

**FLATHEAD COUNTY PLANNING BOARD SPECIAL MEETING  
MINUTES OF THE MEETING  
SEPTEMBER 5, 2007**

**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 Randy Toavs, Gordon Cross, Barry Conger, Kim Fleming, Frank DeKort, Gene Dziza, Don Hines, Michael Mower and Kathy Robertson. Jeff Harris and Eric Giles represented the Flathead County Planning & Zoning Office.

There were approximately 70 people in the audience.

**PUBLIC REVIEW** Gene Dziza reviewed the public hearing process for the public.

**APPROVAL OF MINUTES** No minutes were approved.

**PUBLIC COMMENT**  
*(not related to agenda items)* None.

**PRELIMINARY PLAT/  
EAGLE'S CREST  
(FPP 07-10)** A request by MT Eagle Acquisitions, LLC/MT Eagle Holdings, LLC, for Preliminary Plat approval of Eagle's Crest Subdivision, Phases V-IX, an 821 unit, (739 lots that will include: 86 condominium units on 4 lots and 735 single-family/mixed use lots), subdivision on 1368.52 acres. Beginning in 2010, platting of phases V-IX is expected to occur over an eight year period and build-out is expected to take approximately thirty years, ending in 2040. Lots in the subdivision are proposed to have public water and sewer systems. The property is located west of MT Highway 93, approximately one mile south of Lakeside, and can legally be described as all of Section 25, Township 26 North, Range 21 West and Tracts 1, 1AA, 1B, 1BA and 1BAACD in Section 29 and all of Section 30, Township 26 North, Range 20 West, P.M.M., Flathead County, Montana.

**STAFF REPORT** Eric Giles reviewed Staff Report FPP 07-10 for the Board.

**BOARD QUESTIONS** Cross asked if the covenants would take care of the setback requirements.

Giles said without zoning, covenants aren't enforceable and there are no setback requirements the County can enforce.

Conger asked where he wanted the additional access to be.

Giles showed a map and said anything can be engineered; he wanted to show the Board the distance it would require.

## **APPLICANT**

Dave DeGrandpre did a slideshow presentation of the project. He said he was going to give an overview of the project and clarify some questions. He handed out four sheets of information. The applicant came before the Board three months ago and discussed a master plan for the project. This project is better than zoning, in terms of predictability, and there are a lot of professionals working on the project. The applicant met with a lot of agencies and believes the project will be a positive addition to Lakeside and Flathead County. He said Harris and Hines asked the applicant to bring the project back to them after the public had more time to comment on new information. On June 5, 2007 the Commissioners and applicant agreed it is important for the public to be able to comment on the new information. The applicant submitted additional information to make sure they are compliant with everything. Fire safety has been a huge issue from the beginning and they have tackled the problem head on. He said the property has been annexed into the Somers Fire District and all of the homes have two ways in and out. The subdivision roads will be built to County standards. The applicant has reduced vegetation on the property and proposed to cut fuel breaks on exterior boundaries of subdivision. There is already a water suppression system on site, which is a 1/2-acre pond. The Somers Fire Chief called it a "fire-wise community" and said it's a model for other projects to follow. The applicant is proposing to build a public water system that will protect the aquifer. All the lots are connected to Lakeside Water and Sewer. People are always concerned about the cost of growth but in this case, the taxes generated will outweigh any cost. Homeowners will contract with a solid waste hauler and pay an annual fee for garbage removal. Most of the residents will be seasonal or older people with no school age children so there will be a huge tax revenue with no effect of children. Right now, approximately 1.1 million dollars is annually collected for the vacant lots in Eagles Crest. After construction, about 7 million dollars will be collected annually. The applicant expects 1.5 billion dollars contributed to local suppliers from the construction of lots. All the roads in the

subdivision will be paved. The applicant consulted with a biologist to find where the wildlife corridors are and they plan to build around them. All lots are designed with driveways that are compliant with the subdivision regulations. To receive final approval the applicant has to go through DEQ. Road access is big issue. All subdivision roadways are intended to be built to County standards. He doesn't think having an access to Blacktail Road would be good idea because of the weird intersection. He said Eagle's Crest gives more than it receives. DeGrandpre went over the handouts he gave to the Board and discussed the findings-of-fact and conditions he wanted changed.

