
MONDAY, MAY 17, 2004

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

MONTHLY MEETING W/JIM ATKINSON, AOA

Present at the May 17, 2004 9:00 A.M. Meeting were Chairman Gipe, Commissioner Hall, AOA Director Jim Atkinson, and Clerk Eisenzimer.

General discussion was held relative to Bus barn Foundation, Well Contract, Eagle Transit work hours, Gateway West Mall, Older Americans day picnic, Fundraiser, Tree cutting and signing of employee agreement.

FINAL PLAT: UPTON SUBDIVISION PHASE 2, AMENDED PLAT OF LOT 2

Present at the May 17, 2004 9:30 A.M. Meeting were Commissioners Hall and Watne, Planner BJ Grieve, Dawn Marquardt of Marquardt & Marquardt Surveying and Clerk Eisenzimer.

Grieve reviewed the application submitted by David and Kimberly Dumon with technical assistance by Marquardt & Marquardt Surveying for final plat approval of Amended Subdivision Plat of Lot 2, Upton Subdivision Phase 2, a two lot minor subdivision along Boon Road, west of Somers. The subject property is 10.07 acres in size and is located in an unzoned portion of Flathead County. Preliminary plat approval was waived on April 28, 2003, subject to eight conditions. Staff recommends approval.

Commissioner Hall made a **motion** to adopt Staff Report #FWP-04-15 as Findings of Fact. Commissioner Watne **seconded** the motion. **Aye**-Watne, Gipe and Hall. Motion carried unanimously.

Commissioner Hall made a **motion** to approve the final plat for Amended Subdivision Plat of Lot 2, Upton Subdivision Phase 2. Commissioner Watne **seconded** the motion. **Aye** – Watne, Gipe and Hall. Motion carried unanimously.

FINAL PLAT: ZEISMER'S ACRES, LOT 14, BLOCK 1

Present at the May 17, 2004 9:45 A.M. Meeting were Commissioners Hall and Watne, Planner BJ Grieve, Tom Sands of Sands Surveying, Ron Catlett, and Clerk Eisenzimer.

Grieve reviewed the application submitted by Ron Catlett with technical assistance by Sands Surveying for final plat approval of ameded plat of lot 14, Ziesmer's Acres, a two lot minor subdivision located on spring creek, approximately ½ mile south of East Reserve Drive along Maple Drive. The subject property is 1.805 acres in size and is located in an R-2 Zone of the Evergreen Zoning District. Preliminary plat approval was waived on January 21, 2004 subject to eight conditions. Staff recommends approval.

Commissioner Watne made a **motion** to adopt Staff Report #FWP-04-16 as Findings of Fact. Commissioner Hall **seconded** the motion. **Aye**-Watne, Gipe and Hall Motion carried unanimously.

Commissioner Hall made a **motion** to approve the final plat for Zeismer's Acres. Commissioner Watne **seconded** the motion. **Aye** – Watne, Gipe and Hall. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: EMPLOYEE CONTRACT

Present at the May 17, 2004 9:30 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to approve the signing of Employee Contracts for Raeann Campbell, Forest Sanderson, Charlie Johnson, Jay Scott, Jed Fisher, Jim Atkinson, Richard Stockdale. Commissioner Hall **seconded** the motion. **Aye**-Watne, Gipe and Hall. Motion carried unanimously.

10:00 a.m. The Board of Commissioners viewed roads with Charlie Johnson/Road Department

**MONDAY, MAY 17, 2004
(CONTINUED)**

PUBLIC NOTICE

The Board of Commissioners of Flathead County did this 17th day of May, 2004, approve payroll and claims for payment in the amount of \$2,441,327.69 for the period beginning April 1, 2004 and ending on April 30, 2004.

The full and complete claim list is available for public view in the Office of Clerk & Recorder, Flathead County Courthouse, Kalispell, Montana. Individual requests for personal copies will be accepted by the Clerk Recorder.

Dated this 17th day of May, 2004.

BOARD OF COMMISSIONERS
Flathead County, Montana

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

By: /s/Paula Robinson
Paula Robinson, Clerk

Publish May 20, 2004.

PUBLIC NOTICE

The Board of County Commissioners' proceedings for Flathead County for the period of April 1, 2004, and April 30, 2004, are now available for public review in the Office of the Clerk and Recorder, Flathead County Courthouse, Kalispell, Montana, and at the Flathead County Library, 247 First Avenue East, Kalispell, Montana.

Individual requests for personal copies will be accepted by the Flathead County Clerk and Recorder, Flathead County, Courthouse, Kalispell, Montana.

Dated this 17th day of May, 2004.

BOARD OF COMMISSIONERS
Flathead County, Montana

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

By: /s/Paula Robinson
Paula Robinson, Clerk

Publish May 20, 2004.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on May 18, 2004.

TUESDAY, MAY 18, 2004

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

9:00 a.m. Commissioner Hall attended Flathead On-The-Move meeting at Central School Museum

MEETING W/ INSURANCE COMMITTEE

Present at the May 18, 2004 9:15 A.M. Meeting were Chairman Gipe, Elizabeth Sherwood, Susanna O'Connor, Wendy Marquardt, Jan Leddy, Corey Pilsch, Char Terry, Jim Mohn, Raeann Campbell, and Clerk Moser.

General discussion was held relative to Prescription Plan, Flex plan limits, Flex plan card, Mammogram benefits, Diabetic testing supplies, Premium increase possibilities, Benefit fair, and Health Department charges.

MEETING W/ MARK GLUTH & DON GARNER RE: MCMANNAMY DRAW

Present at the May 18, 2004 9:30 A.M. Meeting were Chairman Gipe, Road Department Superintendent Charlie Johnson, Mark Gluth, Don Garner, Erica Wirtala, Mary Connolly, and Clerk Moser.

General discussion was held relative to Dust Control on McMannamy Draw.

MONTHLY MEETING W/JIM DUPONT, SHERIFF

THIS MEETING WAS NOT HELD.

TUESDAY, MAY 18, 2004
(CONTINUED)

MEETING W/ KIRSTEN HOLLAND/GRANT WRITER & JED FISHER/WEED, PARKS & MAINTENANCE

Present at the May 18, 2004 10:30 A.M. Meeting were Chairman Gipe, Kirsten Holland, Jed Fisher, and Clerk Moser.

Discussion was held relative to the Mosquito Petition to establish a Mosquito District; decision was made to go through MACo to work on getting legislative support to establish mosquito districts.

CONSIDERATION OF LAKESHORE PERMIT: VAUGHN

THIS MEETING WAS NOT HELD.

CONSIDERATION OF LAKESHORE PERMIT:SHABERT

THIS MEETING WAS NOT HELD.

11:00 a.m. Commissioner Hall attended Candidates for Governor Forum at the Outlaw Inn
4:00 p.m. Commissioner Hall attended FBIA meeting at First Interstate Bank
5:30 p.m. Commissioner Hall attended Jobs Now Kick-Off Campaign at Rebecca Farm

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on May 19, 2004.

WEDNESDAY, MAY 19, 2004

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

DOCUMENT FOR SIGNATURE: CONTRACT/FAIRGROUNDS PAVILION

Present at the May 19, 2004 9:00 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Fair Superintendent Jay Scott, Mike Fraser of Thomas, Dean and Hoskins, Tim Pearson of Pearson Construction and Clerk Eisenzimer.

Commissioner Hall made a **motion** to grant Pearson Construction an extension of contract period on Livestock Pavilion. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

Commissioner Watne made a **motion** award the contract for the Fairground Pavilion to Pearson Construction and authorize the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: NOTICE OF AWARD/FARM TO MARKET BIKE PATH & HELENA FLATS TRAIL

Present at the May 19, 2004 9:00 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Planning and Zoning Director Forrest Sanderson and Clerk Eisenzimer.

Sanderson presented documents for signature dated May 19, 2004 for Farm to Market Bike Path and Helena Flats Trail.

Commissioner Hall made a **motion** to approve the documents for signature for Farm to Market Bike Path and Helena Flats Trail for signature. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

CONSIDERATION OF PRINTING BIDS: HEALTH DEPT.

Present at the May 19, 2004 9:00 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to approve on behalf of the Health Department, the bid submitted by Northstar Printing for 1,000 business cards in the amount of \$60.00. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

Commissioner Hall made a **motion** to approve on behalf of the Health Department, the bid submitted by Insty Prints for 500 Business Cards in the amount of \$24.95. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

PRELIMINARY PLAT: HANGING ROCK HARBOR NO 2

Present at the May 19, 2004 9:15 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, Planner Johna Morrison, Erica Wirtala of Sands Surveying and Clerk Eisenzimer.

