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## MONDAY, JULY 2, 2007

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

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

Present for public comment included:

Janae L. Moore, Erik Brandin, John Donaghue, Margie Donaghue, John Thomas, Michael Clesser, Michael Fraser, Randy L. Moore, Cal Sweet, Bryan Long, Mark Alsup, Kim Elechi, Kenneth Haugan, Bette Haugan, Pat Arnone, Thomas Arnone, Sandra Whitney, Lynn Pearce

Chairman Brenneman stated that anything that is said in regards to preliminary plats coming before them this morning cannot be considered; that they base their decision on the same information the Planning Board had in their consideration.

Jay Whitney, 755 Hwy 206, stated that he had new information since the board hearing in regards to precipitation in the area. Whitney said that when the valley returns to normal precipitation that there will only be a small area on the site, that will have more than 8 feet to ground water.

Mike Fraser asked that the Commission look at the actual record of the application that was submitted under and prepared under the Master Plan, and reviewed under the Growth Policy and found to be in compliance. Fraser then said that he believes the actual record of the application supports the actual location of the ground water as documented by monitoring as well as providing scientific data to support lot density, and also proposes a higher level of treatment to mitigate any concerns over potential ground water defects. It was then stated that he supports staffs findings and encouraged the Commission to support the project.

Mayre Flowers with Citizens for a Better Flathead spoke in regards to Sweetgrass Ranch and stated that under the Montana Constitution that issues of significant importance to the public do require adequate Public Hearings, and with the significant public here with new information that it is important that it be considered in the hearing today. Flowers then presented the Commission with handouts and reviewed the summary in regards to reasons for denial, which included inadequate depth to ground water, a significant conservation easement north of the property, significant acreages of 20 to 40 acres of common ownership of agricultural use, inadequate findings, inadequate environmental assessment and seasonal flooding. It was then stated that this proposal has come before the Commission twice now and that the standards have not been met. Flowers then said that the reason for denial would be failure to comply with the Growth Policy.

John Donaghue, 590 Yoeman Hall Road, presented a letter to the Commission and then stated that the action taken today would set the future standard for the urbanization efforts and transition of rural agricultural properties that will happen in Flathead County for years to come. He then stated that the plan has exceeded the seven elements of the public vision of our county Growth Policy as recently amended. Donaghue then said that the Commission has an opportunity for all to obtain a new jewel in the crown of the Flathead Valley and encouraged the approval of Sweetgrass Ranch.

Michael Clesser a partner with the applicant of Sweetgrass Ranch said that the process in the Flathead is through trial and error, and that they have been trying to follow the guidelines and procedures that have been laid down. He then said that they have had many neighborhood meetings, in which many of the neighbors have been kind and happy to work with them in stating their requests. Also stated was that after the last neighborhood meeting that he was told by the neighbors that they listened to them in trying at every turn to follow the rules, and to be sensitive to what the neighbors requested. Clesser then said that the Growth Policy became enacted about the same time they made their last submission, and after that they tripled their engineering efforts; they believe their application is in complete compliance with the Growth Policy. Clesser then stated that he feels he has a great plan and respectfully requested the support of the Commission.

Cal Sweet a neighbor of the project said that he has been to all of the meetings from the beginning and that the developers have responded to all the requests. He then said that he was urging approval of the project and asked that the Commission rely on the technical expertise of licensed individuals.

Mark Alsup, 209 Smalls Lane, stated that they live on a corner of a family farm that has been in the Small family for over 100 years. He then said that they have 250 acres that they farm to the north of the proposed development and stated that their concern is with the density of the project, and feels the development of 30 to 40 houses is out of character with the neighborhood.

Janae Moore a neighbor of the Sweetgrass Ranch Subdivision stated that she also represents the investors for the project and that the neighbors need to consider that this property is unzoned property, and for the protection of all the community and neighbors that this is an excellent designed project with open space, and will also protect the old growth timber. She then questioned if not this, what.

John Thomas, an engineer with A to Z Engineering stated that with the assistance of Bryan Long and Mike Fraser that he prepared the application for Sweetgrass Ranch. He then said in regards to ground water that they need to stick to the facts and data that they came up with. Thomas then stated that the facts are is that there is no high ground water out there with the monitoring done through a record precipitation year of June 2006.

Thomas Arnone Jr, 595 Lauman Road, stated that he grew up here and loves the area, and doesn't want to come home to it being changed. He then asked that the Commission take into consideration those that grew up here, so they can continue to say that they grew up in the most beautiful place in the world.

Kim Elechi, 255 Lake Blaine Road, spoke in regards to the lack of consistency with the previous Planning Board and Commissioner actions. He then said that the first proposal was denied because of density with water and septic concerns as well as development concerns within the 20 acres of old growth/trees wetlands. The second proposal which decreased the density of lots, removed all the development within the 20 acres of old growth forest and 100 year floodplain was approved by the Planning Board and then denied by the Commission. The third proposal that is now being looked at has lots back into the 28 acres of old growth and floodplain and was denied by the Planning Board, and now is before the Commission. Elechi then

stated that they have met numerous times with the developers, and that one thing that has been consistent has been the protection of the 28 acres of old growth. He then referred to minutes from the Planning Board in regards to condition #28 that states: hiking trails in the 34.06 acres of old growth forest shall be delineated on the final plat and there shall be no trails south of Blaine Creek or crossing the creek, with the motion passing 6-1; now the current proposal has trails throughout the old growth and wetlands and crosses the creek more than once. Also stated was that Ivan Lorentzen farmed the land with his father and that there have been numerous times when there has been standing water on the land.

Pat Arnone, 595 Lauman Road, Chairman of the East Valley Neighborhood Plan stated that they have been trying to come up with a direction and a goal for their neighborhood, and that becoming Suburban America is not part of the steering committee's vision for this beautiful part of the valley. She then spoke about a minor subdivision that was approved on 60 acres; with the plan being to put in five eight acre lots on 40 acres of the 60. At the time the developers were told that eight acre lots were as small as would be appropriate for the rural area, with this piece of land having no floodplain or groundwater issues. Arnone then said with almost 30,000 empty subdivided lots in the valley right now that there is no need to put a suburban subdivision on this beautiful piece of land.

