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## MONDAY, DECEMBER 12, 2005

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

### **Chairman Hall opened the public comment on matters within the Commissions' Jurisdiction,** [8:48:43 AM](#)

Jerry Nix spoke as a representative of the Siderius Family. They have 160 acres of land in the south Kalispell area right at the entrance to where the new west side bypass will take off from 93. He stated that the Siderius family is determined that it is time to start planning for their property, however there has been some previous discussion that the county might be interested in trading the fairgrounds property downtown, in combination with some additional cash, based on the values of the property, for a larger piece that could possibly better serve the fairgrounds in the years to come. He went on to state that the purpose for his coming to this meeting is just to allow the commissioners to see where the property is at, put it in their thought process's. He also stated that the Siderius family is not in any big hurry, and that they have agreed to allow the county the opportunity to explore the possibilities, if there is any merit in doing an exchange, and trying to figure out a methodology for better planning for the fairgrounds, and for the future of other county buildings, and or uses on this property. Referring to a map he stated that it seems to be ideally situated, and that the Siderius family has already given the county the old museum property, which lies to the left of where the bypass will go in, so that would allow for an excellent access in and out, and that there is also an access to this property right off of Ashley Meadows Road. He stated that there would be access off of Highway 93 to the right of Gardner's Auction, and off of Cemetery road. He then pointed out a forty acre parcel that is owned by the city, and that it is undetermined what the city would like to do with that property, but that there has been some discussion of a south entertainment, or an activity type of complex, and it might make some good sense for the county to take a look at this and see if it has any merit in future planning of the county building facilities. He stated that the do not have any specific plan, and that they are just putting it on the table for their consideration.

Linda Christensen spoke in regards to the Whitefish River Ranch subdivision. She stated that the soils over the aquifer are not generally appropriate for septic. She presented the commissioners with a hydrology report that was prepared for Pressentine Ranch Subdivision in regards to the types of soils and whether or not they are appropriate for septic. She stated that when she looked through the proposal it did tell what soil types, but it did not go into detail on how it handled septic systems and septic drainage, and that is a very important factor. She also stated that she understands that this is a part of Two Rivers, and that she had brought up the septic versus sewer during that hearing with the planning board, and the response from Two Rivers had been that it would be hooked up to sewer. She stated that right now there is no guarantee that a sewer is even appropriate over the aquifer area, and that much of the aquifer is in the flood zone, and it is prone to flooding. She then stated that if there is a natural disaster and Hungry Horse Dam breaks this area is their New Orleans, and they need to question whether they really want to have dense development in that area. She stated that development in general over sensitive soils in the alluvial aquifer is not the answer to protecting the quality of their water. She asked what would be the community character of their agricultural and rural areas if they allow dense developments there within, and if they should allow developments to occur under circumstances that will knowingly degrade the environment, and that this would leave future generations to pick up the tab for their short sightedness, and that she says no. She stated that right now they need to draw the line in the proverbial alluvial sand. She stated that they need to tell the voting public that clean water is important, and that they need to plan for future growth. She then stated that Level II may or may not address the nitrogen factor, but she does know that it does not address phosphorus, viruses, bacteria, oil and gas, heavy metals, pharmaceuticals, etc, that can be in the septic and drain fields. She also stated that in Evergreen the biota in the aquifer was killed, and to her knowledge it has never come back, and that was down at the south end of the aquifer, now this is one is to north. She asked if they know the impact if they let this development go through, and it is not hooked up to sewer, what will be the impact to that whole area south of there to the end of the aquifer. She stated that she believes that is an unknown question, and she is asking if this risk is acceptable to them. She stated that another issue is the article that was in the paper recently on traffic deaths in rural areas, and in Montana they say that 95.49% of traffic deaths are in rural areas, and that she knows this road, and drives it all of the time, Whitefish Stage, and it is a very narrow road with deep burrow pits on the sides, and she thinks that it is a concern. She stated that more concerns are storm drains, and high ground water areas. She then stated that the aquifer is classified as state waters, and there is potential for contamination of the aquifer with the use of a septic. She continued by saying that the nearby Glacier Ranch has been denied again, and she thinks that by having made an uninformed decision at that time, and letting DEQ sort it out, might not make sense. She then stated that because Two Rivers is under a lawsuit she understands that the master plan must be adhered to, and that calls for preserving for farmland. She also stated that there is a section in the master plan referring to the Birch Grove and Lasalle planning unit that talks about preserving Ag lands, and she believes this area is included in that, and she knows that was never implemented, but that was still the intent of the master plan. She stated that another important point is that Montana constitution which provides that citizens have a right to a clean and health full environment. She stated that related to that she did a little bit of research and that in Section 16 where this development is, there are thirty eight wells, and that twenty four of those wells are under thirty feet deep. She stated that the shallow wells interestingly enough have the greatest gallons per minutes, with one well at two hundred and nine feet only has 12 gallons per minute, and the Strike property that has three wells, one at seventeen feet shows no yield, one is at a hundred and fifty one feet, which would mean it goes into the deep aquifer, and that only gets thirty five gallons per minute, but the third one at two hundred and nine feet gets only twelve gallons per minute. She stated that if you look at the wells, the shallow wells actually have the greater gallons per minute. She continued by saying that if they are going to put the wells in the shallow aquifer, than is it protected from contamination from the septic system, and storm water drain off. She also stated that there is an interesting paradox there. She finished by saying that she hold no grudges on past decisions, but only hopes that she can raise the awareness over the fragile nature of this area, and that the aquifer has been called the lung of Flathead Lake, so protecting the aquifer at this time will save money for the tax paying public, since they will not have to pay for cleanup in the future, nor will they have to run a sewer to correct a polluted area, like they had to do in Evergreen. She also stated that should the floods come they will be able to recover agricultural lands rather than massive homes being destroyed and lives lost. She asked the commissioners to please vote with a conscience with their future in mind.

Karen Reeves stated that she was there to speak as a frustrated member of the Long Range Planning Task Force. She stated that they have these feel good committees of parks, natural resources, bike paths, and planning and she has also looked at the website and most of the comments coming in on the growth policy, and she would say that 90% of them are asking for open space, parks, and water quality. She then stated that the Two Rivers master plan amendment, that this Whitefish River Ranch Subdivision is part of, was trying to look at a regional idea, and they were talking about regional parks, and there was all of this language in it to help it pass, but the subdivisions are really piece meal, and she believes that it is premature to be even talking about level II water treatment in these areas. She also stated that the idea was that it would be sewer through their. She then stated that more specifically the way they have this project designed, here is an opportunity for some parkland along the

riverfront that would give people access to the river for biking and recreating, and it is not suitable for a development anyway. She stated that she believes that this is a place where they could start thinking about how to connect pieces of property, but again the sewer issue is huge, and she thinks that this is all premature. She then stated that she would love to see some kind of master plan, not just a master plan amendment, but a master plan for parks and access for the public, not just for the people in the subdivision. She stated that they kind of have a little narrow strip drawn in for parkland, but there is no way for the public to use it, and she thinks that for the county to take that kind of parkland in is missing the whole point of parks, and she hopes that they will really consider that when they look at that project later today.

Emy Amy stated that she lives just around the corner from the Whitefish River Ranch property, a straight shot through on Trumble Meadows Lane. She stated that she would like to urge a denial on this subdivision. She requested that they ensure fairness to the neighbors that already live out there, that have a lifestyle, that have property, that have their future vested there, and that want real quality of life to be maintained for them. She then stated that the issues coming before the county are not just about making money for the developers, and that they are all affected, and she would like to urge the commissioners to remember the rest of them that have to use the same roads, which Trumble Creek goes to service this subdivision and it is in the pile marked substandard. She pointed out that Glacier Ranch Subdivision is directly across the road and has been denied four times by the Department of Environmental Quality. She stated that there is a reason for that, and that this subdivision is down flow from that one, that means something, and they need to pay attention to what is happening. She then stated that if at build out, speaking of quality of life, the subdivisions already approved in that area, the amount of homes, not including all of the rest of the Two Rivers projects, is near three hundred, for sub standard roads, for their fragile aquifer, and for no data to regulate the placement of level II septic systems. She stated that at build out the rest of Two Rivers means seven thousand homes, and that there is no infrastructure, no nothing, there is a peaceful lifestyle out there that needs to be understood, regarded, and protected. She stated that they can not swallow up the entire valley with concrete and homes, and that it is just not warranted. She stated that there are areas that are appropriate and there are areas that are not appropriate, and this one is not appropriate. She then stated that there was denial recently near Woody's, she does not know the name of the subdivision, for density too high and for not blending in with neighborhood character. She stated that she would like to ask that they stand on the property, do a three sixty, and that this needs to blend in and it does not, and that neither does Glacier Ranch. She then stated that all of the people in the area have acreage, and that there are very few small lot homes in this area, and she would like to ask that whatever is considered in the north area, and Whitefish River Ranch is among those, it is the first of the Two Rivers project, please they do not live like that out there, they do not have the roads to support the population, they have no infrastructure, they have a fragile aquifer, please do not destroy the quality of life for those of us who already live there to bring in more people.

