

PUBLIC MEETING
April 12, 2005

Chairman Ed Tinsley called the meeting to order at 9:00 a.m. Commissioners Varone and Murray are present. Others attending all or portion of the meeting included Ron Alles, Frank Rives, Marni Bentley, Paul Spengler, Carol Hanel, Andy Adamek, Dean Retz,

Pledge of Allegiance. Everyone recited the Pledge.

Charles Family Exemption. (Continued from 4/6/05) The commissioners rendered a decision on William and Jennifer Charles' request. Commissioner Tinsley did not participate in the decision since he was not present at the hearing 4/6/05 due to having shoulder surgery on that day. Commissioner Varone moved to approve the exemption. Commissioner Murray seconded the motion. Commissioner Murray stated that Mr. Willard Kopetski's prior ownership of this land should not contaminate this exemption. Commissioner Varone said she thought the Charles' purchased the property in good faith and did not attempt to evade. The motion passes 2-0.

Resolution Adopting the Lewis & Clark County Pre-Disaster Mitigation Plan. (Paul Spengler, DES) The commissioners considered the revised plan after FEMA required adoption by resolution and they also recommended that more hazards be included; landslide, tornado, winter storm, avalanche, and drought. Spengler asked the commissioners to adopt it by resolution. Staff recommends approval of the resolution. Commissioner Murray moved to approve the resolution to revise the plan. Commissioner Varone seconded the motion and it carried unanimously 3-0.

Resolution levying And Assessing A Tax Upon All Benefited Property Within Oro Fino Rural Improvement District No. 1994-5. (Marni Bentley, Planning) The Commissioners considered the resolution. The RID was created in 1994 and the roads are in need of repair. Lodestar road improvements may include crushed gravel, mixing/pulverizing new gravel w/old, shaping, compacting, 3% slope, 3-inch hot asphalt mat over new base and a chip seal after that. Menlo Park Road will be a full depth repair. Maintenance will continue as before; snowplowing, pothole repair, and a contribution to a fund for future chip sealing. The rate hearing was requested by the Homeowners Association for a project this summer and was posted in the Helena Independent Record newspaper in accordance with the statutes and notice was sent to all property owners. One phone call was received for information and there were no protests even though no provision required they be considered. There are 5 lots erroneously assessed for the RID and the resolution takes them out because they do not benefit or use the road. Improvements will be assessed at an annual cost of \$5,992.61 for a period of 10 years, \$166.46 per lot and an annual cost of \$3,121.81, \$86.72 per lot per year for maintenance.

Chairman Tinsley: Opened the public hearing for comments.

Glen Middlestead, 915 Menlo Park Road: Did not oppose, but asked county to assist RID members in finding out who is responsible for past maintenance costs.

Michael Wong, 925 Menlo Park Road: He witnessed the road deteriorate and said the road is consistently a hazard. Asked for help in determining if the road was done right in the beginning and if it was not done right, who is responsible for correcting it and for the county to make sure the road is done right and is safe in the future.

Dewey Holbalm, 912 Menlo Park Road: He's a board member of the architecture review committee. The road on the east end of LodeStar has deteriorated. He believes the road was not constructed to standard and asked the county for assistance is finding out who is responsible and thinks the road was initially certified by Helena Sand & Gravel. He does not oppose the assessment and thinks the county should go ahead and start fixing the roads.

TAPE STOPPED (stop #1) AT MIDDLE OF ED SHAY AND STARTS AGAIN AT BEGINNING OF STONEWALL MAJOR....

Ed Shay, 929 LodeStar: He saw the deterioration of the roads since 1998...(TAPE STOPPED HERE) and believes the double shot was not done properly. Help in determining who is responsible.

Andy Adamek, attorney, representing Menlo Park HOA to assist in assessing the current situation with Lode Star giving rise to the assessment. There is a consensus among HOA that there is a basic defect in construction of this road. Shares concerns whether the county constructed the road in accordance with standards and whether the contracting engineer certification was done properly. Andy read from an engineering report.

A new report conducted by an independent engineer in Butte dated February 2005. The report mentions there appears to be an omission of a 2 inch layer of crushed gravel which is in accordance with Peccia Standards #3. parties involved are the county, Helena Sand & Gravel, and George Middlemas.