Kenneth Haugan, 246 Lake Blaine Road, stated that the floodplain area has changed over the years and that it has been enlarged. He then said that the acreage that is involved should be contained with the forested area to give some protection to the forest area, and to also take care of the septic issues. Haugan then spoke about Hwy 206 in regards to the drainage ditches, increased traffic and narrowness of the road.

Bryan Long with Long Engineering stated that he was asked as part of the consulting team to determine what would be appropriate for drain fields in Sweetgrass Ranch. He then stated that he met with the Flathead County Health Department and explained to them the size of the lots that were being proposed; with the plan being to put in individual Level II Systems. Long then said that the Growth Policy states: if scientific data warrants it that individual Level II Systems are okay. He then said that the previous EA was prepared with a 55 lot community Level II System, and that when you got to the end of the mixing zone for the drain field, it was pushing the absolute maximum amount allowable by state law of 7.5 milligrams per liter. If you look at the EA now, with the individual Level II Systems the maximum amount at the end of the mixing zone is 2.56, which is approximately one third the maximum amount. He then stated that he received a favorable recommendation from the Flathead County Health Department regarding the systems.

Lynn Pearce stated that she drives Hwy 206 frequently and said that what needs to be kept in mind is that the average lots size range from one to four acres, so they average over 2 acres in density; with nine of the 39 lots backed up to the trees where the creek is. She then said that she believes one half of the lots are in the 100 year floodplain.

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

#### **PRELIMINARY PLAT: SWEETGRASS RANCH**

9:16:50 AM

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Planner Eric Giles, Janae L. Moore, Erik Brandin, John Donaghue, Margie Donaghue, John Thomas, Michael Clessner, Michael Fraser, Randy L. Moore, Cal Sweet, Bryan Long, Mark Alsup, Kim Elechi, Kenneth Haugan, Bette Haugan, Pat Arnone, Thomas Arnone, Sandra Whitney, Lynn Pearce, Clerk Kile

Giles reviewed the application submitted by Erik and Rita Brandin with technical assistance from A2-Z Engineering and Glacier Surveying for preliminary plat approval of Sweetgrass Ranch Subdivision; a major subdivision that will create 39 single family residential lots on 124.77 acres that will be served by a community water system and individual septic systems. This subdivision is located off of Hwy 206, north of the junction of Hwy 35. The overall density of the proposed subdivision is one dwelling unit per 3.2 acres. On June 13, 2007, the Flathead County Planning Board approved a motion to recommend denial of Sweetgrass Ranch.

Giles then reviewed the Summary of Findings 1 – 9.

Giles then stated that the night of the Planning Board meeting that the applicant submitted a new preliminary plat that was different than what was reviewed. It was then stated that a condition will have to be added to state that the applicant will have to abandon an existing access road to the farm house, since you cannot have an access road dividing lots. Giles also stated that the Growth Policy does apply to this project.

Michael Clessner stated that this was the original plan that included the conservation easement with the deed restrictions of being no building or removal of vegetation.

Chairman Brenneman then reviewed the Flathead County Planning & Zoning Addendum to Subdivision Report FPP 07-18.

Finding of fact 4 was not supported by the Commission.

John Thomas explained to the Commission the explanation for the drain fields and test holes.

Finding of fact 7 was supported by the Commission.

Finding of fact 2 and 4 were not supported

Commissioner Lauman made a **motion** to adopt findings as amended. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Discussion was held relative to finding 4 in regards to the condition being met if the acreage in the conservation easement is included. This is mitigated due to the fact the conservation easement included with it lot acreages that create a density of 1 dwelling per 5 acres.

Commissioner Lauman made a **motion** to amend finding 4 to state: However due to the fact that when the conservation easement is included with the acreage calculation for lots 1 through 10 in the area with shallow ground water concerns, the overall density exceeds 5 acres per lot. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Mike Fraser said that he feels the conditions need to be made very clear concerning the conservation area.

Commissioner Hall stated that the deed restriction will be on the face of the final plat and that the homeowners association will have a copy too.

Mr. Snyder stated that there are a variety of ways a conservation easement can be enforced. He then said that it can be done with a simple deed restriction, by enforcement of the homeowners association to develop some form of conservation easement in conjunction with Flathead Land Trust or Montana Land Reliance Nature and Conservancy or similar such groups. Snyder stated that the most effective deed restriction and conservation easement that could be imposed, would be within the confines of the homeowners association.

Chairman Brenneman questioned who would retain ownership of the land south of the stream.

Jeff Harris stated that it should be deeded to the homeowners association.

Condition 19 will be amended to: The area on the face of the preliminary plat designated as open space conservation easement will be deeded to the homeowners association. The land within the 100 year floodplain boundary and proposed conservation easement shall be designated in perpetuity to an accredited land trust or deed restricted from further development.

Condition 22 will be added to state: The existing access road shown on preliminary plat shall be abandoned.

Commissioner Hall questioned if Mr. Whitney had seen the unique conditions that were required.

Mr. Whitney stated that his concerns are with the standing water on the property; that the determination of ground water levels was done in a period when the lowest precipitation in 10 years took place in 2005-2006, with the water table varying greatly. Whitney questions what will happen when we return to normal precipitation.

Commissioner Hall stated that he was in favor of the proposal with the reduced density of 25 homes and with the added conservation easement.

Condition 20D was discussed in regards to "grasscrete driveways", with the applicant asking to have it removed.

Giles then said that the Montana Pollution Discharge Systems is a law that states any disturbance on a piece of ground of one acre or more requires a storm water pollution prevention plan.

Condition 20D on lots 1-10 will be taken out.