Linda Johnson stated that she basically all she wanted to say was that they have this shallow alluvial Evergreen aquifer, which pretty much right about here (referring to a map), and that is where their development is really looking at so they have come up with a great idea to push development out that way because land is a little less expensive, and they can do this level II, and the scary part, and they have already heard and she knows that they know that, is there is a lot of density scheduled for that area, against what the area is, what the people out there are. She then asked that if they put a bunch of high density out there, where does it all stop. She stated that they are doing a growth policy now and a lot of things are hopefully being worked out, and the things that have to be worked out are the facts and data to back it up, such as what has been approved in the last two years, overlay maps showing the different subdivisions, they have nothing that shows that, and that they just have words that a lot of them can not put it all together. She stated that there has been a lot approved, and before they just keep going approving more and more, and especially over the shallow Evergreen alluvial aquifer, please take a lot of caution, and that this is to address the Whitefish River South at 9:30.

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

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

[9:06:34 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Jay Scott

Discussion was held relative to the current bookings, and the progress with fixing the problems on the new fair building.

**CONSIDERATION OF ADOPTION OF RESOLUTION OF INTENT: SEMITOOL TEXT AMENDMENT / FLATHEAD COUNTY MASTER PLAN**

[9:15:06 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser

Commissioner Watne made a **motion** to adopt Resolution 789AD. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

RESOLUTION NO. 789 AD

WHEREAS, Semitool, Inc. has petitioned for a revision to the Flathead County Master Plan by amending the Map to the Flathead County Master Plan;

WHEREAS, the purpose of the change is clarify the Semitool property as being in an Industrial Land Use Category, rather than the current Agriculture/Silviculture category, and also correct an existing discrepancy between the County Zoning Map and the Master Plan Map;

WHEREAS, the Flathead County Planning Board recommended that the Board of Commissioners adopt that amendment to the Flathead County Master Plan, as amended by the Flathead County Planning Board; and

WHEREAS, the Flathead County Board of Commissioners has reviewed the proposal and determined that the proposed amendment to the Flathead County Master Plan should be formally considered.

NOW THEREFORE, BE IT RESOLVED, pursuant to Section 76-1-604, M.C.A., by the Board of Commissioners of Flathead County, Montana, that it intends to consider the revision of the Flathead County Master Plan by the adoption of a Map revision to the Flathead County Master Plan, changing the designation of the property described on Exhibit A hereto from Agriculture/Silviculture to Industrial.

BE IT FURTHER RESOLVED that the Board of Commissioners will give the public an opportunity to comment in writing on the proposed master plan amendment and will consider any written comments which are received in the Board's Office by January 16, 2006. The Board will consider whether to pass a final resolution adopting the Map revision as an addendum to the Flathead County Master Plan after that date.

DATED this 12<sup>th</sup> day of December, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

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

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

ATTEST:  
Paula Robinson, Clerk

By /s/Kimberly Moser  
Deputy

#### **PRELIMINARY PLAT: WHITEFISH RIVER RANCH SOUTH**

[9:33:38 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Traci Sears-Tull, Linda Johnson, Emy Amy, Karen Reeves, Linda Christensen, Ben Franklin, Jerry Nix, Judy Martinson, Tom Sands, Erica Wirtala, Bob Lovejoy, Andrea Falcom, Deb Street, Jed Fisher, Jeff Harris

Sears-Tull reviewed the application submitted by Whitefish River Properties, LLP for preliminary plat approval of Whitefish River Ranch South Subdivision, a major subdivision that will create 62 (15 townhouses and 47 single-family) residential lots. The subdivision is proposed on 78.904 acres and will be served by a multiple user sewer system and a neighborhood water system. The subdivision is located off of Trumble Creek Road in Evergreen, and is unzoned. There are 27 attached conditions. Staff recommends denial based on the fact that the planning board did not have adequate time to review the additional information that was submitted, public access was not adequately addressed, lack of clarification for continued access for wildlife corridor, and the jurisdiction of the existing ponds were not adequately addressed. She also stated that condition 26 should be removed as the developer feels that they could better maintain the ponds and parks opposed to the county.

Jed Fisher spoke on the parkland and public use concerns.

Discussion was held relative to the Two Rivers Master Plan and the compliance of this subdivision to that plan, density concerns, and water and sewer system concerns.

Erica Wirtala addressed the commissioners on the proposed project, and the expressed concerns.

Tom Sands requested changes to the conditions.

Commissioner Brenneman made a **motion** to deny Whitefish River Ranch South. Commissioner Hall **seconded** the motion. **Aye** - Hall and Brenneman. **Opposed** – Watne. Motion carried by quorum.

Commissioner Brenneman stated that they needed to change the findings of fact, to reflect there denial, to as follows:

#### **D. Effects on Health and Safety:**

**Compared to using a municipal sewer and water system, the proposed community sewer system will still produce 100% more phosphate and double the nitrate level.**

#### **G. Effects on Local Services:**

**This proposal will add an additional 650 vehicle trips per day on Trumble Creek Road.**

#### **G. Effects on Local Services:**

The effects on local services are **not** acceptable with the imposition of conditions.

#### **SUMMARY OF FINDINGS**

4. The impacts of the development of this subdivision, with the conditions or restrictions identified, are **not** within acceptable

parameters with respect to review required under 76-3-608 M.C.A.

7. The subdivider shall install a “dry” sewer system and include another waiver of protest on the final plat that the subdivision shall connect to the publicly available Kalispell and or Evergreen sewer system when services become available.

Commissioner Brenneman made a **motion** to change staff report as recommended. Commissioner Hall **seconded** the motion. **Aye** - Hall and Brenneman. **Opposed** – Watne. Motion carried by quorum.

#### **PRELIMINARY PLAT: SPUR WING**

10:43:32 AM

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Traci Sears-Tull, Jeff Harris, Jed Fisher, Ardis Larsen, Jeff Larsen, Mickey Lapp, Charles Lapp, Judy Fountain

Sears-Tull reviewed the application submitted by Charles & Mickey Lapp for preliminary plat approval of Spur Wing Subdivision, a major subdivision that will create 75 single and multi-family residential lots. The subdivision is proposed on 35.17 acres and will be served by Lakeside Sewer and Water. The subdivision is located off of Blacktail Road and Bower Road in Lakeside, and is unzoned. There are 21 attached conditions. Staff recommends approval.

Discussion was held relative to the cash in lieu of parkland monies going to the Ben Williams Park.

Commissioner Brenneman stated for the record that the applicant is his first cousin and that if the other commissioners feel he should abstain he will.

Commissioner Hall stated that he felt it would be okay to vote.

Commissioner Brenneman stated that the county attorney has indicated that if they reveal the possible conflict then they should be okay.

Commissioner Watne made a **motion** to adopt Staff Report FPP-05-61 as findings of fact. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Jeff Larsen addressed condition ten stating that the subdivision will be hooked to Lakeside Water and Sewer.

