

NOTICE OF PUBLIC MEETING

November 4, 2003

Chair Varone: (tape begins) to my left is Commissioner Murray, to his left is Carole Byrnes our executive secretary. To my right is Commissioner Tinsley, his right is Sharon Haugen our Director of Planning and to her right is Ron Alles our Chief Administrative Officer. My name is Anita Varone, would you please join us in the pledge.

Others attending all or part of the meeting: Bernice C. Hunt, David L. Hunt, Lisa Axline, Dirk Ellis, Beverly Estes, Michael Estes, Shawn Bryant, Carole Sandin, Ben Maygee, Joe Cross, Joan Miles, Mike Johnson, Tony Prothero, Jerry Shepherd and Chris Ries.

Pledge of Allegiance. (Everyone recited the pledge)

Chair Varone: At the front of the room there is an agenda if you haven't discovered it yet, if you'd be so kind as to pass one around and also there's a sign up sheet in the front of the room and if you would pass it around and sign in please.

Acknowledge North Valley RFQ's.

The Commissioners will consider acknowledging receipt of the North Hills Infrastructure Qualifications.

Chair Varone: We're adding an agenda to the item, we're acknowledging some RFQ's for the North Hills Infrastructure and we just wanted it for the record to read who's applied for the or replied to the RFQ so if you could just bear with me here, I'll read these off. The first one is from Robert Petcha and associates out of Helena and there are no bid bonds, so these are the folks that have applied. The second one is from URS out of Helena and I don't know URS stands for, just says URS Corporation. The third one is from Entranco out of Helena. There's one from Morrison-Maerle. One from Technet out of Helena. One from Anderson Montgomery Consulting and Engineers out of Helena. The last one is from TDH and it stands for Thomas, Dean and Hoskins Incorporated out of I believe it's on the front here, out of Helena. And with the Commissioners approval we'll just give these back to staff and review and come back with recommendations to us. Thank you.

Public Health Awards.

The Commissioners will acknowledge CHC's Dentist, Dr. Mike Johnson, for receiving the 'Marlene Stellmon New Public Health Worker' Award, and Health Department Administrator, Joan Miles, who is the recipient of the 'Montana Public Health Association Service' Award.

Chair Varone: Joan if you'd come forward please first. What I'd ask Laura to do is provide us some information that we could read and what I specifically asked for was a copy of the submittal and she was able to find the submittal for Dr. Johnson, but not for you so what I'll do is I'll read what was provided which says that 'Joan Miles with the Mary E. Soules Service Award, the Montana Public Health Associations highest service award. This award is given annually to a public health worker in recognition of outstanding contribution toward Montand's community health. Joan was nominated for her work with the legislature on promoting clean air, establishing fair fees for restaurant inspections, protection from emerging infection, and for her work with the Department of Health and Human Services on public health improvement and public health workforce development. Joan has also trained other health officials on legal issues surrounding public health authorities. Joan also works on behalf of America's Promise Coalition, tobacco use prevention, and employee fitness.' Our County needs to be very very proud of you, I know that you have worked long and hard and have deserved this several times over and finally you've gotten it. Congratulations, will you come forward please. Dr. Johnson would you come forward please. I do have a copy of the submittal and for the record I certainly would like to read it. It says 'Lewis and Clark County residents' access to dental care has vastly improved since Dr. Mike Johnson became the Cooperative Health Center's first full-time dentist one year ago in June 2002. Before that, the dental clinic depended on volunteer dentists and could offer very limited services. Within three months, "Dr. Mike" and his staff had eliminated the waiting list of more than 400 people. Now the dental clinic serves between 350 to 400 patients a month, or about 18 patients a day. That's five times as many patients as one year ago, when the clinic still depended only on volunteers. Patients now get appointments within

reasonable time frames, and emergencies usually can be seen the same day. Patients of all ages can now receive palliative care (treatment to relieve pain), fillings and preventive care. Perhaps any competent dentist could have achieved these outcomes. What makes Dr. Mike extraordinary is his commitment and dedication to his patients and to public health dentistry, CHC staff members say. After four years as a dentist in the U.S. Navy and 25 years in private practice, Dr. Mike took an early retirement, but the novelty of endless leisure soon wore thin. He applied to become the CHC's full-time dentist in Spring of 2002. Within his first week on the job that June, he understood that public health dentistry is completely different from private practice, and he expressed the wish that he could have spent his whole career in that arena, where the need is so great. He comes in early, stays late, and even gives his home phone number to patients who may need help on weekends. "He's just phenomenal," says Paula Block, R.N. the CHC's operations manager. "He will push himself to the hilt, day after day after day, just so he can take care of people's pain." She describes how Dr. Mike treats patients in a calming, gentle manner, offering them oral health education in ways appropriate to their ability to understand. Dental assistant Leah Chavez praises Dr. Mike's chair-side manner, saying that he's extremely gentle, courteous, polite and explains what he's doing honestly and in detail. He listens well to his patients and answers their questions. Several patients have told Leah that they didn't even realize Dr. Mike had given them an injection. She adds that he is the nicest of the many dentists she's worked with as an assistant and as a former maker of bridgework and dental appliances. "He is always helpful, always willing to help a person in medical need, always willing to answer questions, always willing to go the extra mile for patients or other providers," says Dr. Will Snider, one of the Cooperative Health Center's two physicians. "He's easy to work with and fun to have around. He's committed to the CHC's goals and to public health, and that's what makes him fit in well around here." Congratulations Dr. Mike.

Chair Varone: We have known for a long time that here in Lewis and Clark County we have staff that excel but we never see the kinds of awards that have been provided to them, it's just an extraordinary pleasure to be a part of the County, Thanks again Joan.

Proposed Subdivision, Summary Review to be Known as Hunt Minor. (Applicants, David & Bernice Hunt)
(Planner, Michael McHugh)

The Commissioners will consider creating two (2) additional duplex spaces for rent or lease. The subject property is located in the W1/2 of Section 25, T11N, R4W; generally located north of and adjacent to John G. Mine Road.

Chair Varone: Are David or Bernice Hunt in the audience? Would one of you come forward please. Sir, before we begin the presentation today have you had an opportunity to read the report that was provided by the planner? The process that will happen is, Michael will give a report and then before we have the public hearing we'll ask if you have any comments before the public hearing and then after the public hearing we'll ask if you have any comments so you'll have plenty of time to respond. Thank you Sir.

Michael McHugh: Madam Chair, excuse me for a minute, I thought we had this thing set up. If there is something else that you could do (unknown) I begin.

Commissioner Tinsley: Madam Chair, while we're waiting I can remind everybody that today is the first Tuesday of November and as you can see by my lapel I've already voted and if you don't know where to vote you can go downstairs to the first floor on that side of the building by the parking lot and check with the elections folks and they can point you in the right direction. I heard there was some confusion in a couple places this morning, so, but don't forget if you live in the city to get out and vote. I don't think there are any County, there's one in Lincoln and I believe that's the only County thing around. Our elections department can help you with all those folks, so and if you're not registered to vote this election you can stop down on the way out and register to vote for the next one.

Chair Varone: The polls are open until 8:00 tonight and I believe both Commissioner Tinsley and I have voted and Commissioner Murray spent a very long time last night driving to and from meetings and surprising he made it here today considering the weather.

Commissioner Tinsley: He's voting here this morning and Butte this afternoon I think.

Chair Varone: For those of you in the audience, this is usually up and running and sometimes it goes to sleep when we least expect it so it takes time to warm up and get rebooted.

Michael McHugh: I apologize for the delay Commissioners, What we have before us this morning is to create two spaces for rent, lease or other conveyance on approximately a 7.7 acre parcel that's located to the West of John G. Mine Road and to the West of the Burlington Northern Railroad Tracks. Nothing seems to work today. There we go. Currently on the property there is an existing home site that contains a triplex residential unit, this is three units and there's some associated out buildings located to the North and to the Northeast of the property. This area that's indicated in red here is the area, the approximate area that the applicants are proposing to develop a duplex facility. Currently the duplex is already been under construction, the septic system has been installed, the septic system is located over here, the well for the duplex unit is located to the South of the unit this is just another view looking back towards the scratch gravel hills. This is the existing residential development that's on the property; two-story residential unit with three units located within in side it. This is another view of the property; there are some dilapidated sheds that are located to the Northeast of the subject property. Basically the adjacent land uses in the area include single-family residential units that are located on 3 to 10 acre parcels immediately East and adjacent to the property is the Burlington Northern Railroad line that is not being utilized at this time. To the West of the property is the scratch gravel hills which is public lands and is operated and maintained by the Bureau of Land Management. There are no covenants on the property, there's no zoning on the property and as of the time of the staff report was prepared there was no public comment received by the planning office. As far as the review criteria, there is one sewer-mapping unit identified on the subject property, it's not identified as being a prime or state line importance however, in this area there are some agricultural uses that do occur, mainly it's limited livestock confinement with additional development in this area does include some potential for conflicts such as odor and noise and harassment by other domestic animals with the livestock. As far as sewer and water the applicants are proposing to have a shared system for both the duplex and the triplex facility, there's only slight constraints for on site wastewater treatment systems. Currently both the systems are installed and both of them are on dilation with the Montana Sanitation Subdivision Act the septic system that was installed for the duplex was installed without a permit and was allegedly installed with the assistance of a certified septic installer. The septic system for the triplex unit that's located down in the southwestern portion of the property was originally approved for a single-family residential use because of the multiple uses and the additional wastewater needs and also the additional kitchen units in it, it is now in violation of the Sanitation Subdivision Act and will need to be corrected at some point in the future. As far as water supply, the applicants are proposing to utilize shared wells to serve both the duplex and another well for the triplex. In this area and according to Lewis and Clark County Water Quality Protection District there's five well logs that were associated with this subject property. Initially between 1990 and 1994 the Water Quality Protection District did a periodic sampling for nitrates in this area and those nitrate samples all on the subject property ranged from 3.6 milligrams per liter to in excess of 7.9 milligrams per liter. The last sample was withdrawn, was taken in 1999 however, in this area in the scratch gravel hills nitrate levels do range from .17 to in excess of 37 milligrams per liter which is in excess of what an additional waste water treatment system permit would allow. As far as utilities, all the necessary utilities are located adjacent to the subject property, during the site inspection by staff it was noted that the duplex was being served by at least one installed overhead power line. If this proposal is granted permission, that overhead power line would need to be placed underground to comply with County Subdivision Regulations. As far as streets and access, the property is accessed from John G Mine Road the proposal does meet minimum County road standards and there would be no need for any additional construction or development of the road. One of the issues that did come up was that the applicants proposing to locate their approach down an extreme southeastern portion of the property, down in this area here, it's located on an 'S' curve and close proximity to the rail line, the current access to the property is located directly across from the North-South segment of John G Mine Road and this would be a more appropriate location for an access point. You have sight distance issues here we also because of the proximity to the railroad which is a non-gated non-signalized railroad crossing, it would present a public health and safety hazard. As far as fire protection, the subject property is located within the West Valley Fire District and the West Valley Fire District has requested \$200.00 per unit, so that would be \$400.00 be contributed to the district for additional fire protection in this area. As far as impacts on the natural environment, the area served by dead rock aquifer that has limited (unknown) values in it, the water quality district did indicated that the overall water withdrawal decline is likely to have some negative impacts and again dealing with water