Commissioner Hall made a **motion** to approve Sweetgrass Ranch Subdivision with amended conditions. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

#### **PRELIMINARY PLAT FINAL 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. Street addressing shall be assigned by the Address Coordinator. [Section 3.9(I)(7), FCSR]
2. All internal subdivision roads shall consist of a 60-foot right-of-way, minimum 20-foot paved driving surface, and 55-foot radius cul-de-sacs. The road system shall be designed and certified by a licensed, professional engineer. [Section 3.9, FCSR]
3. Any street lighting shall be located within the subdivision and shall be shielded so that it does not intrude onto adjoining properties. [Section 3.9 J. 5., FCSR]
4. Street or road signs and traffic control devices of the size, shape and height as approved by Flathead County shall be placed at all intersections by the developer. Traffic control devices shall be consistent with the latest edition of the "Manual of Uniform Control Devices" available from the Montana Department of Transportation [Section 3.9(I)(8), FCSR]
5. The applicant shall meet all requirements of the Montana Department of Transportation for access onto MT Hwy 206, including mitigation requirements and encroachment permits. A letter shall be submitted with final plat stating the department's requirements have been met. [Section 3.8(A), FCSR]
6. Lot owners within the subdivision shall participate in a Road Users Agreement or Property Owners Association for the internal subdivision roads, which shall 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 shall 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. All storm water drainage, water and sewage treatment systems shall receive final approval from the Flathead City-County Health Department and the Montana Department of Environmental Quality. [Section 3.14(A, B & C) and 3.15(A), FCSR]
9. The applicant shall comply with reasonable fire suppression and access requirements of the Creston Volunteer Fire District. A letter from the fire chief stating that an agreement has been made shall be submitted with the application for Final Plat. [Section 3.20, FCSR]
10. All areas disturbed during development of the subdivision shall 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. The applicant shall require lot owners to have a contract with a solid waste hauler. The waste containers shall be completely bear and wildlife proofed, as defined by the Montana Department of Fish, Wildlife, and Parks. [Section 3.16(A)]

12. The applicant shall provide written documentation from the appropriate USPS postmaster, indicating mail delivery requirements have been met. [Section 3.22, FCSR]
13. 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]
14. 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]
15. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]

**UNIQUE CONDITIONS**

16. The applicant shall submit to the Flathead County Planning and Zoning Office an approved Storm Water Pollution Protection Plan from the MT DEQ – Water Protection Bureau prior to any construction activity. [3.12, 3.13 FCSR; 75-5-101, MCA]
17. The developer shall dedicate a 15-foot bike/pedestrian easement on the lots fronting Montana Highway 206 and a 40-foot easement from the centerline of Highway 206 for future widening. [Section 3.18(A), FCSR]
18. The applicant shall obtain a Letter of Map Amendment from FEMA to accurately locate the 100-year floodplain boundary. The floodplain model and data used for the floodplain analysis shall receive approval from the MT Department of Natural Resources – Water Resources Division. The applicant shall receive a letter of approval from the MT DNRC – Water Resources Division prior to final plat approval. The boundaries of the defined 100-year floodplain shall be shown on the final plat. [Section 3.5, FCSR]
19. The area on the face of the preliminary plat designated as open space/conservation easement will be deeded to the homeowner association. The land within the 100-year floodplain boundary and proposed conservation easement shall be designated in perpetuity to an accredited land trust or deed restricting from further development. [3.18(G), FCSR]
20. The following statements shall be placed on the face of the final plat applicable to all lots:
  - a. The lots shall not be further subdivided.
  - b. If the total area to be disturbed in the construction of an individual residence is in excess of 1.0 acre the lot owner shall be required to obtain a General Permit for Discharge of Storm Water during construction
  - c. No portion of the dedicated open space shown on the face of the final plat can be subdivided.
  - d. All addresses will be visible from the road, and at the driveway entrance or on the house.
  - e. All utilities will be placed underground.
  - f. 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.
  - g. The property owners association or road users agreement will govern maintenance of the internal subdivision roads. The roads 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.
  - h. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
  - i. 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.
  - j. Lot owners are alerted to the presence of large and potentially dangerous wildlife in the area and are reminded 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:
    1. Dogs must be kept under owner control at all times, either leashed or confined.
    2. Bear-proof containers are required for refuse and feed for pets or livestock.
    3. Compost piles are prohibited unless secured by electrical fencing or otherwise enclosed.
    4. Pets must be fed indoors or food dishes must be brought in at night.
    5. Bird feeders must be placed out of reach of deer, bear, and other large game.
- h.
 

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.
21. The open space/common area in the low lying areas that abut Blaine Creek are critical bank stabilization areas. Removal of vegetation from the open space/common area is prohibited. Any alteration to the Creek or this area will be subject to review under the Flathead County Floodplain Permit Process, the Flathead Conservation 310 Permit Process and the Army Corp. or Engineers 404 Permit Process. [3.13, FCSR]
22. The existing access road shown on the preliminary plat shall be abandoned.

**PRELIMINARY PLAT: LOGAN ESTATES**

[10:12:24 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Planner Eric Giles, Bob Erickson, Craig Walsten, Paul Lykins, Clerk Kile

Giles reviewed the application submitted by Kathleen Lykins and Linda Walsten with technical assistance from Jackola Engineering for preliminary plat approval of Logan Estates; a major subdivision that will create 16 lots and a homeowner's park ranging from 1.397 to 2.0 acres on 26.919 unzoned acres. The proposed subdivision lots will be served by a community water system and individual septic systems. This site is located in the Shaw's/McWenneger Slough area and is accessed via Hwy 35 and Holt Stage Road. On June 13, 2007, the Flathead County Planning Board passed a motion to recommend approval of Logan Estates.

Giles then reviewed the Summary of Findings.

Commissioner Hall made a **motion** to adopt Staff Report FPP 06-47 as findings of fact. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Discussion was held relative to condition #25 in regards to paving requirements in which Bob Erickson stated that Holt Stage is already paved and he would like the condition removed.

Commissioner Hall stated that he would like condition #25 to stay, since they ask other subdividers to pave where the pavement ends, the width of the subdivision at 50 foot per lot.

Commissioner Lauman said that this issue needs to be addressed when it isn't feasible to pave adjacent to a development, such as putting the money towards a road fund.

Condition #13 will be amended to say: A school bus stop will be established and constructed in a location approved by the Superintendent of Schools and Child Transportation Committee if required. This location will be indicated on the face of the final plat.

