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**MONDAY, JULY 10, 2006**

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

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

[9:08:12 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Clerk Kimberly Moser, Jay Scott

Discussion was held relative to the road construction around the fairgrounds being ahead of schedule. Jay then discussed recent comments that have been received on the lack of horse racing. He then spoke in regards to the events planned for the fair, handicapped parking plans, the upgrade of the electrical systems, and the maintenance being done in preparation for the fair. The commissioners asked Jay to ensure that MDOT maintains dust mitigation on the gravel during the fair.

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

Wallace Hill Best spoke in regards to the paper that he publishes. He then spoke in regards to his thought of the need for five commissioners and to have only the people in each commissioner's district vote for the commissioner instead of the entire county. He also stated that he felt that they should be four year terms. He then spoke in favor of commissioner candidate Dale Lauman.

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

**PUBLIC HEARING: GRAVEL EXTRACTION TEXT AMENDMENT / FLATHEAD COUNTY ZONING REGULATIONS**

[9:32:35 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Kirsten Holland, Jeff Harris, Peter Steele, Bill Breen, Steve Bandehey, Clara LcChappelle, Barb Sauer, Bob Sauer, Julia M Byrnes, Russian Swindall, Angie Clark, Thomas Clark, Ginny coyle, Bruce Tutvedt, William Allegro, Paul McKenzie, Irene Vandehey, Gary Krueger, Mark Schwager, Alrick Hale, Kip Willis, Pam Butler, Alan Butler

Holland reviewed Staff Report FZTA-05-04. She stated that her evaluation does support the text amendment as originally submitted but that changes have been requested since then.

Chairman Watne opened the public hearing to anyone wishing to speak in favor or opposition

Paul McKenzie submitted comments on behalf of FH Stoltz. He read the statement and submitted the written version for the record.

Clara LaChappelle reviewed House Bill 591. She stated that they need some help out there and need the commissioners to clarify gravel extraction. She then reviewed the nitrate level history in her well. She stated that they do not need gravel industry in West Valley. She stated that the commissioners need to take heed of what they are going to destroy in West Valley if they allow industry in that area. She also stated that they have not found the source of the nitrates, that they have an idea but can not reveal that at this time. She then explained how gravel pits affect the aquifer.

Steve Vandehey reviewed how gravel pits affect the aquifer. He then stated that when Flathead Citizens For Quality Growth got together they wanted to make this fairly simple. He stated that the easiest way to do that is to prohibit commercial and industrial. He then stated that the language got very confused when it was sent to the West Valley Land Use Advisory Committee. He asked the commissioners to approve the definition of gravel extraction today and not the conditions.

Kip Willis stated that he felt this was an excellent opportunity to point out that the West Valley Plan clearly states no industrial or commercial and so it should be clear that gravel extraction does not include commercial or industrial. He then spoke in regard to the cumulative impact of running all of these gravel trucks along two roads. He then spoke in regards to that large quantities of water that is being used in these pits and the need of the residents to re drill wells.

Mark Schwager also asked the commissioners to at least adopt the definition of Gravel Extraction. He then spoke in regards to the traffic and road issues that the pits cause. He stated that infrastructure, water, and safety are all major issues in that area. He stated that the community if divided and they need cohesiveness to draw them back together.

Gary Krueger stated that the applicant does not like this and the gravel people do not like it. He stated there does need to be clarification and they need to let the Board of Adjustments mitigate and condition concerns.

Bill Breen stated that the West Valley Area is residential, agricultural, and civicultural and when the plan was originally put together it was agreed that it should be maintained in those areas. He stated that this text amendment helps them maintain the activities that the people in that area feel are important. He asked the commissioners to come up with a definition that helps them in that area. He asked them to support the text amendment.

Thomas Clark stated that he agreed that they do need something to restrict the size of these gravel operations. He stated that this plan was written in 1996 when most of these gravel pits were smaller and locally owned. He stated that they are not asking to stop gravel operations and that people have the right to make money off of their property. He stated that he would hate to have this sent back to the planning board as they do not even understand West Valley Zoning. He stated that he believed that if a small group could get together they could come up with something agreeable.

Bruce Tutvedt stated that he was there when they wrote the West Valley Plan. He stated that agriculture is the largest industry in Montana. He stated that there are water quality problems. He stated that there are a lot of large projects coming but they need the gravel for the projects that are going on in the valley. He stated that this is a poorly thought out knee jerk reaction. He stated that every pits he has uses a million gallons of water a day. He also explained when they use the deep aquifer and the shallow aquifer.

William Allegro asked the commissioners for their help. He stated that the majority supports these amendments. He also stated that they are not perfect. He then spoke in regards to a gravel pit that is being looked at for the area around his subdivision. He spoke in regards to his suggestion of swapping lands to create areas that people want as residential. He again stated that they need help and regulations.

Angie Clark stated that this was very basic when it went to the West Valley Land Use Committee. She stated that the mentioning of the Meth Lab is just a smoke screen. She spoke in regards to the septic waste disposal. She stated that they have tried working with these guys. She stated that she is not opposed to gravel pits but is in favor of regulations. She asked the commissioners to look at this text amendment as looking at the future.

Alrick Hale spoke in regards to a project bid that is coming up for MDOT. He stated that the Flathead has a huge problem with the demand that there is for gravel. He stated that he is concerned that the construction for these projects is going to require a permit that will need more than a ten acre site. He stated that a gravel operation is industry. He stated that it is very difficult to have a pit on a twenty acre site. In regards to water contamination he stated that all of his pits are monitored and they have not seen any impacts from their pits in the valley or in Missoula. He then stated that to his knowledge they have only expanded one of their operations.