Craig Schaffer, traffic engineer for applicant, discussed how they review a traffic analysis. He said it starts with a grey area and they try to put as many assumptions as possible in and come up with a black and white plan. His job is to figure out what the worst case scenario might be and find out how the development will stand up against it. He adds 25% to the worst case scenario. He uses the same process MDOT uses to analyze intersections. His report came to the conclusion that the end of phase five will require turn lanes. MDOT said before construction of phase five, there needs to be turn lanes. By default, when phase six is developed, there will need to be a new traffic impact study done. He went over the Staff Report and discussed the vehicle trips and the safety.

Fleming asked if they considered what would happen to downtown Lakeside with increased traffic.

Schaffer said that is a great question. The homes that have been built are headed to the grocery store or to Kalispell and are using Hwy 93, which has a high level of service.

Conger asked if MDOT felt a 3<sup>rd</sup> access point was necessary.

Schaffer said the letter approves Morrison and Mairle's traffic analysis.

Cross said the subdivision will generate about 10,000 vehicle trips per day and highway 93 currently has 4400/day. He said between the 2 accesses, it would equal 5000 trips per access. He asked what the wait time would be to get out onto Highway 93.

Schaffer said wait time is gauged in the level of service and their analysis is based on the intersection as it sits today with two lanes. He said at the end of phase 4, it will be a level of service C or D; level F service has a 300 second wait.

Robertson said a gated community would be interesting; to have all the cars backed up waiting to get into the gate.

Schaffer said Highway 93 will not be affected by the gate.

Angie LeDuc, attorney for applicant, said lots of facts would be given this evening. She wanted to stress that the rules require consideration of the facts only, not opinions and speculations. The applicant's application is about a foot tall and is supported by studies, scientific data, and investigation. Finding-of-Fact #28 deals with the conclusion that creates vehicular traffic hazards. If you look at facts presented, the increased traffic itself does not create a hazard. Eagle's Crest has made every effort to minimize the effects. She said pages 11 and 12 of the Staff Report conclude that it complies with the Master Plan. In order to ensure Eagle's Crest doesn't become a traffic hazard, the applicant has committed to doing future traffic impact studies.

## **AGENCIES**

Tom Litchfield, of Montana Fish Wildlife and Parks, said the winter range has habitually been disregarded in the County and at some point there needs to be some agreement on what levels of habitat loss they are willing to take for development. There are about 30 million mammals per year that disappear due to development. Eagle's Crest's density is roughly 8.3x denser than policy 4.7 of the Master Plan. The applicant converted 17 lots into open space to try to connect undeveloped land around the subdivision. The department would like to take it from 8.3x to 8.1x density by adding one more corridor. It is his goal to have wildlife and people live together in the most peaceful manner. He said a lot of the open space is going to be on the golf course.

Robertson asked about the common area.

Conger asked if the applicant had mitigated most of the issues.

Litchfield said yes, for the most part.

Robertson asked how many lots were eliminated that were recommended to be removed.

Litchfield said some lots are narrower than recommended, and some lots are wider than recommended. He recommended 17 lots be taken out.

**PUBLIC  
COMMENT**

Roger Sullivan, represented Flathead Lakes Protection Agency, stated this urban density development belongs in or adjacent to the city on the valley bottom, not on a steep slope. He said there are extreme fire hazards. He said the development would fragment and destroy winter habitats for numerous species. As previously noted, by Fish, Wildlife, and Parks, this is not an issue of urban wildlife interface, but one of conversion of wild land into an island of urbanization. It is important the Board understands there is land use guidance for the proposal and human health and safety is a huge issue. He said there were no less than three staff reports for project and staff was already overworked. The average lot size represented is 1.05 acres, but 69% of lots are smaller than 1-acre. There are 240 lots smaller than half an acre. The density of Eagle's Crest proposes serious threats to the inhabitants. Covenants allow for guest houses on each lot and there is a large available use for the open space. He discussed the average density for the previous phases and said the number of dwelling units could add up to 1,000 primary dwelling units. He went over the soils data report. The Flathead Lakers strongly opposes the project. He said there will be approximately 130 acres of paved roads. He discussed the bottleneck design and said it will be hazardous to residents.