quality in this area, we do have information that nitrate levels do range from 1.78 to in excess of 37 milligrams per liter. As far as weeds, the site is moderately infested with some noxious weeds, the property is being utilized as a grazing area for livestock, a five-year weed management plan would be required to be submitted with this proposal if approved. As far as impacts on wildlife there are many species associated with the habitat in the scratch gravel hills, these same species do utilize the irrigated hay fields located to the East of the subject property as foraging habitat and additional development would continue to frighten that wildlife habitat and improve inclusive potential for wildlife human conflicts. As noted before, as far as ground water contamination we do have numerous well logs for the property the second well log is noted in the staff report is in excess of 6.32 milligrams per liter. In cases like this, any septic system that would be installed would require secondary treatment which would require either sand filter or a circulated sand filter wastewater treatment systems the according to the applicants the system was installed for the duplex is just a standard system so there would need to be a permit issued and probably some revision to the design for that duplex's wastewater treatment system. As noted before, staff does have concern about the proposed location of the driveway access and again we'd strongly recommend the access be located where (unknown) access the property and that would be along the North-South segment of John G Mine Road. As far as physical hazards, we've already noted the proximity to the Burlington Northern Railroad Line, currently this line is not being utilized but the railroad has not abandoned the railroad line at this time so there is a future potential of hazardous materials being transported along that line and that should be noted as a notification. There is radon activity in this area; the soils are extremely (unknown) soils have a higher radon potential than other more known soils located in the Helena Valley. As far as seismic activity, there are several earthquake faults within $\frac{1}{4}$ mile of the property and this should be, any future residents should be notified in writing prior to occupancy. We have a known cultural resources noted on the property on the proximity of the property and there also were not noted any, there were noted several scenic recreational wildlife habitat values associated with this scratch gravel hills. As far as compliance with the County Subdivision Regulations, the applicants are in violation of several parts of the statutes, replacement of the additional duplex structure without obtaining the necessary review and approval is a violation of the Montana Subdivision and Platting Act and as noted before both of the septic systems located on the property are non-compliance with the Montana Sanitation Subdivision Act. These violations can be rectified by compliance with various acts. Based on the staff's findings, staff did recommend approval of this proposed subdivision with nine conditions and several of these conditions deal with prior to any construction, additional construction activities that they comply with all necessary review and approval standards. There's also notification about the potential for radon, earthquake faults and the proximity to Burlington Northern Railroad and there's also a covenant recommended that grants indignity to the County because of these various physical factors in the area. Are there any questions?

Chair Varone: Thank you Michael. First of all you didn't need to apologize, I know you set that up before hand but thank you. I have many questions, but before I ask, I invite the other Commissioners because maybe they are going to ask the same questions I am. Commissioner Tinsley?

Commissioner Tinsley: Madam Chair, Commissioner Murray. Michael how did we come to be aware that there was an additional structure being placed on the property?

Michael McHugh: The planning department was notified that violations from the Health Department I believe initially the applicants may have come in to obtain an additional address for the duplex facility and than things went on from there.

Commissioner Tinsley: Commissioner Varone, Commissioner Murray. Was the work being done by the Owners themselves or did they hire a construction firm or contractor here in Helena?

Michael McHugh: The work on the duplex was being done by the applicant with some assistance from friends.

Commissioner Tinsley: Madam Chair, Commissioner Murray. Who was certified the 'certified installers' of the wastewater system serving the duplex that was installed in 2002?

Michael McHugh: I don't have that at hand right now but the applicants can identify the individual.

Commissioner Tinsley: Madam Chair, Commissioner Murray, I do believe we need to do that and the Board of Health probably needs to be made aware of these, of who these folks are because there are some ramifications for doing this. I participated in the Board of Health meeting where we actually placed those ramifications upon an installer who did exactly the same thing, so just for the record we need to find out who they are and get them to the Board of Health.

(Unknown comment from the audience)

Chair Varone: When we get through with the questions, just before we open the public hearing you may come forward and provide that information. Thank you.

Commissioner Tinsley: Madam Chair, Commissioner Murray, I think I have one more for right now and I may have some more later. Did the applicant indicate to you Michael or Mr. McHugh why permission to sample the wells was withdrawn in 1999?

Michael McHugh: No. That was done through the Water Quality Protection District and the District did not provide any of that information.

Commissioner Tinsley: Okay. Thank you.

Chair Varone: Commissioner Murray did you have any questions? Okay, Michael if I may, I have several. Has construction been stopped on the building?

Michael McHugh: Staff has requested the applicants to stop construction. At the time that staff conducted the site visit, there was some being worked on. Staff has not been back out to the site to see if additional improvements had been made.

Chair Varone: What permits are needed for the triplex and were any, it's kind of combined, and were there or could there be fines assessed?

Michael McHugh: There could be fines as noted in the staff report the structure was originally permitted for a single-family residential use. That was based on the number of bedrooms, the number of sinks, the number of kitchen facilities by the addition of the two units that increased the potential loading and in most cases it would require an extension, an enlargement of the drain field under current regulations and a brief discussion with the Health Department staff they indicated that maybe approximately another 500 feet of drain field would be required.

Chair Varone: Thank you and it's my understanding that the property does not need to be additionally subdivided, does it?

Michael McHugh: What the applicants are requesting is just spaces for rent, lease, and other conveyance.

Chair Varone: Okay, and I notice that it says 7.7 nearly 8 acres in size and you indicated that part of it was in production of hay and part of it, or I believe it was hay, and part of it was being used for animals. What animals are on there and how many are on there?

Michael McHugh: Currently the property is being utilized to, it appears that portion in here the lighter colored area has been utilized for hay production and this is another photo but currently I think there are $\frac{1}{2}$ dozen to eight Llamas on the property.

Chair Varone: So there's going to be a triplex, a duplex and six to eight Llamas and hay being grown on about eight acres of land.

Michael McHugh: Apparently.

Chair Varone: I will be asking that we have a prohibition of large animals on the property should we approve this application. Commissioner.

Commissioner Tinsley: Madam Chair, Commissioner Murray. Could you find out for us Michael, I'm sure this is not something you don't know off the top of your head what the AUM for Llama is just for the record, and than if you have to save it for Thursday or whenever we finalize this.

Chair Varone: And than also, I was real interested in the high nitrate level because that's not in a study area I don't believe and seems like there has been an indication that the high nitrates are caused by combination of human waste and agriculture and animals and just a question, do you have any idea or does Kathy have any idea why the high nitrate levels that high up in the

Michael McHugh: It's, the presumption by the Water Quality District because this is a fractured bed rock aquifer that any of the fractures act as conduits and most wells are located in fractured areas and so if you do have any nitrates at all they're going to concentrate within that fractured area there instead of spreading out you know and getting a higher distribution within the soils, but because it is this channelized area nitrates from various areas would be forced in this same fracture.

Chair Varone: But it would be going uphill, wouldn't it?

Michael McHugh: Well, there's a lot of natural occurring nitrate, nitrite type materials that can be associated with it. Scratch Gravel Hills historically has been utilized as a mining area. Residual decomposition and explosive materials, i.e. nitroglycerin, dynamite and stuff like that can be collected and also the area historically has been used as training area for the Army National Guard and there has been discharge of ammunition which also contains nitrous materials in it.

Chair Varone: Okay. Thank you. Then maybe Chief Shepherd can answer this in the public hearing but I just wanted to know, I noticed that the cost per lot doubled from \$200 to \$400 is that something that's new?

Michael McHugh: No, it's \$200 per residential unit since these are non-sprinklered multi-family residential units; it's only applicable to the duplex that's under construction at this time.

Chair Varone: Okay, I understand. The last question. Can we approve this application contingent on the triplex on completing its wastewater system improvement and upgrade?

Michael McHugh: I believe the way I tried to write that was prior to any additional construction activities that all the wastewater treatment systems would be required to be brought up to standard. If that's not clear, we can work on language.

Chair Varone: Thank you. Yeah, it probably is I just probably didn't read it right. Are there any other questions?

Commissioner Tinsley: Madam Chair, I have one more.

Chair Varone: Commissioner Tinsley.

Commissioner Tinsley: Madam Chair, Commissioner Murray, Mr. McHugh. Under water supply on page three you talk about at the very last sentence the applicants indicated that at least one of the wells on the property has failed and replacement well was drilled and looking at the subdivision violations on page seven, I know there are violations because of the non-permitted installation and expanded use, what about the well that failed, was that reported to the Department of Environmental Quality or Health Department and if not isn't that a violation as well and has it been mitigated, has the damage that occurred been mitigated?

Michael McHugh: The, apparently the Department of Natural Resources and Conservation has issued the water right permit for a residential use well and so they would be the one that oversees it and I believe that the well

failure was in 1991, I'm not positive of that.

Chair Varone: Any further questions? Thank you Michael. Mr. And Mrs. Hunt, this is your opportunity to come forward and respond to maybe some of the questions that we've asked and provide us any other information if you have any.

(Trying to get the mic to work)

David Hunt: A lot of these questions have been addressed prior to coming here as far as (unknown) is concerned. One thing that you had a question on Commissioner is that the high nitrate in one of the wells. That particular well is located directly East of the triplex and in close proximity of the triplex and it is assumed by Mr. McHugh that that supplies the house, it does not. It is strictly an irrigation well used to water the lands and the livestock that are there. The well that's supplies the house is due North of the house, it's 301 feet deep, delivers 20 gallons a minute and it is very good water. When the planners had, or the testers had been out, I am aware of only one person being out there to test the water and this was in the area they said between '90 and '94, only one person had been out there and they advised us at that time that that well was not fit for human consumption. We took that into heart. Still speaking of the triplex, the waste system there, the house was originally built for a single-family dwelling, when my wife's mother wound up in a nursing home and we found out that particular nursing home, which is out of state by the way, was not doing the job we felt the mother need or deserved, we added on to the house and proposed to bring her home putting in a handicap ramp and all the necessary things for a handicapped person. The septic system itself is exactly the same as it was when it was first installed in 1978 I believe, however in as much as activity around there we have been undergoing septic tank (unknown) pumped on a regular basis, we've had an additive added in there for the septic sledge in the septic lines themselves, we are not opposed to adding on more drainage field. As far as the duplex is concerned, everything that is there now was there before. Nothing is new. The power was there and as much as the people prior to us by the name of Propper(?) have a trailer home there, they had a septic tank, they had the power line there, they had the well there, however the well was only 98 feet deep and delivering 3-5 gallons of water a minute and that finally because of the water table in all of the valley dropped that did drop drastically. We moved over 4-feet, went down 200-feet and we have an excellent well delivering 30 gallons a minute and it is excellent water, it has not been tested as yet but it is on the agenda for that. The septic tank was there, the only thing we did was increase the size of the field, and the power was there, we talked to Northwestern Energy and they recommended and suggested we go overhead with the lines, the Commission has decided they wanted to go underground with the lines, the cost of going underground is approximately \$2,500 that we do not have. We are therefore asking for a variance to go overhead on that. Back to the septic system, the drain field that is, has been covered up we don't mind digging up space here and there for an inspection, that doesn't bother us a bit. The driveway, we had planned on moving it as Mr. McHugh had indicated down toward the South of where it is right at the present time to allow us access to the back part of the property without going through anybody living there whether renters or our own family. It can be diverted after going onto the property and swinging a little bit south to make that end, so we have no objection to that. The original, the duplex was being built for my wife's sister and to help us. The reason it turned out to be a duplex was a mistake made by the people we bought the walls from. We paid them to put the bottom part of the house in his computer along with the top part of the house and consequently when the trusses were being built for the house, they would have come right in the middle of two doorways, so they had to raise them leaving us a 15-foot high garage and a whole lot of wasted space. Therefore, we divided that; we dug out the ground underneath that was to be (unknown) and made the two-floor apartment there. As for the animals that are on there, some six weeks ago we were loaned four animals to help eat down the weeds. They did an excellent job. Then about a month after that, some people wanted to get out of the Llama business and gave five. The people that owned the four have since taken theirs back and right now five is what we have. When Mr. McHugh was out there, we did have nine. There was a question raised about subdividing the land, No. It is in a trust, it is not being planned now, it has not been any way shape or form, want or desire to be divided in any way. It is to be there for, if things permit and my social security doesn't go up, we have to have an income so that is one of the reasons, but the reason it was being built was for family use. The second part of it we haven't really decided what we're going to do, we can move into it I suppose and do something with it. We do have at the present time agricultural status on the property between the two houses at present, we have approximately 200 Fir trees coming up that will be used for additional income at a later time. The alfalfa fields