Morrison reviewed the application submitted by Tim Connor and Sands Surveying for preliminary plat approval of Hanging Rock harbor Subdivision, a minor cluster subdivision that will create three residential lots. The Subdivision is located just South of the sportsman bridge on the east side of the Flathead River in Bigfork. General discussion was held. Staff recommends approval.

Commissioner Hall made a **motion** to adopt Staff Report #FSR-04-18 as Findings of Fact. Commissioner Watne **seconded** the motion. **Aye**- Watne, Gipe and Hall. Motion carried by quorum.

Commissioner Watne made a **motion** to approve the preliminary plat of Hanging Rock Harbor Subdivision with 8 conditions. Commissioner Hall **seconded** the motion. **Aye**- Watne, Gipe and Hall. Motion carried unanimously.

**WEDNESDAY, MAY 19, 2004
(CONTINUED)**

CONSIDERATION OF POSITION VACANCY/OAII CLERK OF COURT

Present at the May 19, 2004 9:15 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, and Clerk Eisenzimer.

Chairman Gipe reviewed a memo from Peg Allison requesting to promote one OAII staff members to OAIII effective June 1st, and use the two week old application for posted position to hire OAII as there are several qualified applicants and it seems least expensive and the most timely option.

Commissioner Hall made a **motion** to grant Peg Allison's request. Commissioner Watne **seconded** the motion. **Aye**-Watne, Hall and Gipe. Motion carried unanimously.

CONSIDERATION OF POSITION VACANCY/LABORERS FOR FAIRGROUNDS

Present at the May 19, 2004 9:15 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, and Clerk Eisenzimer.

Chairman Gipe reviewed a memo from Fair Superintendent Jay Scott requesting permission to hire 2 laborers to return to the work May 24th so that the fairgrounds will be ready for the summer and fair activities.

Commissioner Watne made a **motion** to approve Scott's request. Commissioner Hall **seconded** the motion. **Aye** -Watne, Hall and Gipe. Motion carried unanimously.

PUBLIC HEARING: GARDNER ZONE CHANGE/EVERGREEN & VICINITY ZONING DIST

Present at the May 19, 2004 9:30 A.M. duly advertised public hearing were Chairman Gipe, Commissioners Watne and Hall, Planner BJ Grieve, Todd Gardner and Clerk Eisenzimer.

Grieve reviewed the request for consideration of an Amendment to the Evergreen Zoning District Map from existing R-2 and R-5 (a residential Use District) to B-2 (General Business District). The property proposed for rezoning is located on Montclair Drive, directly north of Kari Dodge.

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

Todd Gardner stepped to the microphone and explained that he is the applicant and added that the change will allow them to develop their property with more quality to remove the dilapidated houses that are around it and pursue development. Surrounding neighbors are in favor the zone change and the removal of dilapidated houses.

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

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

Commissioner Watne made a **motion** to adopt Resolution No. 797CR. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

RESOLUTION NO. 797CR

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 19th day of May, 2004, to consider a request by Todd Gardner to change the zoning designation on property located in the Evergreen and Vicinity Zoning District from R-2 (One Family Limited Residential) and R-5 (Two Family Residential) to B-2 (General Business);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on May 7 and May 14, 2004;

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 Evergreen and Vicinity Zoning.

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 located in the Evergreen and Vicinity Zoning District from R-2 (One Family Limited Residential) and R-5 (Two Family Residential) 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.

**WEDNESDAY, MAY 19, 2004
(CONTINUED)**

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 19th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Howard W. Gipe
Howard W. Gipe, Chairman

By/s/Robert W. Watne
Robert W. Watne, Member

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

ATTEST:
Paula Robinson, Clerk

By/s/ Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

**EXHIBIT A
TODD GARDNER
ZONE CHANGE FROM R-2 AND R-5 TO B-2**

The property proposed for rezoning is located on Montclair Drive, directly north of Kari Dodge. The property can further be described as Assessor's Tracts 12, 1, 2, and 3, Block 2 of Section 8, 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 and authorize the Chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

.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. 797CR) on May 19, 2004 to change the zoning designation on property in the Evergreen and Vicinity Zoning District from R-2 (One Family Limited Residential) and R-5 (Two Family Residential) to B-2 (General Business).

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

The proposed change would generally change the character of the zoning regulations applicable to the property from providing, on a portion of the subject project, for residential uses with minimum lot areas, requiring all public utilities and community facilities and permitting two-family dwellings, and, on the remaining property, for large tract residential development in suburban areas, beyond sanitary sewer and/or water lines, 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-2, 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, 800 South Main, 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 19th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

By/s/Howard W. Gipe
Howard W. Gipe, Chairman

By/s/ Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

Publish on May 23 and May 30, 2004.

**EXHIBIT A
TODD GARDNER
ZONE CHANGE FROM R-2 AND R-5 TO B-2**

The property proposed for rezoning is located on Montclair Drive, directly north of Kari Dodge. The property can further be described as Assessor's Tracts 12, 1, 2, and 3, Block 2 of Section 8, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana.

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PUBLIC HEARING: LAKESIDE MARINA PUD

Present at the May 19, 2004 9:45 A.M. duly advertised public hearing were Chairman Gipe, Commissioners Watne and Hall, Planner Johna Morrison, Roger Sullivan, Fran Ruby, Howard Ruby, Marceen Liehti, Bruce Young, T. Schaefer, J. T. Rasmussen, Bernie Olsen, Marc Liechti, Kathy Robertson, Denise Cofer, Larry Phillips, Jutta Phillips, Don Hines, Steve Nickol, Robert Fraser, Jerry Begg, Jerry Thornburg, Steve Wajdic, Chuck Mercord, Alethea Schaus, Joe Hoker, Linda Legh, mel Allen John Schwarz, Steve Felt, Gay Ann Caldbeck, Ron Caldbeck and Clerk Eisenzimer.

Morrison reviewed a request by Montana Eagle Development L.L.C. with Technical Assistance by Schwarz Engineering for approval of Lakeside Marina, a Marina Planned Unit Development (PUD) overlay in Lakeside on approximately 3.05 acres of land in the Lakeside Zoning District. No subdivision has been submitted with the PUD. This PUD would be developed in phases over a period of several years.

Chairman Gipe opened the public hearing to anyone wishing to speak in favor of proposed Planned Unit Development.

Marceen Liechti began, I'm a member of the community council and I'm not representing the council, but wanted to share with you some observations of the two meetings in which the PUD was presented. At the first meeting, there was an over flow crowd there was many in the audience that were anti development and in the 3 ½ years that I have followed the community council. There was only one voice of opposition or concern at that meeting. At the meeting that we approved the PUD, we had also an over flow crowd and I have never in the 3½ years seen a meeting with such a crowd end in 45 minutes. There was only one voice in opposition and that was Mr. Young and then Mr. Scott Rumsey who had concerns as a Fish Biologist. We have complete confidence that the governmental agencies are in place to make sure that the marina is going to be within good stewardship. As a Lakeside resident, we use the Lake; we share a family boat we go on and off the lake 3-5 days a week. Before we had the boat slip, we had to take our trailer on and off Highway 93 to get the boat in the lake and take the boat out of the lake and now that we do have a boat slip, we just simply go and park, take the boat out and then if there is no parking, we are able to park somewhere else and safely walk to the marina. One of the concerns is that marina is simply not big enough. Whenever we brought our boat in there was never a place to park, someone had already taken our spot that was allotted to us in visiting Lakeside. The people of the community would like to see a marina as big as possible but are confident that the governmental agencies will protect the Lake and if it needs any modification, it will be done on that high level.

Jack Rasmussen continued, I'm a resident of Lakeside and the existing marina serves a vital role to the community for both safety and convenience as was stated; but the facilities need a drastic upgrade, needs to be enlarged to accommodate the growth, evidenced by our waiting list to get in there for slips and increasing number of visitors. I think the proposal, the concept that's been proposed would be a real plus to the community of Lakeside. I'd like to see it go forward.

