

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
OCTOBER 21, 2009**

CALL TO ORDER A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Gordon Cross, Frank DeKort, Mike Mower, Jeff Larsen, Charles Lapp and Jim Heim. Marc Pitman and Randy Toavs had excused absences. Jeff Harris and BJ Grieve represented the Flathead County Planning & Zoning Office.

There were approximately 30 people in the audience.

APPROVAL OF MINUTES There were no minutes to approve at this meeting.

PUBLIC COMMENT
(not related to agenda items)

None.

F.C. PARKS MASTER PLAN (FPMA 09-04) The Flathead County Parks Board has prepared a Flathead County Parks and Recreation Master Plan which is intended to become an element of the Flathead County Growth Policy. This public hearing is required to process the Parks and Recreation Master Plan as an element of the growth policy.

STAFF REVIEW BJ Grieve reviewed FPMA 09-04 for the Board.

BOARD QUESTIONS Cross asked staff if there would be any changes to planning staffs approach to accepting park lands in terms of subdivision.

Grieve said there was a section in the parks plan which deals with suitability analysis for land dedicated of public parks. (pg. 12) The plan will lay out suitability criteria which will require planning staff to coordinate more with the parks department in advance on subdivisions. There will be criteria in place to assess location, size and efficiency or determine if it would be a better situation for cash-in-lieu. Staff would look at it as an opportunity for increased coordination with the parks department during the subdivision review process.

APPLICANT PRESENTATION Jed Fisher, Director of Weed, Parks & Recreation and Building Maintenance programs, stated he was available if there were specific questions.

BOARD QUESTIONS Cross referred to written public comments regarding pocket parks not having public restrooms and contrary to that were comments saying people would not frequent parks because they didn't have restrooms. He wondered what the reasoning was behind that.

Fisher agreed and added the department would initiate and install bathrooms when they could reasonably afford to. It's a true issue they deal with county-wide. If the county can afford it and the park has adequate room to put in an outhouse they would accommodate. Often times it came down to whether or not they could hook into city services. He added that the trails plan/paths plan was a completely separate component from this and didn't want the board to be confused.

Jim Watson, member of the Flathead County Parks Board, stated they had gone through an exhaustive process and received 426 written comments prior to writing the plan. They called upon the institutional knowledge of the parks board and staff and stated the plan sits on a firm foundation, is not radical in any way and is very conservative. It's a way for the parks department to manage some of their resources.

Fisher pointed out the individual committee members in attendance and told the board that if they had specific questions in regards to an area, they could hone in on that particular committee. He commented they had a rather benign plan, not aggressive and not a land grab. They were looking for good ways to adequately fund a program that serves a huge need to the entire valley; not just for citizens but for tourism.

**AGENCY
COMMENTS**

Mike Baker, Director of Parks & Recreation for the City of Kalispell, was very impressed with the document. They went through the same professional process in 2006 and hired a consultant to produce a master plan for the city of Kalispell. To date they have been working from that plan. These documents are a road map for the department, the community and the county. There are some consistencies between the county and the city plans and he felt this was an opportunity, with this document and the future trails plan, to work in partnership with the general public for providing recreational opportunity and parks for people in the city and the county. These plans have significant consistencies that will enable planning and future development of park opportunities to take place. He encouraged passing the plan and supports it.

**PUBLIC
COMMENT**

Dave Renfrow, 1132 Cami Amber Trail in Columbia Falls, commended everyone that worked on the document. It's a workable tool for the decades and very well done. He stated he was a representative of the First Best Place Task Force and requested that in chapter 5, page 8, the name of the Red Bridge Project be amended to say Red Bridge Park rather than Red Bridge Trail. It's a multi-faceted project, with a memorandum of understanding signed with the county, the city of Columbia Falls, the task force and a private developer. He described the different recreational features.

Keith Hammer, 3165 Foothill Road, represented a small non-profit conservation group called Swan View Coalition. He stated the process used to develop the plan was very good. There were a number of meetings held around the valley as well as a public survey that was done. He looked at the document in terms of what people were saying they wanted. The plan really reflects what people want. They want parks that have access to water and also parks that are linear. They support the vision statement about developing an interconnected system with quality parks that have access to water and are interconnected with one another with people's homes, communities and safe passages to schools. They whole heartedly endorse the plan.

Mayre Flowers, Citizens for a Better Flathead, commented they had followed the plan through the public process where very extensive surveys and gathering of public input occurred. They appreciated the multiple opportunities for public comment. They recognize this as a very broad, general document consistent with the broad, general county growth policy. It provides guidance and goals toward implementation. They supported linear parks with trails, nature area parks and large multi-use parks as priorities. It's real important to acquire land now for future parks. They liked the aspect of calling for a network of neighborhood park advisory boards which is an important input process for local neighborhoods. She encouraged the board to adopt the plan as presented. She commented there were a lot of people in the room that had a lot of experience on parks and may not be as familiar with the process of the planning board. She felt it was valuable for people to stand up and share their thoughts for the benefit of planning board members.

