

**LAKE COUNTY PLANNING BOARD**  
**November 9, 2011**  
**Meeting Minutes**

**MEMBERS PRESENT:** Bob Kormann, Lisa Dumontier, Sigurd Jensen, Steve Rosso, Brian Anderson (a quorum was lacking)

**STAFF PRESENT:** Joel Nelson, LaDana Hintz, Robert Costa, Karl Smithback, Lita Fonda

Bob Kormann called the meeting to order at 7:03 pm. October minutes were deferred until next meeting. He outlined meeting procedures for meeting attendees.

**NEW MOUNTAIN HEIGHTS LLC VARIANCE & AMENDMENT REQUESTS FOR VIEWS AT TIMBERLAKE MAJOR SUBDIVISION**

LaDana Hintz presented the staff report. (See attachments to minutes in the November 2011 meeting file for staff report.)

Steve asked as far as the minimum road width based on the number of lots served, where was the break between the number of lots served for going from 24 feet road width to 26 feet in the old regulations. Joel responded that it was 20' for one lot, 24 feet for 2 to 5 lots, and 26 feet for 6 or more lots.

Steve referred to the recommendations and the variances with curves, grades and widths. Was the driving surface in the conditions? LaDana explained that there was one request for a change in driving surface. Staff did not recommend approval for that.

Dave spoke on behalf of the applicants. He asked for a copy of the preliminary plat to post. He was here with Jim Kuhlman and Rob Smith, the traffic engineer who designed the roads. Dave talked about the history and progress of the project. He referred to the colored aerial photomap with the conditions legend in the packet, and passed around some pictures. (See attachments to minutes in the November 2011 meeting file for staff report.) He had three issues to discuss.

Dave's first issue was condition #16, which dealt with Deep Bay, White Blvd, Hayrack Road and Lake Forest Drive, shown in orange on the colored aerial photomap. He read from the discussion of gates on pg. 9 of the staff report. They proposed the installation of 2 gates to be more compliant with the current adopted regulations, although they weren't being reviewed under those regulations. It seemed like a good thing to be closer to those. It wasn't an advantage to the developer to have these gates. He read from the bottom of pg. 9, where potential detriments of the gates were mentioned. They would be happy to do away with the request for the gates if that was a problem or resulted in negative health and safety impacts.

Dave said the key thing wasn't the gates, but whether this stretch of road should be chip-sealed or graveled surface. He referred to two stretches of road. One, the primary access road, was shown in green. From Hwy 93, you'd drive up on a paved 24-foot road that was fairly straight. The difference in distance between the orange road and the green road was about 1200 feet, about ¼ mile. The orange road had 4 significant turns. He thought owners driving from a lot to

Hwy 93 would choose the route he indicated, which was more efficient, took less time and was a nicer road, being paved and 24 feet wide. The other road had 4 major curves, so you'd have to drive slower. From a time perspective, it would only take about a minute longer from points he pointed to. He thought only bike riders or hikers would take that road. That private road could be open all the time, but he didn't see a point to chip sealing. He didn't see a benefit. Rob Smith added that in talking to the State Highway Dept. about entrances on to Hwy 93, MDT liked the [southern] route. They had hesitation about the [other] route because the sight distance and vehicles coming over a little rise as they came down into a valley and into the state park. [The sight distance] was quite a bit shorter for the secondary road. They wanted to discourage much use of that approach.

Dave referred to pg. 13 of the staff report where there was a passage from pg. 9 of a 2007 staff report. He read from the bottom of the passage. He said there were 2 reasons for requiring chip-seal. One was that it was a common practice. The other was to reduce dust. The regulations didn't say that this was required; they said the County Commission may require it. He argued that no one would use the road so no one would be impacted by the road. He didn't even think this was a variance, since the regulations said only that this 'may' be required by the County Commissioners. His specific request was to add 'c' to a condition on pg. 23 that would say the construction standards shall include a 20' gravel driving surface. The findings would have to be modified also.

Dave said his second item was the variance for 30' road approaches instead of 34' or 36'. He referred to the discussion on pg. 18 and 19 of the staff report, and read from there. He described that he and Fire Chief Terry Gore both filled out a fire risk analysis for the property and walked and drove the property. He asked if there were doubt that the fire chief was clear in his comments. Dave reported that Terry Gore specifically said these requests did not present health and safety concerns.