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

Commissioner Watne stated that he did not support the resolution.

Commissioner Hall stated that there is not a lot of support for this amendment at the moment. He asked if the planning department supports this amendment.

Jeff Harris stated that there is obviously a lot of controversy and that something needs to occur to remedy the situation. He asked the commissioners to consider looking at the definition and not the conditions. He stated that they have not seen a draft of the updated West Valley Plan. He again stated that something needs to be done even if it means just looking at the definition and not the conditions. He stated that this was not a community wide effort but an effort of those who attended. He then stated that they do not feel comfortable processing without community input.

Kirsten Holland spoke in regards to a past report she had written and the lack of consistency between gravel extraction and gravel industry. She stated that clarification of the definition is essential for the planning department to do their job.

Jeff Harris then spoke in regards to the Lawsuit on the Tutvedt Pit that is in the Supreme Court. He stated that the West Valley Zoning District is a residential district. He then stated that they might want to consider adding a sentence to the definition about West Valley being defined as residential.

Commissioner Hall then stated that public comment is very important to him but he has a problem with making any changes to this right now. He stated that he felt this might need to be tabled at this time until they have talked more about this. He stated that he knew that no one is really comfortable with the final product that is before them today.

Jeff Harris stated that they would not feel comfortable with moving forward with Section 3.34.110 but the definition will position the county to potentially avoid future lawsuits.

Peter Steele stated that they could table it, grant, deny, amend or take under advisement.

Commissioner Hall made a **motion** to take the amendment under advisement. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**1:30 p.m. Commissioner Hall to attend TAC meeting at Kalispell MDOT Conference Room**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on July 11, 2006.

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**TUESDAY, JULY 11, 2006**

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

**Chairman Watne opened the public comment on matters within the Commissions' Jurisdiction,**  
[9:09:51 AM](#)

Erica Wirtala spoke in regards to a decision made by the commissioners to deny a request to extend the deadline for Ashley Hills. She reviewed a case law that allows county commissioners to grant an extension of approval of preliminary plat within a reasonable time of expiration of the preliminary plat.

Carl Glimm spoke as a representative of Bob Monk. He expressed his sincere hope that the commissioners would reconsider their denial. He stated that they have already put in a considerable amount of money into the project and reviewed the work that has already been done on it. He stated that they had thought they had until the end of this summer but have now learned that they were mistaken.

Erica Wirtala stated that they had submitted the request forty two days past the deadline. She then explained how the short notice of the meeting prevented a representative from attending the meeting.

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

**DISCUSSION RE: COUNTY SURVEYOR CONTRACTS**

[9:16:19 AM](#)

Members present:

Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Jim Burton, Jonathan Smith, Paula Robinson

Discussion was held relative to the need to reestablish the county surveyor contracts. Jonathan Smith stated that it was time to do a two year contract. He stated that the plat room recommended staying with local people and contracts. The decision was made to negotiate with Jackola, Jim Burton, and Bryan Block. Commissioner questioned where the county was in hiring an in house surveyor. Jim Burton stated that he is proposing thirty dollars and hour up from the current twenty eight. He then submitted new rates being requested from Jackola. He stated that the rates being requested are less than what they offer the general public. Paula Robinson asked to move forward with the contracts for Jim Burton and Brian Block and take the Land Surveyor increase under advisement

Commissioner Hall made a **motion** to approve the preparation of a contract for the examining surveyor and assistant surveyor in the amount of \$30.00 per hour and \$.31 per mile. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

Discussion was held relative to the Land Surveyor contract and the amount of work that has been done this year. It was decided to speak with Charlie before approving the contract

Commissioner Hall made a **motion** to continue the Land Surveyor contract decision. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

**MONTHLY MEETING W/ LAURIE REBUCK, JUVENILE DETENTION CENTER**

This meeting was not held.

**PUBLIC HEARING: HOGAN ZONE CHANGE / CHERRY HILL ZONING DISTRICT**

[10:16:19 AM](#)

Members present:

Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Kirsten Holland, Jeff Harris, Traci Sears-Tull, Jim Burton, Jeff Larsen, Dan Hogan, Gary Treweek

Holland reviewed Staff Report FZC-06-06. Staff recommends approval.

Commissioner Brenneman PT opened the public hearing to anyone wishing to speak in favor or opposition.

Jim Burton explained the reasoning behind the zoning of the property and the fear that was originally expressed on not allowing commercial in that area. He stated that Mr. Hogan is continuing the project as a second phase and is proposing duplex's.

No one else rising to speak Commissioner Brenneman PT closed the public hearing.

Commissioner Hall made a **motion** to adopt resolution 961B. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

RESOLUTION NO. 961B

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 11<sup>th</sup> day of July, 2006, to consider a request by Dan Hogan to change the zoning designation on property located in the Cherry Hill Zoning District from R-2 (One-Family Limited Residential) to R-4 (Two-Family Residential);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on June 28 and July 5, 2006;

WHEREAS, the Board of Commissioners did receive 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 Cherry Hill Zoning District.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby adopts the findings of fact as to the statutory criteria as adopted by the Flathead County Planning Board and, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning designation on property located in the Cherry Hill Zoning District from R-2 (One-Family Limited Residential) to R-4 (Two-Family Residential), that area being described on Exhibit "A" hereto.

BE IT FURTHER RESOLVED that notice of the passage of this resolution, stating the boundaries of the portion of the Cherry Hill Zoning District to be changed, the general character of the proposed designation for the area to be changed, that the regulations for

said district are on file in the Clerk and Recorder's Office, and that for thirty (30) days after the first publication thereof, the Board will receive written protests to the change to the Cherry Hill Zoning District, shall be published once a week for two weeks.