Valerie Parsons, 11885 Highway 2 East in West Glacier, spoke of a new park in West Glacier and of having had guidance from the consultant. She was pleased with the board moving forward and having a plan for the future.

Jim Watson, 191 Foys Canyon Road and a member of the Flathead County Parks Board, stated they had five public workshops around the valley which were well attended. They had 426 written comments either at the workshops or through the survey. The plan does recognize the counties limited resources and attempts to create a framework for effective management of those limited resources. There were several things the plan does that would be beneficial for moving it forward. It encourages the continued and expanded use of public and private partnerships. He gave examples of some of the parks. One thing that was important was the plan calls for private groups to adopt a park or trail. Currently volunteers are not allowed. The only way you can volunteer and work in a county park is to be convicted for public service. We really need the public to be able to work in their parks; and they want to work in their parks. This plan guards against accepting junk land as parks. They currently have parks in their

inventory that are land locked with no access by the public, are under water or on a 45 degree slope. The gatekeeper was asleep at the wheel when those parks were accepted. He commented it was not fair and cheating the taxpayer. They tried to set standards that a park would have to be usable. Some of the current parks cannot even have a swing set on them. They are also unable to liquidate or surplus some of the parks as the state required a very detailed analysis and appraisal of parkland that in some cases would cost more than the land was worth. In general, he felt the plan was well thought out and well written based on very strong public comment and participation. He wanted to see it get passed.

Tamara Tanberg, 264 Blacktail Road in Lakeside, is a member of the advisory committee in Lakeside. She stated the master plan addresses two very strong issues for the advisory committee. Those are funding and which projects get funding. It sets up criteria for that. The plan also addresses maintenance as well as the volunteer issue. She felt the plan addressed public input very well and the consultant was excellent in soliciting input.

Sara Swan Busse, 197 Riverview Drive, thanked the group for the plan and stated she was excited to use this as a foundation.

**APPLICANT
REBUTTAL**

Fisher reiterated he was there to address any questions the board had.

Lapp asked about a graph in chapter 4, page 2, and whether they were referencing county or city parks.

Fisher stated Missoula has both; a city parks program and a rather defunct county program. They have turned most of their assets over to management in the city of Missoula. Bozeman was referring to the city as it takes care of both city and county programs.

Lapp asked why they didn't include some other areas for Montana.

Fisher said they were not included as they didn't get responses from them.

Lapp asked if they had done any inquiries to other jurisdictions and whether they had gymnasiums.

Fisher stated he had done that on his own. No other county park programs have gymnasiums. There may be some cities that lease private gymnasiums, but there are no solo owned county facilities. The county was looking at a 500 seat facility to relieve some of the pressure on school districts, not a huge facility.

Lapp asked if there had ever been any discussions about using the fairgrounds and bringing in portable hoops or nets for volleyball.

Fisher said yes, and if construction had been done a little different it could have been a huge potential; but it's really not set up for that type of use. They certainly have had those internal talks with the commissioners and Mr. Scott at the fairgrounds.

Lapp referenced chapter 5, page 6, the population projections; he wanted to know if they had any of that in the plan.

Kate McMahon, the consultant, stated those projections came from the existing growth policy, the graph was carried over from that document.

Lapp stated it was essential that these documents were consistent with the growth policy. He referenced chapter 5, page 12, and commented he had no problem with making parkland useable. When you put the criteria on them and then actually start doing the square footage, they could find some sites that might be good parkland but wouldn't meet the criteria.

Fisher stated it would be up to a lot of individual evaluation of those sites. There is always the option of cash-in-lieu if the developer, the parks board and the planning board agree. If there is some usage but it doesn't quite meet the criteria and there is a serious need in a particular area, it would be up to individual evaluation.

Lapp commented there were a lot of city parks and a lot of county parks and as you get out further in the county there were a lot of fishing access sites that belong to the Fish & Game; he noted this document talks a lot more about the fact these do exist. He wondered if it would be the most efficient way to have them all separate, ignoring each other was there.

Fisher stated they certainly don't ignore the fact each other was there. They work together. He felt there would be some serious meetings between the city of Kalispell and those areas that have been annexed that include city parks. With those county parks that have been annexed into the city, the county has some serious capital improvements in some of them. His department needs to make sure they get some of that investment back to be able to expand that out in areas in need of improvements. He wants to be a team player, his board wants to be team players and Mike Baker will work with them to take some of those parks over. There needs to be some transfer of funds to make improvements beyond those areas that have been annexed. They work together a lot and will continue to do so.