Rob Smith introduced himself and addressed the reduced road approach widths. He was a nationally certified public transportation operations engineer, and personally designed the roads for this subdivision. He spoke this afternoon with Ken Lambeth of MDT, who issued permits for driveways that access onto Hwy 93 and other highways. Ken's policy when a subdivision road accessed the highway was that he allowed a 24-foot wide access onto the highway with radii added onto that. If the driveway was commercial or might see higher use, such as a driveway out of a major subdivision, Ken had the discretion to allow up to a 30-foot wide approach to the road. These limitations stem from the Nationwide Access Management Plan which steered the highway dept. This meant along highways, they wanted to limit the number of driveways, the design and the width. Those three things were done because of safety studies. Rob said he designed the roads to a 30-foot width, which was the same as what Ken allowed to come up to state highways. They needed to understand that every 12 feet was a lane. A normal road was 24 feet wide. If it was 36 feet wide, you created another lane, for a left turn lane, a through and right lane, and a receiving lane. County roads weren't required to be striped, so you ended up with a very large intersection that was rather undefined as cars went through it. The tendency in design was that unless you had a reason or needed to put in a left turn lane, you wanted to restrict your access width, to where a vehicle pulling up to the intersection understood clearly where their lane of travel was. Most of his approaches were 30 feet wide as they came to

the road. Usually the road flared a little as it went past the approach to allow for large trucks to have a little extra room to turn. He felt 30 feet in width was more than sufficient. To make it 36 feet wide was not an asset and was no longer required by the new regulations. When asked by Dave, Rob said the 30-foot width was safer if you didn't have striping on the roads to delineate 3 lanes in a 36. It was best not to leave a question in people's mind as to where they should be when they pulled up to an intersection, if there was no well-defined pathway.

Dave talked about an underlined portion on pg. 20 about a need for the approach width to comply with the subdivision regulations. He thought that wasn't necessary for public health and safety, and suggested finding what made the most sense for safety.

Dave identified his third item as condition #20 and the purple road on the map. This required the road to be improved to a 20-foot wide road. He described it as a decent logging road with a good bed, a good base and ditches on both sides. It was currently overgrown and weedy. He asked the Board to modify condition #20 to allow the road to be cleared, the slash and vegetation removed, the weeds be treated, but that it not have to be built up. This was a secondary access, and the third access to the property. It was an emergency road in that it was already gated at the north end and at the south end. Dave said the fire chief was clear that this road didn't need to be built up and that it was fine in its current state, especially if it was cleared out. He said this was not a variance issue, since subdivision regulations didn't require a third access. It would merely be changing condition #20.

Steve asked about the orange road, which was a secondary ingress/ egress involving Deep Bay, White Blvd, Hayrack and Lake Forest. With gates, traffic would be reduced. What kind of gates would these be? Dave said you could drive right through the gate. Steve asked if that damaged the vehicle. Dave didn't know. Steve asked if the traffic would be higher if the gates weren't put in. Dave thought it would be slightly higher. Steve wondered on the approach width, since trucks did have to cut corners sometimes to make a turn, if the extra width would allow a car to pull over or to allow the truck to turn. Rob said it depended on the traffic volume and how many cars per day you expected to see on the road as to whether you designed that in. He designed them so both the road that approaches was 30 feet and the road that goes by was 30 feet so there was a combination of width there to allow space for issues like that. Steve gave the example of Sleepy Hollow and Hersman Hill Road intersection. Did Hersman Hill Road get wider at the location where Sleepy Hollow came into it? Rob said Hersman widened to 30 feet, and Sleepy Hollow did as well. Steve asked in what distance to the intersection they widened. Rob replied that it widened to 30 feet where it intersected with 2 roads that he indicated. All three legs widened to 30 feet as they came together. There were 25 [inaudible].

Steve asked for clarification on Lost Sailor Lane. Dave described the lane as a paved road at the northern end of the purple, off to the left, off the property in Flathead County. Timber Rock was the road that went straight to the highway, and Lost Sailor headed off to the west. Steve checked that these weren't in the subdivision but were part of the road system for it. The requirement as set in 2007 was to widen White Blvd through into Flathead County on to where it intersected with those roads of Timber Rock. Dave affirmed. Steve mentioned there might be confusion. He was involved with emergency service volunteer work and drove an emergency vehicle. When you looked at the access and the ability of an emergency vehicle to go somewhere, you

had advantages in that the suspension and gearing in an emergency vehicle was meant to handle conditions that a regular passenger vehicle was not required to handle, and you had lights and sirens and could be essentially the only one on the road. There were conditions where it helped to think as a regular passenger vehicle operator instead of an emergency vehicle operator when judging widths and surface conditions and those kinds of things for the roads.

Steve said as far as whether there needed to be two accesses or a single access, and whether one was more convenient or longer or shorter, the fact was sometimes people in private vehicles got stuck or had trouble making it up a steep hill in snow or ice. Whether the second road option for entering or exiting the subdivision was less efficient or a rougher surface or whatever, it still needed to be there, especially for the passenger vehicle and the everyday drivers.