are being utilized as grazing for these Llamas and as far as the Weed protection plan is concerned we have learned in the short time that we've had the Llamas they're like goats and sheep they eat the leafy spurge so and they are doing an excellent job on the white top that we have a problem with. Now these noxious weeds are being fed to our property from BLM directly West of us and blow down with the runoff with the wind blowing, the white top and the 25-years that we've been out there we have discovered the white top propagates itself not only by seed by root. We have placed carpets along the fence line to slow that down and all it does is go a little deeper, go around it and come up again, it's a lot like a popper tree and the (unknown) spurs is being washed down John G Mine Road and I have two plants, one by the directly south of the triplex and one plant directly south of the duplex, I have a plant directly North of the Duplex and the far Northern corner and another plant directly North of the triplex in the Western corner. These are primarily fed off of outside lands. It's not something that propagated on our property. I have been in touch with the Weed district and have told them that we have been fighting it now for 25-years, we cannot (tape ended) ... to just about anything else we can think of until we wound up with the Llamas and they seem to be doing it on a very good basis. I will know more about it next spring when I've had them long enough to see how they react on it. As far as me giving or refusing to allow them to come on the property for well testing, in October 29th of 1979 my wife and I were attacked and beaten and left for dead in a parking lot of First National Bank building here in Helena. Since that time, I personally have had a growing problem with dementia however, we have been able to control it with proper medication and proper diet and I have had no problems for several years. I do not recall relinquishing a permit or permission for testing the well however, a year ago last February the pump was tanked, or the tank was pumped, the septic tank was pumped and some people came out from the County and asked questions about the septic system, about the well and the locations, and could they, would we mind them coming out and testing them and I again gave permission. I have no objections to the County coming out and testing any or all of the wells. As I said, we have agricultural status on the property, we grow a large garden and sell that, we grow limited hay, very limited on that and I said it's now being utilized primarily for the feeding of the Llamas. As Mr. McHugh came out, spoke out there, this all opened up when Northwestern Energy wanted an address for power and I came in and applied for it, I paid for a permit for building, I paid for a permit for septic systems, did not need a permit for a well, and I still don't have the address. Construction has stopped with the exception of as Mr. McHugh had told us at the time, except protection and safety. We did finish the entrance on the North side of the duplex to prevent (unknown) of the rainwater and snow melt from entering the building and we put siding on it, but other than that, construction has stopped. As far as nitrates are concerned on the property, this particular part of the property it was many years ago the old winter-feed lot of the Green Meadow Ranch. There was nitrates in there, we have plowed that up on numerous occasions in order to utilize it as fertilizer and one experience we had shortly after we moved on the property was that we burning grass and the humus caught fire, burned for three days, that's when we started plowing and getting it taken care of. Then we planted on it, a pasture before we got the irrigation well and since that time the alfalfa with two small places for the Llamas. As I said, a replacement well was drilled prior to the need for a permit and question (unknown) we were involved in that. As far as we were concerned we were utilizing what we already had. We were replacing a trailer house that was just there with a permanent structure and a septic tank I was told had to be under continuous use, we used it for our mobile. The wells hooked up to the triplex and is still in service well the well itself I've had to abandon but the line is still there and will be connected to that well as well so that both the duplex and the triplex will be, even though they have a shared well each, they will have a shared well connected, so that if one well goes out they still have another and that is our plan at the present time. That's all I have to say at the present time.

Chair Varone: Alright. Thank you Sir. Mam, you had something else you'd like to say? And for the record I just need your name and your address.

Bernice Hunt: I am Bernice C. Hunt 76 John G. Mine Road is our address. David failed to say something. Our building, which they say is a triplex, in our hearts it could be a triplex or it could be a house. Because it can either be divided or undivided internally in the house. It has been used mainly for family, sometimes we have had renters but we have had numerous accidents and lots of home health since October 1979. We've had a tremendous amount of people have to come in and help us and right now we have family and we've had family for many years in our property and if and you can check our taxes if we do rent we pay taxes on it, I mean we pay you know, we're not trying to do anything wrong, we're trying we felt in our hearts everything within the new building to build so that's how we do it, I mean we didn't know that we had done anything wrong and our

home that we live in has never in all the time we've built had more than six people in it. Never. And all the rooms there's never and we've always, we've never allowed to go over that because of using the septic and so that I just wanted to point out and if we have to make changes we're willing to make changes. We're just old and we don't do, and we apologize we didn't know some of these things.

Chair Varone: Thank you very much Mam and I also want to Thank you for letting us know that you're agreeable to have water testing continue, the memo that Kathy Moore provided us indicated that permission was withdrawn in 1999, so Sharon or Ron would you have Kathy contact the Hunts once again and make arrangements for that to continue and also it's interesting to know and if you would notify her she probably may not know but it was the old winter-feed lot for Green Meadow and that possibly that could be one of the reasons for the reaching down into the lower levels, it would be nice to continue to monitor it, Thank you.

Bernice Hunt: One other thing that I should say is that Lyle Hostead(?) was your certified installer that put in our drain. He is a friend of ours and because of so many medical things that we've had continually, he did that for us. And he did, my husband says, did tell him you need a permit and Dave said I don't think we do because everything's here, so Lyle went ahead. It's not his fault, it's our fault we were wrong and one other thing a carpenter of our friends set up a between several churches and they came and sided our house two weeks ago so the siding is on our house.

Chair Varone: Thank you very much. We appreciate all that information. This is a public hearing, anyone wishing to speak in support of and opposition to or in general of this application, please come forward now and for the record state your name and address.

Carole Sandin: My name is Carole Sandin and I live at 77 John G Mine Road. I live 300 feet East of the proposed subdivision.

(problems with the mic)

Carole Sandin: Okay. My name is Carole Sandin, I live at 77 John G Mine Road, I'm about 300 feet East of the proposed subdivision. I have some concerns, not particularly about the subdivision itself but it's consequences on us. John G. Mine Road is extremely dusty, very very dusty and I don't think that there is any help for it, but I think this will add more dust to it, people go through there at a horrendous rate, I've seen people miss the curves both 'S's on the curve because they're going to fast and most of my neighbors up above as I say are pretty considerate about the dust issue and about going slowly through there but there are a lot of people who aren't and this last summer I've had occasion to call the Sheriff about some of these speeders, the first time in twelve years. So, if they rent, Mr. And Mrs. Hunt are renting to other people I guess we can expect more of the same, but this dust is really an issue and as aside, I've recently learned in the Phoenix area they have what they call Valley Fever which is caused by dust. I'm also concerned about the water. To date my well hasn't been effected but I can foresee that other people might be. Not just by the quality of the water but also quantity. We're not getting more rain these days. Weeds is another problem and Mr. Hunt addressed that problem somewhat. I haven't noticed on their property but I do agree with him that the BLM and the railroad are doing nothing at all about the leafy sporage. It's horrendous on both properties and we're getting it now. Another issue is noise, we get a lot of noise from the road and we get noise from noisy neighbors. The mailboxes are right behind my house; I've been awakened at two or three in the morning by people coming home from who knows where and loud noises and with more people; we can expect more of that. I was kind of curious, I don't understand they said that it was rent or lease or other conveyance. What does this other conveyance?

Chair Varone: Michael.

Michael McHugh: Other conveyance would be that if somebody was living there and doing a function like mowing their lawn and they got to live there for mowing their lawn that would be another conveyance, if they were working for them as part of their compensation package, they got to live on the property.

Carole Sandin: Okay, Thank you. I guess I have one question and I don't know that the County can address this; my biggest question is what about the dust issue, because I am overcome with the dust? Right in the curve,

you could see it on the previous photo.

Chair Varone: Just for your information, Mam, there is an opportunity for the folks that live in the neighborhood and on the street to establish a RID and they can do a couple things, they can either pave, or they could put down a dust inhibitor and what you might want to do is get together with staff and talk to them about establishing an RID so the folks on that road can pay and have that done.

Carole Sandin: We thought about the RID and I'm not sure does that just apply to people who pay for it or for people adjacent because the County road does not go up to the Hunts' as I understand it.

Chair Varone: It would be the benefiting parties and can include a whole road.

Carole Sandin: Benefiting parties, okay. Thank you. I guess that's all my comments. Thank you.

Chair Varone: Thank you very much. Is there anyone else that wishes to speak in support of, opposition to or in general, Sir, for the record you're name and address.