Cross stated that often in public comment the board hears from people who live in a certain area where there is a subdivision proposed and there will be cash-in-lieu, and those people want to see their money earmarked for a park in their area. In looking for some guidance in the plan, the only thing he found was a cash balance of \$400,000 in the cash-in-lieu account and the suggestion was that money be used to purchase additional parkland. He wanted to know if they considered using some of those funds for local parks using all of it for acquisition of new parkland.

Fisher said it took a long time to build the fund to where it was today and his goal was always to create something that brought in funds, a revenue generating source. Something that brings in a small profit to be able to use for parks. The fact that 85% of those funds collected on particular cash-in-lieu will be put back in to a specific area. 15% will be used on a floating scale for a regional park or the big picture. They want to be aware of those area needs and the thought of new land acquisition was a little difficult for him when they had so many liabilities and so many issues to take care of before they get to acquisition of new land. The first goal was to take care of what they already own. With this process they have been able to identify good people who want to give land to the taxpayers and citizens of Flathead County and this process has gotten the word out that we need the land but we don't have a whole lot of money. We need to take care of what we have before we are out buying a lot of new land.

Cross commented about his mention of the 85% -15% ratio and said he didn't notice that in the plan.

McMahon said that particular ratio is not in the plan but there are policies in the goals and policies section that addressed that. Another thing included in the plan due to advisory boards coming up with proposals on a regular basis; this plan included evaluation criteria to prioritize those proposals. The combination of the evaluation criteria, the goals and policies and the funding strategies will help address that issue. That happens at the park board level and advisory groups will work directly with the parks board.

Fisher added no new parks would be acquired until they know they can fund and take care of said park. They have to know they have a full management plan in place and the ability to fund that before doing any acquisition.

Cross commented it would be beneficial to the planning board when dealing with public comment and things, if they had a good working knowledge of what the park boards policy was on cash-in-lieu so that can be explained to the public.

Fisher commented that on those major issues the parks board should attend those hearings as well so they could provide input.

Cross wanted clarification for chapter 10 regarding neighborhood parks. Under the guidelines and standards, #9 states restroom facilities are discouraged. He wanted to know if that was something they were still discouraging.

Fisher said it's an expense issue. In general if he could find a means to pay for these and get it through the health department they were very interested in having restrooms available.

McMahon commented these were neighborhood parks and those are typically within walking distance of people's homes so the restrooms are not as much of an issue. They are not drawing large groups of people like a water access park or a sports complex.

Larsen commented that under state law they could use cash-in-lieu to improve a district park.

Fisher said the law reads 50% can go to maintenance and 50% is for acquisition or development of parks.

Larsen said it seemed to be a concern for everybody including the advisory boards, where the money would be spent.

Hickey-AuClaire commented she didn't see any interest or a study on motorized parks.

Fisher said that would be addressed in the paths report. With respect to county parks, it's a liability and insurance concern just by the nature of park rules. They will see those areas will be included, where appropriate, in the paths plan.

Mower asked what the issue was with volunteer labor in the county parks.

Fisher said the county insurance has a serious problem with it. He has looked into riders and different insurance plans but that isn't something that has been workable. However, they were finally at a point where somebody picking up garbage or doing something that doesn't have a motorized tool, is acceptable as long as they go through a six to eight hour training session for the task.

Lapp asked about the funding, the user fees and the different taxing methods. He wanted to know if there were any good options.

Fisher said they were assessing fees on every program and making sure it was pay to play. They were working with the county grant writer and hope to use some cash-in-lieu to leverage board grants.

They've also gone to several groups and hope to utilize every source to make this work. They were not looking to increase taxes.

Lapp pointed out some formatting things to check on throughout the document.

Cross commended everyone that worked on the plan. He spoke about working on the growth policy and that document calling for a number of plans. This is the first to actually come to fruition and it was exactly what they envisioned.

**STAFF
REBUTTAL**

None.

**MAIN MOTION
TO ADOPT**

Heim made a motion seconded by Hickey-AuClaire to adopt FPMA 09-04 and send a resolution recommending the Board of County Commissioners adopt the Flathead County Parks and Recreation Master Plan as an element of the Flathead County Growth Policy.

**SUBSIDIARY
MOTION TO
CHANGE 'TRAIL'
TO 'PARK'**

DeKort made a motion seconded by Hickey-AuClaire to change the word 'Trail' (Red Bridge Trail) to 'Park' (Red Bridge Park) in chapter 5, page 8.

**ROLL CALL
MOTION TO
CHANGE 'TRAIL'
TO 'PARK'**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Mower commented he would like to see something in writing in regards to cash-in-lieu.

Fisher asked Mower if he was looking for a more direct policy within the plan that the planning board could refer to for developers as they come in.