Brian asked why Goose Bay Lane was 20 feet wide instead of at least 24 feet, if a standard road was 12 feet per lane. Rob answered that lane widths were defined in the national federal regulations as being from 10 to 12 feet. Twelve feet was recommended for a road that received a lot of traffic. You could take lane widths down to 10 feet depending on special circumstances, like an old bridge. It boiled down to the amount of traffic. These roads were serving a 23-lot subdivision. There were covenants and restrictions on them that they couldn't be pushed back to serve more. The road system would handle, at the high end, 230 trips per day across the whole system and coming in and out at Hwy 93. They didn't even recommend a yellow stripe down the road until 5000 cars per day on a road. This was a very low volume. He did roads that weren't 12' wide at every point because the odds were it would be rare that you would meet another vehicle on the road. Dave showed a reference for road design. It was called the Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO). He referred to a table with lane widths for different types of roads based on volume. It varied by road speed. If you said 25 miles with fewer than 400 vehicle trips per day, or 40 mph and 1500 vehicles trips per day, the road width was 20'. Lake County road standards had a more conservative design than what AASHTO recommended.

Brian asked why they didn't go with the 20' width from Hwy 93 on up. Why did they do 24 feet and then decide to drop it to 20? Dave said one reason was to comply with the current subdivision regulations. There were other properties that used the main road. Brian asked if the current subdivision regulations called for 26 feet. Dave said that was the previous subdivision regulations. He said 24-foot road surface seemed better for the main road. It was more in compliance with current regulations. It was a nicer road, especially for the main entrance, paved, a little wider, with shoulders. It seemed like a better product.

*Public comment opened:*

None received.

*Public comment closed.*

Bob reiterated that by law, this had to be reviewed based on the 2007 standards. When they got to motions, they would need to go slow and be sure to cover all the bases. He suggested they start with variance #1, which was on pg. 21. He asked LaDana to help reference to the body of

the report. Bob checked that they needed to vote on each part, a, b and c. LaDana affirmed. Bob checked that if they passed this, amendment to condition #16 was needed. LaDana said #16b was needed for the first one. Each one to be voted on was associated with a different condition. She referred to pg. 21. Steve returned to pg. 8 and 9. Variance 3 and condition 13 were mentioned, but not condition #16. LaDana explained she put together a list of the numbers to make sure they did this right. They were voting on the variances. The way they were written up here was actually changed from the conditions and variances at the end. She gave more history on the variances and conditions. She suggested they stick to the list on pg. 21, because those were based on what they read in the findings. She would give them the condition number that would refer them to it [from the variance], when they were working on a recommendation for each, and what conditions needed to be amended. They would work through each of the 3 variances and then whatever else in the conditions needed to be amended.

For each variance portion, LaDana read the variance per Bob's request, and listed the associated condition and page number.

**Motion made by Steve Rosso, and seconded by Sigurd Jensen, to recommend approval of variance #1a (to allow the curve where Deep Bay Lane and White Boulevard intersect to be reduced to 40 feet) with the required adjustment of the findings of fact and condition #16b. Motion carried, all in favor.**

**Motion made by Steve Rosso, and seconded by Lisa Dumontier, to recommend approval of variance #1b (to allow the curve located where the access road serving lots 21 and 26 comes off Dewy Bay Lane to be reduced to 75 feet) with adjustments of condition #15c. Motion carried, all in favor.**

**Motion made by Steve Rosso, and seconded by Lisa Dumontier, to recommend approval of variance #1c (to allow 7 curves located along Sleepy Hollow to be reduced to less than 302 feet based on the physical surroundings and topographical conditions) with corresponding changes to condition #17c. Motion carried, all in favor.**

**Motion made by Steve Rosso, and seconded by Sigurd Jensen, to recommend approval of variance #2a (to allow the maximum grade along Deep Bay Lane hillside to increase to 12%) and with adjustments to condition #16a. Motion carried, all in favor.**

**Motion made by Steve Rosso, and seconded by Sigurd Jensen, to recommend approval of variance #2b (to allow a maximum grade for the access road serving lots 21 and 26 to increase to 10%) with the required changes to condition #15b. Motion carried, all in favor.**

**Motion made by Steve Rosso, and seconded by Sigurd Jensen, to recommend approval of variance #2c (to allow a maximum grade on Sleepy Hollow to increase to 12%) with the required adjustments of condition #17b. Motion carried, all in favor.**

**Motion made by Steve Rosso, and seconded by Lisa Dumontier, to recommend approval of variance #3a (to reduce paved driving surface width from 26 feet to 24 feet with 2-foot**

**shoulders for Timber Lake Road, Hersman Hill and Benchmark Drive) with the required changes to condition #13a. Motion carried, all in favor.**