Bruce Young said the County has long range planning; it is called the Master Plan. He said the applicant continued to submit information up until August 21, 2007. It didn't give the public very long to react because it was a holiday weekend. The process has been difficult for the planners and citizens. He discussed guest houses that could be as large as the main house. Guest houses and main homes could total up to be 2,000 and if there are 2.8 people per home it would equal 5,600 people. 5,600 people is the current population of Polson. He said there are 32,000 lots available in the County to be built on right now. He is concerned about density, extreme fire hazard, storm drainage, Montana constitution, clean air, water, safety, and the winter game range. He recommended going back to the Master Plan and changing the application to one unit per 20 acres. Brent Hall, 197 Lakeside Blvd, said the development has been here three times is because the Board asked them to be here three times. He asked the Board to look at Iron Horse and Lion

Mountain because they have the same topography as Eagle's Crest. He spent 9 years on the Planning Board. He said the Master Plan is a guideline, not a regulation. He said there is winter range in his front yard and the snow gets high so animals have to come down. He heard different reports and doesn't know who or what to believe. The Board has to go on information they were given. He isn't for or against the project.

Mark VonSchlendorf, 553 Hughes Bay Rd, said at this time there are eight to ten houses that are function houses on Eagle's Crest. He is concerned about the safety of the main entrance. The development will be a tremendous burden put upon Lakeside Sewer and Water. Eagle's Crest should have their own sewer development.

Margret Davis, of Lakeside, said the project was an urban fire development. The local fire departments are extraordinary, however rely on volunteers and they are not capable of protecting high-rise resort buildings. She asked if the gated community would have a fence along the perimeter preventing people from getting in. If this application is approved, the community water tanks proposed should be engineered, sited, and gated.

Jack Palmer hoped the Board would be good stewards of the wildlife and culture in Lakeside. He asked the Board to deny the project. He loves having animals around his house and is concerned they won't be around if Eagle's Crest gets approved.

Steve Ross, 32 Medicine Rock Lane, said he was the engineer in Sullivan's report. He said the applicant's reports are off because the amount of storm water runoff wasn't reviewed correctly. When estimated, they assumed the only impervious surface on each lot would be the home and did not include driveways or guest houses, which would increase the impervious surface. It is important each application be accurate, consistent, and complete. The process falls apart when developments are allowed to gain approval with flawed applications.

Gordon Emmert, read a letter from his neighbor. He is a general contractor in the valley. He said a lot of people can't make a living in the Valley. Everybody loves the wildlife and animals, but the driving economy in the Valley is building. He has a large staff of his own and they get paid well. He said 90% of the homes in Eagle's Crest are occupied no more than five months a year. He

is very grateful for the work the applicant is going to provide for the Valley.

Tammy Blake said it is important to take into consideration that the application is not to destroy the natural development. People who want to occupy the development are here to enjoy what Montana has to offer too. If the nature and trees were gone then tourists wouldn't be here. It doesn't make sense to make the thrust of opposition that the environment is going to be destroyed. She read letters of support from Josh and Andrew Tonsley and Tom Kline.

Rich Ousterhouse, is in support of the project. He said Eagle's Crest is capable of taking the project to the next level and making great homes. He read a statement from Tammy and Bob Ivey who own property in Eagle's Crest.

Margene Barry, 875 Lakeside Blvd, lives on just over 100 acres of winter range land. Her and her husband could develop the land if they wanted too, but she won't because they don't want to do that to the Valley. Commercial areas already exist in Lakeside and the town doesn't need more. The proposed density is unacceptable. She asked the Board to be fair to Lakeside and reject the proposal.