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

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

DATED this 11<sup>th</sup> day of July, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

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

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

ATTEST:  
Paula Robinson, Clerk

By/s/Kimberly Moser  
Deputy

**DAN HOGAN**  
**ZONE CHANGE FROM R-2 to R-4**  
**STAFF REPORT #FZC 06-06**  
**May 17, 2006**

**Location and Legal Description of Property:**

Two tracts of land situated, lying and being in Government Lot 3, and the NE ¼ SW ¼ of Section Six (6), Township Twenty-six (26) North, Range Twenty (20) West, P.M.M., Flathead County, Montana, and more particularly described as follows to wit:

**Tract 1:**

Commencing at the SW Corner of said Section 6, which is an iron pin; thence North 89°45'44" East, along the South boundary of said Section 6, a distance of 2,626.26 feet; thence North, leaving said South boundary, a distance of 1,363.87 feet to a found 2" pipe on the West boundary of Gov't. Lot 3, which is the True Point of Beginning of the tract of land herein described; thence North 89°57'07" West, a distance of 233.51 feet to a found ½" Rebar; thence North 00°00'19" West, a distance of 114.71 feet to a found ½" Rebar; thence North 89°58'28" West, a distance of 254.73 feet to the Easterly R/W of US Hwy. No. 93, which point is on a 2,934.87 foot radius curve concave Westerly, having a radial bearing of North 89°30'43" West; thence Northerly, along said R/W curve, thru a central angle of 4°56'39", an arc length of 253.25 feet to a found concrete R/W monument and the P.T. of said curve; thence continuing along said R/W North 04°27'22" West, a distance of 278.97 feet; thence South 89°58'18" East, leaving said R/W, a distance of 518.69 feet to a found 2" pipe on the West boundary of said Gov't. Lot 3; thence South a distance of 646.07 feet to the Place of Beginning.

**Tract 2:**

Commencing at the SW Corner of said Section 6, which is an iron pin; thence North 89°45'44" East, along the South boundary of said Section 6, a distance of 2,626.26 feet; thence North, leaving said South boundary, a distance of 1,333.31 feet to ½" Rebar at the SE Corner of the NE ¼ SW ¼ of said Section 6, which is the True Point of Beginning of the tract of land herein described; thence South 89°57'41" West, a distance of 493.13 feet to the Easterly R/W of U.S. Hwy. No. 93, which point is on a 2,934.87 foot radius curve concave Westerly, having a radial bearing of North 86°39'41" West; thence Northeasterly, along said R/W curve, through a central angle of 00°36'03", an arc length of 30.78 feet; thence North 89°55'13" East, leaving said R/W, a distance of 257.98 feet to a found ½" Rebar; thence South 89°57'07" East, a distance of 233.51 feet to a found 2" pipe on the East boundary of said NW ¼ SW ¼; thence South, a distance of 30.56 feet to the Place of Beginning.

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

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 961B) on July 11, 2006 to change the zoning designation on property in the Cherry Hill Zoning District from R-2 (One-Family Limited Residential) to R-4 (Two-Family Residential).

The boundaries of the area proposed to be changed from R-2 to R-4 are set forth on Exhibit "A".

The proposed change would generally change the character of the zoning regulations applicable to the property from providing for large tract residential development in suburban areas, beyond sanitary sewer and/or water lines, to providing residential lot areas for urban development, requiring all public utilities and all community facilities, and allowing duplexes. Minimum lots sizes would decrease from the 20,000 square feet required in the R-2 zone to 6,000 square feet for single family dwellings and 7,500 square feet for duplexes in the R-4 zone.

The regulations defining the R-2 and R-4 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana, in Permanent File No. 9327013500.

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

DATED this 11<sup>th</sup> day of July, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

By/s/Joseph D. Brenneman PT  
Robert W. Watne, Chairman

By/s/Kimberly Moser  
Deputy

Publish on July 14 and July 21, 2006.

**DAN HOGAN  
ZONE CHANGE FROM R-2 to R-4  
STAFF REPORT #FZC 06-06  
May 17, 2006**

**Location and Legal Description of Property:**

Two tracts of land situated, lying and being in Government Lot 3, and the NE ¼ SW ¼ of Section Six (6), Township Twenty-six (26) North, Range Twenty (20) West, P.M.M., Flathead County, Montana, and more particularly described as follows to wit:

**Tract 1:**

Commencing at the SW Corner of said Section 6, which is an iron pin; thence North 89°45'44" East, along the South boundary of said Section 6, a distance of 2,626.26 feet; thence North, leaving said South boundary, a distance of 1,363.87 feet to a found 2" pipe on the West boundary of Gov't. Lot 3, which is the True Point of Beginning of the tract of land herein described; thence North 89°57'07" West, a distance of 233.51 feet to a found ½" Rebar; thence North 00°00'19" West, a distance of 114.71 feet to a found ½" Rebar; thence North 89°58'28" West, a distance of 254.73 feet to the Easterly R/W of US Hwy. No. 93, which point is on a 2,934.87 foot radius curve concave Westerly, having a radial bearing of North 89°30'43" West; thence Northerly, along said R/W curve, thru a central angle of 4°56'39", an arc length of 253.25 feet to a found concrete R/W monument and the P.T. of said curve; thence continuing along said R/W North 04°27'22" West, a distance of 278.97 feet; thence South 89°58'18" East, leaving said R/W, a distance of 518.69 feet to a found 2" pipe on the West boundary of said Gov't. Lot 3; thence South a distance of 646.07 feet to the Place of Beginning.