Bob Fraser added, I live on Flathead Lake between Somers and Lakeside. I'm a proponent of this proposal to have a marina in the Lakeside area and I'll tell you why. When I was a young man here in the 1940's and the early 50's, we had a marina at Ole Lee's boat building and Marina, we had 40-50 slips there, they were rentable to people that were not fortunate enough to live on Flathead Lake like I do. Across the bay on Somers Point was Bailey Landing, they had 30 or 40 slips there rentable for people that lived in Kalispell with no other access. In the Cherry Hills area, there was a Marina that operated until the 1980's I believe it was probably middle 80's with another 20 or 30 slips. All these are gone, Table Bay even had a marina there that you could rent a slip, none of these are there any more. We've got one of the foremost lakes west of the Mississippi and we're not able to use it because we need a marina. That's why I'm for this.

Chuck Mercord and mailing address is Somers, my physical address is Lakeside so I think I qualify. My family's been on the lake since 1895. I am interested in the Lake; it's ecology and that primarily. I'm also on the Board of Directors of the Flathead Lakers and have followed this particular issue with great interest because of the Lakers and their interest in the Lake. We were first alerted at the Lakers prior to a meeting some time ago through communication from the Fish, Wildlife & Parks. The issue at that time was an issue of not project, but process and it appeared to us at that time and there was some discrepancy between the opinion coming from the county Attorney and the Planning office and so we addressed those issues at the time and created I think a rapport between that entity which is a watchdog on the lake and that. The issue at that time was it appeared that it was going to be approved through a minor variance with maybe or maybe without a major EIS. That was all resolved between the Planning Board and at a meeting the County Commissioners and the process was for a major variance and a major EIS. I think there is some confusion in the public as to the difference between that issue and the PUD. They provide for certain things and some maybe a little different things but they are two separate processes. Now, the Lakers were satisfied with the results of those meetings and what was decided that the process to protect the Lake and also the process of allowing variances would go through a process. I'm satisfied that process is in place. Now this meeting and certain accusations again came to the Lakers last Friday after time to do any business at that particular time. So a great deal of scurrying around was done over the weekend to try to determine facts from fiction. Now, the information that came from the Fish Wildlife and parks to the executive director of the Flathead Lakers carried innuendos that there was some collusion between the developer, the engineer and the Planning Board to subvert the process and go around it at this particular meeting. I have done some research and I have contacted the Planning staff, I have talked to them since then and some other people and I find that accusation intolerable. Now I'm speaking for myself, the Lakers are interested in what happens on the Lake. Probably have been the most viable watchdog of the lake over a period of time and we are not going to approve or stay silent on any issues that are dealing with the Lake. That I think is the statement the Lakers would like to get forth. We find no violation or I do personally I've done most of the research on it, in the process as it's going forward. What I, now I'm going to speak as an individual, what I find intolerable to the context of the innuendos of the that came through the Lakers and stirred them up the point was I don't believe has any basis in the accusation that the Planning staff, the Developer and the Engineering staff were in collusion to do that. I find that totally inaccurate unless my research has failed in some point and I am personally becoming suspect of the information that I'm getting from some of these other entities and I'm just not sure that of the validity of it and I guess before the process is stopped or delayed or by whatever process is being attempted that you got to attack the process not just because of personal agendas.

John Schwarz My address is 18269 East Lakeshore Route Bigfork, Montana. I speak to you today as a resident. I don't know if I've ever come to this part of the public hearing. I'll leave the responsibility of the applicant and the engineer to Marc and Trevor. I'd like to speak to you as a resident on Flathead Lake and Flathead Lake is definitely an asset to this community. It's a phenomenal asset to this community and part of the process in going through this is to look at how this process will affect the navigation of the Lake. There maybe a presentation from the conflict industry that this will adversely affect the navigation of the Lake and to the best of my knowledge we haven't floated logs down that Lake in quite a few years. The navigation on that lake that is viable is people that live around the lake accessing various communities on the Lake and what they do is they get in a

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boat and they may go down to Yellow Bay, they may go down to Polson, they may go down to Lakeside, they may go down to Bigfork, and it's a very valuable level of commerce for the Lake and I think it's valuable for Lakeside. As a person who has a residency or a place in Bigfork, I'd like to see that maintained and I'd like to see you approve this and I think it will be an asset to the Lake and I think it will be a benefit to navigation to the Lake and a benefit to the Lake itself and the environment of the Lake so I ask you to approve it.

Mel Allen 107 Spoklie Drive Lakeside, the issue that I want to address singularly is watching boats trailers back off of Highway 93 into a launch because they can't get boat docks, I watched on two occasions traffic jams caused on 93 as people try and do that. When we have people that can put their boats in a marina and leave them in there and they can park adequately across the street and walk to their boat and not have an adverse trip to bring their coolers, picnics or rod and reels I think we're going to have a safer environment for our traffic and I support the marina project.

Marc Liehti - I'm with Schwartz engineering, I'm the engineer that has worked with the Developer, with Montana Eagle Development to design and layout the PUD concept. At this point because of the time, I would like to stay here afterwards or if you have any questions to answer any of those questions as a Lakeside resident also, I'd like to point out some of the issues that were brought up. I guess access, and having boat slips available is very important for Lakeside. We have seen it since we lived there, it's only growing and as you heard, marinas are getting less and less so I would hope that you will support this project.

Trevor Schaefer presented his letter:

To Whom it May concern:

My name is Trevor Schaefer and I along with my three partners make up Montana Eagle Development. I wanted to address you today and give you our plan for the revitalization of Lakeside Marina complex.

First I want to thank the commissioners and the planning staff for the work they have put in helping us develop what we feel is the biggest single improvement ever to the accessibility and sustainability of Flathead Lake. Next I want to thank Bruce Young, Fish and Wildlife and the rest of the loyal opposition for communicating their deep felt beliefs that the lake must be protected at all costs, we could not agree more. And lastly I want to thank the community of Lakeside and all the folks all around the valley for their overwhelming support of the project. When we began this process over a year ago we knew that without overwhelming public support we had no chance of success, and frankly, if the community did not want the project we did not want to invest our time and money into it.

A project that affects Flathead Lake rightly inspires strong feeling and lots of emotion from all those that value this priceless natural resource. I wanted to address with fact some of the issues that have become emotional in the last few months. The purpose of this PUD was to address two issues at the dilapidated Lakeside marina facility that could not be accomplished via grandfathering. The first issue was to improve public access to the lake for pedestrians and for the boating public. The second was the rebuilding of the existing facilities. Since everyone involved agrees that the facilities are in desperate need of reconstruction, the only point of discussion was the size and shape of the docks and the support facilities required to maintain them.

If you consider the plight of the boat owners around Flathead Lake you realize they are limited to four options; don't use your boat, build you own dock, use the public boat launches and lastly put your boat in a marina. If you dismiss the first two options as being unreasonable you are left with public launches and marinas. We know that a marina is the best option but unfortunately boat slips are in a very short supply, and the situation is getting worse.

From the onset we wanted to address the current undersupply of boat slips on Flathead Lake and the future compounding of this problem in the face of ongoing development. We felt that satisfying current demand as well as growth of 25% was reasonable. This number along with fourteen slips for the transient public and sufficient slips for rental operations lead us to the proposed marina configuration of 500 x 380 feet.

The first issue we had to address was parking for the additional boaters; we did this via the purchase of two additional commercial properties in Lakeside, one directly across the street from the marina. What this allows us to do is relieve pressure on the public boat launch that is such a safety hazard due to it's proximity to Highway 93. If the boaters in our marina used their boats only ten times a year, the fact that they don't have to load and unload their boats to enjoy the lake reduces the number of dangerous trips into and out of the boat launch ramp by over four thousand in a single season. We feel this improvement in public safety alone justifies the project, when you combine it with the dramatic reduction in the amount of vehicle pollution the lake is subjected to it makes the project a must do.

The second and final issue we had to balance with the needs of the public and our desire to reduce traffic into and out of the public boat launch was the additional intrusion into the lake. Clearly if we put in enough boat slips to satisfy everyone the proposed marina would be many times its planned size. Because we don't feel that is reasonable we searched for a compromise that met the demand without unduly encroaching into the lake. We found the solution in the lake's natural layout and designed the marina to fit with in the natural cove at Lakeside. We were pleasantly surprised to find that the majority of our neighbors actually were glad that the proposed dock provided some protection to the swimming beach. Additionally we have provided a much larger area for the public to tie up when launching their boats from the ramp. We were able to accomplish all this while decreasing the total navigable area of the lake by less than 22/1000 of 1%.

In short we feel that this project, as submitted is the best it can be and when completed will exceed our own very high expectations. It will simultaneously increase public access to the lake and the boating public's access to the town of Lakeside. It will enhance public safety while improving the overall water quality of the lake. It will help protect the swimming beach while providing a revenue stream for the West shore. And we believe wholeheartedly that if we are allowed to complete this project that it will be a source of pride for the town of Lakeside, ourselves, our families and everyone who values the beautiful Flathead Lake.