Barbra Miller moved here about a year ago. She currently lives in Tamarack Woods Phase II. She moved here for the wildlife and has seen a lot of it since she has been here. Trevor Schaffer is not in question, the issue is the density. She wants to see the density reduced and the project approved one phase at a time.

Larry Anderson, 4644 Hwy 93 South, works for Eagle Development and is in favor of the project. He said all lots are single-family dwellings. The fire danger will lessen as the project moves along because of the thinning. Everything he has been asked to do for Eagle's Crest has been for the better of the community. He loves Lakeside and knows it's going to grow.

Bruce Barrett, 1355 Bierny Creek, thinks the facts aren't as clear as they appear. He said the traffic study is totally inadequate. He didn't see anything that suggests anything but a major problem. He thinks the winter range is critically important and the development would cause a lot less wildlife.

Don Lofthouse said the growth in the Valley has been tremendous. He supports responsible development.

Steve Wajack, of Lakeside, works for Eagle Development and supports Eagle's Crest. The development will be a good place of employment for a lot of people. The fire suppression is excellent and he doesn't think the winter range is an issue because the land is so steep.

Sherry Johns owns property on Conrad Point. The beauty and quality of water make the Valley very unique. She is concerned about the quality of water and Flathead Lake. She asked the Board to deny the project.

Ken Kalvig represented the applicant. He had been listening to many comments. He thought Hall made some good observations about the role of the Master Plan. He could get expert after expert to give their opinion but every time something controversial comes before the Board experts will contradict each other. He didn't want the Board to lose sight of the fact there is a lot of information that comes in and Sullivan's report is not the only information the Board has to consider. The Master Plan is a guide, it says should, not shall. The property is unzoned and Staff recommended approval. It is interesting that Staff had drawn a very firm line that says if any conditions are changed, they won't support the file. There is a tremendous amount of work and effort that goes into putting together an application like this.

Greg Schoh, 180 Lakeside Blvd, appreciated all the time people put in on the development. He agreed with Sullivan's reports.

Mayre Flowers, of Citizens for a Better Flathead, read a letter from Barbara Koppock. She opposed the subdivision and emphasized the Board needed to make a decision, keeping in mind the available lots in the County. There is not an overwhelming need for new lots in the County. She said the issue isn't growth; it is how and where the Valley grows.

Hilary Vandeere agreed with Kalvig's statement. Schaffer's home is in Eagle's Crest and he raises his family there so he is concerned with safety.

Wendy Anderson supports Eagle's Crest.

Erin Duval, 1934 Bluestone, believes the developers are responsible and diligent. The developers provided all necessary requirements and the economic benefits will be huge.

Mary Vance, of Swan Valley, said the applicant is already willing to help with the traffic issues. Eagle's Crest is going to create a large tax base for Lakeside. He said it will be very sad if the development is denied.

Jason Boothman, works for Eagle's Crest and supports the development.

**APPLICANT  
REBUTTAL**

Trevor Schaffer doesn't want any additional traffic down Blacktail Road. Wildlife, slopes, fire, and traffic are the main issues with his development. He said more plans will be developed as the process keeps going. Litchfield said he did a good job at helping maintain wildlife corridors and all but one lot was converted. He said the one unit per twenty acres is a policy that serves as a guideline, not a regulation. He won't allow any buildings on top of high lines. Hilltops have been turned into common areas to preserve the beauty. There are no lots on land that has over a 30 degree slope. He said the development has been annexed into the Somers Fire District and he has used fuel mitigation. He said the Montana Department of Transportation (MDOT) said the traffic problem can be mitigated. He said growth pays for growth. He read a letter from the Lakeside Water and Sewer District. So far his daughter is the only person to impact education in Lakeside. He discussed the covenants and said they are very restrictive and better than zoning.

Robertson asked what the total possible number of living units and guest houses would be.

Schaffer said the covenants say the residents are allowed to build guest houses, but there are no rooms for guest houses on the smaller lots. The residents are not allowed to rent out space nor have part-time residents. A guest house does not increase the number of people in the house; it just makes it more comfortable for the visitors. Guest houses don't change the number of people in the home.