Hearing no other comments, the public hearing is closed. Ron Alles stated the Commission may proceed with the rate hearing and approval of the rate. Commissioner Murray moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion.

Commissioner Murray statement. The county is taking positive steps when a road is repaired that an engineer's certification is documented.

Commissioner Varone
The motion carried unanimously.

Request for One Year Extension of Preliminary Plat Approval of Cave Bay

Condominiums. (Applicant, John Ellermeyer) Lindsay Morgan reported the applicant has requested a one year extension of preliminary plat approval to February 26, 2006. needs to install a hammerhead turnaround and payment of taxes. This is applicant's 4th year and needs a subdivision improvement agreement for bonding. Commissioner Varone moved to table to April 19, 2005. Commissioner Murray seconded the motion. Motion amended to table to a date that will work with the applicant to complete this. Commissioner Murray seconded the motion and it carried unanimously.

Proposed Major Subdivision. Preliminary Plat to be Known as Northwest Major

Subdivision. (Applicant, M&W Investments) (cont. from 4/5/05) The commissioners will consider creating 21 lots, each for one single-family dwelling. The subdivision is generally located 1/3 to 1/2 mile west of North Montana Avenue and is south of and adjacent to Prairie Road.

The applicant is present and indicated his willingness to proceed.

Lindsay Morgan presented the staff report. The applicant has requested cash in lieu of

parkland. Does not lie within a proposed zoning district. Request 1 variance for a 40 foot right of way on Pintail Road. Road must be upgraded to Peccia #2 asphalt standard. Internal access roads to be constructed to county standards. Staff recommends that roads. Rancho Delux Dr shall be extended. Staff recommended that Ranch Deluxe Road be constructed to peccia #2 but the planning board amended to gravel standard. Applicant to install a water supply system and fire hydrant be installed at RDDrive and Pintail Road. Staff recommends approval subject to 22 conditions. The planning board also added condition 23 to show new easement dedication for Pintail Road through Skyview Major Subdivision.

Larry Marshall, 3176 Baxendale Drive. Agrees with addition of condition #23 and the variance. Corrections to planning and zoning board. Page 6, "townview owns utility sites 2 and 3, Townview owns 1 and 4. Page 7, the variance should be 40 feet. Page 12, he will propose future rate structure.

The Commission recessed for five minutes. Commissioner Tinsley left to participate in a Hard Rock Mining telephone conference call and Commissioner Varone will conduct the meeting.

TAPE #1, SIDE A: STARTS HERE AFTER STOP #2 (mid-Wheat Ridge)

Kim Wilson, attorney representing Townview Water Users Association: One issue has been the existence of the preceding easement and right over water rights involved in 21 acres of this subdivision. In 1984, Townview entered into an agreement with Mr. Peterson (predecessor to Mr. Marshall) where Townview could drill wells and contemplated a site for 100,000/gallon reservoir. At this point Townview owns 1,2,3 pursuant to negotiations have tentatively 3 future well sites to allow Mr. Marshall to plan subdivision around that. His specific concerns are for water quantity in this area with additional home sites built and potential impacts to Townview. In review of EA, there does not appear to be meaningful discussion pertaining to water quality or quantity. Easement negotiation status—this proposed Northwest Major Subdivision specifically encompasses the Northwest Minor that was approved in 2002. One of the conditions was to agree on wells, easement and reservoir location, that was a prerequisite. Final plat has not yet been granted to NW minor. He believes that should be a condition of final plat approval for this Major subdivision. They were asked by M&W to delineate well & reservoir locations—tentatively done that, but there seems to be some discrepancies as to where the water lines are located in their own tests. Mr. Marshall deeded to Townview utility sites 2 and 3, but they have not been able to reach a final agreement. We believe that an actual signing of an agreement, which is to be filed with clerk and recorder with easements on certificate of survey also. The reason that we brought up this issue at this point is that Mr. Marshall has been protesting at DEQ Townview's well #2 and asserting to DEQ that Townview does not have any right to Well #2 that's located at utility site #2. We had hopes after last week's hearing that I could get together with Mr. Marshall's attorney and reach an agreement, but she's out of town until the 18th so we haven't been able to do that. We intend to do that. Our concern is that the subdivision, if approved, does not threaten Townview's water right or water quality. One addition point is the Rancho Deluxe Road, which runs through utility site #3, which is now deeded to Townview. We believe that road should be paved and have sufficient drainage and should be a condition of final plat approval.