Joe Cross: My name is Joe Cross and I live just East of Carole about probably 300 yards from the subdivision. My problem is with the water, I don't really have a problem with the subdivision as such, but last year my well, I've lived there since 1980, and last year my well went from $7\frac{1}{2}$ gallons to about $3\frac{1}{2}$ gallons the day after they drilled the well for this new house. That was last fall and this spring, well at that time I could take a sprinkler and set it in my yard and I had to watch it, it would last about 15, 20 minutes and then my well would shut off and start cycling and I had to run and shut everything down. Wait 15, 20 minutes and then go back and start watering again. So I had sleepless nights all winter and this spring, this summer I had Lindsay come out and drill a new well for me and I figured I was getting about $3\frac{1}{2}$ gallons a minute on the well that I have which was 125 feet deep. Lindsay went down to about 200 feet, he was getting $3\frac{1}{2}$ gallons a minute, we went down to 720 feet and I gained about another gallon a minute, $4\frac{1}{2}$ gallons a minute and I had to quit at that point. It cost me \$17,000. I've got plenty of water now, because I've got 720 feet of well and they figure a gallon and a half a foot so I have plenty of water but if that water's coming in at 125 feet which I suspect it is, when they start using water in that new house, I suspect that I could run completely out of water which makes my property worthless. The people across the street from me, just West of me live in a trailer house and they just bought that house this spring and their in the same shape I'm in only they don't have the \$17,000 well and I think they're going to run out of water too when these people start using this, I don't know that they will, but it looks to me like a good possibility and so I'm not really complaining or anything if it holds up, I'm happy, but I just wanted to come in here and state that I think there's a good possibility that I'm going to run out of water, the people across the street from me are going to run out of water and maybe a few more too once that starts to get used. When that happens, I don't know what's going to happen, what I can do, I've been to the DNRC and talked to them already and your well log is worthless if I run out of water they won't do anything for me, I said what do I do, you go sue the Hunt's or drill a new well. So I drilled a new well. I said what happens if my well runs, that makes the people below me run out of water, they sue you or they drill a new well. So I'm caught here, I don't know what's going to happen but I just thought I better put this on the record that I might be in trouble. One other thing, as long as I'm here, the people in the trailer house, the lady that lived there, she lived there since the 70's and her water was running real short and I think she put in a big tank inside the trailer house, anyways she sold out this spring and moved to Nevada and when she went to sell, the real estate people told her that the nitrates were too high and I didn't know anything the nitrates, so I said what's the deal and her nitrates were 7 or 8 parts per million or whatever they call it. So, apparently nitrates don't hurt adults at that level, but apparently they can kill little babies that are under 6 months old, so I looked into it and got all the information that I could and I went to a testing agency and paid \$100 and got a full complete test on my well and my nitrates are at 8 something so if you guys want a copy of that you can have it and that's all I've got to say, Thank you.

Chair Varone: Thank you Sir. It would be interesting also if Kathy also got ahold of, is it Mr. Cross? Thank you Sir very much. And also before we make our decision if Michael or Sharon or whoever would contact Paul Stahl to discuss if the well goes dry is that in fact a recommendation to sue the neighbors or what's the process for that or Michael do you already know?

Michael McHugh: That is the process. You have to demonstrate harm before you can get any compensation or action out of the Department of Natural Resources and Conservation.

Chair Varone: Thank you. Anyone else wishing to speak in support of an opposition to or in general. Michael.

Michael McHugh: Just a note for the record, Mr. Hunt indicated that they were utilizing the well that was located at the side of the duplex to dispose of oil and they had done that continually, that is not recognized as appropriate use of a wastewater treatment system and would be frowned upon in many circles.

Commissioner Tinsley: Madam Chair, if you'd indulge me I'd like to correct the record. I made a mistake earlier and I'd just

Chair Varone: Please

Commissioner Tinsley: and it just kind of hit me between the eyes. When I was asking Michael a question about the well that had failed I had read well had failed but I was thinking septic system, that's why I asked the question about clean up and mitigation. Understanding now that it was the well that we were talking about and not a septic system I wanted just to make sure that I corrected that.

Chair Varone: Thank you Commissioner. For the second time anyone wishing to speak. Sir. For the record your name and address.

Dirk Ellis: My name is Dirk Ellis, 91 John G Mine Road, neighbors to both Carole and John. I have four questions, nothing against what they're doing at this time, but just future ones as well. In fact, with what they're building right now looks real nice. I have to compliment on the job that they've done there. The first question is again well water issues. This year after they drilled their well our well, we can't water our lawns or anything very efficiently as we used to and all the wells in the area as far as I know are quite deep, ours is about 400 feet deep, both the neighbors below us have gone to over 600 feet. They put wells in this year as well as Joe Cross and again the mobile home which is right across the street from Joe and I basically they don't have any water use at all they can't even do their laundry, or can't run their clothes washer at all. Our nitrate level is 28 milligrams per liter. We don't even use our water for drinking; we just use bottle water even with reverse osmosis we just can't keep up with the use with our family. The partially constructed duplex that I did see if you can scan back on those pictures maybe you can answer for me why I see three electrical hook-ups on that if it's a duplex, see the three meters?

Michael McHugh: Now that you pointed that out yes.

Dirk Ellis: So that's a question that I have.

Chair Varone: Would you point it out, I still can't it. Oh sure.

Dirk Ellis: and I'm not sure I understand, the duplex is to be shared, is to be served by a shared water supply and shared on site wastewater treatment system, shared with, I'm unclear on that and than what the proposed units would be using is it shared with these or shared with the triplex, explain that.

Michael McHugh: The shared system would serve the two units within, they'd have one septic system two tanks but one drain field for the wastewater treatment and then they'd have one more come in that both the occupants would be responsible for maintaining.

Dirk Ellis: So this is for the proposed units.

Michael McHugh: Well there's also there's a triplex unit there's only one septic system serving all three of those units in the previously constructed house and just one wastewater treatment system serving all three of those units.

Dirk Ellis: So my understanding, truly none of my business, I'm just trying to clarify what's happening here, we have a triplex that's existing that's using a septic system.

Chair Varone: Sir, if I could just stop you for a minute what probably would be better is if you provide Mr. Ellis a copy of the report because it explains everything in the report and than if you have any further questions, because this is for public comment only not for questions and normally if there is a question or two I'll allow them to be answered this is information that you can get from the report.

Dirk Ellis: I guess the public comment, the reason for that is I'm seeing three electrical meters on a duplex and there is so many septic and wells involved right now they're all being tied and linked together where they're really located and etc.

Chair Varone: and that report will explain it and I do appreciate the notice and notification of the three electrical meters.

Commissioner Tinsley: Madam Chair, I'd like to listen to what, the questions he has to that he's asking because I've learned a couple things already. Commissioner Murray?

Chair Varone: Okay.

Dirk Ellis: I have one other question. Again it goes to, I think you call it an RID, for the road. I think that side of John G Mine now probably has more access to homes than all of John G Mine between Green Meadow and Montana Avenue, I don't know who paid for that but I don't know why we shouldn't start getting some kind of service up on the side of that hill. We have a number of kids, probably 20 kids that walk down to the bus and we continually have to have the Sheriff come up there, you can't stop well on the road because it's not paved and it's so washboard continually it's even hard to get up the hill, a lot of people are fish tailing up the hill and they're stopping sliding down and basically not stopping until they hit the asphalt on Green Meadow because they're driving in such excess. We actually, I went to the extreme of actually re-finishing my road with road mix and crushed asphalt to cut down on the dust and everybody on our road so at least we can get a little bit of that a little relief there. That's the only comments I have.

Chair Varone: Thanks Sir. Commissioner Murray.

Commissioner Murray: Madam Chair, with the residents of the RID paved your neighbors in the lower John G Mine and Applegate paid for that pavement. So it's not, the County does maintain it to the extent that we fix the potholes, but it's the people in the RID that actually pay for it. Madam Chair, if you'll allow Mr. Cross has a question or comment.

Chair Varone: I'm sure it's a comment, it looks like a comment. For the record, you're Mr. Cross.

Joe Cross: Right. These people right here are my neighbors, but that road that Carole's road circles her place right there so she has a lot of footage on it and the next place on down I probably have four or five hundred feet myself and they've asked me about an RID and I'm happy to go with an RID if everybody pays, but if it's paid by footage on the road, they're having trouble with me and I'd just like

Commissioner Murray: Madam Chair, if I could jump in, Mr. Cross there are several methods in assessing RID's, one of which is per property regardless of the amount of frontage you have on the road another way of course is linear foot on the road. But the people that form the RID actually decide how they choose to assist, not the County.

Joe Cross: and when you do that, does that take in the people that are off of the road and don't have

Commissioner Murray: Yes, they're all benefiting properties. Anyone that would use that road for their resident would be considered a benefiting property and what I'd suggest is if the neighbors are somewhat interested in an RID, if you'll contact planning or public works we'll have a staff member sit down in your

neighborhood at a neighborhood meeting and go through the fundamentals and uniqueness of RID's with the neighbors before anything happens, but that would answer your questions as a neighborhood.

Joe Cross: Thank you.

Chair Varone: There are many many RID's throughout our County and they're very effective. Sometimes we come to the folks that live in the area and ask them if they're interested, but more often than not they come to us and say they want to form one. It sounds to me like the people in this room, that's something that you may be interested in doing. Find out what you can do and what your obligations are and then see if you want to move forward. Anyone else wishing to speak today. For the second time. The third time. This closes the Public Hearing. Mr. And Mrs. Hunt do you have any kind of closing remarks that you'd like to make.

David Hunt: Been a lot of things brought out that I did not know. One, Mr. Cross losing his water. I had no idea of that at all until today. Pertaining to man who has drilled down 600 feet, that's Mr. Jerry Christianson who owns the property from Carole directly North of him across the John G and I admit that per guy was going through pure Hell until he finally found one well that he was able to supply the houses with. Carole brought up the fact that we have dust and boy do we ever. It is a place that is just ridiculous, however BLM decided to make a headway out of the John G and open it to the public; motorcycles, motorbikes, 4-wheelers, anything else anybody wanted to go up there and spin wheels with and this is where most of our dirt is coming from. I admit that Carole is in a very precarious position because she is right in line with the gulch of John G Mine where most of the winds come from and it blows right down in her area. The area between Carole and us and the rest of us is on an unimproved roadway, which means the County doesn't cross the tracts except to turn around. They will not maintain it, they will not do anything with it at all and in the 25, 27-years that my wife and I have lived up there we are the only ones who've put gravel on it. One neighbor at one time had it motograted and we at one time had it motograted but that has been twice in 27 years.

Chair Varone: Sir, if I could ask you, do you have any other remarks regarding the application? I think we've kind of settled the road issue of where you need to go and that there is a difficulty. Do you have any comments on your application?

David Hunt: I think the application is stands as it is.

Chair Varone: Thank you. I do have one question of Michael. The applicant indicated that he was going to be asking for a variance for the overhead lines, were you aware of that, I didn't see anything in the report?

Michael McHugh: They've never approached that with staff, we can give him a variance application that will delay any action by the Board of County Commissioners but the County Subdivision requires all new development meters to have underground utilities extended from the trunk lines, the main lines so the fee of I believe he said \$2500 seems a bit in excess, I think they charge \$20 a foot to do underground utilities installations.

Chair Varone: Thank you. My question is we have a review period that ends on the 10th and if the applicant is interested in applying for a variance he needs to request and extension does he not?

Michael McHugh: He needs to request a variance and then obtain a variance application form from the permit coordinator, submit that in a timely fashion.

Chair Varone: Can we move forward with this as it is right now?

Michael McHugh: Not if he request a variance. The other option is that you can take action on the proposal as it is as presented in the staff report and then if after the fact the applicant wants to do a modification of the conditions of approval, he can apply for that.

Chair Varone: Mr. And Mrs. Hunt do you understand what that means? Do you want to move forward?

David Hunt: Lets move forward.

Chair Varone: Thank you Sir. Commissioners what is your pleasure?