Commissioner Watne made a **motion** to approve the preliminary plat of Spur Wing Subdivision subject to 21 amended conditions. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

#### **CONDITIONS**

1. All internal subdivision roads will consist of a 60-foot right-of-way and a minimum 24-foot, paved driving surface. The developer has agreed to upgrade a portion of Bower Road and Adams Street, to include the constructed bike/pedestrian path, in the county Right-Of-Way from the intersection with Brass Road through the subdivision and finally to its connection to Bower Road, this portion of the internal subdivision roads will consist of a minimum 29-foot paved travel surface. All subdivision roads will be designed and certified by a licensed, professional engineer. The developer has also agreed to pave Grayling Hill if the county and the Trout Beck Rise Homeowners Association get the base up to county road standards. The subdivision will also connect to Stoner Creek Road and Crystal View Court. Roads will be paved and constructed with a 60-foot right of way and 24-foot travel surface. [Section 3.9, Flathead County Subdivision Regulations]
2. Roads and driveways will conform in all locations to maximum grade standards [Section 3.6(E) and 3.9, Table 2, FCSR]
3. The applicant will receive physical addresses and road names in accordance with Flathead County Resolution #1626. The addresses and road names will appear on the final plat. [Section 3.9(I)(7), FCSR]
4. Road identification signs and stop signs will be installed at the intersections of the Adams Street and Bower Road, Crystal View Court and Bower Road, Bower Road and Blacktail Road and all internal subdivision roads and Bower Road. [Section 3.9(I)(8), FCSR]
5. The applicant will work with the Montana Department of Transportation for access onto US Highway 93. [Agency Comment]
6. The applicant will obtain and show proof of a completed approach permit from the Flathead County Road Department for access onto Bower Road and Adams Street indicating the approach has been built and received final inspection. [Section 3.8(A), FCSR]
7. The applicant will show proof of legal and physical access for all subdivision lots that access Crystal View Court. [Section 3.8(A), FCSR]
8. Lot owners within the subdivision will participate in a Road Users' Agreement or Property Owners Association for the internal subdivision road and Crystal View Court, which will require each property owner that fronts on Crystal View Court to bear his or her pro-rata share for maintenance of the private road. [Section 3.9(J)(3), FCSR]
9. New electrical and telephone utilities will be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]
10. The subdivision lots will be connected to Lakeside Sewer and Water. The proposed water and sewer systems for the subdivision will be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 3.14(A) and 3.15(A), FCSR]
11. The applicant will comply with reasonable fire suppression and access requirements of the Somers Fire District and Montana DNRC. Letters from both the Somers Fire Chief and Montana DNRC stating that an agreement has been made will be submitted with the application for Final Plat. [Section 3.20, FCSR]
12. All areas disturbed during development of the subdivision will be re-vegetated in accordance with a plan approved by the Flathead County Weed Department. [7-22-2116 MCA and Section 3.12(J), FCSR]

13. If required by the local postmaster, the developer will provide a common mailbox facility in accordance with the Flathead County Subdivision Regulations. [Section 3.22, FCSR]
  14. The developer shall contact the Child Transportation Committee and, if required, provide and improve a location for the safe loading and unloading of students. [Superintendent of Schools]
  15. The following statements will be placed on the face of the final plat applicable to all lots:
    - a. All addresses will be visible from the road, and at the driveway entrance or on the house.
    - b. All utilities will be placed underground.
    - c. Lot owners are notified they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
    - d. The property owners association or road users' agreement will govern maintenance of the internal subdivision road. The road will be maintained, including necessary repairs, snow removal, and dust mitigation, to ensure safe all-weather travel for two-way traffic and to reduce negative impacts on air quality.
    - e. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
    - f. Only Class A or B fire rated roofing materials are allowed.
    - g. Defensible Space Standards shall be incorporated around all primary structures.
    - h. Lot owners are alerted to the presence of large and potentially dangerous wildlife in the area and are reminded that feeding big game such as deer and bear is illegal in Montana. Lot owners are strongly encouraged to contact the Montana Department of Fish, Wildlife and Parks to obtain information on methods for safely living near wildlife and minimizing habitat impact. The following are required:
      - i. Dogs must be kept under owner control at all times, either leashed or confined.
      - ii. Bear-proof containers are required for refuse and feed for pets or livestock.
      - iii. Compost piles are prohibited unless secured by electrical fencing or otherwise enclosed.
      - iv. Pets must be fed indoors or food dishes must be brought in at night.
      - v. Bird feeders must be placed out of reach of deer, bear, and other large game.
- i. Waiver of Protest  
 Participation in Special Improvement District  
 [per County Resolution 503-M]

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

16. All required improvements will be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, will be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR]
17. The final plat will be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
18. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]
19. Phasing plans shall comply with section 2.7.B(2,2) and Appendix A, Contents of Preliminary Plat - II(D) Phased Projects. Said phasing plan shall be approved by the Flathead County Planning & Zoning Office (subject to appeal to the County Commissioners) prior to submittal of the Final Plat Application for the first phase.
20. The bike/pedestrian path will be clearly marked to state standards.
21. The applicant will dedicate to the Board of County Commissioners \$58,849.14 as cash-in-lieu of parkland in fulfillment of the parkland dedication requirement. [Section 3.19, FCSR]

## **CONSIDERATION OF HR TRANSMITTAL: LIBRARY ASSISTANT II**

[11:00:32 AM](#)

Members present:

Chairman Gary D. Hall  
 Commissioner Robert W. Watne  
 Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
 Clerk Kimberly Moser, Kim Crowley

Kim Crowley explained the reason for requesting the additional Library Assistant II position.

Commissioner Brenneman made a **motion** to approve the HR Transmittal form for the Library Assistant II and authorize the chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

## **MONTHLY MEETING W/ JEFF HARRIS, PLANNING & ZONING OFFICE**

[11:06:47 AM](#)

Members present:

Chairman Gary D. Hall  
 Commissioner Robert W. Watne  
 Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
 Clerk Kimberly Moser, Jeff Harris

Discussion was held relative to the quarterly activity report, the subdivision rewrite progress, growth policy public input meetings and progress, master plan amendment processing, planning board activity, staffing, and the long range planning task force.

## **MEETING W/ JIM ATKINSON / AOA & CHERYL TALLEY / EAGLE TRANSIT RE: EAGLE TRANSIT UPDATE**

[11:46:03 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Jim Atkinson, Cheryl Talley

Discussion was held relative to an offer made by Glacier National Park for a partnership program.

**DOCUMENT FOR SIGNATURE: LETTER OF SUPPORT**

[11:46:38 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Jim Atkinson, Cheryl Talley

Commissioner Brenneman made a **motion** to approve the letter of support for AOA/Eagle Transit to continue discussing a cooperation project with Glacier Park and authorize the chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on December 13, 2005.

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**TUESDAY, DECEMBER 13, 2005**

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

**NO MEETINGS SCHEDULED**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on December 14, 2005.

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**WEDNESDAY, DECEMBER 14, 2005**

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

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

Jack Fallon spoke in regards to the Sewer Text Amendment final Resolution. He encouraged the commissioners to vote in favor of the resolution to allow for proper public comment when the proposal to put a sewer plant near the VoAg property comes forward.

Pam Holmquist spoke in support of the Sewer Text Amendment. In regards to the Daily Interlake article she stated that the last week of April of this year they had made up a petition of support, and they put them out to different business, and they put them out to the general public, they could sign if they were in support of a regional sewer treatment plant. She stated that they did that for one week and they got over one hundred letters of support in that week. She also stated that at the end of the week, which was April 30, Evergreen Business and Property Owners Association had a public meeting at the Junior High and they put out a survey at that time, and there were approximately one hundred people at the meeting, and out of the seventy seven surveys that they got back, one of the questions on the survey asked if they supported a Flathead County regional sewage treatment facility, two did not answer the question, one said it should be an Evergreen facility, two stated that they only oppose the location near two schools, two said that they would like to see the fiscal impact, three said they did not support it, one said they would support it if Kalispell would operated it, and sixty six stated yes they did support a Flathead County Facility. She then stated that she believes that with the one hundred letters that they got, and some of those may be duplicates, but even if you throw out some you are at least over one hundred people in support, and that was just done within a week. She also stated that later in the summer she went to a meeting at Smith Valley School and they were allowed to speak about the sewer, and their plans as far as trying to get a facility going, at that meeting they had several questions from the audience and they tried to address them, but they were limited on their time. She then stated that a lot of people came to them after the meeting and asked questions, and looked at their maps, and the overall consensus at that meeting with all of the people there, and there were probably about eighty people there, she never heard anybody that did not think that it was a good idea. She stated that she wanted to clarify that there are a lot of people that are in support, and she knows that what is on public record is not necessarily what the support is out there.