Condition #24 will be added to say: Open space in the homeowner's park shall be landscaped including planting vegetation to create some wildlife habitat and provide a noise buffer for residents.

Commissioner Hall stated that if the paving was not done that the money should be put into a road fund for future paving with the subdivision impacting the road.

Commissioner Lauman stated that this is something that needs to be addressed as far as putting money into a road fund.

Commissioner Lauman made a **motion** to approve preliminary plat of Logan Estates Subdivision with amended conditions. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

#### **PRELIMINARY PLAT FINAL 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. Street addressing shall be assigned by the Address Coordinator. [Section 3.9(I)(7), FCSR]
2. All internal subdivision roads shall consist of a 60-foot right-of-way, minimum 20-foot paved driving surface, and 55-foot radius cul-de-sacs. The road system shall be designed and certified by a licensed, professional engineer. [Section 3.9, FCSR]
3. Any street lighting shall be located within the subdivision and shall be shielded so that it does not intrude onto adjoining properties. [Section 3.9 J. 5., FCSR]
4. Street or road signs and traffic control devices of the size, shape and height as approved by Flathead County shall be placed at all intersections by the developer. Traffic control devices shall be consistent with the latest edition of the "Manual of Uniform Control Devices" available from the Montana Department of Transportation [Section 3.9(I)(8), FCSR]
5. The applicant shall meet all requirements of the Montana Department of Transportation for access onto MT Hwy 206, including mitigation requirements and encroachment permits. A letter shall be submitted with final plat stating the department's requirements have been met. [Section 3.8(A), FCSR]
6. Lot owners within the subdivision shall participate in a Road Users Agreement or Property Owners Association for the internal subdivision roads, which shall 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 shall 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. All storm water drainage, water and sewage treatment systems shall receive final approval from the Flathead City-County Health Department and the Montana Department of Environmental Quality. [Section 3.14(A, B & C) and 3.15(A), FCSR]
9. The applicant shall comply with reasonable fire suppression and access requirements of the Creston Volunteer Fire District. A letter from the fire chief stating that an agreement has been made shall be submitted with the application for Final Plat. [Section 3.20, FCSR]
10. All areas disturbed during development of the subdivision shall 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. The applicant shall require lot owners to have a contract with a solid waste hauler. The waste containers shall be completely bear and wildlife proofed, as defined by the Montana Department of Fish, Wildlife, and Parks. [Section 3.16(A)]
12. The applicant shall provide written documentation from the appropriate USPS postmaster, indicating mail delivery requirements have been met. [Section 3.22, FCSR]
13. A school bus stop will be established and constructed in a location approved by the Superintendent of Schools and the Child Transportation Committee if required. This location will be indicated on the face of the final plat. [Agency Referral, Superintendent of Schools]
14. 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]

15. 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]

16. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]

#### UNIQUE CONDITONS

17. The intersection of the internal subdivision road and the private road to the west shall be reconfigured so that they intersect at a 90-degree angle. [Section 3.9(I)(1), FCSR].

18. The subdivider shall install a community water system to serve all lots. The community system will be 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]

19. The applicant shall submit to the Flathead County Planning and Zoning Office an approved Storm Water Pollution Protection Plan from the MT DEQ – Water Protection Bureau prior to any construction activity. [3.12, 3.13 FCSR; 75-5-101, MCA]

20. The subdivider will contact the Department of Natural Resources and Conservation regarding the public water system, and if required, will obtain a Beneficial Water Use Permit for the systems water source.[Section 3.14(B), FCSR]

21. The subdivider shall dedicate fifteen (15) foot pedestrian/bike path easements along MT Highway 35 and Holt Stage [Section 3.11(A) FCSR]

22. The subdivider shall dedicate an additional (20) foot easement to along MT Hwy 35 to accommodate future widening. [Section 3.9(E) FCSR]

23. The following statements will be placed on the face of the final plat applicable to all lots:

- a. The lots shall not be further subdivided.
- b. If the total area to be disturbed in the construction of an individual residence is in excess of 1.0 acre the lot owner shall be required to obtain a General Permit for Discharge of Storm Water during construction.
- c. All addresses will be visible from the road, and at the driveway entrance or on the house.
- d. All utilities will be placed underground.
- e. 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.
- 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. 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.
- h. 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 will not be restricted as a result of the development or occupancy of this subdivision.
- 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. Keeping dogs under owner control at all times.
  - ii. Using bear-proof garbage containers, stored inside garages or other secure facilities.
  - iii. Removing obvious sources of food.
  - iv. Securing compost piles with electrical fencing.
  - v. Feeding pets indoors or bringing food dishes in at night.
  - vi. Placing bird feeders out of reach of deer and other big game.

j. **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.

24. Open space in the homeowner's park shall be landscaped including planting vegetation to create some wildlife habitat and provide a noise buffer for residents.

#### **PRELIMINARY PLAT: TANAGER FARM**

[10:27:54 AM](#)

Members present:

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

Others present:

Planning & Zoning Director Jeff Harris, Planner Eric Giles, Olaf Ervin, Clerk Kile

Giles reviewed the application submitted by Kopje Holdings LLC with technical assistance from Montana Mapping for preliminary plat approval of Tanager Farm Subdivision; a four lot minor subdivision on 2.46 acres located on the northern portion of Alpine Lane, off of East Reserve Drive with proposed lot sizes of .615 acres. The proposed subdivision for single family homes is zoned R-2 within the Evergreen Zoning District that will be served by individual on-site wastewater systems and a community well. No parkland dedication is required, because the proposed subdivision qualifies as a minor.

Giles then reviewed the findings of fact.

Commissioner Hall made a **motion** to adopt Staff Report FSR 07-08 as findings of fact. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

Discussion was held relative to condition #4 that will be amended to say: The applicant shall install dry sewer lines or submit a letter from Evergreen Water and Sewer stating dry lines are not required.