Variance 3b was to reduce the paved driving surface width from 26 feet to 20 feet with 2-foot wide shoulders for Goose Bay Lane based on the physical surroundings and topographical conditions. The associated condition was #13b on pg. 22. Steve suggested changing this variance to require that Goose Bay Lane be a different width. This 23-lot subdivision had 21 lots that were accessed from Goose Bay Lane or Dewy Bay Lane, the access road. Only 2 lots were on Benchmark Drive, Hersman Hill and Timber Lake Road. Those had a requested width of 24 feet. They only lost 2 residences when they turned to Goose Bay Lane. He thought the traffic there would be almost the same as the other road. Past the intersection with Dewy Bay Lane, then it reduced to just 7 lots. He wanted to see Goose Bay Lane be 24 feet wide with 2-foot shoulders to the intersection of Dewy Bay Lane, and then allow it to narrow down for Goose Bay Lane and Dewy Bay Lane. He checked the current length of Dewy Bay Lane, which was 20 feet wide with 2-foot gravel shoulders. There were 11 lots on Dewy Bay Lane. He asked if the current preliminary plat allowed Dewy Bay to be 20 feet wide driving surface for its entire length. Joel answered no. Steve asked if that was in a variance. Dave referred to condition #17. He read from the condition. He showed a map to the Board. What the Board didn't see on the existing maps were the existing lots of Timberlake Ranches. There were existing lots in the neighborhood that the roads served.

Brian asked why the Lake County road standards were so hugely different than the US standards. Also, if the Board accepted this kind of stuff, were they setting a precedence? Joel checked with Brian that he was referring to the AASHTO standards. Brian referred to 2004 and under 400 vehicles a day and under 40 mph, an 18-foot road width was shown, whereas Lake County showed 24 feet. Joel added that the old regulations were 24 feet. The current regulations were 20 feet, or 22 or 24, depending on the traffic served. Bob checked with Steve that he was proposing Goose Bay Lane to be 24 feet. Steve said to leave Goose Bay Lane at 24 feet up to the intersection with Dewy Bay Lane. That part of Goose Bay Lane handled 21 lots. The developers didn't mention it as a point of adjusting the width. They did mention it for another change in road standards. It was also more than the 6 lots listed in the current regulations for upgrading the road conditions.

**Motion made by Steve Rosso, and seconded by Bob Kormann, to recommend approval of a variance to reduce the paved driving surface width from 26 feet to 24 feet with 2-foot shoulders for Goose Bay Lane from Benchmark Drive through the intersection with Dewy Bay Lane, and then reduce the width to 20 feet wide with 2-foot shoulders for the rest of Goose Bay Lane, and with the required adjustment to condition #13b. Motion failed, with 2 in favor (Bob Kormann, Steve Rosso) and 3 opposed (Lisa Dumontier, Sigurd Jensen, Brian Anderson).**

**Motion made by Lisa Dumontier, and seconded by Sigurd Jensen, to recommend approval of variance #3b to be approved as stated in the staff report with the required adjustment of condition #13b. Motion carried, 3 in favor (Lisa Dumontier, Sigurd Jensen, Brian Anderson) and 2 opposed (Bob Kormann, Steve Rosso).**

**Motion made by Steve Rosso, and seconded by Sigurd Jensen, to recommend approval of variance #3c (to reduce the paved driving surface width from 24 feet to 20 feet with 2-foot wide shoulders for the access road serving lots 21 and 26) with the required changes to condition #15a. Motion carried, all in favor.**

**Motion made by Steve Rosso, and seconded by Sigurd Jensen, to recommend approval for a change to condition #17 that would allow the Sleepy Hollow and Goose Bay Lane intersection to be relocated 125 feet to the south with staff recommendations. Motion carried, all in favor.**

LaDana referred to the staff report and #14.c.2 on pg. 5, which was the request for gravel surfacing the roads instead of chip seal for Deep Bay Lane, Hayrack Lane and Lake Forest Drive. Staff recommended denial. Steve commented that the people in the subdivision would make the decision as to which road to take for whatever reason. They should be able to make a choice and rely on the quality of the road surface and so forth. He thought the second option road should be at least chip sealed. It kept a harder surface and was easier to plow and maintain, for a better chance for good, safe, winter conditions than if it were allowed to rut or washboard. The residents should be able to count on it being a good, safe road.

Lisa responded that the question was on the surface, not whether the road would be open or closed. The residents would have 2 choices, regardless of the surface. Steve said they hadn't addressed whether or not it would be gated. Lisa said it sounded like there were some pretty good curves on that road. She lived on a road that was gravel for 30 years and was recently chip sealed. It was less safe now than before. It was always slick. It wasn't sanded. There were sharp corners, and a lot more people went into the ditch than did previously. There were huge potholes. She wasn't sold on chip sealing on a road that people didn't need to drive 50 mph. She didn't know how sharp the corners were. She checked with Dave about 3 fairly sharp corners he alluded to. He showed the locations and gave radii. They would accommodate a fire truck, but would slow you down in the wrong direction. Lisa thought it was overkill to chip seal that road and she was not in favor of it.

Bob asked if dust was an issue for a graveled road. Lisa replied it was somewhat, if you lived right on the road. The dust dissipated. Chip sealing was great, but there were definitely problems with it.