We think there is insufficient information at this time based on water quantity concerns and uncertain of easement agreements to approve the preliminary plat. Urged commissioners to add or retain language that requires that M&W reach a final agreement with Townview prior to final plat approval.

Commissioner Varone: She asked if Mr. Wilson's testimony is considered new testimony and should this go back to the planning board?

Ron Alles: Told Commissioner Varone that the planning staff will go through that and clarify that, but recommended they continue on at this point.

Kim Wilson: Stated that Commissioner Varone's question was also one in mitigation right now. By statute, a hearing is required before the planning board and the commissioner has a follow up hearing before their final decision. The information would have to be in front of the planning board first to be considered by the commissioners. He said they have to consider all relevant information including all information submitted to the planning board.

TAPE #1, SIDE A: END OF TAPE (RIGHT AFTER MR THOMPSON STATED HIS NAME)
TAPE #1, SIDE B: START OF TAPE (MR. THOMPSON CONTINUED)

Bill Thompson, 844 9th Ave, Hydrologist from Hydrometrics: He discussed water supply issues & concerns for Townview Estates: (1) ability of the Skyview Subdivision wells to provide water without impacting Townview Estate wells. Skyview prepared an agreement between Skyview and townview to provide stipulations that Skyview will restrict water use or implement other measures to prevent adverse effects. The agreement was very specific and they basically defined water levels of the Townview wells and said if drawdown exceeded, Skyview would need to restrict their water use or implement other measures to address impacts. Last summer, water levels in Townview #2 well exceeded those in the agreement. Skyview implemented some changes during that period, but the water levels remained lower than we've ever seen them and this is another dry year so the potential for impact is here again. When the levels drop below the trigger levels again, Skyview needs to implement their measures. That's even with the existing homes, not the additional homes added on yet. This system will put additional demand on an already low level. We'd prefer to solve this now, before building begins and possible litigation happens between houses an (2) DEQ raised concerns that Darter Road and Pintail Road impinge on protective well #2 and there is no drainage plan shows whether water will be routed through that zone. We'd like to work all these things out this summer before this moves forward.

Commissioner Murray asked Mr. Thompson where the water comes from and how it's recharged. Mr. Thompson answered his question. Commissioner Varone asked about the Townview-Skyview Agreement and if it was based on DEQ requirements? Lindsay Morgan, Planner, answered her question and said it was a condition of approval on the final plat, but was not required through Phase 2. She can add that as a condition of approval. Commissioner Varone asked about Well #2 and Lindsay Morgan said she would look into the routing through the well. She would talk to DEQ and Environmental Health.

Chairman Tinsley returned from his conference call at 10:30.

Marv Dye, 910 Terrence Road: He drilled well in 1966. He was advised to constantly run the pump so he put in a lot of yard. He brought a letter signed by residents of Cedar Hill subdivision to deliver to the commissioners. The concerns were about schools, roads and the quality/quantity of water. In 1986 he started to have water problems after Townview and other houses have been built. The water level had dropped. He put in an underground sprinkler system built for 15/gallons per minute, but after a few years, the tables went down again and he had to go down to gallon. Finally he's down to 9/gallons per minute and now he's completely lost his water and had to drill a new well. He started to test neighbor's wells and spoke to DNRC about the monitoring who supplied him with equipment. He said there is an interconnection between all of those wells, if one is down 1-foot they all are down that much, except Skyview is

even lower. The water level was based on fewer homes that exist there right now. Some homes in Cedar Hill subdivision is about to lose their water. I witnessed what is really happening with the water there for the last 30 years and predict there'll be many more wells in Cedar Hill subdivision. There are at least 40 wells there and it's located immediately north of Townview and Skyview. What if those 40 people forced their pumps to shut down before water recovered? That would be bad for Townview and Skyview. What do you do? Is it fair to shut those down? We have a situation where we need to consider that investment of 100's of individual property owners until we have all the information with what's happening with our water. Do not approve until there is more information.

John Birdsell, 845 Terrence Road: He lived there since 1991 and his well at that time was down to 120 feet, had good recovery and was an 8 gallon well. Last summer it went down to a 2 gallon well and pumped sand. He had to put in a new well. This subdivision is a real concern. He doesn't want to spend another \$5000 to just to laundry and keep water in the house. It will be a hardship on the landowners that are currently there so he reinforces Mr. Dye and thinks more information about the water table must be gathered first.