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For these reasons we are asking the commissioners to approve our project.

Ron Caldbeck - I'm at 940 Kienas Road, Kalispell, Montana. I've had the opportunity of running the marina for the last seven years and the first year I got there it was pretty dilapidated so we've made it nicer and as we've made it nicer, we've had more and more requests in order to put boats in. After the first year we had to start a waiting list for people coming in to the marina in order to put their boats in and be able to stay there. At current date we have 30 plus people on a waiting list waiting to get parking spot on the Lake. Now, everybody in here is probably business owners and you advertise in order to get more business. I haven't advertised since the first year I was there. I advertised one time we filled up and it's just gotten more and more since then. For gas on the Lake, there's about 5 different places on the Lake, the marina at Lakeside is one of the places that you can get fuel. In the past talking to the old guys there was 30 or 40. I've got a note that there was over 10 different places that have shut down in the past twenty or thirty years which we've already heard from another person. So this is reducing the amount of people that can get on the Lake. For motorized boats, there's only a few places available to get on the lake to get on and off as a marina. The sailing, there's more places for sail boats but not as many for motorized and with the location of Lakeside and as close to Kalispell as it is, it would be a lot more handy for the people from Kalispell to come down and of course I'm getting calls everyday, we put them down or we put them on our list. We like the idea of the marina as long as they address the issues that we talked about, the safety issues getting on and off, it gets very busy during the summer and as long as those things are taken care of which I think the planning people and the owners that are putting it together have done a real good job so far and continue on with it, we'll have a lot nicer area there and a lot more access. It's access for the public is what we're looking for and as long as we get that the Lake is going to be a lot more enjoyable and I think a lot nicer.

Jerry Thornburg - I reside at 233 Political Hill, I'm a two year resident there and I'm in full favor of it and I encourage the Commissioners to support the project.

Chairman Gipe addressed all in attendance that the Board of Commissioners was presented with a petition of support with 31 signatures, 28 of which are Lakeside and Somers residents.

No one else rising to speak, Chairman Gipe asked for anyone wishing to speak in opposition to Planned Unit Development for Lakeside Marina.

Bruce Young - I'm a resident of Lakeside, a business owner on the highway frontage down there and a former community council member for about 5 years in Lakeside. I would like to address you concerning the marina plan and the docks. I speak not in opposition to allowing Mr. Schaefer and his good people to develop the marina property to the current length that it is. I would like to tell you though at the Lakeside community council meeting as well as the planning board meeting there was very little information available to those of us that were trying to comment on this project. I think you've seen that in other letters you've probably seen it in the letter from the Fish and Game from maybe the biological station and others there. There wasn't enough information to comment. There was more opposition in Lakeside than was referenced. There was a large meeting, not much room, some of us smashed to get in, I sat on the floor. The issues are highway safety. The issues are navigation, free navigation on Flathead Lake and not to be interfered with. The issues are public safety on the water and around those docks. The issues are linked. The issues are regulations that are in place already. It's a little hard to conceive when you have regulations in place that allow for a 100 foot dock for a new marina that someone would apply for a 500 foot dock and use the variance process to do their application. We don't have regulations that allow for 500 foot docks right now and so that's been in force for about 20 years. Shoreline regulations were written by good people who came together and said Flathead Lake is a very special place, it's rare, we have an obligation to see that we don't demean the quality of the lake in any way aesthetically, safety wise or otherwise. Those regulations have been in force for over twenty years and it seems like many of those that we're looking at are being bypassed or ignored. You all are being asked to sign a blank check with the details to be filled in later. It doesn't make sense to me that that's how this community should plan itself. I think all the cards should be on the table, all the information should be on the table. There should be well rounded discussions about it and then we should move forth. So I think you place yourself in a position by approving this to be in lawsuit a couple of different ways. If you are willing to table this until such time as you have all of the pertinent information then I think we all could have a well rounded discussion and really consider the issues to bear here, not just the concepts. In reference to thinking that the little boat slip that belongs to the public next door to the marina project is going to have a lot less use because you've allowed something to go 500 feet out into Flathead Lake which is a precedent we've never seen. I think is false. A lot of people that have boats can't afford to have a marina slip and a lot of people that have boats don't want a marina slip because they like to go to different lakes with their boats and they do so. They boat their lakes, they travel their boats around on trailers and go to Hungry Horse and go to other lakes. I personally suggest that this is way too much on that little tiny piece of property, an acre and a half of land out of the water. Right now in the summer time and I've been there all my life, on a busy day on a weekend you can not park in that parking lot and there's currently 56 boat slips. So, if you look at the photos, look at the maps you can see that the impression of this is just a little piece of lake but it's also a precedent that is not allowed in Lake County, it is not allowed in Lake Tahoe or any other lakes. I invite you to have all of the information before you should sign a blank check.

Howard Ruby I've lived on the lake a lot of years and I think that you gentlemen should look at the regulations the way they're written right now before you make a decision on this issue. The Fish and Game has a no wait fee for navigation right now at 200 feet which is right in the navigational barrier to put this dock that for out into the water. I just wish that you people would look at the regulations before you go any further with this.

Roger Sullivan - I'm an attorney in Kalispell, my law office is across the street and I'm here this morning representing the Flathead Lake Protection Association. I have submitted extensive comments into the record in the form of a letter that I've filed of record and circulated to the Commissioners. I think we've made a courtesy copy available to the applicant and I have several additional copies should anyone else wish to get one. What I have attempted to do here is focus on the legal standards that are applicable to the review of the marina PUD which includes the largest proposed lake marina in Montana. In doing so I think that in keeping mind what standards apply, I think it will inform you in terms of the process that can be followed here so that not only the proper process is followed but that in fact, an informed decision will be reached that will be in the best interest of the public and I would start by saying that the PUD overlay that is proposed is a zoning decision and as a zoning decision as an amendment to the Lakeside Zoning District, it requires review according to the 12 statutory criteria. You'll recall earlier this morning you heard one of the staff planners indicate that a zoning change requires review according to those mandatory criteria, that's well established in Montana law and it would be a fatal defect for you to review this significant PUD proposal outside of the context of the statutory criteria. Those same criteria by the way are incorporated into Flathead County's Zoning regulations as I point out in my submission to you. Although for instance the proposal that you are reviewing for a zone change in Evergreen this morning were reviewed according to those 12 mandatory criteria in contrast, this significant PUD

