

**LAKE COUNTY PLANNING BOARD**  
**February 8, 2012**  
**Lake County Courthouse, Large Conference Room (Rm 317)**  
**Meeting Minutes**

**MEMBERS PRESENT:** Bob Kormann, Lisa Dumontier, Sigurd Jensen, Steve Rosso, John Fleming, Janet Camel, Brian Anderson

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

Bob Kormann called the meeting to order at 7:00pm.

**2012 CHAIR & VICE CHAIR SELECTION**

**Motion by Steve Rosso, and seconded by John Fleming, to reappoint Bob Kormann as chair.** Bob asked if there were other nominations, and said change was good. **Motion carried, 6 in favor (Lisa Dumontier, Sigurd Jensen, Steve Rosso, John Fleming, Janet Camel, Brian Anderson) and one abstention (Bob Kormann).**

**Motion by Bob Kormann, and seconded by Janet Camel, to appoint Steve Rosso as vice chair.** **Motion carried, 6 in favor (Bob Kormann, Lisa Dumontier, Sigurd Jensen, John Fleming, Janet Camel, Brian Anderson) and one abstention (Steve Rosso).**

**MINUTES**

**Motion by Janet Camel, and seconded by Steve Rosso, to approve the January 11, 2012 meeting minutes.** **Motion carried, 4 in favor (Bob Kormann, Lisa Dumontier, Janet Camel, Steve Rosso) and 3 abstentions (Sigurd Jensen, John Fleming, Brian Anderson).**

**BREWER LAKE ESTATES PHASE II MAJOR SUBDIVISION INTRODUCTORY (7:03)**

Bob highlighted that with an introductory item, one purpose was to give the developer some direction on what the Board was thinking and what might be obstacles or what might need to be added or changed. LaDana checked with the Board regarding the staff report. (See attachments to minutes in the February 2012 meeting file for staff report.) The decision was to touch on each section and see if the Board had questions. LaDana gave an overview of the property, and pointed out the attachments and public comment, including a comment handed out tonight. (See attachments to minutes in the February 2012 meeting file for handout.)

Regarding the history of the parcels, Steve asked about tract A. Marc Carstens was present on behalf of the agent for the applicant. He and LaDana showed tract A on the map. LaDana explained that tract A was outside the subdivision. It was previously tract 4, and resulted from a boundary line adjustment.

Janet brought up the mixing zones, which were shown on some lots but not on others. LaDana said she spoke to Environmental Health about this. A new provision in state law was used where mixing zones were not required to be shown based on certain things. Janet clarified that her concern was with lot 8, given the direction of slope. Marc said what they were showing was the

ground surface slope, which wasn't always the same direction as the ground water slope, which would be used to determine what direction this mixing zone was going. Janet thought it looked tight, and Marc agreed. Steve checked that the mixing zone area didn't have to be 100 feet from the well. The drain field did. Marc affirmed, adding that historically they kept the mixing zone 100 feet from the well also. He said that with DEQ, a lot of the rules were administrative and could change without much fanfare. He assured them that Shawn [Rowland] was on top of this. Without looking at the ground water direction, it was difficult to say where the mixing zones would actually lie. The drainfield had to be aligned with the slope of the hill, perpendicular to the slope. The surface drove which way these things were pointed, but the subsurface would drive the plume. Steve asked why lots 8 and 9 had larger drainfields shown. Marc didn't know. LaDana thought that might have been the size they were using. LaDana offered to talk with Susan at Environmental Health further. The Board could discuss this further at the next meeting. Steve noted that the mixing zones shown were for lots that were already approved. LaDana affirmed.

Bob checked that the highway right-of-way acquisition was in 1989. LaDana assumed that 1989 was when the 200 feet was put on there. Marc pointed out lots of room on the map. LaDana noted that there was a variance requested to the 100-foot setback from the highway. Steve said if they ignored the 100-foot setback, the only other setback was 20-foot shown from property lines. LaDana said the 100-foot setback came from subdivision regulations. The 20-foot setback came from proposed covenants. Steve checked that there were no setback requirements. LaDana said there was adequate room. If they had to move that structure further south, she thought they could meet that 100-foot setback requirement if they weren't granted the variance. Steve thought it would be better to move the house to the NE to get away from the highway. Marc pointed out some map locations. Others suggested other directions of movement. LaDana summarized that there was enough wiggle-room to relocate the building slightly and still meet the setback requirement if they didn't get the variance. Steve asked about the topography there. Marc explained the yellow area on the map had a slope of 30% or greater. Between the proposed building site and the highway right-of-way, there were slope concerns. There were no slope constraints in moving to the NE or to the SE. Bob asked Marc why the variance was requested for this item. Marc replied that he didn't have that information. This was introductory, and the agent at the next meeting would have more information.