Chad Tjaden, 885 Terrence Road: He had to drill a new well last summer. Well levels have decreased since building his home in 2000 from 113 feet to 109 feet last year. Mr. Dye has done tests on his new well and it still only produces 6 gallons/minute so he'll have to drill deeper. He's concerned about more people moving into the area. He would approve development only if the problem is fixed first before deciding on the subdivision.

Rick Parsley, 945 Erickson Road: In 1983/1984 he built 130 foot well at 15 gallons/minute. Replaced it 17 years later. 4 years ago he found that the water levels were way down. 2 years ago the well went out completely and they're down to 200 feet. Agrees with the rest of the people that they are positive about development, but is concerned about the water level.

Dan Hamper, 910 Prairie Road: His well is at 132 and most of his neighbors have been putting in new wells. He's looking at replacing his well within the next year. The lack of water is a major concern with me. The speed of traffic has increased and little kids aren't safe in that area. We pay for our wells and have water rights that date back to the late 70's, but concerned about paying for water of people who will be moving in. He thinks more studies need to be made on the water. He doesn't want to have to re-do his well again or the neighbors. Asked for time to do more tests before the commissioners decide. *(Spoke to Chairman Tinsley re: certified mail notifications and public notices. Chairman Tinsley explained the process of notification to Mr. Hamper)

Jerry Stear, 8179 Tanager Court, Skyview: On the board of directors for Skyview Subdivision. He just moved to the county in 2000. He's concerned that this proposal will increase traffic on Avian, Avocet, Eagle, Pintail roads, which are within the Skyview subdivision confines. The Association is responsible for the maintenance of the roads so any additional homes will add traffic to the roads they maintain. The quality/quantity of the water is a concern. Already had to restrict water use at times. He's opposed to the development until the water problem is worked out.

Hearing no other comments, the public hearing is closed by Chairman Tinsley. Larry Marshall was invited to close with his comments.

Larry Marshall: An RID can be formed in this proposal if the residents so chose. The water will be supplied by the Skyview subdivision. The quantity and quality have been proven by DEQ.

Their agreement was signed 4/30/94. In 1996, he secured an easement from Peterson for Skyview subdivision and met the DEQ requirements. In 2000, he bought remaining 35 acres west of Skyview subdivision. In 2002 he requested Townview select future well sites. In 2004 he started planning for the Northwest Major Phase 2, which is now under consideration. Townview objected to Phase 2 by letter to the county on 04/19/04. In 05/04 asked to amend Condition 16 for phase 1 and Townview protested saying agreement is imminent and that was over a year ago and we still have no agreement. In 10/04, Townview wrote a letter to you and said that we have a tentative agreement and that a reservoir site and potential future well sites were selected. On 03/12/04, I received a memo from Hydrometrics on the final location of the future well sites and a copy was included on the environment assessment. On 12/10/04 it was decided that a COS be filed—preliminary COS given. Townview agreed to relocate the water lines. The COS filed was based on available information at that time. On 1/20/05 the COS was filed and deeds were filed (utility sites included). On 1/27/05 Townview has existing water lines located with blue flags by MTI who he hired to survey, but Darter road was not flagged at that time. On 1/31/05 MTI provided a well lines map, but not the one for Darter. On 2/1/05, Bill Thompson said Stahley Engineering was hired to survey the water lines. 2/10/05 MTI pinned utility sites and located the water line that was later flagged on Darter Road. On 2/22/05 Stahley surveyed the water lines and gave that survey to Townview on 3/2/05. On 4/4/05 Lindsay Morgan received a request from Townview to delay the hearing to clarify the accuracy of the surveyed lines. Paul Stahl writes the same day requesting the delay. On 4/5/05 the public meeting was postponed until today and on the 5th I gave the deed to Townview for utility sites 2 and 3. On 4/11/05 (yesterday) I visited Stahley and got a copy of the Stahley Survey that they did for the surveyed water lines and checked it against MTI's work and the information matched. The only thing I'd look at for the surveyed lines is to have the power lines marked to make sure that the power lines are within the surveyed lines that were done by Stahley. From the above, you can see that the process is evolving. All the material submitted to staff on or before 1/27 was accurate and was based upon what was known at the time. I have no problem honoring water line easements that were not accurately located on the COS. These easements can be located on the final plat on Condition #19C. I understand Stahley submitted that survey for review. I do not want another condition of approval requiring that an agreement be reached between Townview and M&W because the current Condition #16 has been so far impossible to reach. It's been over 3 years since that was initiated. I came in with a request to get rid of that condition a year ago and at that time it was promised to you by Townview that that agreement would be immanent. It's been over a year since that time.