Robertson asked about the open space.

Schaffer said there are many restrictions to open spaces. He said there will be no construction of any buildings in the open space except for one clubhouse.

Conger asked about the difference in soil surveys.

Schaffer said he doesn't know how there would be wrong data.

Kate McMahon prepared the second soil report and entered the section, township, and range and two matches came up. She said if you click on the first match it is Lake County and the second site is Flathead County.

Conger said there have been onsite evaluations of the soil.

Dziza asked about the drainage plan and the impervious surface of the house.

Schaffer said the plan includes 20 miles of paved roads in the application.

Cross asked about the margin of area of fault in the slopes determination.

Schaffer said the contours are based off of an area topography map and it is guaranteed to be 95 percent accurate. Anything that is close to 30 percent is getting re-evaluated before it's built on.

**STAFF  
REBUTTAL**

Harris said Eagle's Crest is not a long range planning plan because subdivisions are considered current planning activities. He said preliminary plat will hold until it's changed, goes to final, or is terminated. Once the subdivision is approved, it can be acted on or amended through another process. It's not a planning document and it's for a very large site. The development shouldn't be considered better than zoning. It is not possible for the applicants to have all the information at this point. He fully expects that the market and conditions will probably change over time.

Mower said if the traffic impact study shows a stoplight is necessary, the applicant has to put in a stop light. The applicant has to do whatever MDOT says.

**MAIN MOTION  
TO ADOPT  
F.O.F.**

Toavs made a motion seconded by Conger to adopt FPP 07-01 as findings-of-fact.

**MOTION TO  
ADD F.O.F. 36**

Robertson made a motion seconded by Conger to add finding-of-fact 36 to state: *The following lots have an average building site cross slope greater than 25% with a 2% margin of error: Lots 16-21, 35, 36, 49, 247, 293, 296, 302, 315, 316, 318, 333, 334, 383, 384, 391, 463, 464, 471, 485, 486, 488, 490, 505, 506, 509, 512, 544, 576-579, 627, 642, 655, 666, 676 and 702.*

The motion was carried by quorum.

**MOTION TO  
ADD F.O.F. 37**

Robertson made a motion seconded by Fleming to add finding-of-fact 37 to state: *The Lakeside Wastewater System 2007 Preliminary Engineering Report indicates that the system's piping and other infrastructure will be inadequate to serve the proposed subdivision, particularly as other proposed subdivisions, some of which have also received approval for connections, are developed.*

**ROLL CALL  
TO ADD F.O.F.  
7**

On a roll call vote the motion passed 5-4 with Conger, Dziza, Toavs and Mower dissenting.

**MOTION TO  
ADD F.O.F.  
38**

Robertson made a motion seconded by Fleming to add finding-of-fact 38 to state: *A fire hazard exists for all lots in Phase 5, Phase 6, and Phase 7 that will access Backnine Road, Bramble Lane and Meadow Lane.*

**ROLL CALL  
TO ADD F.O.F.  
38**

On a roll call vote the motion failed 4-4 with Conger, Mower, Dziza and Toavs dissenting. Hines abstained from voting.

**MOTION TO  
AMEND F.O.F.  
11**

Cross made a motion seconded by Conger to amend finding-of-fact eleven to state: *The applicant has created CCR's that are in compliance with policies 2.10, 2.11, and 2.12 of the Flathead County 1987 Master Plan. However, the site is located in an unzoned portion of Flathead County with no minimum bulk or dimensional requirements including setbacks from property lines, rights-of-way, height limitations, or minimum lot coverage.*  
The motion was carried by quorum.

**MOTION TO  
AMEND F.O.F.  
18**

Cross made a motion seconded by Conger to amend finding-of-fact 18 to state: *The applicant has created CCR's that are in compliance with policy 4.19 of the Flathead County 1987 Master Plan. However, the site is located in an unzoned portion of Flathead County with no minimum bulk or dimensional requirements including setbacks from property lines, rights-of-way, height limitations, or minimum lot coverage.*

The motion was carried by quorum.