Commissioner Hall made a **motion** to approve Tannager Farm Subdivision as amended. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

**PRELIMINARY PLAT FINAL CONDITIONS**

1. The applicant shall receive physical addresses and road names in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by the Address Coordinator. [Section 3.9(I)(7), FCSR]
2. Any street lighting shall be located within the subdivision and shall be shielded so that it does not intrude onto adjoining properties. [Section 3.9 J. 5., FCSR]
3. 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]
4. The developer shall install dry sewer lines or submit a letter from the Evergreen Sewer and Water District stating dry lines are not required. All water and sewage treatment systems shall receive final approval from the Flathead City-County Health Department and the Montana Department of Environmental Quality. [Section 3.14(A, B & C) and 3.15(A), FCSR]
5. The applicant shall comply with reasonable fire suppression and access requirements of the Evergreen Fire District. A letter from the Evergreen Fire District's representative stating requirements have been met shall be submitted with the final plat materials. [Section 5.3.B.1., FCSR]
6. 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]
7. The applicant shall provide written documentation from the appropriate USPS postmaster, indicating mail delivery requirements have been met. [Section 3.22, FCSR]
8. The following statements will be placed on the face of the 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. Lot owners are bound by the soil disturbance and weed management plan to which the developer and the Flathead County Weed Department agreed.
  - e. 

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.

9. 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]
10. 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]
11. Preliminary plat approval is valid for three (3) years. [Section 2.5(D)(6), FCSR]

**DOCUMENT FOR SIGNATURE: MDOT SECTION 5311 OPERATING CONTRACT/ EAGLE TRANSIT**

[11:23:05 AM](#)

Members present:

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

Others present:

Clerk Kile

Commissioner Hall made a **motion** to approve the MDOT Section 5311 contract and authorized the Chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

**DOCUMENT FOR SIGNATURE: MDOT SECTION 5316 OPERATING CONTRACT/ EAGLE TRANSIT**

[11:23:15 AM](#)

Members present:  
Chairman Joseph D. Brenneman  
Commissioner Gary D. Hall  
Commissioner Dale W. Lauman  
Others present:  
Clerk Kile

Commissioner Hall made a **motion** to approve the MDOT Operating Contract for Eagle Transit and authorized the Chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

#### **DOCUMENT FOR SIGNATURE: DEQ AGREEMENT NO. 506025/ ENVIRONMENTAL HEALTH**

[11:41:18 AM](#)  
Members present:  
Chairman Joseph D. Brenneman  
Commissioner Gary D. Hall  
Commissioner Dale W. Lauman  
Others present:  
Clerk Kile

Commissioner Hall made a **motion** to approve the DEQ agreement No. 506025 for environmental health and authorized the Chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

#### **CONSIDERATION OF EXTENSION: VIKING MOUNTAIN RANCH**

[10:39:52 AM](#)  
Members present:  
Chairman Joseph D. Brenneman  
Commissioner Gary D. Hall  
Commissioner Dale W. Lauman  
Others present:  
Clerk Kile

Commissioner Hall made a **motion** to grant an extension until August 9, 2007, for Viking Mountain Ranch. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

#### **CONSIDERATION OF MILL LEVY: ECONOMIC DEVELOPMENT**

[10:40:47 AM](#)  
Members present:  
Chairman Joseph D. Brenneman  
Commissioner Gary D. Hall  
Commissioner Dale W. Lauman  
Others present:  
Clerk Kile

Commissioner Hall made a **motion** to approve the economic mill levy and authorized the Chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

#### **MEETING W/ TOM & NOEL GORTON RE: FOX HILL ESTATES CONDITION #17**

[10:43:31 AM](#)  
Members present:  
Chairman Joseph D. Brenneman  
Commissioner Gary D. Hall  
Commissioner Dale W. Lauman  
Others present:  
County Attorney Peter Steele, Interim Road Department Superintendent Guy Foy, Planning & Zoning Director Jeff Harris, Diana Leighty, Sandy Leighty, Sam Leighty, Tom Gorton, Noel Gorton, Paige Leighty, Terry Leighty, Bill Sighting, Mark Leighty, Rich Lapp, Jean Allen, Dan Leighty, Clerk Kile

General discussion was held relative to condition #17 of preliminary plat of Fox Hill Estates, Phase 4 in regards to dust issues on Mennonite Church Road.

Condition #17 states: During construction the applicant will adhere to dust abatement practices on which ever road is being used for construction of the subdivision.

Chairman Brenneman stated that the Commission and the Road Department have all agreed that dust abatement would need to be done when the road is used for construction and that traveling to and from your home is not considered a part of construction.

Noel Gorton presented the Commission with copies of violations that she has filed in regards to condition #17 not being met.

Discussion also included questions in regards to the Montana Clean Air Act, in which Peter Steele said that the county is working with DEQ in regards to a dust violation.

By consensus it was agreed by the Commission that Phase 4, dust mitigation involves the oiling of Mennonite Church Road, in which Peter Steele said that he agreed.

**CONSIDERATION OF REQUEST FOR TEMPORARY ROAD CLOSURE: STILLWATER ROAD (BETWEEN WEST RESERVE AND FOUR MILE DRIVE)**

[11:15:32 AM](#)

Members present:

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

Others present:

Interim Road Department Superintendent Guy Foy, Myron Boulden, Clerk Kile

Discussion was held relative to closure of a portion of Stillwater Road for 2-3 weeks during construction.

Commissioner Hall made a **motion** to continue the consideration of the road closure until Tuesday, July 3, 2007. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

**BUDGET AMENDMENT**

[11:19:01 AM](#)

Members present:

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

Others present:

Flathead County Sheriffs Department Jordan White, Clerk Kile

Jordan White reviewed the budget amendment for the Sheriff's Department in which money was received in memory of Dennis Williams, a member of the dive team who died in a car accident. The other donation received was for the purchase of equipment for the dive team.

Commissioner Hall made a **motion** to approve budget amendment #2073. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

**BUDGET AMENDMENT RESOLUTION NO. 2073**

**WHEREAS**, the Board of Commissioners has determined, and various department heads have requested and verified, that budget revisions between line items for Fiscal Year 2006-2007, are required, and;

**WHEREAS**, Section 7-6-4031, M.C.A. and Budget Resolution No. 1689, allow budget transfers to be made between items in the same fund.