Commissioner Murray: He moved to render a final decision April 26 at 9:00 a.m.

Commissioner Varone: Seconded the motion.

Motion carried unanimously 3-0.

(Commission took a five-minute recess.)

(TAPE 1: SIDE A: Began during mid-Oro Fino Section above AFTER STOP #1)

Proposed Major Subdivision, Preliminary Plat to be Known as Stonewall Major. (Leland and Lynn Denboer, Applicants) They propose to create 13 lots; 12 lots for single family dwelling and 1 for commercial purposes. The subdivision is generally located northeast of Dalton Mountain Road and south of Highway 200.

Dean Retz is present representing the applicants.

Michael McHugh: He presented the staff report. The 12 single-family dwelling lots will range in size from 1.37 acres to 25+ acres in size. The 13th lot will be 21+ acres in size and used for an existing restaurant already on the property (The Stonewall Restaurant). Access is via Dorothy Road (west) and (can't remember name of) road (east). The applicant is proposing covenants to allow a modular home of good construction and to allow 3 livestock, except pigs, on each lot, but lots less than 10 acres in size have a county prohibition placed on them. The Soils and not classified as prime/statewide important and have little agricultural value particularly in the southern portion of the property, which is mostly taken up by the 100-year flood plane. They are proposing to use onsite wastewater treatment systems. There are some moderate to severe soil constraints depending on the distance from the floodplain. There appears to be sufficient well depth for groundwater treatment systems. Regarding solid waste, the applicants will use the transfer station in Lincoln on Hwy 200/Copper Creek Road. Proposing to use an internal access road is in excess of 2,000 feet in length and constructed to the gravel standard. Staff recommends a no-access restriction to be placed upon the northern boundary to not permit direct access to highway 200. Regarding schools, all students from elementary to 9th grade can attend the Lincoln School and school bus stops are located via Dorothy road and the east intersection. They will be protected by the Lincoln Fire Dept who recommends a 4-foot diameter culvert be buried and to install a dry hydrant. DNRC classifies this area as extreme high risk for fire. The property has a portion of the Blackfoot river transecting the property. Wildlife corridors will be protected since they are located within the 100- year flood plain. The applicants indicated a preference for cash in lieu of parkland for 1.214 acres (less than 2 acres are required and over 20 acres is not required). Staff recommends approval of the proposal subject to 18 conditions as contained in the staff report. The applicant wanted to keep horses on the property and asked for modification of condition #16.q. The planning board recommended approval unanimously.

Chairman Tinsley: He stated that that the current flood map was not correct and asked Michael McHugh if the applicant understood there won't be any building allowed down in the southern area due to flood concerns at the curve of the river. He wanted to point this out for the record.

Dean Retz, 1430 Shirley Road (representing the applicant): Noted that this proposal comes under the old subdivision regulations. Just wanted to edify 2 things; South Lincoln Gulch road to the west and Dorothy Lane goes into Dalton Mountain road. Regarding Chairman Tinsley's comment, what you see up there is the actual accurate flood plane. Regarding Lincoln school district, their school could handle another 100 students because it's declining every year. He proposed a compromised Condition of approval #16.q regarding prohibition of raising, confinement and or keeping of livestock. Applicant would take the smaller lots 7 of 13, most are fronting Lincoln highway and make them in restrictive covenants and put them in commissioner's covenants. 4-H confinement of Tracts A5, a8, a10, 11, 12, 13, Rest A:1,2,3,4,6,7,8,9. People will probably want 1 to 2 horses on their property.

Hearing no comments, the public hearing was closed. Dean Retz closed by stating Michael McHugh didn't notify them of the restriction and if there were going to be no animal restriction on these lots the applicant would have gone with 1 to 1.5 acre lots. They think in Lincoln there should be an allowance for large animals.