Mower said he was looking for something that when the public expresses concern where the park money was going, he would like to be able to point to something.

Fisher stated the board could use the state statute. Half of the money could go towards maintenance and half could go toward development or acquisition. The main statute lays that out there.

Mower said if it is written in state statute that's fine, they could reference that so it is clear.

Cross said in addition to the state statute they would need to know what the operative policy the parks board had. It would benefit the planning board if there were some communication with the parks board about what their operative policy was on cash-in-lieu. Whatever the policy was it would be helpful to the planning board to have it in writing.

Fisher stated that over the next few months they intend to really dive into that and will supply that information to the planning board. Then they will know not only what the money they have would be used for but also what the future goals are.

Mower said the questions the planning board usually gets are not that broad, developers and the public want to know where their money specifically was going.

Fisher said 85% will go back into that specific local area and the other 15 % will be on a floating scale.

**ROLL CALL
MAIN MOTION
TO ADOPT**

On a roll call vote the motion passed unanimously.

**TEXT
AMENDMENT
L-T-R
(FZTA 09-03)**

A request by the Planning and Zoning Office for text amendments to the Flathead County Zoning Regulations. The primary text amendment would create a new use district classification to the zoning regulations. Specifically, a new zoning district classification, named Large-Tract-Rural (L-T-R), would be incorporated into the zoning regulations as Section 3.44. The new use district is intended to protect continued traditional natural resource based uses in rural locations, maintain public access for outdoor recreational uses while providing development flexibility for landowners in remote rural areas. It is recognized that these traditional resource uses generate noise, dust and heavy truck operation as part of the normal operations. As more intensive development occurs throughout the county traditional resource based uses (e.g. timber, agriculture, mineral resource extraction, etc.) can become threatened due to nuisance and other implications of after-the-fact growth and development. No new physical zoning districts will be created as result of this text amendment.

Cross references to other Sections of the Flathead County Zoning Regulations are part of this text amendment and are required if the new L-T-R use district is approved. These include the following text amendments to:

- Section 2.06.045 to include L-T-R as an Administrative Conditional Use;
- Section 2.07.040(7) to include L-T-R for side yard setbacks;
- Section 3.01.020 to include L-T-R as a use district with a minimum base lot size of 40 acres;

- Section 3.03.020(3) to allow one primary use in L-T-R;
- Section 3.03.020(9) to include L-T-R as a non-residential zone for gravel extraction operations;
- Section 4.03.030 to include L-T-R for a camp or retreat center;
- Section 4.04.010 to include L-T-R for a caretaker's facility;
- Section 5.01.020(1) to include L-T-R for permitted accessory uses;
- Section 5.04.050 to include L-T-R for fencing;
- Section 5.06.020(2) to include L-T-R for home occupations;
- Section 5.11.040(1) to include L-T-R for signs;
- Section 5.13.100 to include L-T-R for cellular towers;
- Section 7.12.030 to exclude L-T-R from net lot easement computations.

A new definition is proposed which would add as Section 7.13.075: "Mineral Extraction –Low Impact - Low impact mineral extraction and rock picking includes weekday site mining operations that result in removal of less than 10,000 cubic yards of material. No more than 10 acres of active mining area is permitted at any given time (reclaimed areas excluded). Operational hours shall be confined to Monday through Friday 7:00 A.M. to 7:00 P.M. No on-site asphalt batching or concrete plant is permitted without a Conditional Use Permit."

**STAFF
PRESENTATION**

Jeff Harris reviewed Staff Report FZTA 09-03 for the board.

**BOARD
QUESTIONS**

Larsen asked about the setbacks to address smaller lots. He wondered if the front and rear setbacks needed any adjustments on smaller lots with 20 foot setbacks.

Harris commented that quarter acre lots are small, 10,000 square feet. Some lots are not square and if the setbacks don't work there is always a variance situation we find often in other scenarios.

Larsen referred to the section regarding the high water mark and setbacks and wondered if they should go with the mean high water mark.

Harris clarified that the mean high water mark as being the average.

Larsen said he thought they used the mean high water mark in other parts of the regulations and they may want to look at that because it might cause problems.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENTS**