Commissioner Murray: Madam Chair, I move we render a final decision on November 6th at 9:00 am in room 309 of this building.

Commissioner Tinsley: Second.

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries

Commissioner Tinsley: Madam Chair, correction, I think we are at 10:00 am on November 6th, because of the canvas. I believe the meeting has been moved to 10:00 am.

Chair Varone: Thank you. We're going to take about a 10 minute break and than we'll be back.

Proposed Subdivision, Summary Review to be Known as Elk Trail Park, Lot 72 Minor. (Applicant, James Rauber) (Planner, Michael McHugh)

The Commissioners will consider creating two (2) lots, each to be used for seasonal, recreational, sing-family dwellings. The subject property is located in the NE Section 13, T15N, R8W; generally located approximately five miles of Highway 200 on Copper Creek Road.

Chair Varone: We have sort of a dilemma; Commissioner Tinsley needs to leave for a few minutes in about 10 or 15 minutes. My question is, if we move on to the Elk Park Trail with all the of the variances that are requested, do you think we would be done in time for him to leave or will he have to leave in the middle of it?

Michael McHugh: I believe he would probably have to leave in the middle of it.

Chair Varone: Then if I could recommend to the Commission that we move on to item 5 and then item 6 and do the item #4 the Elk Trail Park because there are so many variances it's important that Commissioner Tinsley be here and he wants to be here specifically for that and than he can listen to the tapes of the others, would that be all right Commissioners? I believe there are folks in the audience that want to speak to the Elk Trail Park, is that correct? Would you raise your hands please. Michael is that going to mess things up by moving on to Danas' Point Road? I apologize.

Chair Varone: Thank you again. Before we start, if either of you folks in the audience has a ticket on your car make sure you bring it upstairs and we'll see that it's paid by someone other than you.

Chair Varone: Mr. Rauber is not in the audience I don't think, Shawn Bryant are you his representative, would you come forward please. Shawn have you had an opportunity to read the report before we begin.

Shawn Bryant: Madam Chair, Commissioners, yes we have and I've been in conference with the owners and everything seems in order.

Chair Varone: Thank you Sir.

Michael McHugh: Commissioners, what we're proposing to do is to divide in half approximately 2.2 acre parcel that's located approximately fourteen miles Northeast of the town side of Lincoln. It's located five miles directly North of Highway 200 and there's access through Copper Creek Road. Currently it's located within Elk Park Subdivision, it's on Lot 72 this is a configuration of the Elk Park Subdivision which was a subdivision created in the 1970's without any review. It's historically been utilized as a recreation cabin sites and

sometime in the near past is a squatter's village. This is the configuration of Elk Parks Trail Lot 72, it's approximately 2.2 acres in size, the southwestern portion of the property is developed with a cabin site on it, the roads within the subdivision are only 20 feet in width. This is the existing development on the site and I don't know if you can tell very much from this picture but this is Landers creek right here. This is probably within 15 or 20 feet of the creek itself. As far as adjacent land uses to the North the land use is predominantly an unforest, undeveloped forest area to the east and to the south are the recreation cabin sites that vary in size from $1\frac{1}{2}$ to 1 acre in size and to the west is Landers creek and the undeveloped forest land. There are no covenants or zoning that do affect this land and at the time preparation of the staff report, no public comment had been received. As far as the review criteria, there's none, no soil mapping that's been done in this area so the agricultural value is not known, but just from looking at the topography of the property and the visual inspection of the soils this property does not have a value, agricultural value. As far as the impact on sanitary soil, again the applicants are proposing to develop a individual wastewater treatment system on the proposed Northern lot. This existing development on the property does not have any onsite wastewater treatment system; this is the sanitary facility that is being utilized on the site. According to the Lewis and Clark County Health Department, the soils because of the proximity to Landers Creek are extremely (unknown) and the suitability of this site can only be determined after site evaluation, as you can see from this there's a lot of exterior showing of rock in this area. Because of just the nature of the soil, we're assuming that there's going to be rather rapid percolation rates in this area and this could possibly be mitigated if they're able to achieve adequate separation requirements from the Landers Creek. DEQ requirements require that onsite wastewater treatment systems be located at least 100 feet from any high water mark. As stated before, it will be required to undergo review by both City/County Health Department and the Department of Environmental Quality. There's no well located on the site, we're looking at a (unknown) surface material overlaying the bedrock, it appears that there's adequate water supply either from the creek or the ground water to provide for seasonal domestic use. One of the main concerns regarding this proposed subdivision is the access. This is the access directly to the lot; the lot is located down here at the end of the hill. The width of this road is only 13-feet and the width of Copper Creek Road varies between 22 to 18 feet the first segment of the road, the paved segment is maintained by Lewis and Clark County and then approximately $2\frac{1}{2}$ to 3 miles up it becomes a privately maintained road and none of the roads accessing this site meets minimum standard width of 24-feet nor do they comply with any construction standards. This is the road that's immediately adjacent to the subject property, the property is located right here and as you can see, this is a very narrow road that will only accommodate one vehicle at a time. As noted before, on the West side of the property is (unknown) back up on the roads again. The applicant has requested numerous variances and those variances are attached with some photos that have been provided by the applicants representative, but these variances that are being requested are variances granted for the right of way North of Copper Creek Road and Elk Park Trail, the southern segment of Copper Creek Road does have the adequate 60-foot right of way but as you move up to the North, the right of way, this distance varies between 50-20 feet within the subdivision. The next variance if granted, is road width in as the previous pictures that show the road does not meet the 24-width on previous pictures also indicated that there's, they don't meet the construction standards either for ground construction or whatever and than the last variance as requested is a dead end road in excess of 1000 feet. As from this map you can see Copper Creek Road, the access point to Highway 200 is the only way that one can get egress or ingress to his property. Leading back to schools, since this would be a seasonal use of the property, we're not estimating that any children would be generated by this proposal. As far as fire protection, the fire protection in this area is provided by Lincoln Volunteer Fire Department, the US Forest Service and the Department of Natural Resources and Conservation. The nearest facility is approximately $12\frac{1}{2}$ miles to the Southwest of the property. The Lincoln Fire Department did not respond to requests for comments. In the Lincoln Comprehensive Plan the properties been identified as being in an area that has a high danger priority list rating and those ratings are based on population, density, construction guidelines, vegetation, egress, water availability and distances from fire protection equipment. These risks can be reduced somewhat by compliance with the defensible space guidelines that's been prepared by the Department of Natural Resources and Conservation. Just to note that in the past fire season, the snow town fire, I believe it was called, came extremely close to this property, this is the ridge area located to the West of Landers Fork and this is the property West of Landers Fork immediately across from the subject property so we do have some major concerns with fire protection in this area. As far as impacts on natural environment, as mentioned before there's Landers Fork is immediately adjacent to the subject property, there's not any existing water quality data for this segment of Landers Creek, the potential of placing onsite wastewater

treatment system this close to the creek could cause some negative impacts to surface water quality. As far as weeds, several species of weeds were identified on the subject property and if this proposal was granted approval it would require a five-year weed management plan. As far as impacts on wildlife and health, wildlife habitat there's a large numbers of wildlife species that utilize these areas as both foraging and other habitat's and than additionally (unknown) to increase fragmentation and the potential for human wildlife conflicts. There's no flood plain mapping in this area so we're not sure, evidence doesn't indicate that this segment of Landers Fork floods very often but that can't be identified for sure. As far as access limitations, we noted before neither Copper Creek Road or Elk Park Trail complies with the road standards. As far as seismic activity, the property is located in seismic zone two which is different from the Helena Valley which means it has less risk but it's still fairly high and several earthquake faults were noted, well two earthquake faults were noted within one mile of the subject property. As far as the regulations again, it was noted that the roads do not comply with the standards and that the variance request had been identified and the staffs' conditions of approval, condition number three does require the improvement of both Elk Park Trail and Copper Creek Road. From discussions with the neighboring property owner, he has indicated that he probably will not grant easement for the proper right of way, which would allow compliance with that. Depending upon the action of the Board of County Commissioners, condition number three may be modified. Also in the conditions of approval, there is an indemnification under condition 5G which indemnifies the County of these various requested variances for the road standards. Are there any questions?

Chair Varone: Thank you Michael. Any questions of Michael? Commissioner Tinsley?

Commissioner Tinsley: Madam Chair, Commissioner Murray. Michael, would it be possible to include, and I did a cursory review and didn't see this, to include a condition of approval that would require the owner to participate in the Wildland Interface Program that we have with the County under Pat McKelvey's guidance.

Michael McHugh: We've taken parts of the Wildland Interface in Condition 5H, I, J, that are the basic premises for creating defensible spaces and requiring that the brush and tall grass be cleared and that the mature trees be trimmed to a height of ten feet and things like that. Unless we had cooperation with the fire department or the Department of Natural Resources and Conservation it would be kind of hard to enforce, but for the record, currently under the revision of the (unknown) comprehensive plan the forest service is provided the County money to go out and do additional fire risk assessment in this area and hopefully with that report there will be more recommendations that, I don't know if you can tell from these pictures but the fire did come all the way down to the creek.

Commissioner Tinsley: Right.

Michael McHugh: and did finger in to the actual subdivision.

Commissioner Tinsley: My concern was, now that I found this portion, the feet that you've indicated on here for instance 30-feet from all permanent structures, I know Pat's guidelines call for a heck of a lot more than that, but they also include other types of things that the Landowner can do and that's why I wanted to bring that up so.

Michael McHugh: Well there's numerous things that can be done, again spark arrestors, construction materials and things like that.

Commissioner Tinsley: Interestingly if I may Madam Chair, watching the news the other night, they showed this one subdivision in the California Hills that the fire repeatedly kept coming up to and repeatedly kept stopping at and going around and it couldn't penetrate because of the way they built that subdivision. Understanding this is not a subdivision this is more of a recreation cabin type thing that was my concern. I'm going to talk to, I'm going to try to find the guidelines that Pat uses and compare them with what you have here though. Thank you.

Chair Varone: Thank you Commissioner. Any other questions?

Michael McHugh: Just for the record, if you look at the conditions of approval under the justification it's noted that the fire protection guidelines for Wildland Residential Interface Development, Montana Department of Justice and Montana Department of State Lands 1993. Those are the standards that are in place right now. I don't know or are aware of any amendments to those.

Chair Varone: and I'm not either and I appreciate you having H, I, and J Michael. I'm wondering if it would be as important to add or just replace it and say they must use the guidelines for Wildland Residential Interface Development because it goes into it a lot more detail and talks about removing undergrowth and those kinds of things and I don't know what your thoughts are on that. Anyway, Thank you Michael. Any other questions? Sir, just a second it's not quite a public hearing yet. Before we begin, Shawn you have an opportunity to respond before we do a public hearing, do you have anything you'd like to say? Of course.