**MOTION TO  
AMEND F.O.F.  
20**

Cross made a motion seconded by Conger to amend finding-of-fact 20 to state: *Eagles Crest Phases 5-9 complies with policies 5.2 through 5.9 of the Flathead County 1987 Master Plan. The project identifies 70 lots as mixed-use. 60 of the mixed-use lots are clustered together in Phase 5. According to the application the majority of these uses would cater to the daily needs/services of future lot owners and may act as a traffic control device for vehicular traffic accessing US Hwy 93. It does not comply with policy 5.1.*

The motion was carried by quorum.

**MOTION TO  
AMEND F.O.F.  
28**

Dziza made a motion seconded by Conger to amend finding-of-fact 28 to state: *As a result of the subdivision creating future vehicular traffic hazards MDT has asked for continuing traffic studies to monitor increasing dangers and may impose new conditions between future phases if they seem necessary. Standard conditions and unique conditions #26 and 27 attempts to address this finding.*

The motion was carried by quorum.

**MOTION TO  
AMEND F.O.F.  
9**

Fleming made a motion seconded by Conger to amend finding-of-fact 9 to state: *Eagle's Crest Phases 5-9 will not comply with policies 2.1 through 2.6 of the Flathead County 1987 Master Plan. Existing commercial services in Lakeside are about 1 mile north of the site, therefore, the new commercial activities with the subdivision would not be adjacent to existing commercial development and could disrupt the provision of centralized commercial services. While the location of new commercial services in the proposed subdivision are not adjacent to downtown Lakeside the proposed development warrants neighborhood commercial services to support future resident needs. The neighborhood commercial area may reduce the number of*

*vehicular trips onto US Hwy 93.*

The motion was carried by quorum.

**MOTION TO  
ADD F.O.F. 39**

Fleming made a motion seconded by Robertson to add finding-of-fact 39 to state: *Covenants, Conditions and Restrictions (CCRs) are not enforceable by Flathead County.*

The motion was carried by quorum.

**AMEND F.O.F.  
13**

Fleming made a motion seconded by Robertson to amend finding-of-fact 13 to state: *Eagle's Crest Phases 5-9 does not comply with policy 4.2 (b) of the Flathead County 1987 Master Plan because it is not located in or adjacent to the service center of Lakeside. It is about 1 mile distance. The proposed subdivision also exceeds standard (e) because all phases will be connected to Lakeside Sewer and Water. While Eagle's Crest will be a single-family subdivision it will not permit any manufactured homes to be located on any lot. Traffic will increase because of this distance from Lakeside.*

**ROLL CALL  
TO AMEND  
F.O.F. 13**

The motion failed 4-4 with Cross, Mower, DeKort and Toavs dissenting.

**MOTION TO  
AMEND F.O.F.  
10**

Fleming made a motion seconded by Robertson to amend finding-of-fact 10 to state: *Eagle's Crest Phases 5-9 complies with policy 2.9 of the Flathead County 1987 Master Plan because the applicant will submit cash-in-lieu parkland dedication.*

The motion was carried by quorum.

**MOTION TO  
DELETE  
F.O.F. 34**

Fleming made a motion seconded by Conger to delete finding-of-fact 34: *The Montana Department of Transportation has approved approach permits onto US 93 for Eagle's Crest Phases 1-5 for a total of 395 lots.*

The motion was carried by quorum.