Roger Sullivan, 745 South Main, spoke about owners of large tracts of land and wanted to speak on behalf of the Flathead Lake Protection Association. He appreciated the fact a substantial amount of time had gone into this proposal; and was grateful to the planning director and chairman of the planning board meeting with people at an open house earlier in the week to help explain the proposal. It is indeed a very complex proposal with a number of significant implications. He requested the board give serious consideration to postponing a vote on their recommendation until all agencies, organizations and concerned individuals have had time to adequately analyze the complex proposal. He spoke about the purpose of zoning as being put in place to protect the public health, safety, morals and general welfare. It's not about protecting the highest and best use of any particular parcel of land. It was for the benefit of the community; generally that was the touchstone for zoning and subdivision decisions. He referenced court cases and stated that 28 years after a particular court case the county still had the same problematic policy that was criticized. The Supreme Court pointed out two problematic facts. First, the majority of property in Flathead County remained un-zoned and second, even where it was zoned it was extremely selective. He stated that was an open invitation for spot zoning. Twenty-eight years later, Flathead County still has not developed any comprehensive zoning scheme for rural areas in the county. County zoning still occurs at the specific request of property owners who want a particular zoning. In the absence of a more comprehensive zoning scheme, the L-T-R proposal carries a substantial risk that parcels designated at the request of owners of large tracts of land will constitute illegal spot zoning. He commented that the premise of the L-T-R zoning district was to protect traditional natural resource based uses in rural areas. Given that, it seemed incongruent to allow the placement of urban density developments in the midst of rural county lands where traditional natural resource uses occurred. The stated purpose is to continue to allow them to occur in the zoning district. As staff pointed out, the densities exceed urban densities in many areas of Flathead County. The proposal was calling for extreme densities in very rural areas of the county. He felt a policy more congruent than the stated intent, to create a zoning scheme which supported the levels of development allowed for in the current draft, in designated areas that met standards that are appropriate for such levels of development. It does have a policy of preserving open space but there are no standards for the selection or management of that open space. Legislature has already included in the County Zoning Act the very protection the L-T-R purports to advance. He elaborated on that act and spoke about protecting agricultural and forested land. The activities that were intended to be protected under this proposal were already protected. The way to comply with statutory mandate was not to export urban density development out

into those large tract forested lands and inhibit timber production. It would inhibit these activities we need to protect and the county is statutorily mandated to protect those. Instead we needed to develop a congruent scheme that recognized and adopted development standards that were congruent with the proposed level of development and protects timber resources in urban areas. That would support this level of development without violating statutory mandates that protect the timber production. He felt the purpose and the intent of the proposal were good but still needed further work with development of standards for receiving and sending of lands. He wanted to mention that permitted under the conditional uses that are listed were problematic as they were taken from the AG-40 uses. In that designation the minimum lot size is 40 acres. In the L-T-R district there is no minimum lot size. He listed some of the uses that could be adjacent to and protected by a 100 foot buffer from the uses. The conditional uses and the specified allowed uses needed some further development. It's not really comparable to the AG-40 district. In terms of subdivision of land, every activity that would be undertaken would be under the subdivision act. The subdivision act requires the presentation of a lot of required information that needed to be more carefully integrated into this proposal. The information required to be submitted with a preliminary plat, including the environmental assessment, require detailed disclosure on wildlife and wildlife habitat, natural resources and surface waters as well as more information. The very kind of information that needed to be considered in terms of site design and selection as well as in terms of open space designations. There needed to be a mechanism in place that required qualitative information rather than just quantitative scheme. Further work needed to be done on this proposal. He felt good sound planning meant there was a place for incentives or extraordinary developments that were above and beyond common sense and reasonable standards. There were some enormous density incentives included in the proposal that needed basic, sound, reasonable development criteria. To have development in rural Flathead County and have an incentive by virtue of meeting a few criteria, that should be part of the basic planning scheme, could end up with badly planned developments that were not economically viable or environmentally sound. He discussed the component of overall development plans (ODP) and said it was a mechanism that was consistent with the vision articulated in the growth policy. There were many good disclosure requirements in the ODP section of the regulations. He had concerns as it was presently proposed. The ODP regulations provided for overall densities in remote areas of the county that were inconsistent with the stated purpose of protecting and preserving resource based industries. The ODP contains land uses that were far more intense than a typical single-family residential subdivision. He gave examples of some uses and stated the areas where those were contemplated were out in rural areas and at density levels that would exacerbate the already urban intensity developments that would be exported. He appreciated the

process and having the opportunity to meet with staff and the board at an informational open house meeting. He appreciated a significant amount of time had been devoted by staff and the planning board but felt the regulations were very complex and had many significant implications. He requested the planning board take the matter under advisement and table the consideration of its recommendation until it had an opportunity to carefully consider comments offered today, as well as give other concerned organizations and agencies the opportunity to comment. There was a need for substantial modification to the proposal and he felt it would take more time to achieve a result that truly protects the public health, safety and welfare.

Keith Hammer, 3165 Foothill Road, represented a small non-profit conservation group called Swan View Coalition and had submitted concerns through email. This was very complex as it was proposed, and the documents he read stated the intent was to protect traditional resource extract resource uses. The picture he was left with was that in a particular project area, what we would end up with was high density housing units, preferable placed closest to the nearest main roads, and the traditional uses such as logging trucks and gravel trucks would go by or through these housing communities. Seemed to be more of a recipe for disaster rather than to protect traditional uses. He encouraged the board to go slow.

