2008.

\*\*\*\*\*

#### **FRIDAY, OCTOBER 10, 2008**

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

**10:00 a.m. Commissioner Lauman: Audit Committee meeting @ Commissioners' Meeting Room**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on October 13, 2008.

\*\*\*\*\*