Commissioner Murray: Asked if the Lincoln Community council received a copy of the proposal. No comment was received, said Michael McHugh. Murray moved to render final decision April 19 at 9:00 a.m. Commissioner Varone seconded the motion and it carried unanimously 3-0.

Final Plat Approval for Retz Estates Lot A-4D. (Applicant, Susan Retz)

Frank Rives, Planner: He reported the applicants have met all of the conditions of approval. Staff recommends approval of the final plat. By consensus, the commission agreed to sign the final plat at the conclusion of this meeting. Commissioner seconded the motion and it carried unanimously 3-0.

Proposed Major Subdivision, Preliminary Plat to be Known as Wheat Ridge Estates

Major. (Applicant, Aaron Helfert/H&H Inc.) (Michael McHugh, Planner) The commissioners will consider creating 34 lots, each for single-family dwellings. The subject property is located in SE1/4 of Section 36, T10N, R2W; generally located north of the flashing yellow light on Hwy.12 East at Spokane Creek Road on the S Curve. Size range of 2-2.5 acre lots.

The applicant is present and indicated his willingness to proceed.

Michael McHugh: He presented the staff report. No covenants or zoning currently on the property, but the applicant is proposing covenants, which would restrict the use of the property to single-family residential use, establish set backs, limit commercial uses, junk vehicles and trash and the confinement of livestock. Prime soils were identified, but they would be prime only if irrigated and there are no irrigation facilities on the property. Individual onsite wastewater treatment system will be used. All sites would need to be evaluated by the City-County Health Department and the DEQ. Individual wells produce water supply. A LESA evaluation was done. The applicants propose to use 2 accesses off Spokane road and plans to pave the internal loop road and the approaches even though they are not required to by county regulations. Staff recommends an access be provided to the north to allow access to the 3-D Ranchettes.

(TAPE #2/SIDE A: Continued Staff Report of Michael McHugh)

The applicant met with the fire service area and the applicant agreed to install a 90,000/gallon water storage tank within the subdivision site. There is a typographical error in staff report where the staff stated 1000/gpm for 2 hours where the fire service area only said 750/gpm for 2 hours. A five-year weed management plan should be submitted and approved by the Weed Management District, but no noxious weeds were found on the property. There would be significant visual impacts. Large number of wildlife species and the corridors would be severely impacted. Ground water samples suggest potential increase in ground water nitrates. Several minor fault lines are located in the area. The large drainage located to the north has 6300 cubic feet of storm water generated but the applicant proposes a retention area for runoff. Estimates say there'll be 272-340 additional daily trips. Parkland dedication would be only 3.79 acres in size. Staff recommends approval of the proposal subject to 19 conditions as contained in the staff report.

Commissioner Murray: He asked to be shown on the map the 2 access points to Spokane Creek Road. (Michael McHugh pointed them out). He asked about the denotations of access restrictions. (Michael McHugh explained the lines and what they mean). He asked who owned Spokane Creek. (Michael McHugh said it's "maintained" by the state, but did not know owner).

Chairman Tinsley: Opened it up for public comment.

TAPE #1, SIDE A (STOP 2) STOPPED BEFORE THE END OF THE STAFF REPORT AND STARTED AGAIN AT END OF NORTHWEST MAJOR, BUT PRIOR TO THE 5 MIN BREAK AND LARRY MARSHALLS CLOSING COMMENTS. IT BEGAN AGAIN AT PUBLIC COMMENT FROM KIM WILSON ON NORTHWEST MAJOR. (Comm Varone chairing, Commissioner Tinsley left)

STARTED AGAIN ON TAPE #2/SIDE A:

Aaron Helfert, 3735 Melcat: He reserved the right to close after the hearing. (When asked by commissioners if his is satisfied with every condition, he responded): He is satisfied with the conditions proposed by staff. Between lot 18 and 19 is where they'd like to place the future access road and will bring to county standards, but no asphalt.

Public Hearing started by Chairman Tinsley.