LaDana glided into the easement section. She pointed out the school bus easement was dedicated on the Phase 1 plat, but it wasn't actually located within Phase 1, so the easement wasn't created by the plat. No separate document was recorded, so it looked like something they would have to dedicate on this Phase II plat. Phase II was originally to happen, and then didn't at that time, so there were pieces that weren't finalized.

Regarding well easement, Bob noted the plat didn't show an easement to the well. LaDana replied this was an offsite easement. If the easement were on Tract A, they wouldn't show the easement on the plat for Phase II because it was an offsite easement, outside the subdivision, even though it might serve the subdivision. An easement document was associated with it. An easement wasn't needed on lot 5 since you don't need an easement on your own lot. Janet asked if you'd need it across Brewer Lake Trail. Marc said only as pertained to tract A, because the ownership of lot 5 extended down to the roadway itself. Bob checked if there were pipes that ran

from the well to tract 5 that it would run across tract A. LaDana noted that tract A was out of the subdivision so it was an offsite easement. Marc added that it was typically handled by an 8 ½ x 11 easement document with an auxiliary attached to that. It didn't file on the subdivision plat because the plat didn't have the ability to put the easement on the tract of land that wasn't part of the subdivision.

LaDana entered into the road section. Bob asked how the Board should interpret no comment from the Lake County Road Supervisor. LaDana noted that comment wasn't always received. The developer did request comments in a timely manner. Bob outlined that he'd spoken to the road supervisor in the past about receiving comments. He felt the Commissioners should know that when the Board doesn't get a comment, they don't know how to interpret that. He asked if there was a consensus that the Board felt that way, that they'd like to have comment. There were some significant road issues and approach issues in this subdivision. He questioned why there was no comment by a paid official. John agreed. Marc mentioned that experience taught the developers not to badger these folks. They would make a request and do a follow-up call. Steve agreed with Bob and John. The Board needed the advice of experts. Marc observed that with recent subdivisions he's worked on that have not yet come to the Board, he noticed that the Road Supervisor got involved and participated more actively. Steve wondered if the Road Supervisor reviewed it but hadn't written down and passed on the information. Bob thought this was the third time the Board had voiced concerns. He charged the planners with conveying the concern to the Commissioners. The Board would like something from the Road Supervisor, even if he's reviewed it and there's no problem. When the Board saw no comment, they weren't sure what that meant.

The discussion returned to Old Hwy 93. Janet said that farm access roads were permitted on Hwy 93. If the type of use was to change, they needed to go through an access review committee. LaDana described that this approach was the approved approach for the subdivision. She received MDT comments from both James Freyholtz and Ken Lambeth. James Freyholtz, the Kalispell traffic engineer, indicated that the developer would need to complete the approach permitting process for a change in use for the existing approach. Ken Lambeth indicated that this was the designated approach, and there was nothing they needed to do. She thought they would definitely need comments from MDT prior to recording the final plat to make sure of what they needed to do, since the letters were inconsistent. What did the developers really need to do? The planners would need to make sure any requirements from MDT are met prior to filing the final plat. Janet said there was an approved access management plan for Hwy 93. The Tribes were a party to that. She wanted to make sure that the plan was being upheld by MDT. That was what James Freyholtz was speaking to.

LaDana took up discussion of Brewer Lake Trail. She mentioned a number of subdivisions and lots that might find the roads convenient to use, or have existing easement agreements to use the roadway. The developer was requesting a variance to the road design standards. Potentially there might be a significant number of users on the road since easement agreements have been granted. The variance was for a 12-foot wide chip sealed driving surface with 2-foot wide gravel shoulders. The reason for the variance request wasn't clear. There didn't appear to be issues with the physical surroundings, shape or topographic conditions which would warrant the need for the variance. As observed by staff, sufficient conditions were present within the subdivision

to allow for a roadway to be built to the required standards outlined in the subdivision regulations. She mentioned the existing and proposed road maintenance documents. Covenants for Phase I also talked about road maintenance. It seemed like there were a lot of users who weren't maintaining the road who would potentially be using the road. She wasn't sure how to deal with that.