Kerry Finley spoke as a representative of the Evergreen Business and Property Owners Association, also as a member of the Evergreen Water and Sewer District Board. She asked that they bring this down to the issue that is at hand, which is amending the text to the county zoning regulations. She stated that they are just asking that they add sewage treatment facilities to the list of conditional uses for public zoning districts. She then stated that it already includes landfills, water treatment plants, and water storage facilities. She also stated that if they could just bring it down to that today, just approve sewage wastewater treatment facilities, they would appreciate it.

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

**FINAL PLAT: SUBDIVISION NO. 253**

[8:58:11 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Eric Giles, Jeff Harris, Rick Breckenridge, Kerry Finley, Pam Holmquist, Jack Fallon, BJ Lupton

Giles reviewed the application submitted for final plat approval of Subdivision #253, a one-lot residential subdivision with a remainder on Angel Point Road. The subject property is 3.55 acres and unzoned. Preliminary plat was waived on September 16, 2004, subject to seven conditions. All conditions have been met. Staff recommends approval.

Commissioner Watne made a **motion** to adopt Staff Report FWP-05-17 as findings of fact as amended. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to approve the final plat of Subdivision 253. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

### **CONSIDERATION OF NOTICE OF PASSAGE: SEMITOO, INC**

[9:06:59 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser

Commissioner Brenneman made a **motion** to approve the notice of passage and authorize the chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

#### NOTICE OF PASSAGE OF RESOLUTION OF INTENTION FLATHEAD COUNTY MASTER PLAN

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it passed a Resolution of Intention (Resolution No. 789AD) on December 22, 2005, to consider a Map Amendment to the Flathead County Master Plan, as proposed by Semitool Inc.

The proposed amendment would clarify the Semitool property as being in an Industrial Land Use Category, rather than the current Agriculture/Silviculture category, and also correct an existing discrepancy between the County Zoning Map and the Master Plan Map. The zoning designation is currently SAG-10 (Suburban Agricultural) and I-1(Light Industrial). The property proposed for amendment contains 70.4 acres and is located on West Reserve Drive between U.S. Highway 93 and Whitefish Stage Road. The legal description is Tracts 3E, 3D, and 3CA in the SE ¼ of Section 30, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana. Documents related to the proposal are on file at the Office of the Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana, and at the Flathead Planning and Zoning Office, 1035 1<sup>st</sup> Avenue West, Kalispell, Montana, where they may be examined by the public.

The Board of Commissioners will give the public an opportunity to comment in writing on the proposed amendment to the Flathead County Master Plan and will consider any written comments which are received in the Board's Office prior to January 16, 2006. The Board will consider whether to pass a final resolution adopting the proposed amendment after that date.

DATED this 14<sup>th</sup> day of December, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:  
Paula Robinson, Clerk

By /s/Kimberly Moser  
Deputy

Publish on December 19 and December 26, 2005.

### **COS REVIEW: SMITH**

[9:18:34 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Kirsten Holland, Jean Johnson, Kate Cassidy, Kerry Finley, Pam Holmquist, Jack Fallon, BJ Lupton, Paula Robinson

Holland reviewed the Smith family transfer request. Holland stated that she does not believe this is an attempt to evade 509, but that she wants the parcel designation to be clarified. Discussion was held relative to the possible intent of the applicant in transferring property to the spouse.

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

**CONSIDERATION OF PENALTY & INTEREST WAIVER / RSID #138**

9:27:20 AM

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Paula Robinson

Paula Robinson explained the reasoning behind the request for the waiver of penalty and interest.

Commissioner Brenneman made a **motion** to approve the waiver of penalty and interest on the two designated properties. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: DEGIZT & NELSON ZONE CHANGE / BIGFORK ZONING DISTRICT**

9:29:54 AM

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Kirsten Holland, Jeff Harris

Commissioner Brenneman made a **motion** to adopt Resolution 956BU. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

RESOLUTION NO. 956 BU

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, after the publication of legal notice, on the 31<sup>st</sup> day of October, 2005, concerning a proposal to change the zoning designation in a portion of the Bigfork Area Zoning District from R-1 (Suburban Residential) to B-3 (Community Business);

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

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

WHEREAS, based upon that recommendation and the public testimony, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 956 BT, dated October 31, 2005) to change the zoning designation in a portion of the Bigfork Area Zoning District from R-1 (Suburban Residential) to B-3 (Community Business);

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on November 3 and November 10, 2005, and the Board of Commissioners did not receive written protests to the change from forty per cent (40%) of the freeholders.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Bigfork Area Zoning District to change the zoning designation for the area described on Exhibit "A" hereto, from R-1 (Suburban Residential) to B-3 (Community Business), as those terms are used and defined in the Flathead County Zoning Regulations, located in Permanent File No. 93270 13500, in the Flathead County Clerk and Recorder's Office.

DATED this 14<sup>th</sup> day of December, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

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

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

ATTEST:  
Paula Robinson, Clerk

By/s/Kimberly Moser  
Deputy

**EXHIBIT A  
LEGAL DESCRIPTION  
DEGITZ & NELSON ZONE CHANGE**

**Location and Legal Description of Property:**

The property proposed for rezoning is located on the east side of Montana Highway 35, and the west side of Peaceful Drive. The property can be described as Tract 3AAAB, Section 25, Township 27 North, Range 20 West, P.M.M., Flathead County.

**CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: VAN DEREN TEXT AMENDMENT / FLATHEAD COUNTY ZONING REGULATIONS**



[9:32:38 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Kirsten Holland, Jeff Harris

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

RESOLUTION NO. 955 GO

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the 26<sup>th</sup> day of October, 2005, concerning a proposal to change the text of the Flathead County Zoning Regulations which would amend B-2, General Business, Section 3.17.020 by adding the following use to the list of permitted uses: *34. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes and furniture in an enclosed facility;*

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

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

WHEREAS, based upon that recommendation and the testimony of the public, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 955 GN dated October 26, 2005) to amend B-2, General Business, Section 3.17.020 by adding the following use to the list of permitted uses: *34. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes and furniture in an enclosed facility;* and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on October 31 and November 7, 2005, and the Board of Commissioners did not receive written protests to the change from forty percent (40%) of the freeholders.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Flathead County Zoning Regulations by amending the B-2, General Business, Section 3.17.020 by adding the following use to the list of permitted uses: *34. Repair of equipment and consumer items such as appliances, clocks and watches, lawn and garden equipment, computers, televisions, shoes and furniture in an enclosed facility.*

DATED this 14<sup>th</sup> day of December, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

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

ATTEST:  
Paula Robinson, Clerk

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

By/s/Kimberly Moser

Deputy

**CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: SEWER TEXT AMENDMENT / FLATHEAD COUNTY ZONING REGULATIONS**

[9:35:49 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Jeff Harris, Kirsten Holland, Pam Holmquist, Jack Fallon, BJ Lupton, Rick Breckenridge, Kerry Finley, Mark Lalum

Commissioner Watne made a **motion** to adopt Resolution 955GK. Commissioner Hall **seconded** the motion. **Aye** – Hall and Watne. **Opposed** – Brenneman. Motion carried by quorum.

RESOLUTION NO. 955GK

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the 19<sup>th</sup> day of April, 2005, concerning a proposal to change the text of the Flathead County Zoning Regulations which would amend Section 3.30.030 by adding Sewage treatment plants as item 18 in the list of Conditional Uses for Public Zoning Districts;

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

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

WHEREAS, based upon that recommendation and the testimony of the public, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 955 GJ dated November 1, 2005) to amend Section 3.30.030 by adding Sewage treatment plants as item 18 in the list of Conditional Uses for Public Zoning Districts; and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on November 5 and November 12, 2005, and the Board of Commissioners did not receive written protests to the change from forty percent (40%) of the freeholders.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Flathead County Zoning Regulations by amending Section 3.30.030 by adding Sewage treatment plants as item 18 in the list of Conditional Uses for Public Zoning Districts.