**MOTION TO  
ADD F.O.F. 40**

Fleming made a motion seconded by Robertson to add finding-of-fact 40 to state: *Eagle's Crest is a community designed at urban density in a rural community without adequate urban infrastructure.*

- ROLL CALL TO ADD F.O.F. 40** Motion failed 4-5 with Toavs, Conger, Dziza, Hines, and Mower dissenting.
- MOTION TO ADD F.O.F. 41** Fleming made a motion seconded by Robertson to add finding-of-fact 41 to state: *Eagle's Crest is a community designed at urban density in a rural community without adequate urban infrastructure.*
- ROLL CALL TO ADD F.O.F. 41** The motion failed 4-5 with Conger, Hines, Mower, Dziza and Toavs dissenting.
- MOTION TO AMEND F.O.F. 24** Dziza made a motion seconded by Conger to amend finding-of-fact 24 to state: *Eagle's Crest Phases 5-9 complies with policy 8.3 because the emergency access road provides an alternative access out of the subdivision.*
- ROLL CALL TO AMEND F.O.F. 24** The motion passed 8-1 with Fleming dissenting.
- MOTION TO ADD F.O.F. 42** DeKort made a motion seconded by Fleming to add finding-of-fact 42 to state: *New information related to the Environmental Assessment was provided by the applicant after the July 13<sup>th</sup> deadline.*
- ROLL CALL TO ADD F.O.F. 42** The motion passed 8-1 with Mower dissenting.
- MOTION TO ADD F.O.F. 43** DeKort made a motion seconded by Robertson to add finding-of-fact 43 to state: *Evidence strongly suggests that incorrect soil surveys are a part of the present Environmental Assessment.*
- ROLL CALL TO ADD F.O.F. 43** The motion failed 4-5 with Mower, Dziza, Toavs, Conger and Hines dissenting.
- MOTION TO ADD F.O.F. 44** Cross made a motion seconded by Robertson to add finding-of-fact 44 to state: *Serious concerns regarding the adequacy of the Environmental Assessment and related submittals from the applicant were raised during the public hearing. There is some confusion as to the legal status of the additional submittals.*

Conger made a subsidiary motion to delete the word *serious* from the motion. The motion failed.

The main motion was carried by quorum.

**MOTION TO  
ADD F.O.F. 45**

Robertson made a motion seconded by Fleming to add finding-of-fact 45 to state: *The estimated water demand is based on household use only it does not include water use on the golf course, commercial buildings, guest cabins, club houses, etc...*

The motion was withdrawn.

**MOTION TO  
AMEND F.O.F.  
22**

Conger made a motion seconded by Dziza to amend finding-of-fact 22 to state: *Eagle's Crest Phases 5-9 complies with policy 6.25 of the Flathead County 1987 Master Plan for pedestrian/bike access.*

The motion was withdrawn.

**MAIN ROLL  
CALL TO  
ADOPT F.O.F.**

On a roll call vote the motion passed 8-1 with Hines dissenting.

**MAIN MOTION  
TO APPROVE  
FPP 07-01**

Conger made a motion seconded by Mower to adopt FPP 07-01 and recommend approval to the County Commissioners.

**MOTION TO  
AMEND COND.  
8**

Fleming made a motion seconded by Conger to amend condition 8 to state: *Any street lighting shall be located within the subdivision and shall be shielded so that it does not escape onto adjoining properties. [Section 3.9 J.5., FCSR]*

The motion was carried by quorum.

**MOTION TO  
AMEND COND.  
23**

Fleming made a motion seconded by Conger to amend condition 23 to state: *Preliminary plat approval for Phase 5 is valid for three (3) years, each successive phase must be filed within two (2) years of the previous final plat approval. Failure to meet this time frame will cause the remainder of the preliminary plat to become void, and no additional final phased plats shall be accepted. A one year extension for a phased final plat may be requested by the subdivider.*

The motion was carried by quorum.

**MOTION TO  
AMEND COND.  
28 c**

Fleming made a motion seconded by DeKort to amend condition 28c to state: *No portion of the open space/common area may be further subdivided or converted to lots nor can any construction occur in the open space/common area excluding one clubhouse.*

The motion was carried by quorum.

**MOTION TO  
AMEND COND.  
31**

Fleming made a motion seconded by DeKort to amend condition 31 to state: *The applicant shall provide cash-in-lieu funds for parkland dedication and provide a current appraisal from a Montana licensed certified general appraiser no sooner than six months prior to the final plat application to set the baseline value of the parkland cash donation. [Section 3.19(C)(2)(a); Section 3.19(D)(1), FCSR]*

The motion was carried by quorum.