Ron Buentemeier, 2225 Dillon Road, spent 43+ years managing forest in the area. When working on the growth policy he encouraged people there had to be some way for large landowners to do something with these lands. The suggestion was maybe through a Planned Unit Development (PUD). However, conveniently through the process, PUD's got set up so they are a maximum of 20 acres which doesn't allow a forest landowner very many options. The forest industry is in trouble and there has to be options for large landowners. Whether this proposal was the right one, he didn't know. But you had to start somewhere. They went through a lot to try to get the growth policy adopted and a lot of people didn't like that. Remember if those landowners can't use that land, they're probably not going to allow other uses also. This community has enjoyed a tremendous asset by the generosity of large landowners. That will not continue if they are not given any options on how to do something with their land. There is not one of those landowners that aren't concerned with wildlife habitat. We are all worried about water quality, and everybody is taking care of that. In summary, you've got to have some way for large private landowners to do something with their land. The current rules do not allow that to happen. The board was correct in saying they needed to have the mean high water mark in the regulations. The conservation district has a definition for it, state water rights laws have that in there, and it should say the definition of mean high water mark was where the vegetation doesn't grow.

Sharon DeMeester, 415 Chestnut Drive, stated it was a very complex proposal. She was very concerned about density and condos. She referred to a large brick wall and not being able to see the lake. There are other ways of getting density and they needed to think about those kinds of things. She wondered what the large landowners were going to be able to do and would they be acceptable to the public.

Karen Reeves, 230 Missy Lane, commended planning staff for trying to come up with a creative approach. She stated that Roger Sullivan addressed a lot of her concerns. One thing she hadn't heard addressed was the conservation easement part of it. There were some major amounts of land that would need to be monitored. She felt a simple deed restrictions would not work. She agreed with previous speakers stating it was not ready for prime time it needed more thought and effort. Putting these densities out in the woods would not be a hardship case for these landowners if they couldn't put a thousand homes out there.

Larry Ashcraft, represented the Flathead Lakers and read a letter. (see attached)

Paul McKenzie, Stoltze Land & Lumber, said they were in support of the L-T-R being proposed. The county needed another tool. The current tools we have in the valley don't fit well. The L-T-R as proposed doesn't fit either but it was flexible. The ability to own and manage lands with the expectation you could have a revenue stream, cutting or growing trees, may not be a reasonable expectation. We needed to provide those landowners with some tools and opportunities to be able to continue their historic uses and also have options when those historic uses are no longer an option. These larger tracts provide a lot of public benefit but those landowners do not get any compensation. This proposal provided some tools and opportunities to get some public benefit. He couldn't say it was perfect but it was a step forward. There were a lot of comments tonight that needed some serious consideration. He urged the board to continue to work on it but if they liked it the way it was he encouraged the board to go ahead with it. In order for the zoning district to be used there has to be incentives, They will continue to monitor this and be involved. They appreciated the board taking a step forward.

David Greer, Plum Creek, stated this classification offers an alternative to what was currently in place. The zoning classifications in the regulations today were the same as they were back in the 1980's when he worked as a planner. Those designations create minimum lot sizes but those don't make sense anymore. Density is the trend now. This classification allows property owners to look at a landscape basis. They can average out the density for the whole landscape area. It rewards you if you pick a good site for development. You get bonus densities if you are close to services. It rewards you if you create a lot

of open space; in fact it encourages you to go up to 75 % of open space, and there was an incentive to shift density from poor locations to better locations. There were some incredible opportunities to get some open space that would benefit Fish, Wildlife & Parks and a lot of other agencies as well. When you create open space, it allowed for traditional uses to continue. It would create conservation easements that allowed timber harvesting to continue, protect wildlife habitat and was permanent. If the system continued the way it currently was and we created subdivision after subdivision, there wasn't any open space being created. We currently look at piece meal the way we were doing it; this proposal would be a more comprehensive approach. In terms of safeguards, there were substantial setback requirements from roads, water bodies and also adjoining properties that had active timber management ongoing. As previously pointed out, this created the district but does not put it on the map. He spoke about the public review process and the ODP for large tracts of land. This would promote better subdivision design. Plum Creek owned the majority of the private lands in the county and supported this classification. He asked the board to move forward with the proposal. They thought it was a good tool, and would encourage Plum Creek to zone most of their lands; but when they look at the current zoning classifications it wouldn't make sense. This averages it out. It simplifies the county-wide zoning process. The county is not making a lot of progress and this would help move it along.