DATED this 14<sup>th</sup> day of December, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

By: \_\_\_\_\_  
Joseph D. Brenneman, Member

ATTEST:  
Paula Robinson, Clerk

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

By/s/Kimberly Moser  
Deputy

### **MONTHLY MEETING W/ KAROLE SOMMERFIELD, 4-H OFFICE**

[9:55:31 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Karole Sommerfield

Discussion was held relative to service projects, including food donations, blanket donations, gift wrapping, and a pet and people food drive. Discussion continued with the shooting sports programs and training, the horse committee, beef tagging, and livestock quality assurance.

### **MEETING W/ DOUG BAILEY / MDOT RE: SPEED STUDY / US 2 – MARION**

[10:04:50 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Doug Bailey, James Freyholtz

Discussion was held relative to a petition that was received to request a speed study be done on US Highway 2 in Marion. Discussion was also held relative to how the speed study would be done, public input, the length of time it will take to do the study and also other studies to be done and that have been done.

Commissioner Brenneman made a **motion** to approve the letter requesting that MDOT do a speed study on US Highway 2 in Marion. Commissioner Watne **seconded** the motion. **Aye** – Hall, Watne, and Brenneman. Motion carried unanimously.

**11:00 a.m. County Attorney meeting at the County Attorney's Office**

**11:30 a.m. Long Range Planning Task Force Affordable Housing Committee meeting at the Earl Bennett Building**

**3:00 p.m. Commissioner Hall to attend a meeting w/ Fred Leistiko Re: Airport Affected Area**

\*\*\*\*\*

**THURSDAY, DECEMBER 15, 2005**

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

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

[8:52:51 AM](#)

Neil Van Sickle spoke with the commissioners as a representative of Lakeshore Heights, Lakeshore Hills, and Eagle Ridge. He stated that having spent two terms as a county commissioner he is well aware of how much stuff they have to read and absorb, and how much stuff they have to hear, so he will be brief. He then stated, referring to a letter the commissioners should have received from Donald Murray subjecting Buffalo Mountain and Fox Ridge Subdivision application for preliminary plat approval groundwater issues, that he had two points to make relating to the second paragraph of that letter. He stated that it says that there is a documented serious water supply issue in the area of the two proposed developments. He also stated that the commissioners should have a document entitled water supply status in the Foy's Lake region of Flathead County and cooperative agreement. Referring to this document he asked the commissioners to please turn to the graphs on page two. He stated that the top graph is well number one of Lakeshore Heights, which was used to chart the water depletion of the aquifer, and the downtrend between 1972 and 1981. He then stated that at that same time, looking at the second chart, the annual precipitation, Kalispell annual precipitation, at the Glacier International Airport for the same period of time increased, and as they can see the aquifer decreased. He then asked the commissioner to turn to the next page and look at the chart on the top. Referring to that chart he stated that it reflects the water level of that same well from 1982 to 2001, and the reason that it

increases is that in 1982 water from Ashley Creek was led into Lakeshore Hills and Lakeshore Heights for purposes of irrigation, and for the refilling of Middle Foys Lake, however during that time, as they can see on the second chart, from 1982 to 2001 precipitation over that period decreased, yet with water from Ashley Creek the well reading in well number one increased. He stated that that is the some and substance of the facts related to the second paragraph in Donald Murray's letter, which he read to them. He then asked the commissioners to go to the last page of the first document, that he was talking about that had the charts. Referring to those charts he stated that when Eagle Ridge was started it was obvious, from the information that they had been recording on these wells for that long time, that there could be an inordinate demand on those wells. He then stated that instead of making enemies out of Eagle Ridge they got together with them and they developed a cooperative agreement. He stated that he did have a copy of the cooperative agreement incase they have questions about it, but the some and substance of the agreement is that at a certain water level measured from the surface from stage one a water shortage is impending, then everyone in Eagle Ridge, Lakeshore Heights, and Lakeshore Hills executes certain voluntary conservation measures, when level two is reached with a lower level of water measured from the surface, the water level is considered critical and Eagle Ridge at that time will stop irrigation, when level three is reached water levels are critical, Eagle Ridge, Lakeshore Heights, and Lakeshore Hills all cease use of groundwater for any use but domestic and mediation may commence. He stated that incidentally Lakeshore Hills and Lakeshore Heights do not use domestic well water for irrigation that they only use Ashley Creek water for irrigation. He then stated that when the water level gets even lower, which incidentally is eighty feet below stage one, it is a water shortage crisis, at that time Eagle Ridge seizes use of groundwater at the request of Lakeshore Hills and Lakeshore Heights for any purpose. He stated that obviously there are other things in this agreement other than these elements, but the important point that he wished to make is that by getting together with the homeowners of the new development they have changed what could have been a very bitter battle into a cooperative agreement where they are supporting each other, and it appears to them that this process is a very desirable condition, which should be satisfied before developments are approved in which there is a question of available ground water. He asked the commissioners if they had any questions.

Commissioner Hall asked if they have ever reached stage three and stage four.

Neil Van Sickle stated no they have never have. He then stated that the levels could be found on the charts he provided, although they are very difficult to read because they are hydrologist language, but the trend is indicated there. He then stated that he does not know what the water level is there now, but they are well above.

Commissioner Hall stated that as they know the information that they have received, and of course they are looking at two subdivisions today, is that there is threat of litigation and a real concern from people that there is not adequate water to supply the current users.

Neil Van Sickle stated that there is no threat of litigation among them now, Eagle Ridge, Lakeshore Hills and Lakeshore Heights, that problem has been solved by their cooperative agreement. He then stated that there may be a threat of litigation elsewhere, but that is not his subject this morning.

Commissioner Hall stated that Trina Stivers apparently is a resident up there, he is not sure if she is part of an organization or not, but she of course is asking the county commissioners to protect them and that understands that they need to be fair to the developers also, but apparently last year Lakeshore Hills and Lakeshore Heights Homeowners associations spent over sixty thousand in extensive testing and legal fees in order to prove that the Eagle Ridge Subdivision would put to much of a strain on the aquifer.

Neil Van Sickle stated that they did have an extensive negotiation, and that they did retain a hydrologist, and they did retain an attorney, and that they have an extended period of negotiation which resulted in this agreement. He then stated that if the commissioners wished he could give them some of the other basic elements of the agreement.

Commissioner Hall then stated that they have been asked, by the Crowley Law Firm, is to, before preliminary plat, to make sure that the water supply is adequate. He stated that he just not sure where everybody is at, because he is getting mixed messages, but it does sound like they have done their homework, and it sound like they have this issue addressed, so he is not sure, but they will see what happens when they make their decision today. He then asked if they feel confident that the agreement that has been worked out could provide adequate water for everyone.

Neil Van Sickle stated that they are confident that if they, now if they have a period of draught or something, they are confident that they will be able to take care of each other. He then stated that incidentally he had neglected to say one thing that is important, that on the chart on page three, where he indicated that with the interdiction of Ashley Creek water that there was a steady increase, that is despite additional homes that were built in that subdivision over those years, so in spite of the addition of additional homes in that subdivision over those years it still increased, and in light of a decrease in precipitation, and so that shows the value and importance of Ashley Creek water in taking over the irrigation part of the problem.

Commissioner Hall stated that one of the sentences, just to address this homeowner up there, she stated in one of her paragraphs that they have been conserving the aquifer for over twenty years by utilizing Ashley Creek to irrigate yards and fields, and that they have spent over one hundred thousand dollars on the irrigation system in order to protect the aquifer, and that at this time to approve either one of these subdivisions without proper testing of the aquifer would be a death sentence to their developments and the value of their homes would be reduced to nothing. Commissioner questioningly stated that Neil is stating that the testing has been done.

Neil Van Sickle stated that he is not. He stated that he is saying that they have kept a record since 1973 of the actual water trends, and so they have the actual water trends. He then stated that he is neither a geologist or a hydrologist but he does understand that the geology related to those aquifers is complicated and that it is difficult even with running a test well is as difficult to say that these aquifers are joined, because there is a difference of opinion among the experts as to whether if you dig a well in area A and then you dig a well in area B trying to see whether or not the water flows between the two aquifers, and say that if the water is the same then that indicated the same source. He then stated that that is not necessarily true according one opinion, because it may well be that the flow of water from aquifer A is so slow that it absorbs minerals on its way to aquifer B, therefore it they could be slightly different. He also stated that this is not a simple problem, and it has not been tested, and that there may have been tests done on other aquifers in the county, but as far as he concerned this specific one has not.