**NOW, THEREFORE, BE IT RESOLVED**, that the attached list of transfers and revisions shall be made in the budget for Flathead County for Fiscal Year 2006-2007; and

**BE IT FURTHER RESOLVED**, that this Resolution and the attached list of transfers and revisions shall be entered into the minutes of the Board of Commissioners.

DATED this 2<sup>nd</sup> day of July 2007.

BOARD OF COUNTY COMMISSIONERS  
 Flathead County, Montana

By: /s/Joseph D. Brenneman  
 Joseph D. Brenneman, Chairman

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

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

ATTEST:  
 Paula Robinson, Clerk

By: /s/Diana Kile  
 Diana Kile, Deputy

<b>DATE OF ISSUE:</b>		6/27/2007		<b>BUDGET ENTRY</b>		<b>VOUCHER NO.:</b>	
<b>DATE OF RECORD:</b>				2073		Entered by:	
		<b>RESOLUTION #</b>					
<b>Fund</b>	<b>Dept</b>	<b>ACTIVITY</b>	<b>OBJECT</b>	<b>ACCOUNT DESCRIPTION</b>	<b>DEBIT</b>	<b>CREDIT</b>	
2300		172000		Sheriff. Revenue Control		2,435.00	

2300	0209	365031		Sheriff. Donation Roundup For Safety	2,435.00	
2300		242000		Sheriff. Donation Roundup For Safety	2,435.00	
2300	0209	420110	212	Sherriff. Small Equip Item		2,435.00
<b>Explanation</b>					4,870.00	4,870.00
The dive team has received donations in the amount of \$2,435.00. This budget amendment increases						
the revenue and expenditure budgets for the amount of these donations. The expenditure will come from the existing small equipment						
The amendment is added to the existing sheriff's budget for small equipment. The expenditure will be made out of this activity code.						

**CONSIDERATION OF CHANGES AND ADOPTION: ROAD STANDARDS/ ROAD DEPT.**

[11:26:32 AM](#)

Members present:

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

Others present:

County Attorney Peter Steele, Interim Road Department Superintendent Guy Foy, Patty Vernarsky, Ardis Larsen, Jeff Larsen, Clerk Kile

Discussion was held relative to the Flathead County Minimum Standards Manual, in which Guy Foy stated that it has been reviewed and that there has been some give and take between both parties.

Commissioner Lauman stated that he appreciated the work that the committee put into sitting down and going through the Road Standards Manual.

Commissioner Lauman made a **motion** to approve the Flathead County Minimum Standards Manual Resolution #2074. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

RESOLUTION NO. 2074

WHEREAS, Section 7-14-2101, et seq., M.C.A., provides that the Board of County Commissioners may control and manage County roads within the County and may in its discretion do whatever is necessary in the best interest of County roads;

WHEREAS, it is necessary and appropriate for the Board of County Commissioners to regulate and approve roads within the county;

WHEREAS, the Flathead County Road and Bridge Department contracted with engineering firms to prepare minimum standards for design and construction of roads in Flathead County;

WHEREAS, the Flathead County Road and Bridge Department presented the proposed manual titled **Minimum Standards for Design and Construction** to the Board of Flathead County Commissioners;

WHEREAS, the proposed **Minimum Standards for Design and Construction** were made available for public inspection at the Office of the Clerk and Recorder, at the Flathead County Road and Bridge Department, and on-line at the Flathead County Road and Bridge Department's page on the Flathead County website;

WHEREAS, the Board of Flathead County Commissioners, following publication of legal notice on March 20 and March 27, 2007, held a public hearing on April 12, 2007 to consider the proposed **Minimum Standards for Design and Construction**;

WHEREAS, the Board of Flathead County Commissioners considered public comments on the **Minimum Standards for Design and Construction** at a scheduled meeting on May 23, 2007;

WHEREAS, the Flathead County Road and Bridge Department, Commissioner Lauman and Jeff Larsen, a local engineer, had several meetings which resulted in editing and changing the **Minimum Standards for Design and Construction**; and

WHEREAS, the Board of Commissioners has determined that the **Minimum Standards for Design and Construction** as now submitted by the Flathead County Road and Bridge Department should be adopted.

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the Board of Commissioners of Flathead County, Montana, that the **Minimum Standards for Design and Construction**, submitted by the Flathead County Road and Bridge Department and attached hereto, is hereby adopted for use in Flathead County.

DATED this 2nd day of July, 2007.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: /s/Joseph D. Brenneman  
Joseph D. Brenneman, Chairman

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

By: /s/Dale W. Lauman

Dale W. Lauman, Member

ATTEST:  
Paula Robinson, Clerk

By: /s/Diana Kile  
Diana Kile, Deputy

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on July 3, 2007.

\*\*\*\*\*

## TUESDAY, JULY 3, 2007

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

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

### **CONSIDERATION OF LAKESHORE PERMIT: MONTANA FISH, WILDLIFE & PARKS**

[9:38:57 AM](#)

Members present:

Chairman Joseph D. Brenneman  
Commissioner Dale W. Lauman

Members absent:

Commissioner Gary D. Hall

Others present:

Planner George Smith, Clerk Kile

Smith reviewed the Lakeshore construction permit application received from Montana Fish Wildlife & Parks to construct a concrete boat ramp to state standards for public lake access use. The total length of the concrete ramp shall be 120 feet long by 16 feet wide. The ramp may be extended to reach a depth of 3 ½ feet and be bound by grade level riprap as wave mediation and over run protection.

Commissioner Lauman made a **motion** to approve Lakeshore Permit FLP 07-75. Chairman Brenneman **seconded** the motion. **Aye** - Brenneman and Lauman. Motion carried by quorum.

### **AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: TANNER, ET AL, ZONE CHANGE/ BIGFORK ZONING DISTRICT**

[9:47:59 AM](#)

Members present:

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

Others present:

Clerk Kile

Commissioner Hall made a **motion** to approve the authorization to publish Tanner/Zone Change request and authorized the Chairman to sign. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

### NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a request by Bill Tanner, Todd Tanner, Robert and Marlene Moriarty, Sherry Carter, 5 Star Management, LLC, and Strawberry Development, LLC, to change the zoning designation in a portion of the Bigfork Area Zoning District from R-1 (Suburban Residential) and R-2 (One Family Limited Residential) to R-3 (One Family Residential) and R-4 (Two Family Residential).