**Tract 2:**

Commencing at the SW Corner of said Section 6, which is an iron pin; thence North 89°45'44" East, along the South boundary of said Section 6, a distance of 2,626.26 feet; thence North, leaving said South boundary, a distance of 1,333.31 feet to ½" Rebar at the SE Corner of the NE ¼ SW ¼ of said Section 6, which is the True Point of Beginning of the tract of land herein described; thence South 89°57'41" West, a distance of 493.13 feet to the Easterly R/W of U.S. Hwy. No. 93, which point is on a 2,934.87 foot radius curve concave Westerly, having a radial bearing of North 86°39'41" West; thence Northeasterly, along said R/W curve, through a central angle of 00°36'03", an arc length of 30.78 feet; thence North 89°55'13" East, leaving said R/W, a distance of 257.98 feet to a found ½" Rebar; thence South 89°57'07" East, a distance of 233.51 feet to a found 2" pipe on the East boundary of said NW ¼ SW ¼; thence South, a distance of 30.56 feet to the Place of Beginning.

**PUBLIC HEARING: TREWEEK FAMILY PARTNERSHIP ZONE CHANGE / EVERGREEN & VICINITY ZONING DISTRICT**

10:25:36 AM

Members present:

Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman

Members absent:

Chairman Robert W. Watne

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Jeff Harris, Traci Sears-Tull, Jeff Larsen, Fred Ricketts, Gary Treweek

Sears-Tull reviewed Staff Report FZC-06-03.

Commissioner Brenneman PT opened the public hearing to anyone wishing to speak in favor or opposition

Jeff Larsen spoke as a representative of the applicant. He stated that he felt that staff did an excellent job in evaluating the Master Plan. He stated that he felt that this did follow the master plan. He also stated that they can meet the road concerns by working with the neighbors in the development plan. He also reviewed plans for a bike and pedestrian path that is planned for. He stated that by approving this they will solve a lot of transportation issues.

Fred Ricketts spoke as a representative of Gary Treweek. He stated that this will accomplish a lot of goals. He stated that this should eliminate some congestion. He then stated that this will allow some more affordable business space for local business owners.

No one else rising to speak Commissioner Brenneman PT closed the public hearing.

Commissioner Hall made a **motion** to adopt Resolution 797DX. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

RESOLUTION NO. 797 DX

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 11<sup>th</sup> day of July, 2006, to consider a request by Treweek Family Partnership to change the zoning designation on property located in the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to B-2 (General Business);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on June 28 and July 5, 2006;

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

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

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby adopts the findings of fact as to the statutory criteria as adopted by the Flathead County Planning Board and, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning designation on property located in the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to B-2 (General Business), that area being described on Exhibit "A" hereto.

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

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

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

DATED this 11<sup>th</sup> day of July, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

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

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

ATTEST:  
Paula Robinson, Clerk

By/s/Kimberly Moser  
Deputy

**TREWEEK PTNSP  
ZONE CHANGE FROM R-1 TO B-2  
STAFF REPORT #FZC-06-03**

**Location and Legal Description of Property:**

The property can further be described as Tract 1H in the Southeast Quarter Northwest Quarter (SE ¼ NW ¼) of Section 4, township 28 North, Range 21 West, P.M.M., Flathead County, Montana. Shown as "Remainder" on certificate of Survey No. 7145.

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

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 797DX) on July 11, 2006 to change the zoning designation on property in the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to B-2 (General Business).

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

The proposed change would change the general character of the zoning regulations applicable to the property from an area intended to provide estate type development normally located in rural areas away from concentrated urban development, or in areas where it is desirable to permit only low density development, e.g., extreme topography, areas adjacent to flood plains, airport runway alignment extension, etc., to an area intended to provide for those retail sales and service functions and businesses whose operations are typically characterized by outdoor display, storage and/or sale of merchandise, by major repair of motor vehicles, by outdoor commercial amusement and recreational activities and by businesses serving the general needs of the tourist and traveler.

The regulations defining the R-1 and B-2 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana, in Permanent File No. 9327013500.

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

DATED this 11<sup>th</sup> day of July, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

By/s/Joseph D. Brenneman PT  
Robert W. Watne, Chairman

By/s/Kimberly Moser

Deputy

Publish on July 14 and July 21, 2006.

**TREWEEK PTNSP  
ZONE CHANGE FROM R-1 TO B-2  
STAFF REPORT #FZC-06-03**

**Location and Legal Description of Property:**

The property can further be described as Tract 1H in the Southeast Quarter Northwest Quarter (SE ¼ NW ¼) of Section 4, township 28 North, Range 21 West, P.M.M., Flathead County, Montana. Shown as "Remainder" on certificate of Survey No. 7145.

**MONTHLY MEETING W/ MARK PECK, OES**

[10:37:02 AM](#)

Members present:

Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Mark Peck

Discussion was held relative to Mark Peck visiting with the local Forest Service and DNRC. He also reviewed the work done on the recent fire. He stated that everything went very well and everyone worked well together. He stated that he is very optimistic and feels that they have a lot of good people in the valley to work with. He then reviewed the upcoming plans for sand table exercises. He then reviewed a planned meeting with Big Mountain on their emergency reroute plans. Discussion was held relative to the condition of Haskell road. He then reviewed the status of equipment packages. He also spoke in regards to Dr. Bate's diagnosis of the need for a strategic EMS 5 year plan. He then reviewed his opinion of the HAZMAT team, USAR Team and the LEPC/CPIMT. He also spoke in regards to the 911 consolidation and stated that during the recent storm he felt that the dispatchers did a great job. He then reviewed his plans personnel wise for the OES office. He then spoke in regards to the problems with the OES vehicle and the need for a new one. He stated that he would like to get a pickup.