Commissioner Hall stated that this testing indicates that there is enough water there.

Neil Van Sickle stated that they believe that using prudent conservation they have no way of knowing how much water they will actually use. He stated that they made a claim for water, but he does not know the numbers, but he can give them that, but the number of waters in the claim they reduced their claim. He stated that they made a certain claim when they developed Eagle

Ridge on x number of acre feet per family, but they reduced that somewhat, so there has been a general appreciation for the necessity of conservation in order to preserve the water to go to those three subdivisions.

Patrick Thomas stated that he is with the Glacier Hills board, and also wrote a letter that they should have in their records. He stated that the point that they are digressing on is the homework and the data and the research was also done, historically speaking, to conservation associated with their two developments Lakeshore Hills, and Lakeshore Heights. He then stated that the records and data they have now are in response to negotiations with Eagle Ridge, so the question that they need to clarify is no they have not done their homework, and they have not yet done any kind of negotiations with either of the two proposed two developments, and that is their concern and why they are here. He stated that they are concerned about water levels, water quality, water quantity, and especially in response to Fox Ridge. He stated that that is the essence behind the letter that they have in front of them. He then stated that as stated on the first page of Mr. Murray's letter, is that they ask they as county commissioners address the availability of water, for not only their existing subdivision, but the proposed subdivision at Buffalo Mountain, as well as the adjoining one of Fox Ridge. He stated that they need their help in cooperation, and that he does understand their perspective, but at the same time they have existing subdivisions that have a need for water, and they need to address the forthcoming needs as well. He again stated that that is why they were there, to ask them to help them do the homework, and they would be glad to enter into a similar negotiation with the other subdivision called Buffalo Mountain. He stated that they have done their homework, but he does not know that what homework they have done in the past will apply to new subdivisions, but according to the people he has talked to it is kind of like starting over again.

Commissioner Hall stated that he appreciated that perspective, and that it all helped.

Commissioner Brenneman asked if they or their homeowners association have a recommendation for them.

Neil Van Sickle stated that the recommendation was contained in Donald Murray's letter.

Commissioner Brenneman then asked if they would agree with his four.

Commissioner Hall stated that the planning board recommended that there be a condition that they must install a public water system.

Commissioner Brenneman stated that Don recommends that there be further testing done.

Commissioner Hall stated that they could condition that, and that they would look really close at that today as they look at the preliminary. He also stated that he does understand that there are some serious concerns, and they are also taking it seriously as well, and that they will study the facts and if they are not comfortable they will not progress today.

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

#### **MONTHLY MEETING W/ JED FISHER, WEED/PARKS/MAINTENANCE**

[9:15:58 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Jed Fisher

Discussion was held relative to the Herron Park land swap issue, the Justice Center roof bid and the use of the additional money that had been budgeted, trail easements, Justice Center bills, grant submittal, and the sale of vehicles on county property.

#### **OPEN BIDS: GRADER / ROAD DEPT**

[9:36:22 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Ted Gilbertson, Tom Miller

Western States - \$269,715

Triple W Equipment – \$236,500 – 7500 hour pour power train warranty \$242,700

Western Power Equipment – No bid

Tri State - \$225,000

Commissioner Watne made a **motion** to take the bids under advisement. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

#### **AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: WHISPER RIDGE PUD**

[9:32:47 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Erica Wirtala

Commissioner Brenneman made a **motion** to approve the notice of public hearing and authorize the chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 3.31.020.4 of the Flathead County Zoning Regulations, that it will hold a public hearing to consider a request by Brandyland, LLP, to approve a Planned Unit Development (PUD) in the Bigfork Zoning District on property zoned R-4 (Resort Business).

The area proposed to be overlaid with a PUD is described as Assessor's Tracts 1CAH, and 1C in Section 36 of Township 27 North, Range 20 West, P.M.M., Flathead County, Montana. The property is located on MT Highway 35 just south of its intersection with Sunset Drive, Bigfork, Montana.

The proposal would overlay approximately 14.049 acres to be developed into 59 residential lots: 23 single-family residential lots and 36 townhouse lots. The deviations from the R-4 requirements are related to road length, right-of-way width, and setbacks. The PUD use regulations allow density of 15 units per acre in R-4 districts.

The regulations defining the PUD and the Bigfork Zoning District classifications 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. Documents detailing the proposed PUD are available for public inspection at the Office of the County Clerk and Recorder, 800 South Main, Kalispell, Montana, and at the Flathead County Zoning and Planning Office, 1035 1<sup>st</sup> Avenue West, Kalispell, Montana.

The public hearing will be held on the **3<sup>rd</sup> day of January, 2006, at 10:30 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed PUD overlay in the Bigfork Zoning District.

DATED this 15<sup>th</sup> day of December, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:  
Paula Robinson, Clerk

By/s/Kimberly Moser

Deputy

Publish on December 20 and December 27, 2005.

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROAD ABANDONMENT #434 (PORTION OF SPRINGDALE SUBDIVISION)**

9:35:00 AM

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser

Commissioner Brenneman made a **motion** to approve the notice of public hearing and authorize the chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

NOTICE OF PUBLIC HEARING  
TO CONSIDER DISCONTINUANCE  
OF PUBLIC ROADWAY  
NO. 434

Notice is hereby given that the Board of Viewers have reported unfavorably to the Board of Flathead County Commissioners on the discontinuance of that certain public roadway in Flathead County, Montana, described as follows:

A Tract of Land Located in the west half of the northeast quarter of Section 4, Township 28 North, Range 21 West, Principal Meridian, Montana, Flathead County, Montana and more particularly described as follows:

Commencing at the northwest corner of Springdale Subdivision, a plat of which is on file with the Flathead County Clerk and Recorder's Office; Thence South, 10.0 feet to a point and which point is the true point of Beginning;

Thence on and along the exterior boundaries of said Springdale Subdivision, the Following Three (3) Courses:

South, a distance of 506.7 feet to a point; East, a distance of 20.0 feet to a point; South, 641.0 feet to a point; thence N89°32'E, and leaving said exterior boundary, a distance of 10.0 feet to the Southwest corner of Lot 1 of said Springdale Subdivision; thence North, on and along the West boundary of lots 1 thru 16 of said Springdale Subdivision, a distance of 1147.5 feet to a point and which point is the Northwest corner of said lot 16, thence N89°46'W, a distance of 30.00 feet to the true point of beginning.

Notice is hereby given to the petitioners or landowners as disclosed by the last assessment roll of Flathead County, owning land abutting the roadway described above and being considered for abandonment.

The hearing on this petition for abandonment is set for **January 3, 2006 at 9:30 a.m.** in the County Commissioners' Office, West Annex, Courthouse, Kalispell, Montana.

DATED this 15<sup>th</sup> day of December, 2005.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

PAULA ROBINSON,  
CLERK AND RECORDER

By/s/Kimberly Moser  
Kimberly Moser, Deputy

Publish on December 20 and December 27, 2005

**TAKE ACTION: AMENDED PLAT TRACT 4CCE**

[9:41:45 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser

The commissioners read into the minutes that the Amended Plat Tract 4CCE Subdivision has died for lack of action by the deadline.

**DOCUMENT FOR SIGNATURE: EAGLE TRANSIT CONTRACT**

[9:44:16 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Raeann Campbell

Commissioner Brenneman made a **motion** to approve the Eagle Transit Contract and approve the retroactive pay raise to July 1<sup>st</sup>, 2005. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: HEALTH DEPT / MSU CONTRACT #G128-06-W0152 & DPHHS CONTRACT #06-07-4-51-010-0**

[9:48:41 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Raeann Campbell

Commissioner Brenneman made a **motion** to approve the MSU Contract #G125-06-Q0152 and the DPHHS Contract #06-07-4-51-010-0. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

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

[9:50:17 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Raeann Campbell

Discussion was held relative to board training, the 2004 recordable incidents, 2005 recordable incidents, upcoming training, salary survey, turnover statistics, trust fund balance, sheriffs contracts, revised job description for the payroll technician

Commissioner Brenneman made a **motion** to approve the revised payroll technician job description and authorize the chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: VALIC**

[10:05:10 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser

Commissioner Watne made a **motion** to approve the Valic document. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

#### **PRELIMINARY PLAT: FOX RIDGE**

[10:19:06 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Traci Sears-Tull, Eric Mulcahy, Tom Sands, Don Peterson, Mark Owens, Roger Noble, Brian Launius, Jeff Harris, Kirsten Holland

Sears-Tull reviewed the application submitted by LBO Properties and Roan & Merna Terry for preliminary plat approval of Fox Ridge Subdivision, a major subdivision that will create 28 single-family residential lots. The subdivision is proposed on 32.326 acres and will be served by individual sewer and water. The subdivision is located off of Whalebone Drive in Kalispell. There are 21 attached conditions. Staff recommends denial based on that a community water system was not proposed in the original application and that the public had not had adequate time to review the proposed changes such as irrigation lines and community water system.