The boundaries of the area proposed to be amended from R-1 and R-2 to R-3 and 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 allowing a residential area designed to provide estate type development 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 and providing for large tract residential development in suburban areas, beyond sanitary sewer and/or water lines, to allowing a residential area designed to provide adequate lot areas for urban residential development, with good thoroughfare access, in proximity to community and neighborhood facilities such as schools, parks, and shopping areas, and normally requiring all public utilities and also 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 1 acre and 20,000 square feet required in the R-1 and R-2 zones to 6,000 to 10,000 square feet required in the R-3 and R-4 zones.

The regulations defining the R-1, R-2, R-3 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, Kalispell, Montana, in Permanent File No. 93270 13500.

The public hearing will be held on the **26<sup>th</sup> day of July, 2007, 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 Bigfork Area Zoning District.

DATED this 3<sup>rd</sup> day of July, 2007.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: /s/ Joseph D. Brenneman  
Joseph D. Brenneman, Chairman

ATTEST:  
Paula Robinson, Clerk

By: /s/ Diana Kile  
Diana Kile, Deputy

Publish on July 7 and July 14, 2007

#### **BILL TANNER ZONE CHANGE**

A Zone Change request in the Bigfork Zoning District, by Todd Tanner, Robert and Marlene Moriarty, Sherry Carter, 5 Star Management LLC, and Strawberry Development LLC, from R-1 (Suburban Residential), and R-2 (One-Family Limited Residential), to R-3 (One-Family Residential), and R-4 (Two-Family Limited Residential). The properties are located at 401, 404, 405, 410 and 420 Windsor Drive, and contain 5.599 acres, (3.72 acres at R-3 and 1.87 acres at R-4). The property can legally be described as follows:

TWO TRACTS OF LAND, SITUATED, LYING AND BEING IN THE EAST HALF OF THE NORTHWEST QUARTER AND IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 27 NORTH, RANGE 20 WEST, P.M.,M., FLATHEAD COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

##### TRACT 1: (TRACT 1 COS 4262)

BEGINNING at the northwest corner of the Southwest Quarter of the Northeast Quarter of Section 25, Township 27 North, Range 20 West, P.M.,M., Flathead County, Montana, which is a found concrete monument; Thence along the north boundary of said SW1/4NE1/4 S89°40'51"E 330.73 feet to a found iron pin; Thence S00°34'19"E 196.78 feet to a found iron pin; Thence N89°40'05"W 443.90 feet to the centerline of a 60 foot private road and utility easement, which is on a 270.00 foot radius curve, concave southeasterly (radial bearing N88°09'31"E); Thence northwesterly and northeasterly along said curve and said centerline through a central angle of 19°48'42" an arc length of 93.36 feet to the P.R.C. of a 270.00 foot radius reverse curve, concave northwesterly (radial bearing N71°53'56"W); Thence northeasterly and northwesterly along said curve through a central angle of 22°29'13" an arc length of 105.97 feet; Thence leaving said centerline S89°40'51" 85.60 feet to the point of beginning and containing 1.937 ACRES; Subject to and together with all appurtenant easements of record.

##### TRACT 2

BEGINNING at the southeast corner of the Northeast Quarter of the Northwest Quarter of Section 25, Township 27 North, Range 20 West, P.M.,M., Flathead County, Montana, which is a found concrete monument; Thence N89°40'51"W 85.60 feet to the centerline of a 60 foot private road and utility easement, which is on a 270.00 foot radius curve, concave northwesterly (radial bearing S85°36'51"W); Thence southeasterly and southwesterly along said curve and along said centerline through a central angle of 22°29'13" an arc length of 105.97 feet to the P.R.C. of a 270.00 foot radius reverse curve, concave southeasterly (radial bearing S72°01'47"E); Thence southwesterly and southeasterly along said curve through a central angle of 19°48'42" an arc length of 93.36 feet; Thence leaving said centerline N89°40'05"W 150.00 feet to a found iron pin; Thence S00°57'47"E 110.00 feet to a found iron pin; Thence S09°02'13"W 15.01 feet to a found iron pin; Thence S89°37'26"W 204.35 feet to a found iron pin; Thence N21°30'22"E 426.62 feet to a found iron pin and the P.C. of a 220.00 foot radius curve, concave southeasterly (radial bearing S68°31'14"E); Thence northeasterly along said curve through a central angle of 36°30'43" an arc length of 140.20 feet to a found iron pin; Thence N59°06'00"E 50.25 feet to the centerline of said 60 foot private road and utility easement; Thence along said centerline N31°54'00"W 30.00 feet; Thence leaving said centerline N13°49'39"E 46.57 feet to a found iron pin; Thence N56°22'54"E 212.11 feet to a found iron pin on the east boundary of said NE1/4NW1/4; Thence along said boundary S00°56'39"E 395.58 feet to the point of beginning and containing 3.662 ACRES; Subject to and together with all appurtenant easements of record.

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

[9:55:14 AM](#)

Members present:

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

Others present:

Clerk Kile

Commissioner Lauman made a **motion** to approve Resolution #797EK Kopje Zone Change/ Evergreen & Vicinity Zoning District. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

RESOLUTION NO. 797 EK

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the on the 29<sup>th</sup> day of May, 2007, to consider a proposal 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);

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

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

WHEREAS, based upon that recommendation and the public testimony, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 797 EJ, dated May 29, 2007) to change the zoning designation from R-1 (Suburban Residential) to R-2 (One-Family Limited Residential); and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on June 2 and June 9, 2007, and the Board of Commissioners did not receive written protests to the change from forty per cent (40%) of the freeholders.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Evergreen and Vicinity Zoning District to change the zoning designation, for the area described on Exhibit "A" hereto, from R-1 (Suburban Residential) to R-2 (One-Family Limited Residential), 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 3<sup>rd</sup> day of July, 2007.