Steve asked if the easement for the Black Lake Ranch subdivision use was granted prior to the new highway. LaDana thought it was in the early 70's. Joel agreed. Steve thought a road that connected with Black Lake Estates [Ranch] across the new Hwy 93. At the time of Black Lake Estates [Ranch], the new highway wasn't there, so that road continued on and gave access to what was now the Old Hwy. There was probably no reason that Black Lake Estates [Ranch] would still need access to the Old Hwy down Brewer Lake Trail. Marc said there was one instance where they could. He understood Steve to say that the new Hwy reduced the amount of traffic loading that would have been on Brewer Lake Trail, and he agreed. The one instance to which he now referred was that there was a lake access lot he indicated on the map that was lake access for Black Lake [Ranch]. They would need to come down through there to get to it. It was a very small access point. He couldn't say what the actual usage was. It was pretty narrow, and a lot of people had the right to [inaudible]. Steve thought the number of people who were allowed to share that road might make a difference when they got into the road width and the variance requested. Marc thought one of the rationales driving the variance request was the desire of the applicant to not build such a road that the general population would start using it as a crossroad from old to new [highway]. Other people who didn't necessarily have an easement right might start using it if it were built to a high standard. That would burden the lots within the subdivision with maintenance of the roadway. Also by keeping the standard as it was now, it used a standard that had been there for a very long time. No one had narrowed the road since Black Lake [Ranch] was using this as a primary access. It would tend to slow the traffic as well as hopefully reduce the non-easement traffic by the general public.

LaDana dove into the water supply section, including info about DEQ approvals and some arsenic information from a 2008 arsenic study. On lot 9, it wasn't clear if one of the wells was proposed or existing. LaDana reported that she spoke with Susan Brueggeman about the testing. This was something that would be reviewed by DEQ when the subdivision went to review. Environmental Health was well aware of the arsenic in the area and also in the wells on this subdivision property. This would be reviewed when the subdivision went through DEQ review. Steve assumed there was no information on the tract A well because it was offsite, but it also said that lot 5 would use that well. LaDana explained that wasn't an existing facility, so it was discussed in the proposed facilities section below.

Steve asked about the well for which the easement from lot A was discussed. LaDana thought information was included in the subdivision packet but may not have been directly addressed in the Staff Report. Lots 7 and 8 were proposed to have wells, so there was no information because they were proposed. Lot 5 would be the well shared with tract A. Tract A had a DEQ approval on it, which said that the well was for single-family residential use and didn't address being a shared well. It appeared there should have been some rewrite before the easement document was recorded. That hadn't occurred. LaDana relayed from a conversation with Susan Brueggeman that tract A would have to have a rewrite to allow for the shared use with lot 5. Steve checked

that they would learn about that well in terms of whether or not it was adequate to handle two residences, and arsenic-wise.

Regarding the next meeting on this item, Bob asked how much weight they needed to put on questioning the well situation, considering that DEQ would be reviewing it. LaDana didn't think this Board needed to spend a lot of time on it. She wanted to point out the issues with so the Board would know those. The subdivision had some major hurdles on the environmental health side, with water and wastewater for these small lots in an area with limited water. Marc asked about the well on lot 9 that was intended for irrigation use only. Was this from a DEQ or a DNRC document? LaDana replied it was from a COSA (Certificate of Subdivision Approval) document for tract A and tract B. They did this because so many wells were drilled looking for water. She referred to the comment letter from Mary Turk, who questioned the number of wells drilled on the property. When they went through DEQ review, they had to designate which well would be serving a lot. Each lot had a well designated for domestic use. It looked like they took the other wells and designated those for irrigation use. Steve checked that the wells were drilled before this subdivision. Marc recalled issues with the last review on the 3-lot phase I having to do with water availability, where other wells had to be drilled in order to provide enough evidence to DEQ to go forward with the subdivision.

LaDana referred to #4 on water rights. It tied to the irrigation easement items previously discussed. She wasn't entirely clear on how that worked out. There wasn't a lot of information on water rights included in the packet. Bob asked why the developer wasn't transferring the water rights. He thought the report covered more of this on pg. 16. Marc offered to carry the question back to the applicant.