Commissioner Hall questioned the cash in lieu amount.

Eric Mulcahy spoke on the design of the project, a neighborhood meeting, a community water system, on site sewage disposal, and the condition requiring a dry line to the city sewer system and suggested that they waive a protest for a sewer SID with the city.

Commissioner Hall questioned the number of subdivisions in that area with dry lines.

Tom Sands spoke in regards to past conditions requiring hookup to city sewer.

Roger Noble spoke on the water concerns in the proposed subdivision area.

Commissioner Brenneman questioned the DEQ analysis process. He also spoke on the concerns by Donald Murray and the four conditions that he asked for.

Jeff Harris commented on the water quantity issues and how these issues could be addressed.

Discussion was also held relative to the condition requiring a dry line.

Commissioner Brenneman made a **motion** to continue the Fox Ridge Subdivision and the Buffalo Mountain subdivision until tomorrow at 11:00. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

#### **PRELIMINARY PLAT: BUFFALO MOUNTAIN**

This meeting was continued until tomorrow December 16<sup>th</sup>, 2005 at 11:00 a.m.

#### **MEETING W/ JOE RUSSELL, HEALTH DEPT**

[11:19:11 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Dennis Hester, Joe Russell, Nancy Askew

Discussion was held relative to the air pollution modification program including what needs to be done to implement, the process of the project, what still needs to be done, and the proposed boundary lines for the air pollution control districts in Kalispell, Whitefish, and Columbia Falls.

Discussion was also held relative to the road paving requirements, the Commissioner's Resolution 1374, how the policy reads, a map on the standard condition quarterly average, and the responsibility and liability of the county.

#### **FINAL PLAT: BEAVER HILLS**

[11:17:02 AM](#)

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Kirsten Holland

Holland reviewed the application submitted by Howard & Tracie Keister for final plat approval of Beaver Hills Subdivision, which will create three residential lots. The site is located off Beaver Lake Road, approximately seven miles north of Whitefish. Preliminary plat approval was granted on August 3, 2005, subject to 12 conditions. All conditions have been met.

Commissioner Watne made a **motion** to approve the final plat of Beaver Hills Subdivision. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**2:00 p.m. Commissioner Watne to attend Health Board meeting at the Earl Bennett Building**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on December 15, 2005.

\*\*\*\*\*

**FRIDAY, DECEMBER 16, 2005**

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

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

**CONTINUATION OF PRELIMINARY PLAT: FOX RIDGE**

11:05:52 AM

Members present:

Chairman Gary D. Hall  
Commissioner Robert W. Watne  
Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Traci Sears-Tull, Jeff Harris, Kirsten Holland, Don Peterson, Mark Ownes, Eric Mulcahy, Ted Dykstra Jr, Tim Hinderman, Joe Kauffman, Dennis Duty, John Chivilick, tom Cowan, Dan Richter, Merna Terry, Roger Noble, Tom Sands, Brian Launius,

Traci Sears-Tull reviewed the changes and additions to the now 24 conditions. She also presented a letter to the commissioners from DNRC.

Commissioner Watne made a **motion** to adopt Staff Report FPP-05-67 as findings of fact. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Watne made a **motion** to approve the preliminary plat of Fox Ridge Subdivision subject to 24 amended conditions. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

**CONDITIONS:**

1. The applicant shall obtain a variance to the cul-de-sac design requirement in Table 1 of Section 3.9 of the Flathead County Subdivision Regulations for the internal subdivision road. [Section 7.1, Flathead County Subdivision Regulations]
2. The private, internal subdivision roads will consist of a 60-foot right-of-way, minimum 20-foot paved driving surface, and a hammer head turnaround and be designed and certified by a licensed, professional engineer. [Section 3.9, Flathead County Subdivision Regulations]
3. Roads and driveways will conform in all locations to maximum grade standards [Section 3.6(E) and 3.9, Table 2, FCSR]
4. The applicant will receive physical addresses and road names in accordance with Flathead County Resolution #1626. The addresses and road names will appear on the final plat. [Section 3.9(I)(7), FCSR]
5. A road identification sign will be installed at the intersection of Katie Lane and Chris Lane. A road identification sign and stop sign will be installed at the intersection of the internal subdivision road and Whalebone Drive. [Section 3.9(I)(8), FCSR]
6. The applicant will obtain and show proof of a completed approach permit from the (Flathead County Road Department) for access onto Whalebone Drive, indicating the approach has been built and received final inspection. [Section 3.8(A), FCSR]
7. Lot owners within the subdivision will participate in a Road Users' Agreement or Property Owners Association for the internal subdivision road, which will require each property owner to bear his or her pro-rata share for maintenance of the private roads. [Section 3.9(J)(3), FCSR]
8. The developer will dedicate a 15-foot bike/pedestrian easement on the Whalebone Drive frontage. [Section 3.18(A), FCSR]
9. New electrical and telephone utilities will be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]
10. The subdivider shall include another waiver of protest on the face of the final plat that the subdivision shall connect to Kalispell Sewer and Water District when services become available in that area. [Section 3.15(D), FCSR and Agency Comment]
11. The applicant will comply with reasonable fire suppression and access requirements of the Smith Valley Fire District. A letter from the fire chief stating an agreement has been made will be submitted with the application for Final Plat, this should include the departments' approval of the proposed hammer head turnaround. [Section 3.20, FCSR]
12. All areas disturbed during development of the subdivision will be re-vegetated in accordance with a plan approved by the Flathead County Weed Department. [7-22-2116 MCA and Section 3.12(J), FCSR]
13. If required by the local postmaster, the developer will provide a common mailbox facility in accordance with the Flathead County Subdivision Regulations. [Section 3.22, FCSR]
14. The developer shall contact the Child Transportation Committee and, if required, provide and improve a location for the safe loading and unloading of students. [Agency Comment]
15. The following statements will be placed on the face of the final plat applicable to all lots:
  - a. All addresses will be visible from the road, and at the driveway entrance or on the house.
  - b. All utilities will be placed underground.
  - c. Lot owners are notified they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.



- d. The property owners association or road users' agreement will govern maintenance of the internal subdivision road. The road will be maintained, including necessary repairs, snow removal, and dust mitigation, to ensure safe all-weather travel for two-way traffic and to reduce negative impacts on air quality.
- e. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
- f. This subdivision is located in an agricultural area and potential nuisances such as noise, dust, odors, and irregular hours of operation are commonplace. As such, the right to farm on adjoining properties shall not be restricted as a result of the development or occupancy of this subdivision.

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

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

- 16. All required improvements will be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, will be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR]
- 17. The final plat will be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
- 18. Preliminary plat approval is valid for four (4) years. The total life of the preliminary plat shall not exceed four (4) calendar years. [Section 2.5(D)(6), FCSR and 76-3-610 MCA]
- 19. The applicant will dedicate to the Board of County Commissioners \$28,120 as cash-in-lieu of parkland in fulfillment of the parkland dedication requirement. [Section 3.19, FCSR]
- 20. The subdivision shall use a public water system for their potable water supply that has been reviewed by Flathead City-County Health Department and approved by the State of Montana Department of Environmental Quality. [Section 3.14(A) and 3.15(A), FCSR]
- 21. Water for the potable community system shall be provided by community wells. Lawn and garden irrigation within the subdivision shall be provided from the existing Ashley Creek irrigation water rights #76LJ11067 and #76LJ11068.
- 22. The subdivider shall transfer the two existing Department of Natural Resources Conservation irrigation water rights from individual use to the entire subdivision use and transfer ownership to the Homeowner's Association or Water User Association.
- 23. A hydrogeological assessment will be conducted to evaluate groundwater availability within a half mile of each point of diversion for the subdivision. A written report will be supplied to the County documenting the findings of the water availability evaluation.
- 24. The subdivision will participate in the neighborhood monitoring program of at least one well completed in the bedrock aquifer. The purpose of the monitoring is to document water level trends and water availability of the bedrock aquifer. The groundwater monitoring will be conducted through the use of a water level data logger capable of recording hourly measurements. This information shall be submitted annually, November 30, to the Flathead City-County Health Department and the Department of Natural Resources Conservation.