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proposal has not been reviewed according to those mandatory criteria. One of those criteria, in fact the first primary criteria is whether or not the proposal conforms to the Flathead County Master Plan. I have taken some length to point out that there are significant deviations in this proposal from the Flathead County master Plan which has a very significant section. Chapter 3 on Lakeshore Protection and the Lakeshore Protection provision of the Flathead County Master Plan called for vigilant enforcement of the Lakeshore Protection Regulations in our land use decisions. That's why in addition the Flathead County significantly the Flathead County Zoning Regulations which I also cite therein recognized that in making zoning decisions, the lakeshore regulations are a significant component of that analysis. So, what I attempt to do there is I bring to the Commissioner's attention a number of the mandatory criteria and demonstrate how as presently proposed, this proposal does not meet the mandatory criteria in ways from noncompliance to the master plan to a more detailed component such as parking. The development standards for the underlying zoning district apply when you're dealing with a marina PUD. That's explicitly stated in your regulations. In and what's significant there then is you've got to go to the Lakeside District Regulations development regulations in order to determine then what can be done with this PUD. I will give you several examples for instance, this PUD is required to have onsite parking and similarly the setback requirements in terms of the development standards for this zoning district require as stated in your regulations variously 20 and 10 foot set back requirements. Now, the problem that is throughout the documentation that is of record to date is really a failure of information. As a number of commenters have indicated on the record, there is inadequate information to really evaluate the proposal, the marina component, the lake component of this proposal. And that is why it makes both legal and common sense to do the lakeshore Protection act and review process prior to the commission making a decision of whether or not to approve this PUD. Inherent in this PUD of course is the marina and so integral to it and so since that's the case, before you make the determination as to whether to review it, I think it makes good sense, good public policy to put the horse before the cart. There were a few comments that were made that I'd like to respond to. The planning staff indicated that it was only the concept of the dockage that was being approved by you this morning. The staff member read from the findings of fact in the staff report which are proposed as the findings of fact to be adopted in this proceeding. I would point out that what those findings of fact indicate is and I'm quoting from page 6 of the Lakeside Marina Staff Report, it's the finding of fact on the bottom entitled dockage. Only the concept of the dockage length and breakwater are approved through this Marina PUD process, now it may be that that's being withdrawn and I would want to clarify that. It may be that to some extent although there are a number of defects that we believe are inherent in this PUD process that I've really tried to detail in my letter, there may also be the possibility for narrowing the nature and extent of the problems inherent in this PUD process and if it's the case that the length and the breakwaters are not being approved through this PUD process, then I think that that clarification should be made. Similarly there's an additional clarification that's raised by staff comments to you. And that is is that there are 22 conditions of approval that were referenced. I have and denominated as Exhibit A recommended conditions of approval, April 14, 2004 and there are in fact 22 of those proposed conditions. I would not that in the staff report there are denominated some 23 typed conditions and the 23rd condition is significant because it goes to the heart of the jurisdiction over who can make the decision as to whether to encumber the surface waters and the subsurface waters of Flathead Lake below the low water mark and of course that's the State of Montana because those waters and the beds are held in trust for the public use and therefore the jurisdiction in this instance with the Department of Natural Resources and Conservation. I'm not entirely sure about this and perhaps staff can clarify that it appears based on the documents I have and the fact that there's 22 conditions that are proposed, that condition of approval number 23 was deleted. That was submitted by the Department of Natural Resources and Conservation to recognize the jurisdictional issue here and it states the legal siding of the marina on the bed of navigable waters and state lands shall be reviewed and approved by department of natural Resources prior to final plat. The applicant shall consult with DNRC and comply with all applicable laws; policy, rules and regulations relating to the siting of structures in, over, upon or across the beds of navigable waters documents showing all concerns conditions and legal authorization from the DNRC must be submitted. So I think that I'm not entirely sure what happened with the particular paragraph but it does go to the issue of jurisdiction and I think that another significant review process that is occurring that is necessarily occurring with this project is the review by the Montana Department of Natural Resources and Conservation as to whether or not this proposal is in the public interest that would be accomplished through in compliance with the Montana Environmental Policy Act which would allow for the development of the information necessary for the decision maker to make an informed decision as to whether or not this marina, Lakeside Marina should be proposed and it would also provide the basis for the public to make informed comments and to participate in this important process in a meaningful way. Thank you for the opportunity to address you this morning and as I indicated my more extensive comments are addressed in my letter.

Jerry Begg I'm a resident of Kalispell, our family has property in Mission View, South Eighty and also in Somers and I'm familiar with Flathead Lake having enjoyed it over the years. I'm not at all in opposition to a marina that is open to the public and I think it's one of the things that the local people here have lost opportunities for access on Flathead so I hope the developers can address and take the comments to heart that appear to be problems for those of us that see problems and again, I'm not in opposition to the concept of a Marina. Three issues that I've seen in thinking about this and there's been more information generated today, parking, precedent and privatization. The parking issue and while I hope it has been addressed across the street, If you're trying to walk across the street say from Burrheads to go back to the marina you've got 40 or 50 cars going north and in certain times of the year 40 or 50 going south. That's, I mean it's really critical so in thinking about the parking issue and in how people will get to and from the marina back and forth across the highway and especially children, it's very difficult for adults to gauge how fast people are coming and for kids who aren't paying any attention, that's a critical issue and I'm surprised that more of the members of Lakeside community because their schools and parents and have raised this with the speed of the traffic and the trucks and things going through there so that to me is really critical and there's nobody here that wants people to be hurt in that so that to me is really a big issue. The issue of precedent, if these folks are granted say a 500 foot extension by you gentlemen at this time, maybe the Montana Grill will want a 500 foot extension or maybe the Averill's over in Flathead Lake Lodge or maybe somebody in Bigfork so the issue of precedent and maybe it's good, maybe we can have more marinas on that but you will be setting a precedent and other people can certainly look at that and come in here as developers and that to me is very critical. The other thing is privatization. If we're all here for this reason and those that support this marina and the marina gets built, and then all of a sudden it turns into an Eagle Bend, I wonder how many people would have changed their thought process in supporting this so I hope it can be worked out. I hope that it will be. I had one other question and Johna might address that is that I understood that the highway setback from the right of way superceded what the county was and maybe at some point in time whether that's true or not, I was under that understanding that there was a greater setback by the Highway Department and obviously as I understand it, you gentlemen can not change that.

Fran Ruby I live at 85 Spring Creek Road in Somers Montana and where I reside is within the confines of the lakeside Council. I represent Flathead Lake Protection Association as Secretary Treasurer and I've been in that organization since 1984 at it's conception and we are a small organization that does have active membership who are a watchdog for the west shore of Flathead Lake We're concerned about the size of the marina. We applaud the developers for what they're doing and we love the concept of fixing up the marina. It's just a wonderful project and thank you for doing that. I'm concerned about the size and I'm pleading with you Mr. Hall, Mr. Gipe, and Mr. Win to please take into consideration the size of this concept marina. It's

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important to Flathead Lake, I've lived on Flathead Lake a long time and our organizations concern is for Flathead Lake and I hope that more people who are here will really be concerned about the lake. That's the issue you as commissioners have to be concerned with. I'm pleading with you to take that into consideration and I appreciate that time and the effort that everyone has put into this.

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

Chairman Gipe questioned Trevor Schaefer, one of the major issues is parking. Trevor Schaefer addressed all in attendance to parking, we were given a condition by the planning board, a minimum requirement I believe is 193 boat slips. We asked whether or not that was allowed to be onsite and offsite and we were told that it was. We had a lot of discussion with the community about our first property that we acquired which was down just right next to Sliters about how we were going to get people back and forth and again, Bruce Young brought up a great point. What happens if you run the shuttle bus back and forth, what happens to the guy that comes back at 10:00 at night with his family and you know maybe he had a beer or two on the lake or something and he's got to go across the street and is there a shuttle and all that and we took that to heart and we went and found the best possible commercial site available in lakeside and that is directly across the street from the marina. It has a 20foot access right of way directly to Highway 93 and it is the best possible scenario as far as parking. We have been told that we need to talk to the MDOT. We've also been told by the members of Lakeside that although they want traffic slowed, their desire is not to stop trucks at the bottom of the hill and start them back up so what we're pleading with them for and how we'd like to resolve it is much like they have down Lakeside Boulevard, a flashing yellow light and a crosswalk that would kind of alert drivers that we're going to have a high stream of people walking back and forth. We feel it's a reasonable solution because it is the best possible commercial property and at some point, everybody that lives on the other side of Highway 93 to get to the lake has to cross at some point so we have to remember that regardless, people are going to come across the street. They're either going to do it to park their trailers and drop off their boats or they're going to go to a nice controlled parking area, come through a known easement, a flashing light hopefully if the MDOT will give it to us and then into our marina, so I think we.. It's a condition of approval, we had to get the boat slips into something that we think we've done absolutely the best that we can and we'd also like to make those slips available on a conditional kind of a first come first serve usage for the people that use the public boat slip. When the public boat launch because if you've seen it down there in the summer, there's just no where to park so as you put your boat in, you've got your trailer, they end up on the side of the road creating even more of a bottleneck so that's a bigger problem we think that maybe the secondary lot down by Sliters would be more appropriate for people with trailers because the people in our marina won't need a trailer because their boat will already be in there so we think we're not just solving the problem that we're kind of creating by getting more slips, we're actually helping in the existing problem with our parking solution.

Commissioner Hall questioned Mr. Schaefer about the street lights that are being put in.

Mr. Schaefer advised that they are street lights alongside the road and not stop lights going across the street.

Commissioner Hall questioned Morrison as to condition 23. Morrison answered that she sat down with DNRC and we came up with the condition that she proposed to the planning board and they demolished it. What they did was they added it to condition number 3 and basically what it says is, developer shall comply with all MDEQ and DNRC regulations. That's how the planning board wanted it written. I did propose it as the DNRC wanted it but the Planning board struck it.

Commissioner Hall, the other question I had though for you is on the setback. Morrison answered the setback from the highway. I wasn't really sure what Jerry was talking about but I'll try anyhow. The setbacks are imposed by zoning, any setbacks. The highway department of course has their right of way where no buildings can be inside of that right of way. If they're grand-fathered they're okay. I don't know as far as MDOT, as I said before, I asked for comments from them, I've received no comments from them, I can't speak for them, I don't know what they want to do but one of the conditions of approval of this PUD is that they contact the MDOT and take care of any conditions or requirements that they may have. I mean, I tried, I can call, I can write letters, if they're not going to answer me, what am I supposed to do.