**CONTINUATION OF COS REVIEW: COCHRANE**

[11:05:43 AM](#)

Members present:

Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Kirsten Holland, David Cochrane, Geri Cochrane, Ardis Larsen

Holland reviewed the Cochrane family transfer request.

Commissioner Brenneman questioned the applicant if they Resolution 509D document had been explained to them. He also stated that his concern was that they would be selling the original piece to facilitate the purchase of a new home.

The applicant stated that they would be retaining the original piece until such time as they can build a retirement home and that Geri is the applicant due to her more flexible schedule.

Commissioner Hall made a **motion** to approve the Cochrane COS. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

Commissioner Brenneman then stated that in the future family transfers that have the spouses transferring property to each other will not be considered lightly.

**CONSIDERATION OF EDUCATIONAL ASSISTANCE REQUEST FORM: P. WESSEL**

[9:39:03 AM - 10:00:49 AM](#)

Members present:

Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT

Members absent:

Chairman Robert W. Watne

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser

Commissioner Hall made a **motion** to approve the educational assistance request for Peter Wessel. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

**DOCUMENT FOR SIGNATURE: CONTRACT ADDENDUM 1 NMHR / AOA**

[9:40:04 AM](#)

Members present:  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT  
Members absent:  
Chairman Robert W. Watne  
Others present:  
Assistant Michael Pence  
Clerk Kimberly Moser

Commissioner Hall made a **motion** to approve the Contract Addendum #1 to the NMHR for AOA and authorize the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

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

[9:40:40 AM](#)  
Members present:  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT  
Members absent:  
Chairman Robert W. Watne  
Others present:  
Assistant Michael Pence  
Clerk Kimberly Moser

Commissioner Hall made a **motion** to approve the DPHHS contract #07-07-5-01-015-0 and authorize the chairman to sign. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

**CONSIDERATION OF EXTENSION: MEADOWBROOK PLACE**

[9:44:20 AM](#)  
Members present:  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT  
Members absent:  
Chairman Robert W. Watne  
Others present:  
Assistant Michael Pence  
Clerk Kimberly Moser

Commissioner Hall made a **motion** to approve the extension until June 20, 2006 for Meadowbrook Place. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

**CONSIDERATION OF HR TRANSMITTAL FORMS: VETERINARY AND VETERINARY TECHNICIAN / ANIMAL CONTROL**

[9:46:06 AM - 10:01:47 AM](#)  
Members present:  
Commissioner Gary D. Hall  
Commissioner Joseph D. Brenneman PT  
Members absent:  
Chairman Robert W. Watne  
Others present:  
Assistant Michael Pence  
Clerk Kimberly Moser

Commissioner Hall made a **motion** to approve the HR Transmittal forms for the Veterinary and Veterinary Technician. Commissioner Brenneman **seconded** the motion. **Aye** - Hall and Brenneman. Motion carried by quorum.

- 11:00 a.m. Commissioner Hall to attend meeting w/ Shelly Dodd**
- 1:15 p.m. 911 meeting at the Justice Center**
- 4:00 p.m. Roadless Rule Task Force 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 July 12, 2006.

\*\*\*\*\*

**WEDNESDAY, JULY 12, 2006**

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

- 7:30 a.m. Commissioner Hall and Assistant Pence to attend Glacier Bank meeting at Red's**
- 11:00 a.m. County Attorney meeting at the County Attorney's Office**
- 3:00 p.m. Commissioner Brenneman to travel to Havre**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on July 13, 2006.

\*\*\*\*\*

**THURSDAY, JULY 13, 2006**

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



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

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

[9:05:51 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Jeff Harris

Discussion was held relative to the yearly activity report for the Planning & Zoning Department. Fees collected in 2005 was \$302,042.66 and for 2006 \$470,578.82. There has been an increase of approximately fifty percent. Discussion was held relative to the Board of Adjustment meetings for August. Jeff Harris then reviewed the recent planning board meeting on the gravel pit text amendment and stated that there was a large problem with having a taxing jurisdiction regulation in the zoning regulations and the planning department and county attorney's office felt this would not be legal. Jeff then reviewed the new Somers Bike Path and a problem of people parking on the bike path. He stated that there have been requests to have the parks department withdraw from the beach. He then presented a copy of a letter from Rich DeJana in regards to coming up with a solution to the problem with documents being submitted to the planning department. He stated that they are asking for the surveyor to do things a little bit better. He then spoke in regards to a complaint that the planning department has received from the surveying commission. The commissioners spoke in support of the planning staff and the work that they have been doing.

**COS REVIEW: RILEY**

[9:34:54 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser

Holland reviewed the Riley family transfer request.

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

**MEETING W/ TOM GORTON RE: CULVERT ON CRESTON ROAD**

Discussion was held relative to

**PRELIMINARY PLAT: FOSTER INVESTMENTS SUBDIVISION**

[9:59:04 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Nicole Lopez-Stickney, Jeff Harris, Eric Giles, Erica Wirtala, Kristine Foster, Georganne Foster, Jay Wolfe, Tom Torgerson

Lopez-Stickney reviewed the application submitted by Kristine M Foster for preliminary plat approval of Foster Investments Subdivision, a major subdivision that will create three commercial lots. The subdivision is proposed on 9.142 acres and is served by individual septic systems and a community well system. The property is unzoned. There are 13 attached conditions. Staff recommends denial based on the conflicts with the master plan, the appropriateness of commercial subdivision in that area of Somers, the need to preserve gateway areas and the uncertainty as to whether the subdivision would be required to connect to public sewer and water.