Mayre Flowers, Citizens for a Better Flathead commented they appreciated the work the planning board and staff did to try to come up with a new option. They recognized the large landowners needed additional options. With that intent, they encouraged the board to continue with this process. Given the particulars of the current document, they would not recommend the board move forward with this proposal. They strongly encouraged the board to table the proposal to allow for additional input and to bring parties that were willing to work together to identify a new tool that addresses some of the needs in our community. The complexity of the document was overwhelming. This was one of the most complex documents for its complex implications and potential unintended consequences. They recognize there was good intent but it really needed to go through some additional review. She handed out comments to the board for their review and stated there were 80 different issues that were very specific, very detailed comments. She also handed out a packet that included regulations from four different areas that may provide new insights on density bonuses, standards for open space, standards to protect agricultural lands and provided more ideas to look at. She was not suggesting any of those were right for Flathead County just that there were communities that have thought of this elsewhere and we could learn from them. She spoke of what she thought were some of the most troublesome aspects of the proposal. Disconnected parcels, impact on existing lands, and open space. The definition of open space

has not been defined and needed to be established. The intent of our forest owners was to do well. We had to look at the individual or the developer that comes in looking to take advantage of the regulation, so the more clear and more specific the better. The density was too high and particularly the fact density was granted for areas not developable and there needed to be better standards for the density bonuses. This district was designated as a non-residential district so gravel mining and extraction would be permitted throughout. The cumulative impacts of that were significant. Gravel was an issue where we needed to encourage and provide for availability but this was more of a haphazard application of gravel and needed to be looked at. Neighborhood plans and existing zoning; because this proposal could be amended into a neighborhood plan, it could be required as the neighborhood plan goes through revision, we needed to look at impacts on those existing neighborhood plans. State lands were another issue; she understood legislature does not allow the ability to put permanent conservation easements on state lands. They should not be eligible for open space. The language in this proposal was not adequate to require the environmental assessment to meet the regulations and standards as written. The fact that you zone land first and much later come back for the ODP or the dedication of open space was problematic. It does not give the public anything to review to know what a proposal would be zoned for. The staff report on which the board based their findings was inadequate and did not provide the in-depth analysis on many of the issues raised in the comments. She urged the board to table the proposal and continue public comment and invite and encourage the public to get involved.

Ginny Coyle, 120 Marvins Way, had sent previous comments and agreed with Mayre Flowers and Roger Sullivan. She felt a lot of unintended impacts, especially in regard to gravel, had not been seriously considered. She would like those issues to be further looked into and evaluated.

**STAFF
REBUTTAL**

Harris spoke of the 1987 Master Plan calling for 20 acre parcels in rural areas. He stated that was twice the base density of this proposal. He spoke of spot zoning and the legality of it. Spot zoning was when you actually zoned something. Creating a text amendment for regulations doesn't necessarily lead to spot zoning. Environmental assessments conforming to the subdivision regulations were an easy fix. There was some discussion regarding protection of natural resources; while allowing development in these areas, the proposal was trying to create perimeter buffers away from those lands as well as the wild land fuels treatment. The wild land fuels treatment would be required on the developers' property and not subjected to the adjacent property owner. There might be some merit to taking a look at the deed restriction. The criterion standards' regarding open space and how to go forward with the districts was already mandated in state statute. The wetland buffer and 50-foot rule were raised during public

comment; there might be an issue or conflict if those weren't the same as required in zoning. There could always be unintended consequences to any action. In this case, we wanted to be sure there was follow on public review for activities if they do anything other than 40 acres. They automatically built in the follow on public processes so there wouldn't be those unintended consequences. Disconnected parcels were a concern. He read some text from the proposal stating they had to have 320 acres contiguous. If you have that you can bring in some satellite 40 acre parcels. If you do an ODP, that has to be 320 contiguous acres, it can't be just a 40 acre parcel. The densities were all relative, based on the amount of land you started out with. He felt some things needed a little more work. He felt a lot of those unintended consequences that may surface would be discovered when somebody proposes an ODP or a subdivision. There were some comments that deserved attention.

Cross commented the recommendation from staff was to approve the text amendment. He asked Harris if he was modifying the recommendation.

Harris said yes, he didn't have the luxury of hearing public comment.

**MAIN MOTION
TO TABLE**

DeKort made a motion seconded by Cross to table Staff Report FZTA 09-03.

**ROLL CALL ON
MOTION TO
TABLE**

On a roll call vote the motion failed unanimously.

**SECONDARY
MOTION
TO OPEN
DISCUSSION**

Lapp made a motion seconded by DeKort to open board discussion prior to making a recommendation.