Shawn Bryant: Madam Chair, Commissioners, Thanks for the opportunity to present this a little bit more. As you all know I am here representing the owners and I just kind of wanted, I don't know what you guys received from Michael or anything, but just to give a little history on this lot itself. I think that this subdivision was actually created prior to I think it was in the '60's and these folks parents bought it and they were partners with another, with some good friends of theirs. Well of course through the years from the 60's, they've gone their separate ways. Jim Rauber got the property from his parents, the other people that own the other half share in this property are living over in Washington someplace and they actually intend really, they're getting up in age and they intend to pass it down to their children. Neither one wants to give up their rights to this lot. It's a real pretty spot, you know it's kind of an excluded space, neither one intend to develop it, the Raubers would like to improve their shack into an actual cabin that they'd be a little more comfortable, their hesitant to put a lot of money into it if they don't own it and especially they don't even know, they just know the people just through name, they don't really know the people that they own this lot with. So they just want to make a clean split and they have no intentions of even moving up there, they intend to use it as a recreational site as they do right now. They come up here three to four weeks every summer and spend their time at this cabin. They'd like to make it a little more comfortable, they want to, instead of using the neighbors outhouse they'd like to put a septic system in, they'd like to put a well in. There is no utilities available up here except for some odd reason there's a phone box out there so there seems like there is a phone service out there but there is no power, no gas, they don't intend to put any of that in there, they'll probably just put a generator in there to pump their water up to a tank above the cabin or something for water supply and than of course they have the gravity for wastewater. So, in reality the intensity of use up here isn't going to change, they both, and actually the other party hasn't used the land in years, the Raubers have been using it the last ten, fifteen years fairly regular. They live down in Arizona, so I guess I don't see a big change in intensity here, and especially if we designate this as a recreational facility where as right now it's designated as a, they could put a full time residential unit on it, I believe they could actually put a commercial unit on it if they'd like. So, in reality we're kind of restricting the property a little bit more than what it actually allocated to where it could use. Michael was mentioning the wastewater system and being in proximity to the creek and stuff like that, again, the County Health Department does a real good job at looking at doing site evaluations and making sure that all the separation distances are met and those separation distances help ensure that the water quality is going to remain the same, it's not going to be polluted. In my mind it's a little misleading on these number of variances we're requesting here because they all relate to just one problem and that's the road is not up to County standard. As you can see in the pictures that are on there, maybe it's copies but as you can see in pictures, the road is actually pretty well maintained, it's real well maintained, the main five miles up to the Elk Park Trail is like half of it's paved, the other half is well maintained and most of the places it's very straight and there's really no ditches to speak of that, and I guess what I'm getting at is if you have fire, emergency vehicles that need to get up and down there and pass each other on the road, putting a wheel off the side of the road is nothing, I mean there's no barriers to stop that. I'm sure in a couple places there might be a tree in the way, but you know that's more the exception than the rule. Fire risks, there almost nil anymore because it's pretty well burned on the other side of the creek and again, we had a major fire in a very drought year and there wasn't any structures in that area that were burned and there's a lot of them in this subdivision already. Not to say that there's no risk there really, that's kind of a joke. As far as the wildlife corridor, we've got thousands and thousands and probably millions of acres of public land all around this, so this is going to have very little effect on the wildlife, especially since all they, could potentially add one more cabin site is all for seasonal use. Other than that, I think we'll just answer questions if anybody has any, thank you.

Chair Varone: Thank you Shawn. Any questions? This is a public hearing, anyone wishing to speak please come forward, now is the time Sir. For the record your name and address.

Ben Mayger: My name is Ben Mayger and 1815 Jerome Place here in Helena. I am also the owner of the property that surrounds this subdivision and as a matter of fact the property on the Southeast side is mine and the property goes right across the creek, so it's essentially both sides. Coming down the road, down this road here, this is the road coming down is on land that I own and as a matter of fact, the road itself is on my property until it gets to the bottom of the curve which Mike was showing you just a minute ago. I think really the two things that bother me about this subdivision, one is that to the East and to the North, high steep hills, Landers is a fishing stream and the ground itself, the topography of the ground is such that it's large river rock unsettled so there's nothing that's going to stop a septic tank or septic field from going right through into the river, there is going to be no barrier there. It's all very heavy large boulders, it's also extremely steep between the property line and the river itself, it's probably somewhere in the range of a 20% grade going down into the river. The property (tape ended) ... slopes down into it, again into the river. So there's from the septic point of view there's nothing gonna hold back a field on that so, in my opinion there's a very definite risk of polluting the river. Also, one of the corrections I'd like to make on the not (unknown) it's a preliminary survey that does not include the river, so yes the applicant does have 180 feet from his property line to the (unknown) property line but probably 50 feet of it is river, so he doesn't have useful space of that amount. I was down there, add these pictures to Mikes collection and you can see them as you would like and what I've done is to show a picture of the open level that really is such a sharp drop that nothing is going stop any kind of an off run. The fire last, in the past few months came actually onto the property, came onto the property and charred the river and actually burned some trees so there is a real fire danger, a potential fire danger there and being 14 miles from the nearest fire station, they're going to be toast before it ever gets up there. The other thing is that, owning this road coming down, it's on our property line and only leaves our property line as it makes the curve at the bottom, so there's a question of easement really doesn't arise at this point. But those are just four pictures that I took just two days ago showing the type of topography and showing the fall off and showing the run of anything on the surface and the skin there is so thin that the rocks show through without any essentially without any cover. But what worries me primarily is we're exacerbating the stream by running a real high risk of pollution and I own all of the Elk Trail along the top, along the road down below and it's only when you get down to the very bottom that leaves my property but I do go across the road, I do across the Landers Fork. So I'm, as you can appreciate I'm vitally interested in what happens to the stream. It's a beautiful fishing place; I would hate to see it put at risk. So, I'm not in favor of the subdivision, as a matter of fact (unknown), I'm not (unknown) really not in favor because of inherent dangers that excel there and there all items that are irreplaceable because of the water, because of the rocks, because of all the good things that was made up. Any questions?

Chair Varone: Commissioner Murray? Thank you Sir.

Commissioner Murray: Commissioner Varone, Commissioner Tinsley. Ben have you granted an easement to the present property owners to use your

Ben Mayger: I have not.

Commissioner Murray: So they're using it

Ben Mayger: They're using, they're going across my land because it was there when I bought the place twenty years ago.

Commissioner Murray: Thank you.

Chair Varone: Is your last name Reichert Sir?

Ben Mayger: I beg your pardon

Chair Varone: Is your last name Reichert? Mayger.

Ben Mayger: I'm Ben Mayger

Chair Varone: Okay, I misunderstood, I wrote down Reichert. I'm sorry.

Ben Mayger: I speak in 'I', but my wife and I own it.

Chair Varone: I'm sure she'd appreciate that. Maybe the question should be regarding an easement to Michael. Michael, is there an easement to that, to all those other

Michael McHugh: Madam Chair, preliminary information submitted by the Staley Engineering shows a twenty and a thirty foot easement but it's not described as being public, essentially it appears that it's just on where the existing roadway is and there's never been a determination because on the original plat of this subdivision it just says easement and determination about whether it's public or not still has to be resolved.

Chair Varone: Thank you. Than the comment that you made about an individual not granting additional easement property is Mr. Mayger, is that correct? Thank you. Any other questions? Thank you Sir. Mr. Bryant do you have any closing remarks?

Commissioner Murray: Madam Chair, before you close the public hearing, the Lincoln Community Council reviewed the proposal last evening in Lincoln and they recommended on page 8, condition number 5 conditions K and L be omitted and it's pretty standard for Lincoln. One deals with fruit trees and their not concerned with and the second deals with penned animals that they think they feeding dogs outside is fine because then the dogs become food for Grizzlies and like predators that are on the property.

Michael McHugh: Madam Commissioner if I might, number K

(Unknown) you're right, I'm sorry.

Commissioner Murray: I did that without reading sorry.

Michael McHugh: Part of the condition is a storage of food stuff and garbage out there so if there just concerned with the actual feeding, but the storage like having freezers full of frozen dinners or a goat tied up to your porch, does present a hazard.

Commissioner Murray: I'm not prepared to represent their motion; their motion was to remove those two conditions, without further discussion. For the record I also Ranger Camps had the opportunity to review my packet last night and the Forest Service has no comment for or against the proposed subdivision.

Chair Varone: Thank you Commissioner. Any other comments before I close the public hearing. The public hearing is closed. Mr. Bryant, do you have any comments?

Shawn Bryant: Yes I do.

Chair Varone: Oh, excuse me. Mr. Alles.

Ron Alles: Madam Chair, Commissioners, I just, since there is a meeting in Lincoln this Friday, do you want to continue the public hearing.

Chair Varone: We cannot do that because there will only be one Commissioner there, Commissioner Tinsley will be out of State and I will be doing interviews for the 4H position. Mr. Bryant.

Shawn Bryant: Madam Chair, Commissioners. Is there any chance I could look at those photos also?

Chair Varone: Certainly.

Chair Varone: For the record, Ms. Haugen is leaving the room.

Shawn Bryant: Thank you for letting me look at those photos. In regards to the easements, the plats that we've dug up down here at the records here at the, downstairs, they indicate there's easement, road easements throughout this, I don't even know if you call it a subdivision because I think it was done prior to any subdivision regulations and then there's also the Copper Creek Road itself is a public road and they actually butt each other and so in part of the conditions I guess is as I remember it, correct me if I'm wrong Michael, but they have to show, they have to provide the legal public access and the documents that show that they have that. As far as the polluting the creek, I agree it's a pristine creek it was just absolutely beautiful up there and Michael and I spent some time up there looking around and I'd sure like to have the place, but we got to look at what the intensity of use is going to be. Right now we can have a single family residential unit and like I say, I think there's nothing prohibiting even having a commercial outfit up there you know, as far as like a guiding outfit or something like that you know, where as if this is approved the Commission has the opportunity to restrict the use to seasonal use just two single family residential single seasonal use. In reality we're going to reduce the impact to the creek. Right now they've got an outhouse that they're using besides the bushes and the trees and what not and they intend to put a County approved water and wastewater system in here. They're going to improve the property. They're gonna offer treatment for their wastewater rather than just dump it and let it go wherever. Soils, we looked at the soils up there and I know those photos show a lot of rocks there but that's not solid bedrock right there and I'm not saying there's not solid bedrock under there because I'm sure there is. But again, we'll have to go up there, dig 8 foot deep test pits and show that there's no bedrock or ground water or any other limiting layers so that we prove that there's soils that are going to be there to treat the wastewater whereas right now there's nothing. They do it in outhouse, that's fairly close to the river as it is and or like I say, just out the back door. I was unclear what his concern was, I'm sorry Ben, what Ben's concern was as far as the river in relation to the lot and restricting area that they can use, I wasn't clear what he meant by that, but the river basically is bounded by the subdivision, or this property is bounded by the river and you have to stay 100 feet away from it with any of your water wastewater stuff and I think that would be about it.

Chair Varone: Thank you Shawn. Any questions before we continue? What's the pleasure of the Commission?

Commissioner Tinsley: Madam Chair, I make a motion we render final judgment, final judgment listen to me, I make a motion that we render a final decision on Thursday October 6th at our 10:00 subdivision meeting and authorize the chair to sign, or not authorize anybody to sign until we make our final decision.