**Motion made by Lisa Dumontier, and seconded by Sigurd Jensen, to recommend allowing Deep Bay Lane, Hayrack Lane and Lake Forest Drive from the subject property to Hwy 93 as a secondary access road with a gravel surface instead of chip seal. Motion carried, 4 in favor (Bob Kormann, Lisa Dumontier, Sigurd Jensen, Brian Anderson) and 1 opposed (Steve Rosso).**

**Motion made by Lisa Dumontier, and seconded by Sigurd Jensen, to amend the previous motion to include the necessary language change to condition 16 to add condition 16.c. Motion carried, 4 in favor (Bob Kormann, Lisa Dumontier, Sigurd Jensen, Brian Anderson) and 1 opposed (Steve Rosso).**

LaDana directed the Board's attention to item #14.c.1 on pg. 5. This dealt with the breakaway gate. This was associated with condition #16. Staff recommended denial. **Dave withdrew that request for gates on behalf of the applicants.** Bob confirmed with Joel that no action was required from the Board on a rescinded request. Joel asked if the Board wished to revisit any actions already taken, as a result of that, such as the gravel surface decision, since that decision was made without knowing if the road would be gated. Lisa said she intended to vote against gates when she made that motion. Bob thought they were okay.

LaDana next directed the Board to 14.d.2 on pg. 5, associated with the access road that served lots 21 and 26. The proposed road width within 20 feet of the intersection with Dewy Bay Lane was 30 feet instead of 34 feet. Staff recommended denial. If the Board chose to approve the request, they would need to amend condition #15, and it would also require a variance. Bob checked that the current regulations were 30 feet. He understood they needed to go by the 2007 regulations. Dave confirmed this. Lisa asked about the additional variance. LaDana explained there wasn't a variance granted yet for the reduced road approach width for the subdivision. The applicants hadn't asked for this in 2007, but they were asking now. She clarified that if the Board approved of this condition, then the Board would have to approve of a variance because it didn't comply with the subdivision regulations. Steve thought that considering all the roads that come together were widened to 30 feet, and it wasn't just the intersecting road that was widened to 34 feet, that there probably was plenty of room at this level of traffic at those intersections if they were just 30 feet wide.

**Motion made by Steve Rosso, and seconded by Sigurd Jensen, to recommend approval for a variance to adjust the road width [per 14.d.2] and to make changes to condition #15 as required. The changes in condition #15 were to allow the road width within 20 feet of the intersection of Dewy Bay Lane to be reduced to 30 feet from the current 34 feet (see 14.d.2 on pg. 5). This applied to the access road that served lots 21 and 26 where it intersected Dewy Bay Lane, and required adjustment of condition #15. Motion carried, all in favor.**

LaDana suggested the Board address the items under 14.f, which were similar, and for which staff also recommended denial. These could be done in a lump.

**Motion made by Lisa Dumontier, and seconded by Sigurd Jensen, to recommend approval of #14.f.1 through 14.f.7 (on pg. 5) to allow for 30-foot road approach widths (as listed), which resulted in a variance referring to conditions #13, #15, #16 and #17 and for the necessary changes to those conditions, and including the necessary variance. Motion carried, all in favor.**

LaDana described that the last variance to consider involved the request to remove slash from the northern extension of White Blvd that connected to Timber Rock Road in Flathead County, but to leave the logging-type of road in its current state. This was listed as 14.g on pg. 5. Staff recommended denial. Condition #20 was the associated condition. Steve asked if a variance was required here too. Joel and LaDana said no.

**Motion made by Steve Rosso, and seconded by Lisa Dumontier, to adjust condition #20 to allow White Blvd north of the section of Deep Bay Road to be left as a logging road and to**

**be cleaned of slash, and weed control be done, while leaving the road surface and width as it was. (14.g, pg. 5.) Motion carried, all in favor.**

The Board paused for a few moments' break prior to beginning the next agenda item.

### **LAKESHORE PROTECTION REGULATIONS DRAFT UPDATE**

Mike Wilson and Christi Buffington were both in attendance. Joel Nelson began the review of a new section proposed by staff for 'Construction Site Best Management Practices, Stormwater Management and Erosion Controls'. (See attachments to minutes in the November 2011 meeting file for Board packet.) He mentioned the various public comments received since the last meeting regarding the Lakeshore Regulations, including notes from Tiffany Lyden on tonight's section. (See attachments to minutes in the November 2011 meeting file for Board packet.)

Joel began forging through tonight's section. Christi commented the wording should be consistent with what contractors were using in other communities. She recommended rewording the title to Erosion and Sediment Control and Stormwater Pollution Prevention. She encourages a consistency of language throughout. If they called it construction site erosion, then be consistent. Usually it's called erosion and sediment control in the practice around the field. In the first sentence, she recommended leaving off the first two words (construction site) and tweaking the wording to say unmanaged soil erosion and polluted stormwater runoff from land disturbance and construction activities.... She could write up some recommendations or bring them up here.