Commissioner Hall added one of the comments that were made were about the Commissioners and a blank check. I think it's important that those in the audience know that this is just the beginning of the process by our approving this proposal and this PUD or FPUD. As I read the reports and the letters and the concerns, it's important to point out that this whole process is just beginning. We have to go through the DEQ process, they have to go through MDOT, the Lakeside Water and Sewer District and this process is just beginning and I sure can't imagine a shovel going in the ground on the project and so in that I trust that process. We've been involved in this long enough to know that it works. Under the conditions there's some good things that were brought up, you didn't talk about them all but the 8 foot wide bike and walk path and you know there's some good conditions here. I think that address a lot of the concerns and I don't know how many people in the opponent side have read all of the things that we get to read. There'll be a detailed impact statement apparently and with all the information that I've received, I'm in favor of getting this process started and that's basically what our decision entails today is just beginning the process.

Commissioner Hall made a **motion** to adopt Resolution 1415E. Commissioner Watne **seconded** the motion. **Aye-** Watne, Gipe and Hall. Motion carried unanimously.

RESOLUTION NO. 1415E

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following the publication of legal notice, on the 19th day of May, 2004, to consider a proposal to approve a Planned Unit Development (PUD) in the Lakeside Zoning District, on property zoned LS (Lakeside), allowing for the development of a marina with ancillary structures such as restaurants, watercraft rental, office space and retail sales, phased in over several years. Setbacks in the Lakeside Zoning Classification of 10 feet on the sides and 20 feet front and rear, would be reduced to zero as the setbacks on the property are already encumbered by buildings to be remodeled or replaced. The density in the Lakeside Zoning Classification will not be changed;

WHEREAS, the Board of Commissioners did hear public comment on the proposed Planned Unit Development at that hearing; and

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed Planned Unit Development.

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NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 3.31.020.4, Flathead County Zoning Regulations, hereby approves the proposed Planned Unit Development (PUD) in the Lakeside Zoning District on property zoned LS, allowing for the development of a marina with ancillary structures such as restaurants, watercraft rental, office space and retail sales, phased in over several years, reducing setbacks of 10 feet on the sides and 20 feet front and rear to zero, as the setbacks on the property are already encumbered by buildings to be remodeled or replaced but not changing density in the Lakeside Zoning Classification.

BE IT FURTHER RESOLVED that the property to be overlaid is described as Tracts 1DA, 1D, and 1F, in Section 7, Township 26 North, Range 20 West, P.M.M., Flathead County, Montana, consisting of 3.05 acres.

BE IT FURTHER RESOLVED that the conditions set forth on Exhibit A shall apply to the PUD and that the applicant shall submit a final plan in accordance with this approval.

DATED this 19th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Howard W. Gipe
Howard W. Gipe, Chairman

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

By/s/Robert W. Watne
Robert W. Watne, Member

ATTEST:
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

PUBLIC HEARING: TAX INCENTIVE REQUEST/D & P PROPERTIES, INC.

Present at the May 19, 2004 10:00 A.M. duly advertised public hearing were Chairman Gipe, Commissioners Watne and Hall, Julie Plevel, Bill Dakin, and Clerk Eisenzimer.

Chairman Gipe opened the public hearing to anyone wishing to speak in favor of tax incentive request

Julie Plevel began Bill Dakin and I are the owners of D & P Properties along with our spouses and we purchased the old Conoco or BP gas station on the corner of 9th Street W and 6th Avenue in Columbia Falls, remodeled it for our real estate office and we're asking for the phase in taxing on our improvements. I guess is the right way to state it.

Bill Dakin added 303 3rd Ave East in Columbia Falls and what she said is right.

No one else rising to speak, Chairman Gipe asked for anyone wishing to speak in opposition to the tax incentive request.

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

Commissioner Hall made a **motion** to approve the tax incentive request for D & P Properties. Commissioner Watne **seconded** the motion. **Aye-** Watne, Gipe and Hall. Motion carried unanimously.

RESOLUTION NO. 1714

WHEREAS, the Board of Commissioners of Flathead County, Montana, passed Resolution No. 475 on April 8, 1983, and Resolution No. 475A on February 21, 1984, allowing tax benefits to remodeling, reconstruction or expansion of existing structures in Flathead County;

WHEREAS, D&P Properties, LLC, of Columbia Falls, Montana, has applied for the tax benefits with regard to the remodeling of its building located at Block 1 of the Hoerner Addition to Columbia Falls, Montana;

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing under the provisions of section 15-24-1402, M.C.A., on the 19th day of May, 2004, concerning the request for tax benefits filed by D&P Properties, LLC; and

WHEREAS, the Board of Commissioners of Flathead County, Montana, having reviewed the application of D&P Properties, LLC, and the testimony presented at the public hearing, has concluded that the application for tax reduction benefits meets the requirements of the applicable statutes and resolutions.

NOW, THEREFORE, BE IT RESOLVED that the remodeling of the building located at Block 1 of the Hoerner Addition to Columbia Falls, Montana, shall be granted the tax benefits set forth in Resolution Nos. 475 and 475A and Section 15-24-1501, M.C.A.

DATED this 19th day of May, 2004.

**WEDNESDAY, MAY 19, 2004
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BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Howard W. Gipe
Howard W. Gipe, Chairman

By/s/Robert W. Watne
Robert W. Watne, Member

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

ATTEST:
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

COS REVIEW: WILKE

Present at the May 19, 2004 10:15 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Planning and Zoning Director Forrest Sanderson, Clerk Eisenzimer.

Sanderson reviewed the Immediate Family Transfer request by John Wilke to deed portion of land to his daughter.

Commissioner Watne made a **motion** to approve Immediate Family Transfer as requested. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

MEETING W/ RAY WASHTAK/DEPT OF THE INTERIOR FISH & WILDLIFE SERVICE RE:UPDATE

Present at the May 19, 2004 10:30 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Ray Washtak and Clerk Eisenzimer.

Discussion was held relative to introduction by name of Steve Calin who is presently at the National Bison Range and Dave Weisman who was project leader moving to Denver; Fish Wildlife and Service finished paying back taxes on property that was donated from Montana Power, management of national wildlife refuges is a national function and it will not be transferred to a different entity, negotiations are still in progress as to maintenance and use.

DECLARE SURPLUS PROPERTY: HOMESTEAD HOUSE

Present at the May 19, 2004 10:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to declare Homestead House as surplus property. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

CONSIDERATION OF INSURANCE COMMITTEE REQUEST

Present at the May 19, 2004 10:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Hall made a **motion** to approve the insurance committee's health insurance recommendations for fiscal year 2004-2005. Commissioner Watne **seconded** the motion. **Aye**- Watne, Hall and Gipe. Motion carried unanimously.

AUTHORIZATION TO PUBLISH NOTICE OF SALE: HOMESTEAD HOUSE

Present at the May 19, 2004 10:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to authorize the publication of the Notice of Sale and authorize the Chairman to sign. Commissioner **seconded** the motion. **Aye** - Watne, Gipe and Hall. Motion carried unanimously.

NOTICE OF SALE

The Board of Commissioners of Flathead County hereby gives notice that it will sell at public auction (pursuant to Section 7-8-2212, M.C.A.) the following surplus property:

Tract 1K in Section 2, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana (Parcel 1 on Certificate of Survey No. 8422) located at 295 Homestead Road.

The auction of the described property will be held at the front door of the Homestead House, 295 Homestead Road, Kalispell, Montana, on the 10th day of June, 2004, at 10:00 o'clock, a.m. Bidding will start at 90% of the appraised value of the property. The appraised value is \$131,033.00; bidding will start at \$118,000.00.

Interested parties may arrange to inspect the property prior to sale by contacting the County Commissioners Office, 800 South Main, Kalispell, MT, telephone: 406/758-5503.

Terms of the sale will be cash at the time of sale. The County is selling the property "as is" and transferring it by grant deed without any warranty or guarantee of any kind whatsoever. The house on the

**WEDNESDAY, MAY 19, 2004
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property has been vacant for several years and may have water damage and need plumbing repairs. Bidders are encouraged to inspect the property prior to the sale.

DATED this 19th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

By /s/Howard W. Gipe
Howard W. Gipe, Chairman

By /s/ Monica R. Eisenzimer
Deputy

Publish on May 30th and June 6th, 2004.