Commissioner Murray: Second.

Chair Varone: All those in favor

Commissioners: 'I'

Chair Varone: Motion carries. Mr. Mayger if you'd like to attend that decision, if you go out on the elevator over here and you get off and turn right it's that first meeting room on the right and it will be at 10:00 on this Thursday, if you'd like to attend.

Proposed Abandonment of Dana's Point Road. (Planner, Michael McHugh)

The Commissioners will consider a petition from the Montana Department of Natural Resources and Conservation to abandon an approximately 540 segment of Dana's Point Drive and replace that segment with an approximately 400 foot segment. The right-of-way width would be 66 feet. The subject property is located in Section 16, T11N, R2W, previously known as El Dorado Bar Stage Road.

Michael McHugh: Are you ready? Commissioners, we've received two petitions by the Montana Department of Natural Resources and Conservation to abandon and approximately 540 foot segment of Dana's Point Drive and replace that segment with a approximately 400 foot segment of road. Basically, again, the principal petitioners is Department of Natural Resources and Conservation. In your packets you will note that there is numerous

maps, affidavits by the state land bureau and everything documenting that this segment of Dana Point Drive which was referred to, previously referred to as the El Dorado Bar Stage Road was utilized prior to 1889 and based on the action by the Territorial Legislature in 1871-1872 it gave various roads to certain counties and declared them as public road. In the packets you do have a petition that has been signed by the appropriate number of property owners in the area, you do have documentation that has been provided to the County Permit Coordinator documenting that the road did exist. You also have surveys that had been prepared by the Department of Natural Resources and Conservation and documenting the current location of the road and actually locating the new segment of the road. These pictures just show the various, this shows where the new road would be and if you can see these yellow flags here, these are survey flags for the (unknown) line of the new approaches as heading North on Dana Point Road. The road itself curves very sharply to the West, this is again the road, notice the curvature of the road on the downgrade to the road in this area. This is down at the bottom of the gulch as it goes back up the other way. This is the new approach route, this is facing to the South and going up in this area here. It appears that there may have been some historic use of the newly proposed relocated segment of the road and the Department of Natural Resources and Conservation has indicated that one of the reasons that they're proposing the relocation of the road is that there's been additional residential development North of State section, the State section of land and that there's an increase in traffic levels on that this current curve around the road presents a sight problem which is hazardous, staff did contact all the necessary agencies, we did have a member of the County Commissioner and the (unknown) go out and do a sight visit on this road. Everybody has indicated that the new alignment would be much safer and would be to the advantage of the public. Essentially the right of way would continue to be 66-feet in width and there's some findings new information presented in the staff report that staff does recommend that the abandonment and relocation take place. Part of this is that the surveys have been conducted, it would present a more safe road, and the people that are benefiting from the relocation and abandonment of this road would be paying the entire cost of the survey and than in construction and no public monies would be utilized to do this improvement.

Chair Varone: Any questions of Michael? Commissioner Tinsley?

Commissioner Tinsley: Madam Chair, Commissioner Murray. Michael, I was the Commissioner that went out and looked at this and South of this, as you're looking South here the road goes back and than it comes out eventually close to the causeway and I can't remember the name of that road, probably magpie gulch or, not magpie gulch but you know which one I'm talking about, anyway as you come up to this road it brings you to where you're looking now, I know it's a public road and yet there's a big giant sign across the road that says 'private road', is there anything that can be done about that sign today or is that something we need to talk about.

Michael McHugh: The section of road that you're talking about hasn't been surveyed and so we don't know if that's part of

Commissioner Tinsley: That portion of it, okay.

Michael McHugh: The only part that was surveyed was the segment located in Section 16 and so one would assume that since it is connecting to the road that the exact location, I mean there's historical documentation that the Stage Line did go through that area but that specific alignment will not be the one that was utilized.

Commissioner Tinsley: Wouldn't any of the new construction of the homes that are North of this place those are the people that are asking for this realignment in the first place, wouldn't it had been approved had that not

Michael McHugh: All those lots were created through the exemption process of mining claims, government lots and the majority of lots located North of Section 16 are government lots that were associated with the damming of the Missouri River at some point.

Commissioner Tinsley: Thank you.

Chair Varone: Any further questions? What's the pleasure of the Commission?

Michael McHugh: This is a public hearing.

Chair Varone: Oh, excuse me. I'm sorry. This is a public hearing, anyone wishing to speak in support of and opposition to or in general, please come forward and for the record please state your name and address.

Joanie Walton: My name is Joanie Walton and I live at 6330 Dana Point Drive. I just want to encourage you to pass this. There's many school kids on this road that have to travel four miles to the nearest school bus and this 'S' curve is very sharp and very dangerous and I'm concerned for the kids and I'm concerned for the neighbors. There's been two kids that I've known of that slid off this road, my neighbor has slid way deeply into the gully down here and been stuck during icy and snowy days and what this will do is straighten it out and the best thing it, the incline won't be as severe and there will be better visibility. It's a blind corner and I'm really concerned with the teenagers, I've got three myself driving age, going on this blind corner. And even this view doesn't show how sharp it is and the width of the road and the blind corner as much as you teach the kids to stay to their own side, it can't handle two vehicles on a blind corner. I have the kids honking and all that but with trucks and some other development it's a very dangerous corner. We're very lucky that no ones been killed right now and we just want to keep it that way, keep it safe. Thank you.

Chair Varone: Thank you and I see that you signed the petition and you also voted, good girl. Anyone else? Mam for the record, your name and address.

Beverly Estes: My name is Beverly Estes, I live at 5950 Danas' Point Drive. I would like also to encourage you to approve this, pass this. I am the neighbor that went down through the ditch. I did it twice; I believe it was two winters ago. I was the first person to live out there after the parcels were sold and through the Winter and it was touch. That road gets very icy, it doesn't see the sun, there's no melting of the ice, the snow packs. My husband and I have a teenager at home whose 15 going on 16 and he's a concern as well as myself and all of our neighbors and the other kids and it's just a nasty corner and these are good pictures but they don't show just how treacherous it is, so please. Thank you.

Chair Varone: Thank you Mam. Anyone else wishing to speak in support of and opposition to or in general? For the record Mam your name and address.

Lisa Axline: I'm Lisa Axline the right of way coordinator for the Department of Natural Resources and Conservation Trust Land Management Division. We also, when we were first approached with this request after taking a look out here at the drive very much as the residents say it is a very sharp curve. We are more than happy to work with the County and these individuals to get this road straightened for the safety reasons and I would just like to commend Mr. McHugh and Crystal Ness and Deputy County Attorney Paul Stahl for working with the State in this endeavor and we look forward to working with the County more on any other issues of access roads on State lands where this may occur. I would also like to point out the fact that this is one of the better roads on State land mostly because these residents that do live North of the State lands are very good at maintaining this road at their own cost and expense and this is one of the better maintained roads like I said and straightening this curve will be of great benefit not only to them but to our users of State land. We would also encourage the Commission to approve this. Thank you.

Chair Varone: Thank you Ms. Axline.

Commissioner Murray: Ms. Axline, if I could ask you a question please. Are you familiar with the four conditions proposed by staff, three of which pertain to your department?

Lisa Axline: That's correct.

Commissioner Murray: and you're agreeable

Lisa Axline: We are agreeable to those, it had always been a plan, one of those conditions is a culvert at the base of the new construction. We knew that would take place when we were first approached with that and we

are in agreement with that. Our legal staff will prepare the legal documents necessary to effect this change of the current location of the road that will be abandoned, we'll go back in to State ownership and the new segment will come under the regular easement process that we had granted to the County back in '96 through an acknowledgment of pre-existing easement. So we will work with the Deputy County Attorney to make sure those documents are prepared.

Chair Varone: Thank you Ms. Axline. Anyone else? For the second time? The third time? This closes the public hearing. Commissioners?

Commissioner Tinsley: Madam Chair, I move approval of the proposed abandonment of Dana's Point Road subject to the four conditions recommended by staff and authorize the chair to sign.

Commissioner Murray: Second.

Chair Varone: All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries.

Proposed Subdivision, Summary Review to be Known as Griffin-Davis, Lot 2 Amended Minor. (Applicant, Brady Vanvliet) (Planner, Frank Rives)

The Commissioners will consider creating one additional lot from an existing 2.6-acre tract, each lot would be for single-family residential use and 1.3 acres in size. The proposed subdivision is located in the NE1/4 of Section 24, T11N, R4W; generally located south of and adjacent to Lincoln Road and west of Applegate Drive.

Chair Varone: Is Mr. Vanvliet in the audience? Sir would you please come forward. Sir have you had an opportunity to read the report

Chris Ries: Yes we have and Chris Ries for the record, 6850 Green Meadow Drive. Madam Chair, Commissioner Murray, I've been asked to represent Brady in this endeavor and we are in agreement with all the conditions.

Chair Varone: Thank you Sir. Frank do you need a minute?

Frank Rives: I'm ready.

Chair Varone: Go ahead and start.

Frank Rives: This is a vicinity map, which shows the proposed subdivision. This is in the Griffin-Davis subdivision. As you are probably aware, this (tape ended) ... If I go fast, I'll get through. That would give me an incentive to get going I guess. But all this, that might help. I'll see how fast I can go. The proposed subdivision has two, I'm sorry has one house on it and a detached garage. The present lot, the present house accesses Lincoln Road, the proposed additional lot will access Bonner Road. This is the proposed site plan that was prepared by Reis Surveying you can see the lot will be split in half so that the 2.6 acre tract will be cut into two 1.3 acre tracts. This picture of the property, the blue house is there and this is the detached garage and there's no improvements on most of the property. Here's a power line, which runs along the West side of the property, there's power lines that run along Lincoln Road and then there's a power line that runs along Bonner Road so utility access is very easy, telephone lines run along Lincoln Road and Bonner Road. This is just another picture, a close-up picture of the house with the detached garage and it has a propane tank so there is no Natural Gas there all the folks get their gas through propane tanks. This is just another

Chair Varone: Frank if I could interrupt you for a minute. If I could ask the folks in the audience that are visiting to please carry your discussion out in the hallway. Thank you very much. Sorry, Thank you Frank.