Specifically, soil erosion and stormwater runoff didn't make sense if you then read "cause bank and soil erosion" in A.3. Erosion didn't necessarily cause erosion. To fix that wording, it could be soil erosion and/or polluted stormwater runoff. She suggested adding A.6 to mention coating substrates needed for fish spawning habitat. Bob asked about coating. Christi explained it coated. Sedimentation might be a better word. Bob asked if the contractors would know what that meant. Christi suggested clogging as an alternative: clogging substrates needed for fish spawning habitat. She also recommended adding A.7: could lead to siltification behind impoundment for power generation or irrigation. She reiterated to choose either the words soil erosion or the word sediment.

Steve said besides erosion, you had two problems. There was damage to the lakeshore zone landward from the water, and you also added sediment to the water body. If you talked about only sediment, you talked about half the problem. Christi explained it was usually called an ESC: erosion and sediment control. She gave an example from Lake County, MN. They had an erosion and sediment control plan that was really simple. The contractors simply circled the measures that would be used. She also suggested replacing 'lakes' under A.1, and using the term waterways. Eventually the stuff went to the ocean.

Steve asked in this context, where this only pertained to lakes, did that make a difference to Christi. She answered that this policy was the bigger picture in what the problems were. It certainly could be to lakes. The impoundment was already happening with siltification going on with Kerr Dam.

Joel moved on to B. Christi reiterated using the words erosion and sediment control consistently. She suggested replacing effective sediment and stormwater management with erosion and sediment control and stormwater management. She left in 'stormwater management', since these were two different things. She would strike the words 'conservation and' and then introduce the term 'best management practices' here. It would then read '...installation of best management practices (BMP's)...'. She suggested using what wording would be consistent in the phrase about 'set forth the minimum requirements for construction site erosion control and stormwater management'. They could choose to use stormwater management or stormwater pollution prevention. Stormwater management was catching and collecting stormwater. Stormwater pollution prevention was filtering runoff or treating that runoff in some way. They were different. Joel said they were trying to address the stormwater pollution in this section, not the stormwater management.

Joel pointed out that intent was next, under C. Christi found it a little redundant if some of these were stated later in a more specific way. She found C.5 confusing. She thought the performance standards couldn't catch all the possible BMP's that could need to be applied. She recommended moving towards an erosion and sediment control plan, or integrating something like that with what contractors were using in the bigger communities like Kalispell. She recommended integrating into the existing lakeshore application to streamline and simplify.

Christi provided some context. This discussion was well timed in that there was a general permit that the EPA was reviewing for construction activities. It didn't necessarily apply in Montana, but it did apply on reservations. This new permit required BMP's for discharges to water body with high water quality and also a stormwater pollution prevention plan to water bodies that were impaired, which we were. We could set this section up to also later comply with further regulations that could impact us. Steve said DEQ also required some construction projects to have a stormwater plan during construction. He wasn't sure which projects required that. Mike said it depended on the size of the disturbed area. Christi said this was one acre. It depended on the area. It was usually disturbed over one acre in size within an area that had a [inaudible] stormwater discharge permits. The City of Kalispell was a MS4 community. Steve checked that if there wasn't a stormwater plan for the community, then it was 2 acres. Christi said it was generally 5 acres. It could be 2 in places. The new federal rule was saying that if you were adjacent to a water body, [inaudible]. There was also a buffer in the proposed rules that might possibly come out in December.

Steve said some of the procedures mentioned in [the BMP section] were similar to what was in the DEQ requirement. He was concerned that the application of the lakeshore protection regulation package and the use of it depended greatly on the landowner using it and not avoiding it. The reality was that people knew enforcement was difficult on these kinds of things. If the regulations were too difficult, too expensive or too confusing, people would decide to do their projects without permits or controls. He thought different levels of projects should require different levels of BMP's, for instance, a flagstone walk to their dock versus a lodge with 20 rooms. He thought they needed to make it reasonable so people would use it. Christi said other communities had these kinds of plans in place, where these were done by disturbed slope and disturbed square footage. Some BMP's were sized for different projects. She agreed that it needed to be simple. The example she found asked the applicants to circle those that applied to

their project. They would also number them on the site plan. Steve suggested adding C.8, saying to make these simple and reasonable. Christi said this was creating a new expertise, and landowners needed to start changing their behavior, so she would not use the word 'simple'. Steve detailed that he meant simple to follow, and recommended practices for different sizes of projects or slopes or buffer zones or whatever. Christi said they could use the word 'recommended', but these were performance standards, not recommendations. They were talking about the 20' next to one of the cleanest water bodies that was quickly starting to degrade. That development was allowed within 20 feet was a surprise to most communities elsewhere where she's lived.

Karl added that a lot of the material that was being drawn from [for this section] was over 60 pages in length. He appreciated the simplicity of this. Lisa thought it was a mindset. People were becoming more aware of the need to protect waters of different types (rivers, lakes and so forth). People needed to get it in mind. They would, but it took time. Christi said it was timely. A BMP waterfront training would be offered in April 2013. Hopefully this would be in place, and contractors would attend.