Erica Wirtala stated that this application would have fit the waiver of preliminary plat but did not make it in for that so they had to put it in as a subsequent minor. She stated that she felt that the planning board voted against it because they were tired and did not understand the application. She stated that she had to put this as commercial designation due to the fact that it already has commercial on it. She then stated that the sewer and water district did come up in discussion and stated that DEQ states that unless the line are within 500 feet of the proposed project they can not be required that they connect to the lines. She then stated that the road is already paved and the road department for some reason asked that it be paved and upgraded. She also stated that staff was in support of this application and were surprised with the recommendation of denial from the board.

Jeff Harris stated that part of the discussion that night was the question as to how all of the pieces fit together in that area.

Kristine Foster stated that there are commercial properties all along the highway. She also stated that they have put 95% of their liquid assets into improving the property. She then stated that they do have a buy sell agreement on the property. She also stated that she felt it was a large expense to connect to the sewer and that they already have five septic for that land that meet approval.

Commissioner Hall recommended amended language for condition #6 that the developer shall upgrade the community water system to handle the capacity of the additional lots if needed and if require to connect to the water and sewer district the subdivider shall furnish a will serve letter from the district for the number of lots proposed.

Commissioner Hall made a **motion** to adopt Staff Report FPP-06-21 as findings of fact. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to approve the preliminary plat of Foster Investments subject to amended conditions. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

#### CONDITIONS

1. The subdivider shall obtain and show proof of a valid approach permits for the subdivision from the Montana Department of Transportation and the County Road and Bridge Department. [Appendix C (III)(G) FCSR].
2. The subdivider shall receive physical addresses in accordance with Flathead County Resolution #1626. The addresses shall appear on the final plat. [Section 3.9(I)(7) FCSR]
3. 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 & Section 3.12(J) FCSR]
4. All storm water drainage, water and wastewater facilities shall be approved by the Flathead City-County Health Department and the Montana Department of Environmental Quality. [Section 3.14(C) FCSR; Section 3.15(C) FCSR; Section 3.12(A) FCSR]
5. The subdivider shall dedicate fifteen (15) foot pedestrian/bike path easements along MT Highway 82 and North Somers Road [Section 3.11(A) FCSR]
6. The subdivider shall upgrade the community water system to handle the capacity of the additional lots if needed, and if required to connect to the water and sewer district the subdivider shall furnish a will-serve letter from the district for the number of lots proposed. [Section 3.14(C) FCSR; Section 3.15(C) FCSR; Section 3.12(A) FCSR]
7. All utilities shall be placed underground to abut and be available to each lot, in accordance with a plan approved by the utility companies. Utilities and easements shall comply with Section 3.17 and 3.18 of the Flathead County Subdivision Regulations.
8. The subdivider shall provide an off-street area for solid waste collection which will be aesthetically screened from general public view and conveniently accessible to collection vehicles [Section 3.16(B) FCSR]
9. The subdivider contact the local Postmaster, and if required shall provide a common off-street mail pick-up facility and vehicular pull-off in compliance with Section 3.22 of the Flathead County Subdivision Regulations.
10. The following statements shall be placed on the face of the final plat:
  - a. All address numbers shall be visible from the road, either at the driveway entrance or on the house.
  - b. The Road Maintenance Agreement shall be responsible for maintenance of the private roadways and Common Areas. Roads shall be maintained, including necessary repairs and snow removal, to ensure safe all-weather travel for two-way traffic.
  - c. All utilities shall be installed underground.
  - d. Lot owners are bound by the soil disturbance and weed management plan to which the subdivider and the Flathead County Weed Department agreed.
  - e. The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as "Utility Easement"
  - f. 

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.
11. 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]
12. 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]
13. The preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6) FCSR]

#### **PRELIMINARY PLAT: DENISE ESTATES, PHASE 3**

[10:25:35 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Eric Giles, Nicole Lopez-Stickney, Jeff Harris, Erica Wirtala, Murphy Wager, Lisa Durand

Giles reviewed the application submitted by Emily Wager for preliminary plat approval of Denise Estates, Phase 3, a major subdivision creating two commercial lots. The property is located on Pleasant Valley Road in Marion and is unzoned. The subdivision is proposed on three acres. There are 12 attached conditions. Staff recommends approval.

Commissioner Hall made a **motion** to adopt Staff Report FPP-06-24 as findings of fact. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

Commissioner Hall made a **motion** to approve the preliminary plat of Denise Estates Phase 3. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

#### CONDITIONS

1. 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]
  2. The applicant shall obtain completed commercial approach permits from the Flathead County Road Department for access onto Pleasant Valley Road. [Section 3.8A, FCSR]
  3. The applicant will dedicate a 15-foot bicycle/pedestrian easement on Lots 1 and 2 along the Pleasant Valley Road frontage. [Section 3.18(A), FCSR]
  4. 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]
  5. All water, septic, and storm water drainage systems will be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. The well for the lots shall be shared.[Section 3.14(A) and 3.15(A), FCSR]
  6. The applicant will comply with reasonable fire suppression and access requirements of the Marion 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]
  7. 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]
  8. 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]
  9. 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. 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.
    - 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. Class A or B fire rated roofing materials are required.
    - g. Defensible space standards shall be incorporated around all primary structures.
    - h. Lot owners are alerted to the presence of wildlife in the area and are reminded that feeding big game is illegal. 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.
    - i. 