**CONTINUATION OF PRELIMINARY PLAT: BUFFALO MOUNTAIN**

[11:12:37 AM](#)

Members present:

Chairman Gary D. Hall  
 Commissioner Robert W. Watne  
 Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
 Clerk Kimberly Moser, Kirsten Holland, Jeff Harris, Eric Mulcahy, Ted Dykstra Jr, Tim Hinderman, Joe Kauffman, Dennis Duty, John Chivilicek, Tom Cowan, Dan Richter, Roger Noble, Tom Sands, Don Peterson, Mark Owens

Holland reviewed the application submitted by John Chivilicek for preliminary plat approval of Buffalo Mountain Subdivision, major subdivision that will create 150 single-family residential lots west of Kalispell off Smith Lake Road. The subdivision is proposed on 490.58 acres, and will be served by a community water system. The property, which is in the Lower Side Zoning District, is primarily zoned SAG-5, although some of the land is unzoned. There are 19 originally attached conditions. Staff recommends approval.

Holland reviewed the conditions recommended by planning staff after the previously continued commissioners meeting.

Commissioner Watne made a **motion** to adopt Staff Report FPP-05-68 as findings of fact. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Brenneman questioned the lack of a condition requiring a specific water and sewer system.

Jeff Harris stated that they were covered by the fact that the subdivider proposed this subdivision with this specific water system, but that if they felt more comfortable they could add a condition.

Commissioner Brenneman made a **motion** to add a condition requiring the developer to develop a water and sewer system the same as in the environmental assessment. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Brenneman made a **motion** to change condition 18 making the preliminary plat valid for four years. Commissioner Watne **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

Commissioner Hall questioned having a condition on mitigating for dust, and the condition that allows the developer to keep the 22 foot paved travel surface on Smith Lake Road.

Eric Mulcahy spoke in regards to having a cooperative agreement with the county for the intersection rebuild.

Commissioner Watne made a **motion** to approve the preliminary plat of Buffalo Mountain Subdivision subject to 22 amended conditions. Commissioner Brenneman **seconded** the motion. **Aye** - Hall, Watne, and Brenneman. Motion carried unanimously.

*CONDITIONS*

1. The private, internal subdivision road will consist of a 60-foot right-of-way and 22-foot paved driving surface and be designed and certified by a licensed, professional engineer. [Section 3.9, Flathead County Subdivision Regulations]
2. The applicant shall receive physical addresses and road names in accordance with Flathead County Resolution #1626. The addresses and road names shall appear on the final plat. [Section 3.9(I)(7), Flathead County Subdivision Regulations]
3. Road identification signs and stop signs will be installed at all intersections. [Section 3.9(I)(8), FCSR]
4. The subdivider shall bring the gravel portion of Smith Lake Road between the subdivision entrance at Bison Circle and Phanco Lane to County standards, including construction of an adequate road base and a 22-foot paved travel surface. The subdivider shall also rebuild the intersection of Whalebone Drive and Smith Lake Road to a proper configuration. All improvements will be designed by a licensed Professional Engineer. [Recommendation per Flathead County Road Department, 10/21/05]
5. The applicant will obtain and show proof of a completed approach permit for the additional lots from the Flathead County Road Department for access onto Smith Lake Road, indicating the approach has been built and received final inspection. [Section 3.8(A), FCSR]
6. Lot owners within the subdivision will participate in a Road User's Agreement or Property Owners Association for the internal subdivision road, which will require each property owner to bear his or her pro-rata share for maintenance of the private road. [Section 3.9(J)(3), FCSR]
7. New electrical and telephone utilities will be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Sections 3.17 & 3.18, FCSR]
8. The proposed water and septic treatment systems for the subdivision will be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 3.15, FCSR]
9. The applicant will comply with reasonable fire suppression and access requirements of the Smith Valley Fire District. A letter from the fire chief stating that an agreement has been made will be submitted with the application for Final Plat. [Section 3.20, FCSR]
10. All areas disturbed during development of the subdivision will be re-vegetated in accordance with a plan approved by the Flathead County Weed Department. [7-22-2116 MCA and Section 3.12(J), FCSR]
11. Home sites shall be located off ridgelines in order to minimize alteration of natural ground contours and preserve the natural skyline as viewed from lower elevations. [Section 3.2, FCSR]
12. All areas designated as open space on the preliminary plat shall be placed in a perpetual conservation easement held in perpetuity or under permanent deed restriction held in perpetuity. [Section 5.09.020(8), Flathead County Zoning Regulations]
13. The applicant shall furnish proof of a common mail delivery location approved by the local postmaster. [Section 3.22, FCSR]
14. The subdivider shall meet with the Montana Department of Fish, Wildlife, and Parks biologist for this area to discuss impacts to wildlife and habitat that cannot be mitigated through education and outreach, including preservation of wildlife corridors. A letter from the department shall be submitted with the final plat application. [Section 3.2, FCSR]
15. The following statements shall be placed on the face of the final plat applicable to all lots:
  - a. All addresses shall be visible from the road, and at the driveway entrance or on the house.
  - b. All utilities shall be placed underground.
  - c. This plat has not been reviewed or approved for individual sewer or water facilities.
  - d. Lot owners should be aware they are living in a rural area of Flathead County and delayed response times may be experienced from emergency service providers.
  - e. The property owners association or road users agreement will govern maintenance of the internal subdivision road. The road will be maintained, including necessary repairs, snow removal, and dust mitigation, to ensure safe all-weather travel for two-way traffic and to reduce negative impacts on air quality.
  - f. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
  - g. Only Class A or B fire rated roofing materials are allowed. [Section 3.21, FCSR]
  - h. Defensible Space Standards shall be incorporated around all primary structures. [Appendix G, FCSR]
  - i. Lot owners are alerted to the presence of large and potentially dangerous wildlife in the area and are reminded that feeding big game is illegal, as it not only has negative impacts on the animals themselves, it increases the presence of dangerous predatory animals. They are encouraged to contact the Montana Department of Fish, Wildlife, and Parks to obtain information on safely living near wildlife and minimizing habitat impact, including:
    - i. Dogs must be kept under owner control at all times.
    - ii. Residents must use bear-proof garbage containers.
    - iii. Remove obvious sources of food.
    - iv. Compost piles are prohibited unless secured by electrical fencing.
    - v. Pets should be fed indoors or food dishes brought in at night.
    - vi. Place bird feeders out of the reach of deer and other big game.
  - j. Waiver of Protest  
Participation in Special Improvement District

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

16. All required improvements shall be completed in place or a Subdivision Improvement Agreement, in accordance with Chapter 8 of the Flathead County Subdivision Regulations, shall be provided by the subdivider prior to final approval by the County Commissioners. [Chapter 8, FCSR]
17. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
18. Preliminary plat approval is valid for four (4) years. The total life of the preliminary plat shall not exceed four (4) calendar years. [Section 2.5(D)(6), FCSR]
19. The subdivider will dedicate a 15-foot bicycle/pedestrian easement along the Smith Lake Road frontage.
20. A hydrogeological assessment will be conducted to evaluate groundwater availability within a half mile of each point of diversion for the subdivision. A written report will be supplied to the County documenting the findings of the water availability evaluation.
21. The subdivision will participate in the neighborhood monitoring program of at least one well completed in the bedrock aquifer. The purpose of the monitoring is to document water level trends and water availability of the bedrock aquifer. The groundwater monitoring will be conducted through the use of water level data logger capable of recording hourly measurements. This information shall be submitted annually, November 30, to the Flathead County Health Department and the Department of Natural Resources Conservation.
22. The community water and sewer system will be installed and implemented according to the specifications outlined in the Environmental Assessment submitted by the applicant.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on December 19, 2005.