Frank Rives: No problem. This is Bonner Road, I'll just read through these pretty fast just to show you what the property looks like, on the East side of the property there's a (unknown) on the West side of the property there's a single wide trailer, perhaps it's a double wide but I think it's a single wide and there's quite a number of mobile homes along the road there. That's a photograph of Bonner Road. Effects on agriculture, there are the property is surrounded by developed and undeveloped residential properties. There are no agricultural uses, which are, located South of Lincoln Road but there is an un-irrigated pastureland section North of Lincoln Road. The property will have onsite wastewater treatment systems with a septic tank drain field and replacement field. The soil mapping unit been identified on the property has severe limitations for this placement of wastewater treatment systems because of poor filtering capacities a study done in April of 2002 by the Environmental Health division of the City/County Health Department indicated that high nitrates have been identified in the area, particularly in the Griffin Davis Subdivision. Those nitrates levels ran anywhere between 0.73 and 20.1 milligrams per liter and it was believed that, a detailed study hasn't been done, the probable cause is the keeping of livestock on small lots. The ground water would be drawn from the Spokane Formation Aquifer the wells in the vicinity are not very deep, about 109 feet and they yield about 200, or rather 20 gallons per minute. This property is located in the Department of Natural Resources and Conservation North Hills Temporary Control Study area so that any new wells may have to demonstrate adequate water availability prior to the issuance of a water right permit. The property does have legal physical access both on Bonner Road and Lincoln Road. The, all the lots in the Griffin Davis Subdivision are participants in the Applegate South Rural Improvement District and the creation of the additional lot would require that, would result in additional revenues because assessments are based on a per lot fee. Elementary school students would be less than two miles from Jim Darcy school, but due to class capacities at some grades, some students might have to be bussed to one of the distance schools, all secondary and high school students would be bussed at the general taxpayers expense. Local emergency services are available, response times are good. Currently there is two water supply sources which are located in close proximity to the property, one is located on the Southeast corner of the intersection of Applegate and Morris Road, which is approximately two miles to the South, and the second is a 3500 gallon storage reservoir which is located in the Applegate Village Minor Subdivision. West Valley Fire Department is requesting a \$400.00 per additional lot fee for the improvement of water supplies in the Fire District and that a fuel modification plan be reviewed and approved by the Fire Department. Regarding effects on Public health and safety as I had mentioned, high nitrates have been detected in ground water in the vicinity let's assume the major contributing factor is livestock confined on small parcels in close proximity to ground water wells. The subject, the soil-mapping unit identified on the property is extremely susceptible to water and wind erosion and the potential for erosion can be reduced by limiting the disturbance and revegetation of disturbed areas. The conservation district has not required a erosion and sediment control plan. Effects on Public Health and Safety there are faults, which are identified near the property, one is the Scratch Gavel Fault which is approximately $\frac{1}{2}$ mile to the West and then the Northwest Valley Fault is located about $1\frac{1}{2}$ mile to the North and there's unidentified concealed fault which turns North to Northwesterly in direction and it's approximately $\frac{1}{4}$ mile East of the property. There is the usual risk of exposure to elevated levels of radon gas. Staff is recommending approval of the proposed subdivision Griffin Davis Lot 2 Amended Minor Subdivision subject to the findings and eleven conditions, which are contained in the staff report. That concludes my presentation.

Chair Varone: Any questions of Frank? Commissioner Murray.

Commissioner Murray: Mr. Rives, you've identified a nitrate level that is twice the threshold for causing mental retardation among youngsters. In your conditions, I don't see where you've mitigated this nitrate level, how do you propose in your recommendation for approval that this extreme nitrate level be mitigated?

Frank Rives: The response from the Water Protection District identified those high nitrate levels; it did not specify what the nitrate levels would be on that lot. 20 liters is identified in the area, but it is not identified on that property, I'm sorry it's milligrams per liter. The applicant will have to prepare, when he drills a well, he'll have to meet the requirements of DEQ and Environmental Health as far as having a suitable well. There are numerous wells in the Griffin Davis Subdivision that are not yielding that high of a rate.

Commissioner Murray: So Mr. Rives, you're maintaining that the 20 milligrams per liter is not on this lot, it's in the neighborhood.

Frank Rives: It's in that vicinity, but it's not on that particular lot, No. And they will have to meet DEQ and Environmental Health requirements as far as suitable water supply.

Commissioner Murray: I don't believe that suitable water supply, I believe it's up to us to catch it not Health, I think once we approve the subdivision it's a done deal. They need to be warned, Chris you'll have your shot, but this is a serious issue you have raised on this particular lot.

Frank Rives: Yes Sir, but one of the conditions of approval will be that they have to meet, they have to apply to DEQ for a wastewater and onsite water system, so their going to have to prove that they can provide suitable potable water for the site.

Chair Varone: If I understand it correctly, if the water is not potable it still doesn't prohibit them from building if it's approved but what it prohibits them from doing is drinking that water and they have to have either bring water in if I understand it correctly, because I know in other areas of the state that in areas that there aren't water there's water but it's not potable it's required that they have a sister, a water sister.

Frank Rives: Yes Mam, however they know, DEQ will not issue an approval for the subdivision request unless they can meet State standards.

Chair Varone: Thank You. Any other questions? Chris did you want to respond? I knew you did for some reason.

Chris Ries: The process is that DEQ will have to guarantee approval and they will check the nitrates on that existing well and I will knowing this I will try to get the adjacents as well and we will have to meet all the non-deg requirements in order to get that approval so I think that is already, his assumption is that it's already taken care of and I agree with that, I don't think we have a problem. Another thing too to understand is this is a general area, when they give out numbers like this you're probably talking a half mile to a mile area and you know a lot of times there could easily be data that has been collected from improper handling of the submittal you know there's a lot of things that go in to, what I'm saying is when people collect the data they don't quite adhere to the process that should be taken in order to get a good sample. I guess, do you guys have any questions while I'm here?

Chair Varone: Any questions of Chris? Commissioner Murray.

Commissioner Murray: I appreciate Chris answering my concern, I still have the concern, but I appreciate the answer.

Chris Reis: It will be checked and we'll have to meet non-deg and all those requirements for sure and another thing to and I don't know if this is a contingent thing you can place upon the well, but after the well is drilled if you could require that it is tested, you know maybe that something that you can put in as a condition, I don't know if that's, I've never heard that, but it's something maybe in the future if you're very concerned about, because remember there's an existing well that's currently on the sight and there'll be just one additional.

Commissioner Murray: Madam Chair, Commissioner Tinsley. Chris, the future is now so as the applicant's representative you're agreeable to such a condition

Chris Reis: Oh yeah. Upon, we can put that in the covenants or we could put it in as a condition of approval, well the thing is, you're requiring him to drill a well, he would not want to do that at this time. He'd like to get approval and then at the time it's actually constructed or placed than he could actually have the water tested.

Chair Varone: So it would be contingent

Chris Reis: It would be contingent. I don't know how you'd place that it would kind of, you'd be forcing him to drill the well ultimately and I don't think he'd be in agreement with that, but I know he wouldn't have a problem having it tested after it's drilled.

Chair Varone: When the well is drilled that its

Commissioner Murray: Something you and I can worry about until Thursday I think.

Chris Ries: Yeah. Okay. Alright. Thanks.

Chair Varone: This is a public hearing, anyone wishing to speak in support of and opposition to or in general, please come forward. For the Second. For the Third time. This closes the public hearing, Chris do you have any closing remarks.

Chris Ries: Not really, the main thing is I think it's pretty self-explanatory. It does fit the area, all the lots pretty much, at least 80% of those in the area have been split. I just thank you for your time.

Chair Varone: Thank you.

Commissioner Tinsley: Madam Chair, Commissioner Murray I have a question. Well, kind of a question statement. We get in our packets, when we get our report, these statements, it would be helpful if we had something directly from Water Quality Protection District a summary, I know if you look at the last one we did, I actually got, we actually go tables and results and I'm not going to look at those because I can't read, make heads or tails of that, but I would like is just an annotated statement or summary of what that means. I mean that's a pretty broad statement and if they could just point out that these were done in three lots surrounding this lot or this was done in this close of proximity, but just to say in the area like Chris said could mean here or it could mean across the valley. It's still in the area.

Chair Varone: Kathy generally does that when she provides her information to staff but this instance it's just not.

Commissioner Tinsley: Well, if we can, that would be something for the future for every one of these we're going to do. If we're going to note it in our report it would be really nice to have some sort of corroborating summary and I don't need a detailed analysis because I'm not a scientist, but just something that would let me say you know what this corroborates what was said in the report and you know if I need to go any deeper I can go to them and let them do it. Thank you.

Ron Alles: Madam Chair, Commissioners. Just to point out perhaps staff can look into an inconsistency between this and the previous subdivision, the West Valley Fire Department fee within this one is \$400, the last one it was stated that it was \$200 because it was a duplex.

Chair Varone: The reason that I didn't, that I didn't say anything is because I'm assuming that he's doing \$200 for existing building and \$200 for the house. That's why when I was reading it I read; I felt the same inconsistency and so

Ron Alles: Standard or at least West Valley it's unfortunate that their not here to speak to it at the moment but they haven't applied that to the existing lot it's for each additional lot.

Chair Varone: That's true. Michael.

Michael McHugh: Normally it's historically it's been \$200 per new residential structure. Since the duplex in the previous ones, it seems to be just one structure but there's two residential units and I can't say for a fact that there's a discrepancy but that's the assumption I'm making.

Chair Varone: And he didn't respond otherwise, so I'm assuming that's, but there's \$400 on this one and there's only one new lot and that's your point isn't it Ron? Frank would you check that for us.

Frank Rives: Well, just for clarification attached to the staff report is the response from the West Valley Fire Department and they did request that their proposed condition of approval for subdivision plat either one

is that the developer is required to provide adequate fire fighting water supply in compliance with mitigation measure one for Griffin Davis Lot 2 Minor subdivision and mitigation measure one is either a tank with a wet hydrant capable of delivering 500 gallons per minute for thirty minutes, equipped with a well to ensure the tank is kept full at all times or the to reimburse the West Valley Volunteer Fire Department a sum equal to \$400 per newly created lot for their cost associated with the installation and maintenance of water supply points.

Chair Varone: I knew I read it somewhere when I was reading all my stuff.

Frank Rives: I can double check with Jerry Shepherd and be sure he wants the \$400 rather than the \$200 but I think perhaps they've just increasing their prices.

Chair Varone: Let's just hope that it's a typing error, because I as one Commissioner would have difficulty increasing a \$200 fee by 100% instantaneously. I think a graded increase would be more equitable, so yeah, if you'll check it out and let us know that would be great. What's the pleasure of the Commission?

Commissioner Murray: Madam Chair, I want to point out, as part of our packet too there's a letter of protest from Shirley I think it's Martinez. We need to get that on the record, but it's part of the packet so it's included. Okay.

Chair Varone: You never go home

Commissioner Murray: You can read Spanish, I can't.

Chair Varone: Mr. Ries.

Chris Ries: Also note on her letter she states two additional wells, there will only be one additional well. She doesn't understand that there's an existing well.

Chair Varone: Thank you.

Commissioner Murray: I did pick up on that Mr. Ries.

Chris Ries: Okay, Thank you.

Commissioner Murray: Madam Chair, I move we render a final decision this Thursday November 6th at 10:10 a.m. in the morning in room 309 of this building.

Commissioner Tinsley: Second.

Chair Varone: Commissioners before we vote on that, Frank if you would please put some language together because I'm going to ask the Commission add an additional condition of approval that prohibits the keeping of large animals since this is only going to end up being a 1.3 acre lot. So if you'd make that language available to us, I'd appreciate it. All those in favor, signify by saying 'I'

Commissioners: 'I'

Chair Varone: Motion carries. Ed doesn't have to leave so we can move forward. We'll take just a short break because I'm going to have to make a phone call too.

Public comments on matters within the Commission's jurisdiction.

Adjourn.