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.
10. 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 sub-divider prior to final approval by the County Commissioners. [Chapter 8, FCSR]
  11. The final plat shall be in substantial compliance with the plat and plans submitted for review, except as modified by these conditions. [Section 2.7(E), FCSR]
  12. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]

#### **PUBLIC HEARING: HALL ZONE CHANGE / EVERGREEN & VICINITY ZONING DISTRICT**

[10:33:28 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence

Clerk Kimberly Moser, Nicole Lopez-Stickney, Eric Giles, Jeff Harris, Dale Hall,

Lopez- Stickney reviewed Staff Report FZC-06-05.

Chairman Watne opened the public hearing to anyone wishing to speak in favor or opposition

No one rising to speak Chairman Watne closed the public hearing.

Commissioner Hall made a **motion** to adopt Resolution 797DZ. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

RESOLUTION NO. 797 DZ

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing on the 13<sup>th</sup> day of July, 2006, to consider a request by Dale Hall to change the zoning designation on property located in the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to R-2 (One-Family Limited Residential);

WHEREAS, notice of that hearing was published pursuant to Section 76-2-205(1), M.C.A., on July 1 and July 8, 2006;

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

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

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, hereby adopts the findings of fact as to the statutory criteria as adopted by the Flathead County Planning Board and, in accordance with Section 76-2-205(4), M.C.A., hereby adopts this resolution of intention to change the zoning designation on property located in the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to R-2 (One-Family Limited Residential), that area being described on Exhibit "A" hereto.

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

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

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

DATED this 13<sup>th</sup> day of July, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

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

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

ATTEST:  
Paula Robinson, Clerk

By/s/Kimberly Moser  
Deputy

**DALE HALL**  
**ZONE CHANGE FROM R-1 TO R-2**  
**STAFF REPORT #FZC-06-05**

**Location and Legal Description of Property:**

The property is located on the east side of Maple Drive, along Spring creek. The property is legally described as Lot 13 of the AMENDED PLAT OF LOT 13, BLOCK 1, MOUNTAIN VIEW, in Section 33, Township 29 North, Range 21 West, P.M.M., according to the map or plat on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

Commissioner Hall made a **motion** to approve the notice of passage and authorize the chairman to sign. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

NOTICE OF PASSAGE OF RESOLUTION OF INTENTION

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(5), M.C.A., that it passed a resolution of intention (Resolution No. 797DZ) on July 13, 2006 to change the zoning designation on property in the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to R-2 (One-Family Limited Residential).

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

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

The regulations defining the R-1 and R-2 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana, in Permanent File No. 9327013500.

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

DATED this 13<sup>th</sup> day of July, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

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

By/s/Kimberly Moser  
Deputy

Publish on July 18 and July 25, 2006.

**DALE HALL**  
**ZONE CHANGE FROM R-1 TO R-2**  
**STAFF REPORT #FZC-06-05**

**Location and Legal Description of Property:**

The property is located on the east side of Maple Drive, along Spring creek. The property is legally described as Lot 13 of the AMENDED PLAT OF LOT 13, BLOCK 1, MOUNTAIN VIEW, in Section 33, Township 29 North, Range 21 West, P.M.M., according to the map or plat on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: EVERGREEN WATER & SEWER DISTRICT #1 ZONE CHANGE / EVERGREEN & VICINITY ZONING DISTRICT**

[10:41:10 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser

Commissioner Hall made a **motion** to approve the notice of public hearing and authorize the chairman to sign. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a request by Evergreen Water and Sewer District #1 to change the zoning designation on property located in the Evergreen and Vicinity Zoning District from R-1 (Suburban Residential) to R-2 (One-Family Limited Residential).

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

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

The regulations defining the R-1 and R-2 Zones are contained in the Flathead County Zoning Regulations on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 9327013500.

The public hearing will be held on the **31<sup>st</sup> day of July, 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 change in the regulations for the described portion of the Evergreen and Vicinity Zoning District.

DATED this 13<sup>th</sup> day of July, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

ATTEST:  
Paula Robinson, Clerk

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

By/s/Kimberly Moser  
Deputy

Publish on July 18 and July 25, 2006.

**EVERGREEN WATER & SEWER DISTRICT NO. 1**  
**ZONE CHANGE FROM R-1 TO R-2**

Staff Report #FZC-06-12  
June 7, 2006

**Location and Legal Description of Property:**

The property is located on Mission Trail on the Bluff to the northwest of the Village Greens golf course. The property is legally described as Tracts 1AC and 1AF in Section 32, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana and can be further described as follows:

Tract 1:

That portion of the Northwest Quarter Northeast Quarter (NW ¼ NE ¼ ) of Section 32, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana, described as follows:

Beginning at the Southeast corner of Lot 10, Mission Village; thence  
along the East line of Lot 10

North 39°47'04" East a distance of 505.46 feet to the Northeast corner of Lot 10; thence

South 37°06'06" East a distance of 92.93 feet to a point; thence

South 02°17'41" West a distance of 131.53 feet to a point; thence

South 39°48' 51" West a distance of 286.09 feet to the Northerly line of Mission Trail, a County Road; thence

Northwesterly along the Northerly line of the road to the Point of Beginning.

Tract 2:

A tract of land in the Northwest Quarter of the Northeast Quarter, (NW ¼ NE ¼) of Section 32, Township 29 North, Range 21 West, M.P.M., Flathead County, Montana, described as follows:

Commencing at the Quarter Corner common to Sections 29 and 32; thence

South 51°28'34" East a distance of 547.93 feet to the Point of Beginning; thence

North 5°13'57" West a distance of 154.16 feet to a point; thence

South 70°54'59" East a distance of 113.23 feet to a point; thence

South 37°23'59" East a distance of 123.81 feet to a point; thence

South 84°06'31" West a distance of 168.53 feet to the Point of Beginning.