**MOTION TO  
AMEND COND.  
26**

Toavs made a motion seconded by Conger to amend condition 26 to state: *The applicant shall provide an approved encroachment permit onto the nearest Flathead County maintained road from the Flathead County Road and Bridge Department for the final plat of **Phase 6** if the Montana Department of Transportation finds that the hazards have increased enough to warrant an additional access from the additional traffic studies performed according to the letter dated July 11, 2007.*

The motion was withdrawn.

**MOTION TO  
AMEND COND.  
28 a**

DeKort made a motion seconded by Robertson to amend condition 28a to state: *A 100' structural setback is required for all structures from Tackling Creek with the first 50' to be a natural vegetative setback.*

The motion was carried by quorum.

**MOTION TO  
ADD COND. 35**

Robertson made a motion seconded by DeKort to add condition 35 to state: *No guest houses shall be permitted on any residential lot.*

The motion passed 5-4 with Cross, Mower, Toavs and Conger dissenting.

**MOTION TO  
ADD COND. 36**

Robertson made a motion seconded by Conger to add condition 36 to state: *If used, rail fences will be erected that are no higher than 48 inches at the top rail and no lower than 18 inches at the*

*bottom rail.*

The motion was carried by quorum.

**MOTION TO  
ADD COND. 37**

Robertson made a motion seconded by DeKort to state: *There shall be no perimeter fencing around the subdivision.*

The motion was carried by quorum.

**MOTION TO  
ADD COND. 38**

Robertson made a motion seconded by Conger to add condition 38 to state: *The course of Tackling Creek shall not be altered.*

The motion was carried by quorum.

**MOTION TO  
ADD COND. 39**

Cross made a motion seconded by DeKort to add condition 39 to state: *The subdivider shall improve the secondary emergency access shown on "Exhibit A" to county standards including a 40' easement and 20' gravel travel surface. [3.8(E), FCSR]*

The motion was carried by quorum.

**MOTION TO  
DELETE  
COND. 26 &  
27**

Conger made a motion seconded by Toavs to delete the following conditions:

*26: The applicant shall provide an approved encroachment permit onto the nearest Flathead County maintained road from the Flathead County Road and Bridge Department for the final plat of Phase 6.*

*27: The applicant shall construct a primary access road with a 24' paved travel surface and 60' Right-of-Way to the nearest Flathead County maintained road.*

On a roll call vote the motion failed 1-7 with Cross, Fleming, Dziza, DeKort, Robertson, Toavs, Mower and Hines dissenting.

**MOTION TO  
AMEND COND.  
27**

Cross made a motion seconded by Toavs to amend condition 27 to state: *Six (6) months prior to the filing of the **Phase 6** final plat, the applicant shall construct a primary access to Flathead County standards to the nearest Flathead County maintained road.*

On a roll call vote the motion passed 6-3 with Mower, Conger, and Hines dissenting.

**MOTION TO  
AMEND COND.  
30**

Conger made a motion seconded by Robertson to amend condition 30 to state: *Prior to final plat approval the applicant shall develop a conceptual parks and trails plan throughout Eagle's Crest Phases 5-9 terminating at Ben Williams Park and the nearest Bonneville Power Administration easement and show recorded easements at the filing of each phase for final plat.*

The motion was carried by quorum.

**MOTION TO  
ADD COND. 35**

Toavs made a motion seconded by Fleming to add condition 35 to state: *Any water towers will not be built on the ridgelines and be camouflaged to fit in with the natural surroundings.*

The motion was carried by quorum.

**ROLL CALL  
TO APPROVE**

On a roll call vote the motion passed 5-4 with Cross, Fleming, DeKort and Robertson dissenting.

**OLD  
BUSINESS**

None.

**NEW  
BUSINESS**

None.

**ADJOURNMENT**

The meeting was adjourned at approximately 12:50 a.m. on a motion by Robertson seconded by DeKort. The next meeting will be held at 6:00 p.m. on September 12, 2007.

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Gene Dziza, Chairman

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Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 10/17/07