Craig Gottfrey, 2370 Spokane Creek Road: He's concerned about the proposed covenants—inconsistencies of house size of not less than 700 square feet, a 60x12 trailer is 720 feet so it's a small house size. He has a 1-acre lawn and knows the upkeep. He's concerned about their 2 acres. It says dogs/cats can be kept inside, not will be kept inside. It does not address the fencing issue and is concerned with dogs. It states no horses, livestock or poultry, but most properties have livestock and ability to have 4-H animals. This proposal is inconsistent with that fact. There is no weed problem right now, but with new lawns it could become a problem. He's concerned about Leafy Spurge most of all on a 2-acre lot to maintain. He's concerned that it could restrict his home business since it says no business, only residential. Is concerned that one can't park your boat or pickup outside. His main concern is the inconsistencies.

Chairman Tinsley: Hearing no other comments, the public hearing was closed.

Aaron Helfert, 3735 Melcat: He said the covenants are a draft right now until the final plat so the minimum square footage will increase 1200-1300 square feet at the minimum with attached garages. The covenants will be better than what is there.

Michael McHugh: He said the county did not come up with the covenants, the applicant did and the county cannot control what size/type of developments Mr. Helfert can build since the county doesn't issue building permits. The county can control weed maintenance and dog/livestock issues. There is a private airstrip to the north of the property and they were notified.

Commissioner Varone: She asked that Michael McHugh to give a copy of the commissioner's report to the applicant so he can be assured all his concerns are being answered.

Commissioner Murray: He asked if there was a connection between Wheat Ridge and 3-D.

Michael McHugh: He stated the common issue with this subdivision and 3-D Ranchettes is the interconnection of the roads between Wheat Ridge.

Commissioner Murray: He moved they render a final decision on April 26.

Commissioner Varone: She seconded the motion.

Commissioner Tinsley: The motion passes 3-0.

Proposed Major Subdivision, Preliminary Plat to be known as 3-D Ranchettes Major Subdivision. (Applicant, Rick Diehl/Winston Livestock Co.) (Michael McHugh, Planner)

The applicant is present and prepared to move forward.

Michael McHugh: The applicant wants to create 11 residential lots, each for one single-family dwelling on a 60-acre parcel. The subdivision is located in the NE1/4 of E1/2 of Section 36, T10N, R2W; generally located approximately 1½ mile north of Highway 12 East, and west of Spokane Creek Road. The lots would be 5+ acres to 9.9+ acres. Access would be from Spokane Creek Road and an existing cul-de-sac along western boundary. Issues are the same as Wheat Ridge Estates, but the drainage, which was not significant on Wheat Ridge, does get larger in this area. Staff recommended that there be a preservation of this easement. There's been discussion about prohibiting more subdivisions here and the applicant said he is open to placing that covenant on there. There are similar soil constraints for wastewater treatment systems. Water quality is very good in this area and there wasn't significant impact. Utilities are available. The applicant will have to build a 30-foot asphalt apron extending westward, but won't have to build the road to county asphalt standard. The fire dept has requested \$500 per lot fee. There will be no fire protection placed on this site. No requirement for Parkland Dedication. As far as traffic, the additional trips will meet level of service. There is a private airstrip and they will notify future property owners of this operation. Staff recommended approval of the proposal subject to 19 conditions as contained in the staff report. Covenants are similar to previous (Wheat Ridge) with the exception that applicant should pave the existing road.

Kelly Williams, 901 Clinton, East Helena, Stahly engineering and representing the applicant: Cumulative effectiveness for non-degradation was looked at and it's under 3 parts/million nitrate standards (below 5 parts/million required by DEQ) for both Wheat Ridge and 3-D Ranchettes. The level of service on Spokane creek and highway 12 still operate at 30% of capacity and are at level c service. The applicant is satisfied with the conditions.

Commissioner Varone: She asked Michael McHugh to give Mr. Godfrey a copy of the letter also.

Chairman Tinsley opened the public hearing.

Craig Godfrey, 2370 Spokane Creek Road: He supports this development and finds it's more consistent with the area and is correct environment.

Hearing no other comments, the public hearing was closed.

Kelly Williams had no other comments.

Chairman Tinsley: He asked if the applicant was willing to put a condition that would preclude further subdivision of any more subdivision development.

Kelly Williams: He stated it was okay with the applicant.

Commissioner Murray: He moved to render a final decision April 26.

Commissioner Varone: She seconded the motion

Motioned passed unanimously.

Public comments on matters not mentioned above. None

There is no other business, the meeting adjourned at 12:20 p.m.

(END OF TAPE 2, SIDE A)