DOCUMENT FOR SIGNATURE: GEOTECHNICAL CONTRACT/THOMAS, DEAN & HOSKINS

Present at the May 19, 2004 10:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Hall made a **motion** to sign contract and authorize Chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

CONTINUATION OF LAKESHORE PERMIT: VAUGHN

Present at the May 19, 2004 10:45 A.M. Meeting were Chairman Gipe, Planner Traci Tull and Clerk Moser.

Tull reviewed Lake and Lakeshore Construction Permit filed by Read Vaughn & Dave Liebhardt on Flathead Lake to install a shore station on shared dock. Shore station will be approx. 27 feet long and 9 feet wide. General discussion was held Board recommends approval of permit as presented.

Commissioner Hall made a **motion** to approve Lakeshore Permit FfLP-04-56 with 19 conditions and authorize Chairman to sign. Commissioner Watne **seconded** the motion. **Aye**- Watne, Gipe and Hall. Motion carried unanimously.

CONTINUATION OF LAKESHORE PERMIT: SHABERT

Present at the May 19, 2004 10:45 A.M. Meeting were Chairman Gipe Commissioners Hall and Watne, Planner Traci Tull and Clerk Moser.

Tull reviewed Lake and Lakeshore Construction Permit filed by Ted Shabert on Ashley Lake to hand rake and remove all pea gravel from the Lakeshore Protection Zone. Plant native vegetation on lakeshore. Remove non-native rocks and gravels; Level soils for drainage. General discussion was held Board recommends approval of permit as presented.

Commissioner Watne made a **motion** to approve Lakeshore Permit #FLP-04-57 a with 29 conditions and authorize Chairman to sign. Commissioner Hall **seconded** the motion. **Aye**- Watne, Gipe and Hall. Motion carried unanimously.

11:00 a.m. County Attorney meeting at County Attorney's Office
12:00 p.m. Commissioner Gipe attended DUI Task Force meeting at The Summit
4:00 p.m. Commissioner Hall attended RAC meeting at Commissioners Meeting Room

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on May 20, 2004.

THURSDAY, MAY 20, 2004

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

MONTHLY MEETING W/RICHARD STOCKDALE, ANIMAL CONTROL

Present at the May 20, 2004 8:30 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, Animal Control Director Richard Stockdale, and Clerk Eisenzimer.

General discussion was held relative to Statistics, Barking Dog Policies, Dog adoption policy, training meeting, upcoming Fire Season training, and Floor condition.

MONTHLY MEETING W/JED FISHER, WEED, PARKS AND MAINTENANCE DEPARTMENT

Present at the May 20, 2004 9:00 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, Weed, Parks and Maintenance Superintendent Jed Fisher, and Clerk Eisenzimer.

General discussion was held relative to Fuel tank removal, Juvenile Detention storage, Building Rental possibilities, Stat Restoration bill, asbestos and lead based paint mitigating and testing funds, Juvenile Detention Dead Air, Budget issues for maintenance Department, Highway 93 project, Earl Bennett Building parking, Budget issues for Parks Department, new carpeting for the clerk and recorders office, Parks department grant, and Fire training for the Weed Department.

**THURSDAY, MAY 20, 2004
(CONTINUED)**

MONTHLY MEETING W/ALAN MARBLE, OES

Present at the May 20, 2004 9:30 A.M. Meeting were Chairman Gipe, Commissioner Hall, OES Director Alan Marble, Sheriff Jim Dupont, Jack Spillman, Wayne Dusterhoff, and Clerk Eisenzimer.

General discussion was held relative to Radio Project along the Northern Border Funding and a request for the signing of a letter of intent to join other counties in establishing a consortium.

Commissioner Hall made a **motion** to sign Letter of intent and authorize Chairman to sign. Chairman Gipe **seconded** the motion. **Aye** -Hall and Gipe. Motion carried quorum.

PUBLIC HEARING: MINIMUM LOT WIDTH TEXT AMENDMENT/FLATHEAD COUNTY ZONING REGULATIONS

Present at the May 20, 2004 10:00 A.M. duly advertised public hearing were Chairman Gipe, Commissioners Watne and Hall, Planning and Zoning Director Forest Sanderson, and Clerk Eisenzimer.

Sanderson reviewed Staff Report #FZTA-04-03 requesting amendments to Section 3.12.040(2), Section 3.13.040(2) and Section 3.15.040(2) of the County Zoning Regulations adding sub lot minimum width of 25 feet.

Chairman Gipe opened the public hearing to anyone wishing to speak in favor of the minimum Lot Width Text Amendment.

No one rising to speak, Chairman Gipe asked for anyone wishing to speak in opposition to the minimum Lot Width Text Amendment.

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

Commissioner Watne made a **motion** to adopt Staff Report #FZTA-04-03 as Findings of Fact. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously

Commissioner Watne made a **motion** to adopt Resolution No. 955 OD Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

RESOLUTION NO. 955 OD

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 20th day of May, 2004, to consider changes to the text of the Flathead County Zoning Regulations proposed by Flathead County which would amend Sections 3.12.040.2, 3.13.040.2 and Section 3.15.040.2 in the R-4, (Two Family Residential) R-5, (Two Family Residential) and RA-1 ((Residential Apartment) classifications, to allow for sub lot minimum width to be 25 feet rather than the 50 foot minimum lot width, in order to allow for building of townhouses in the urban density zoning classifications;

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205, M.C.A., on May 9 and May 16, 2004;

WHEREAS, the Board of Commissioners heard public comment on the proposed amendments to the Flathead County Zoning Regulations at that hearing; and

WHEREAS, the Board of Commissioners has reviewed the recommendation of the Flathead County Planning Board regarding the proposed amendments.

NOW THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., hereby adopts this resolution of intention to amend 3.12.040.2, 3.13.040.2 and Section 3.15.040.2 in the R-4, (Two Family Residential) R-5, (Two Family Residential) and RA-1 (Residential Apartment) classifications, to allow for sub lot minimum width to be 25 feet rather than the 50 foot minimum lot width, in order to allow for building of townhouses in the urban density zoning classifications, as set forth on Exhibit A hereto;

BE IT FURTHER RESOLVED, that notice of the passage of this resolution, stating the general character of the proposed changes to the Flathead County Zoning Regulations, that said proposed changes and those regulations 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 adoption of the proposed changes, shall be published once a week for two weeks.

BE IT FURTHER RESOLVED, that written protests to the adoption of the proposed changes will be received from persons owning real property within any zoning district heretofore created by Flathead County, for a period of thirty (30) days after the 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 percent of the free-holders protest the adoption of the proposed changes, the changes will not be adopted.

DATED this 20th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By /s/Howard W. Gipe
Howard W. Gipe, Chairman

**THURSDAY, MAY 20, 2004
(CONTINUED)**

ATTEST:
Paula Robinson, Clerk

By /s/Robert W. Watne
Robert W. Watne, Member

By /s/ Monica R. Eisenzimer
Deputy

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

Commissioner Watne made a **motion** to authorize the publication of the Notice of Passage and authorize the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

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 intent (Resolution No. 955 OD) on May 20, 2004, to adopt proposed amendments to the text of the Flathead County Zoning Regulations.

The proposed amendments would amend Sections 3.12.040.2, 3.13.040.2 and Section 3.15.040.2 in the R-4, (Two Family Residential) R-5, (Two Family Residential) and RA-1 (Residential Apartment) classifications, to allow for sub lot minimum width to be 25 feet rather than the 50 foot minimum lot width, in order to allow for building of townhouses in the urban density zoning classifications.

The Flathead County Zoning Regulations are on file for public inspection at the Office of the Clerk and Recorder in Permanent File number 93270 13500. The proposed amendments are on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana, and at the Flathead County Planning and Zoning Office, 1035 1st Avenue West, Kalispell, Montana.

For thirty (30) days after the first publication of this notice, the Board of Commissioners will receive written protests to the adoption of the proposed changes to the Flathead County Zoning Regulations, from persons owning real property within any zoning district heretofore created by Flathead County whose names appear on the last completed assessment role of Flathead County and who either are registered voters in Flathead County or execute and acknowledge their protests before a notary public.

Dated this 20th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

By /s/Howard W. Gipe
Howard W. Gipe, Chairman

By /s/ Monica R. Eisenzimer
Deputy

Publish on May 25 and June 1, 2004.