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: PEAK DEVELOPMENT ZONE CHANGE / EVERGREEN & VICINITY ZONING DISTRICT**

[10:41:52 AM](#)

Members present:

Chairman Robert W. Watne

Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence

Clerk Kimberly Moser

Commissioner Hall made a **motion** to approve the notice of public hearing and authorize the chairman to sign. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a request by Peak Development, LLP to change the zoning designation on property located in the Evergreen and Vicinity Zoning District from B-2 (General Business) to RA-1 (Residential Apartment).

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

The proposed change would generally change the character of the zoning regulations applicable to the property from a business district to provide areas for those retail sales and service functions and businesses whose operations are typically characterized by outdoor display, storage and/or sale of merchandise, by major repair of motor vehicles, by outdoor commercial amusement and recreational activities, and by businesses serving the general needs of the tourist and traveler, to a district served by community water and sewer and having immediate access to fire, police, refuse and park facilities, to provide for multi-family use, for non-residential uses which support or are compatible with the primary residential character of the area, and to act as a buffer between residential districts and non-residential districts.

The regulations defining the B-2 and RA-1 Zones are contained in the Flathead County Zoning Regulations on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 9327013500.

The public hearing will be held on the **31<sup>st</sup> day of July, 2006, at 10:00 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed change in the regulations for the described portion of the Evergreen and Vicinity Zoning District.

DATED this 13<sup>th</sup> day of July, 2006.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

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

ATTEST:

Paula Robinson, Clerk

By/s/Kimberly Moser

Deputy

Publish on July 18 and July 25, 2006.

**PEAK DEVELOPMENT, LLP  
ZONE CHANGE FROM B-2 TO RA-1  
STAFF REPORT #FZC-06-11**

**Location and Legal Description of Property:**

The property is located on the east side of U.S. Highway 2 East, directly north of the East Cottonwood Drive and U.S. Highway 2 East intersection at 145 Bando Lane. The property is legally described as Lot 4 of the Cherry Creek Village Subdivision in Section 4, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana.

**AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: TURNER ZONE CHANGE / WEST SIDE ZONING DISTRICT**

[10:42:19 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence  
Clerk Kimberly Moser, Erica Wirtala

Commissioner Hall made a **motion** to approve the notice of public hearing and authorize the chairman to sign. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

NOTICE OF PUBLIC HEARING  
WEST SIDE ZONING DISTRICT

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a request by Wayne Turner to change the zoning designation in a portion of the West Side Zoning District from AG-80 (Agricultural) to SAG-5 (Suburban Agricultural).

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

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

The regulations defining the AG-80 and SAG-5 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, 800 South Main, Kalispell, Montana in Permanent File No. 93270 13500.

The public hearing will be held on the **31<sup>st</sup> day of July, 2006, at 9:30 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 change in the regulations for the described portion of the West Side Zoning District.

DATED this 13<sup>th</sup> day of July, 2006.

BOARD OF COUNTY COMMISSIONERS

Flathead County, Montana

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

Paula Robinson, Clerk

By /s/Kimberly Moser

Deputy

Publish on July 18 and July 25, 2006.

**WAYNE E. TURNER**  
**ZONE CHANGE FROM AG-80 TO SAG-5**  
**STAFF REPORT #FZC-06-02**  
**June 14, 2006**

**Location and Legal Description of Property:**

The property is located on Stillwater Road, to the north of West Reserve Drive, and contains 16 acres. The property can legally be described as Tract 2A in Section 26, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana, or as follows:

Parcel "B"

A tract of land in the SE ¼ NE ¼ of Section 26, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana, described as follows:

Commencing at the east quarter corner of said Section 26; thence  
N00°15'34"W 30.00 feet along the east boundary of the NE ¼ of said

Section 26 to a point on the north right-of-way of a 60 foot deeded county road known as Stillwater Road; thence S89°52'00"W 206.27 feet along said right-of-way to the TRUE POINT OF BEGINNING of the tract of land herein described: thence continuing S89°52'00"W 1117.68 feet along said right-of-way to a point on the west boundary of the SE ¼ NE ¼ of said Section 26, thence N00°05'54"W 632.99 feet along said west boundary, thence N89°50'29"E 1115.90 feet; thence S00°15'34"E 633.48 feet to the point of beginning containing 16.235 acres more or less, being subject to and

together with all appurtenant easements as shown and of record. (Parcel 'B' of Certificate of Survey No.14346)

**CONSIDERATION OF HR TRANSMITTAL FORM: 911 COMMUNICATIONS SUPERVISOR**

[10:31:48 AM](#)

Members present:

Chairman Robert W. Watne  
Commissioner Gary D. Hall

Members absent:

Commissioner Joseph D. Brenneman

Others present:

Assistant Michael Pence

Clerk Kimberly Moser, Lisa Durand

Lisa Durand reviewed the HR transmittal form for the 911 communications supervisor. She stated that the description for the position did not exist.

Commissioner Hall made a **motion** to approve the hr transmittal for the 911 communications supervisor and authorize the chairman to sign. Commissioner Watne **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

**2:00 p.m. AOA Board meeting at the Kalispell Senior Center**

**2:30 p.m. Long Range Planning Task Force Sewer, Water & Storm Drainage Committee meeting at the Commissioners' Meeting Room**

**4:00 p.m. Long Range Planning Task Force meeting at Earl Bennett Building**

**7:00 p.m. Fair Board meeting at the Fairgrounds Trade Center**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on July 14, 2006.

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**FRIDAY, JULY 14, 2006**

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Watne, Commissioners Hall 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 July 17, 2006.