Joel opened discussion on the application requirements in section D. Christie asked if this was the only area in the lakeshore regulations where the application was addressed. Joel replied that they would probably have a section under Administration about what was required to be submitted with the application. Christi thought there could be some redundancy between the two sections. The application requirements she proposed would be embedded within the application itself.

Regarding seeding, Christi recommended that hydro-seeding be banned within the lakeshore protection zone. It involved blowing seed around. It could easily get into the lake. Also seed mixes might contain fertilizers. With so many caveats, it might be best to have them in the application rather than to lay them out here. She liked D.4.f, since probably the most important best management practice was to review the construction footprint. Later under performance standards, the wording was changed to erosion control devices. She thought it was better to avoid that word 'device'. A 'device' wasn't necessarily a good practice.

Mike asked if something specified when a site plan versus an engineering stormwater management plan was required in D.4. Joel replied no. Mike asked how the applicant knew whether just a site plan was required or if an engineered plan was needed. Joel responded that the requirement was a site plan. They could certainly use an engineered plan instead. Christi suggested getting rid of the engineered part. An engineered stormwater management plan, rather than a stormwater pollution prevention plan, was how you were going to collect and manage the stormwater, which they were not advocating doing in the lakeshore protection zone. If you called it a stormwater management plan, that would mean something to an engineer, so they needed to be careful of what they called it. Steve thought that got back to the idea of not getting the cooperation from the public. If they got the impression they had to hire an engineer, it would reduce compliance. He suggested having a pamphlet or references available to offer people when they came in for an application so they could teach themselves how to do BMP's. Christi said she was currently writing them.

In D.5, Steve thought the word ‘applicable’ needed to be fleshed out a bit. He thought it would confuse a layperson. In D.5.b, the word ‘vicinity’ might be replaced with listing a distance from the lake. There were only 20 feet from the lake. Christi said it was already in the regulations that you couldn’t stockpile materials. Joel said if it was exactly 20 feet from the lake, you might need to address it. Steve said the regulations had no control outside that. Joel said you could prevent things from passing through the lakeshore protection zone. Steve thought that was in D.5.e. It needed to be spelled out a little bit. He didn’t think the layperson understood run-on. Joel affirmed he meant stormwater run-on. Mike said run-on was running on to the construction site. Steve added it could be running onto the lakeshore protection zone. Christi thought run-on and run-off would be confusing for the property owner and possibly the contractor as well. They would be thinking of it as onsite, even though the lakeshore protection zone was at 20 feet. If they wanted, they could say run-on into the lakeshore protection zone. On D.5.f, it said run-off was the responsibility of the landowner. Run-off was a discharge to Flathead Lake. That might be with the general permit that was coming federally. A discharge to Flathead Lake would be under that.

Christi returned to D.5.a to suggest that ‘devices’ be changed. Steve suggested changing the appearance of ‘devices’ everywhere in the section to ‘practices’. Christi suggested calling them Best Management Practices. Joel said sometimes BMP was more inclusive. Christi said it included both sediment and erosion control, and stormwater pollution prevention. She suggested getting rid of ‘prior to beginning of disturbing the soil’; she would say beginning site disturbance. In 5.d, she was not an advocate of stone checks for sediment trap. If you put the stone in for a BMP, then it needed to be removed. It would have to be counted in the impervious surface coverage under the regulations in the permitting process. She found D.5.h to be a red flag. You could leave an area [inaudible] to water within 24 hours, not 30 days. Seven days was what Lake County, MN had. Within 24 hours [inaudible] a rain event. If there were exposed soils 20 feet or less from the lake and it poured, that was a water quality/ Clean Water Act violation. Thirty days was much too long. Joel said you still had to do BMP’s to prevent the pollution. Christi said any area exposed for more than 30 days... Shall be seeded, mulched or tarped, Joel finished. Christi thought it should just be covered by tarps if exposed. Steve asked about the impervious surface added by the tarp. That didn’t seem right either. Mike gave a recommended practice for filler and soils that would be there temporarily. If you had a pile of topsoil, you didn’t want it to wash away. You had to be careful where the water from the impervious tarp now ran. Christi said it must be stabilized. If you were talking about a flat cleared surface, that was somewhat stable already. You could have other BMP’s catching run off.