**ROLL CALL TO
OPEN
DISCUSSION**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Mower stated discussion revolved around the planning process. He thought maybe they were a little premature trying to bring this forward. The committee focused on the density issue as an overriding issue, and he felt he had to argue whether or not that was bad. Everybody thought the density was bad but he thought it was good. He spoke about West Valley and said it was a standard of bad development. The driving force on the growth policy was water and open space. What was being proposed does not take advantage of either of those. They needed to continue working on this and get the public involved and get a process that worked. Clustered, high density projects were the future if they wanted the valley to look good. He

strongly suggested the board not table the proposal but continue working on it, involve the public and come up with a process that recognizes what the future will look like. We live here and enjoy the benefits of large open space only because we have very benevolent big owners. If major landowners don't allow access to their lands anymore, the future has to be how the public could get more access. This proposal allowed access. He encouraged the board not to table but come up with a plan to continue it.

Lapp stated it sounded like the public wanted that too.

Cross said potentially the board could ask committee 'B' to take all this into consideration and come back with something that reflected the public comment and then have a series of workshops. This proposal does take a fair amount of study as well as a verbal presentation to understand it; this was so different from any other zoning district. Any board member could come to the meetings as well as members of the public. He felt the committee meetings were a little bit more appropriate for in-depth discussion and they could take the time necessary to work on something worthwhile. People with many different perspectives had taken a look at it and the board heard the benefit of their judgment. He thought that would be the process to follow. He didn't feel they should direct staff to do it, he felt it was important the board be involved just to make sure they received a broader base of people working on it.

Heim stated there may be a few things staff could work on. A lot of the concerns he heard was about the process of a real application. He was most interested in the value to the public of the set aside land; he thought it should be good useable land not some mountain top or swamp. Staff could define that. He was also concerned about the disconnected parcel idea. Those were two things staff could work on as they were obvious things.

Hickey-AuClaire stated that since committee 'B' brought it to the board and everyone on the board wanted to be involved, committee 'A' could participate as well and then bring it back for public review. She thought it was a great tool for large landowners. If those landowners locked the public off their lands it would hurt everyone in the valley. The board needed to get something in the books for those landowners. She didn't want to table it and put it on a shelf; she thought they needed to work on it.

Larsen agreed with Cross in regards to sending it back to the committee.

Cross said normally they would postpone the proposal to a certain date. Since there was work to be done and they would need to hold workshops, they wouldn't have a specific date as of yet.

Harris suggested another public hearing assuming there would be some significant changes to the proposal.

Lapp agreed there had already been a public hearing on the document in front of the board. If there were any changes from the committee workshops there would have to be another public hearing.

Harris said it would be appropriate to have another public hearing on the proposal.

Cross suggested that rather than having a motion to postpone to a certain date; as the applicant, could the planning office withdraw the application with the idea they bring it back for another public hearing after it's been worked on.

Harris said the board closed the public hearing and now they could direct the proposal be sent back to staff and not move it forward to the commissioners. Staff would respect that.

Mower suggested they have another workshop and then a public hearing.

**MAIN MOTION
TO SEND IT
BACK TO
COMMITTEE 'B'**

DeKort made a motion seconded by Larsen to send the proposal back to staff and committee 'B', to hold a series of public workshops and to revise the proposal before ultimately bring it back for a new public hearing.

**BOARD
DISCUSSION**

Harris said the public comments that were presented for this hearing were locked into this. If we hold a new public hearing, the board has all the comments, but he suggested the public resubmit them for the second public hearing.

Cross reminded the public that the committee meetings were published on the county website, the time and place.

ROLL CALL

On a roll call vote the motion passed unanimously.

**COMMITTEE
REPORTS**

Hickey-AuClaire stated there was nothing from Committee A. They hadn't met in quite a while. There were some maps that could be updated for clarification but they hadn't worked on anything.

Cross referenced a workshop the other night stating there was discussion about how to qualify the open space for tonight's proposal and if there was a critical wildlife habitat. He realized there was a total lack of maps. He thought it would be helpful to have committee 'A' start thinking about some of those and force the issue with some of the agencies about getting these done.

Cross said committee 'B' will meet tomorrow morning to consider the floodplain revision and will touch on the issue in terms of scheduling a

meeting for the L-T-R proposal.

OLD BUSINESS

Cross asked staff to send a reminder for the November 3rd meeting with the commissioners.

Mower said he would buy pizza.

Hickey-AuClaire said she would bring drinks.

The board discussed sending ideas to Cross for agenda items to discuss with the commissioners at that meeting.

NEW BUSINESS

Harris said that George Smith would be retiring November 20th, 2009, and his position vacancy will not be filled. When he retires we will have four vacant full time employee positions out of a staff of 13. That issue was raised at the budget hearing this morning and the commissioners approved the final budget. Until application revenue fees increase our policy and agreement with the commissioners is to not refill positions as they become vacant.

ADJOURNMENT

The meeting was adjourned at approximately 9:35 pm. on a motion by Heim. The next meeting will be held at 6:00 p.m. on November 4, 2009.

Gordon Cross, President

Mary Sevier, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 1/13/10