PUBLIC HEARING: HEDSTROM, ET AL, ZONE CHANGE/HIGHWAY 93 NORTH ZONING DIST

Present at the May 20, 2004 10:15 A.M. duly advertised public hearing were Chairman Gipe, Commissioners Watne and Hall, Planning and Zoning Director Forest Sanderson, Richard Scot Hedstrom, William Spurzem, Dia Sullivan, Bill Koenig, and Clerk Eisenzimer.

Sanderson reviewed Staff Report FZC-04-03 the request by Richard Hedstrom, Kraig Trippel, William Spurzem, Charles Mitchell and William Koenig to change the zoning designation in a portion of the Highway 93 North Zoning District from AG-40 to SAG-5.

Chairman Gipe opened the public hearing to anyone wishing to speak in favor of the Zone Change.

Bill Koenig rising to speak, requested the zone change in order to split off the parcels of land that are not conducive to farming and the zone change is required to do that.

Richard Hedstrom repeated Mr. Koenig's request.

William Spurzem added that he would like to have the option to sell some of his land while preserving some of it for his descendants.

No one else rising to speak, Chairman Gipe asked for anyone wishing to speak in opposition to the Zone Change

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

Commissioner Watne made a **motion** to adopt Staff Report #FZC-04-03 as Findings of Fact Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously

Commissioner Watne made a **motion** to adopt Resolution No. 837 AY Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

RESOLUTION NO. 837 AY

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 20th day of May, 2004, concerning a proposal by Richard Hedstrom, Kraig Trippel, William Spurzem, Charles Mitchell and William Koenig to change the zoning designation in a portion of the Highway 93 North Zoning District from AG-40 (Agricultural) to SAG-5 (Suburban Agricultural);

**THURSDAY, MAY 20, 2004
(CONTINUED)**

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on May 9 and May 16, 2004;

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 20th day May, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Howard W. Gipe
Howard W. Gipe, Chairman

By/s/Robert W. Watne
Robert W. Watne, Member

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

ATTEST:
Paula Robinson, Clerk

By/s/ Monica R. Eisenzimer
Deputy

Commissioner Watne made a **motion** to authorize the publication of the Notice of Passage and authorize the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

**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. 837 AY) on May 20, 2004, 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.

THURSDAY, MAY 20, 2004
(CONTINUED)

DATED this 20th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

By/s/Howard W. Gipe
Howard W. Gipe, Chairman

By/s/ Monica R. Eisenzimer
Deputy

Publish on May 25 and June 1, 2004.

COMMENT ON HOLT STAGE PAVING

Present at the may 20, 2004 10:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Betty Norm, and Clerk Eisenzimer.

Discussion was held relative to Mrs. Norm requesting paving on Holt Stage Road.

PUBLIC HEARING: STRICKLAND & SYMMES ZONE CHANGE/WEST SIDE ZONING DIST

Present at the May 20, 2004 10:30 A.M. duly advertised public hearing were Chairman Gipe, Commissioners Watne and Hall, Planner BJ Grieve, Mike Fraser, Frank Strickland, and Clerk Eisenzimer.

Grieve reviewed Staff Report FZC-04-04, a request by Frank Strickland and Tom Symmes from the existing sAG-10 (a suburban Agricultural use district, with a 10 acre minimum lot size requirement) to SAG-5 (a Suburban Agricultural use district, with a 5.0 acre minimum lot size requirement.)

Chairman Gipe opened the public hearing to anyone wishing to speak in favor of the Zone Change

No one rising to speak, Chairman Gipe asked for anyone wishing to speak in opposition to the Zone Change

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

Commissioner Hall made a **motion** to adopt Staff Report #FZC-04-04 as Findings of Fact. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

Commissioner Hall made a **motion** to adopt Resolution No. 678 AJ. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

RESOLUTION NO. 678 AJ

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 20th day of May, 2004, concerning a proposal by Frank Strickland and Tom Symmes to change the zoning designation in a portion of the West Side 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 May 9 and May 16, 2004;

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 West 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 designation in a portion of the West Side 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 Westside 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 Westside 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 Westside 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 Westside Zoning District protest the proposed change in said district, then the change will not be adopted.

DATED this 20th day of May, 2004.

**THURSDAY, MAY 20, 2004
(CONTINUED)**

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Howard W. Gipe
Howard W. Gipe, Chairman

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

By/s/Robert W. Watne
Robert W. Watne, Member

ATTEST:
Paula Robinson, Clerk

By/s/ Monica R. Eisenzimer
Deputy

Commissioner Watne made a **motion** to authorize the publication of the Notice of Passage of Resolution of Intention and authorize the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

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. 678 AJ on May 20, 2004) to change the zoning designation in a portion of the West Side 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 hereto.

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 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 Westside 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 20th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

ATTEST:
Paula Robinson, Clerk

By/s/Howard W. Gipe
Howard W. Gipe, Chairman

By/s/ Monica R. Eisenzimer
Deputy

Publish on May 25 and June 1, 2004.

CONSIDERATION OF MEDICARE BENEFITS RE: BARTHEL

Present at the may 20, 2004 10:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Chairman Gipe reviewed a letter from Human Resources Director Raeann Campbell advising the Board of Commissioners that Mr. Barthel did receive notification of medicare options upon retirement.

Commissioner Hall made a **motion** to deny Medicare Benefits for Mr. Barthel. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

CONSIDERATION OF EXTENSION REQUEST: SUBDIVISION NUMBER 203

Present at the May 20, 2004 10:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to approve Extension Request for Subdivision 203 for one year. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

THURSDAY, MAY 20, 2004
(CONTINUED)

CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: NORTH VALLEY HOSPITAL AMENDMENT/WHITEFISH CITY-COUNTY MASTER PLAN

Present at the May 20, 2004 11:00 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Hall made a **motion** to adopt Final Resolution 6770. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

RESOLUTION NO. 6770

WHEREAS, the Whitefish City-County Planning Board has recommended that the Whitefish City Council adopt an amendment to the Whitefish City-County Master Plan which would change the designation of 45 acres near the Northeast corner of the intersection of Highway 93 and Highway 40, from "Agricultural" to "Public Facilities", to allow for a Hospital and Medical Office Building;

WHEREAS, the Whitefish City-County Planning Board, after holding duly-noticed public hearings and considering public comment, has recommended that the Board of Commissioners and the Whitefish City Council adopt that amendment to the Whitefish City-County Master Plan; and

WHEREAS, the Board of Commissioners reviewed the proposed amendment to the Whitefish City-County Master Plan and agreed that the amendment to the Whitefish City-County Master Plan should be considered formally considered;

WHEREAS, the Flathead County Board of Commissioners passed a resolution of intention (Resolution No. 677N) on March 22, 2004, to formally consider that amendment, allowing for public comment to be received through April 24, 2004;

WHEREAS, the City Council of the City of Whitefish approved the changes to the Whitefish City-County Master Plan; and

WHEREAS, the Flathead County Board of Commissioners has considered all information provided to it on the proposed amendment to the Whitefish City-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 amendment to the Whitefish City-County Master Plan, as amended by the City Council of the City of Whitefish, which would change the designation of 45 acres near the Northeast corner of the intersection of Highway 93 and Highway 40, from "Agricultural" to "Public Facilities", to allow for a Hospital and Medical Office Building, is hereby adopted.

DATED this 20th day of May, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By /s/Howard W. Gipe
Howard W. Gipe, Chairman

By /s/Robert W. Watne
Robert W. Watne, Member

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

ATTEST:
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer
Deputy

CONSIDERATION OF POLICY & PROCEDURES MANUAL CHANGES

Present at the May 20, 2004 11:00 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Adele Krantz, Computer Services Director Norm Calvert, Human Resource Director Raeann Campbell, Carol Mizze, Animal Control Director Richard Stockdale, County Attorney Jonathan Smith and Clerk Eisenzimer.

Discussion was held relative to Manual Changes amending condition 8 so that it specifies the use of alcohol on or away from county property while on county business.

Commissioner Watne made a **motion** to adopt Amended Manual Change Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously

2:00 p.m. Commissioner Watne attended Health Board Meeting at the Earl Bennett Building
6:00 p.m. Commissioner Hall attended Whitefish Stakeholders meeting at Falls Room, North Valley Hospital

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on May 21, 2004.

FRIDAY, MAY 21, 2004

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

10:00 a.m. Commissioner Gipe attended Mental Health Council & CDC Meetings in Libby
12:00 a.m. Commissioner Hall attended Pachyderm Meeting at Outlaw Inn
7:00 p.m. Commissioner Hall attended Forest Plan Revision Meeting at the Fairgrounds

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on May 24, 2004.