Christi suggested removing D.5.i altogether. Twelve-inch deep stone tracking pads were fairly permanent. Steve agreed. There was a 20-foot zone here. If a tracking pad was required on the construction site, it should be outside the lakeshore protection zone, up next to the highway before the trucks left the construction site. Joel agreed, unless it was adjacent to the barge. Christi said you could do some of these things in the permit itself. You could separate the BMP’s that were outside the lakeshore protection zone. Joel said it wasn’t necessarily enforceable then. Steve said if a project was inside the lakeshore protection zone, then the project got a permit. Joel affirmed, so this had outlined standards that applied to the project, not just to what happened inside the lakeshore protection zone. Steve thought it seemed like you

could specify some things that needed to go along with the project, even though those things might be located outside. Christi said you could have a statement that said for vehicle tracking, limit construction equipment to designated areas to control soil compaction, and it went on to say construction activities should not bring sediment off-site or back to the lakeshore zone. Mike checked that if it wasn't in the regulations, it wasn't enforceable on the face of the permit. Joel said if they want something to be truly enforceable, it couldn't just be on the application, unless the application was adopted by the regulations. Lisa asked who would police that on a daily basis. This laid out criteria for solving the problem, and you could go out and see that it was done. Joel said something might be required on certain sites, and when something was required, it had certain standards. Given that it was discretionary as to whether it's required, you could probably have some sort of modification between what could be required and something lesser.

Christi asked if it was enforceable with other regulations that the applicant had to do an erosion and sediment control plan. The permit said you had to fill one out. That would be enforceable and then elsewhere what that plan entailed would be listed. Steve said if a project disturbed a small amount of land, that plan would be simpler than projects that disturb a larger area. Christi said it was the same criteria, regardless. Steve said you didn't have to circle as many things. Christi said you showed where [inaudible]. It was industry-standard language. Joel said that if they proposed a tracking pad with certain standards and they didn't adhere to it, it would probably be enforceable. It would be easier to enforce if staff could cite the appropriate section and say that you clearly didn't comply. Mike remarked on vehicle tracking pads that they were effective if they were used and maintained right. This was a very small one. If they were talking about having different schemes for different sites, maybe they should take this out. The one that would be twice as deep as the equipment [inaudible] would actually be very short tracking pad and wouldn't do a good job. The job was to rattle the mud off of the vehicle before it reached the street. Typically a tracking pad was used to prevent mud and sediment from getting onto the asphalt, which then got into the stormwater system if it rained. If they said they might be used, it's varied with the size of the project and the number of vehicles going in and out of the project. This was a small tracking pad. [Inaudible.] Christi said if it was in the lakeshore protection zone, removal of the tracking pad could cause significant disturbance. Karl didn't think they were talking about having it in the lakeshore protection zone. Steve said maybe they needed something to clear up about whether a project in the lakeshore protection zone would need a tracking pad inside the zone. He thought the aggregate size for DEQ was 6 inches.

Christi referred to removing 'devices' in D.5.k, and using sediment and erosion control best management practices. Usually there was an inspection requirement not of the County but of the applicant. That wasn't in here. She read from an example from Lake County, MN. You could say 'be properly installed, inspected and maintained' but you'd have to define what that was. The maintenance itself could be just as long as that list. Robert asked whether 'techniques' would be a better term than 'devices'. Christi suggested using the word 'practices'. A device was usually an engineered structure. Engineers didn't think of a vegetated buffer as a device.

Mike backed up to D.5.h and seeding, and the last sentence requiring indigenous species. Joel said this was native, and native to the area of the project site. Mike noted that particularly for temporary seeding, native seeds were the hardest to establish and actually grow. There were a

lot of mixes for stabilizing slopes. Very little of it was native. It might be a consideration. He could understand the intent.

Christi mentioned Westland Seed in Ronan. They'd done some work with Wild Horse Island. They had a native seed mix that worked well in some areas but not necessarily on these steeper slopes. She was currently working with nurseries to start developing where you could get the native seeds. When you said indigenous to the site, that meant what was growing on the neighboring properties. Steve said they didn't want the contractor or owner to have the impression that they had to collect seed. Karl noted the point was that you wouldn't revegetate with something that wouldn't grow there because it was non-specific to that particular area. Indigenous was because stuff was native to that area from the shoreline.

Christi thought that was a great idea. She was collecting seed on Friday at a site. But she didn't think they were there yet. Mike pointed out that native seeds were also probably four times as expensive. Christi thought the vegetative buffer requirement in the regulations as it stood was new. Mike noted this was for temporary erosion. Christi said it got tricky there. A lot of homeowners wouldn't understand what temporary was, or what erosion control was. Some thought it was a lawn. LaDana agreed, and added they wouldn't want to take it out. Christi said the seed thing was a flag for her. Now S & K Environmental was providing erosion control blankets with native seed. She still thought they needed room to be flexible, and some of this was too specific and too cumbersome for a landowner. It was where they needed to go with BMP'S and clean water practices. She thought it was confusing at this point to have this level of specificity. She asked if staff wanted the Lake County, MN example, which Joel happily accepted.

### **OTHER BUSINESS**

Lita mentioned renewal requests and December activities.

**Motion made by Sigurd Jensen, and seconded by general acclaim, to adjourn. Motion enacted.** Meeting adjourned at approximately 9:45 pm.