BOARD OF COUNTY COMMISSIONERS  
Flathead County, Montana

By: /s/Joseph D. Brenneman  
Joseph D. Brenneman, Chairman

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

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

ATTEST:  
Paula Robinson, Clerk

By: /s/Diana Kile  
Diana Kile, Deputy

**KOPJE HOLDINGS LLC  
ZONE CHANGE FROM R-1 TO R-2**

**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 Evergreen Drive on Alpine Lane. The property is legally described as Tract 5J in SE4 SW4 Section 27, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

**DOCUMENT FOR SIGNATURE: DEQ CONTRACT #504010**

[9:57:34 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, Clerk Kile

Commissioner Hall made a **motion** to approve document for signature DEQ Contract #504010. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

**MONTHLY MEETING W/ RICK TREMBATH, FIRE WARDEN**

[10:02:12 AM](#)

Members present:

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

Others present:

Assistant Michael Pence, OES Director Mark Peck, Fire Warden Rick Trembath, Clerk Kile

Rick Trembath reported that DNRC and the Forest Service are being proactive on announcements with fireworks. He then said that they had a three acre fire in Marion. Discussion also included the Fire Warden Position that a job description needs to be written for, annual operating plan document that needs signed and Steve Fry coming in to talk in regards to briefing on delegating authority.

**CANVASS COLUMBIA FALLS SPECIAL STREET IMPROVEMENT PROJECT @ ELECTION DEPT.**

[10:24:38 AM](#)

Members present:

Chairman Joseph D. Brenneman

Commissioner Gary D. Hall  
Commissioner Dale W. Lauman  
Others present:  
Clerk & Recorder Manager Monica Eisenzimer, Clerk Kile

Canvass of the Columbia Falls Special Street Improvement Project ballots were counted by the Commission with 434 votes in favor and 424 votes opposed to the improvement project.

**DOCUMENT FOR SIGNATURE: PURCHASE AGREEMENT/ JOHNSON CONTROLS**

[11:33:21 AM](#)

Members present:  
Chairman Joseph D. Brenneman  
Commissioner Gary D. Hall  
Commissioner Dale W. Lauman  
Others present:  
Assistant Michael Pence, County Attorney Jonathan Smith, Clerk Kile

Commissioner Lauman made a **motion** to approve the purchase agreement between Johnson Controls and Flathead County and authorized the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

**AUTHORIZATION TO PUBLISH RFP: FINANCING JOHNSON CONTROL PROJECT**

[11:37:18 AM](#)

Members present:  
Chairman Joseph D. Brenneman  
Commissioner Gary D. Hall  
Commissioner Dale W. Lauman  
Others present:  
Assistant Michael Pence, County Attorney Jonathan Smith, Clerk Kile

Commissioner Lauman made a **motion** to approve the request for proposals and authorized the Chairman to sign. Commissioner **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

REQUEST FOR PROPOSALS  
FLATHEAD COUNTY  
FINANCING OF LEASE PURCHASE

Flathead County is requesting proposals from qualified firms or individuals for the provision of financing pursuant to a tax-exempt municipal lease purchase agreement with Flathead County for energy and water savings measures for certain facilities located within Flathead County's infrastructure (in compliance with MCA Title 90, Chapter 4, Part 11, Local Government Energy Performance Contracts). Instructions are available at the Office of the Clerk and Recorder and at the Office of the Financial Officer, Courthouse, 800 South Main, Kalispell, Montana, phone 406/758-5526 or 406/758-5539. Proposals must be submitted no later than 5:00 p.m. local time, July 18, 2007, at the office of the Flathead County Clerk and Recorder located at 800 S. Main St., Kalispell MT 59901

Questions should be directed to: Laurel Raymond, Flathead County Financial Officer, 800 S. Main, Kalispell MT. Phone - 406-758-5539. The ESCO contact is Jared Schoch, Johnson Controls, Inc., 10289 West Centennial Road, Littleton, Colorado 80127, 303-241-7265 (cell), [Jared.p.schoch@jci.com](mailto:Jared.p.schoch@jci.com).

Please mark envelopes: Flathead County Financial Services Proposal on the outside of the sealed envelope. A properly completed response will include: 1) a signed and dated proposal letter in the format included; 2) a signed and completed signature sheet; 3) a schedule of payments and amortization schedule including any purchase options; and 4) escrow information (contact, escrow agreement and list of all fees).

Flathead County reserves the right to reject any and all responses deemed unqualified, unsatisfactory or inappropriate.

Dated this 3rd day of July, 2007.

Board of County Commissioners  
Flathead County, Montana

By: /s/ Joseph D. Brenneman  
Joseph D. Brenneman, Chairman

ATTEST:  
Paula Robinson, Clerk

By: /s/ Diana Kile  
Diana Kile, Deputy

Publish: July 7 and July 14, 2007.

**CONTINUATION OF CONSIDERATION OF ROAD CLOSURE: STILLWATER ROAD (BETWEEN W. RESERVE & FOUR MILE DRIVE)**

[11:31:05 AM](#)

Members present:  
Chairman Joseph D. Brenneman

Commissioner Gary D. Hall  
Commissioner Dale W. Lauman

Others present:

Assistant Michael Pence, County Attorney Jonathan Smith, Myron Boulden, Les Schlegel, Clerk Kile

Commissioner Hall made a **motion** to approve the document for signature for a road closure between West Reserve Drive and Four Mile Drive. Commissioner Lauman **seconded** the motion. **Aye** - Brenneman, Hall and Lauman. Motion carried unanimously.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on July 4, 2007.

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### **WEDNESDAY, JULY 4, 2007**

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

#### **COUNTY OFFICES CLOSED – 4<sup>TH</sup> OF JULY HOLIDAY**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on July 5, 2007.

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### **THURSDAY, JULY 5, 2007**

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

**8:30 a.m. Commissioner Lauman to AOA TAB meeting @ Eagle Transit**  
**3:00 p.m. Commissioner Brenneman to International Fellows @ Sliter's Park**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on July 6, 2007.

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### **FRIDAY, JULY 6, 2007**

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

**8:30 a.m. Commissioner Brenneman to Mosquito Control Board meeting @ Earl Bennett Bldg.  
Conf. Room A**

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on July 9, 2007.

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