LaDana continued onward through the report. Regarding the information on covenants in section R, she highlighted various covenants and inconsistencies, and the creation of lots that potentially didn't comply with items in existing covenants. This would be a good time for the developer to clean up some of the inconsistencies so the future lot owners would know what they were buying into. Steve and LaDana noted that the last word in the third line from the bottom of pg. 16 was intended to be 'adjustment' rather than 'adjacent'. Steve asked more about the covenants. LaDana clarified which covenants in the staff report were the ones currently proposed and which were the ones recorded from the last subdivision. The ones from the last subdivision had items addressing phase I and phase II, but phase II didn't happen, nor did lot 4, so there were inconsistencies in that version right now. There was another version of covenants from Black Lake Ranch, which had other inconsistencies. Steve confirmed with LaDana that the lot currently proposed for subdivision was one of the lots from Black Lake Ranch.

LaDana delved into the next sections. Steve asked about the covenant in Black Lake Estates that said no one could subdivide the lots. LaDana said it looked like the people weren't enforcing their own covenants. Those were private covenants and she didn't know that it was something that that Lake County wanted to interpret. She did want to point out to the developer there were these issues with it and he might want to address them. Marc asked if all the land was part of the Black Lake Ranch. He knew the extreme northwest corner was where the boundary line adjustment occurred. LaDana said it looked like it was part of lots 1 and 2.

LaDana touched on the public comment letters that were received from Mary Turk and Karl Beznoska. In reference to Karl Beznoska's letter, Marc didn't think this subdivision was involved with the lakeshore lot. LaDana thought they'd look at that lot more prior to the next meeting in order to provide some insight into it. Steve said if this lot was one of the Black Lake Estate [Ranch] lots, and the subdivision had access rights, it was a legitimate question for the neighbor. Marc agreed that it was something that they definitely needed to look into. LaDana encouraged that, and described some research difficulties. It would be nice if an attorney would look at the other documents that were out there, and let them know which documents were associated with this subdivision and which were not. Then when it came back to the Board, they could make a decision on the subdivision based on accurate information.

John asked if this subdivision might stand on its own as far as the subdivision regulations went, but the future lot owners might need to be notified that they might have some issues with covenants in nearby subdivisions. [The County] couldn't control or enforce covenants, but the covenants might be a problem. Since the county knew there were conflicts, he felt a responsibility to at least notify the future lot owners. LaDana said it looked like the lot owners potentially weren't enforcing their own covenants currently. Black Lake Ranch didn't go through subdivision review by the County, although the Commissioners co-signed it.

Bob asked for clarification about capital facilities on pg. 8, under the second arrow. Joel said those were the public facilities, the public road. LaDana added that this section #6 were items located in the subdivision regulations that would apply to the subdivision. Bob asked under the bulleted option 1 about the subdivision access by a substandard county-maintained road. LaDana said this referred to Old Hwy 93. Bob asked where it was stated that Old Hwy 93 was substandard. LaDana replied that they didn't have comments from Larry. Bob noted that the 2<sup>nd</sup> option on pg. 9 was generally applied to minor subdivisions. LaDana detailed that option 2 was the condition where they would waive the right to protest the rural improvement district. In this case the subdivision would create 6 lots. It was technically a major subdivision, but would there be a major impact to the roadways as compared to, say, 70 lots? It seemed reasonable that they would probably go with option 2 in this case. Marc agreed. The two subdivisions he recalled where capital improvement had been paid to the county were very large, on the order of 80 and 60 units.

Bob suggested that they briefly discuss the variances. He thought variance #1 that dealt with the setback on lot #10 could pretty much go away. Steve thought the developer should come back either with the house moved or else a good reason why he couldn't move it. Bob described variance #2 as the landscape buffer pertaining to lots 9 and 10. It didn't seem out of the question. Marc thought a profile would show that given the location of the road edge and the slope, you really couldn't see. LaDana didn't know that the buffer would help something beyond meeting the requirements of the regulations. Bob asked if the Board thought that variance would likely fly. Marc added there was also a water requirement to establish a buffer, and the water availability might factor in as a good rationale to not do [a buffer].

Bob opened discussion on variance #3, which was the 12-foot wide Brewer Lake Trail versus the 20-foot, which Shawn thought would help control the speed there. LaDana added that it was a 16-foot road they proposed, if you included the shoulders. Steve checked whether or not the 20-

foot road included the shoulders. LaDana and Joel said it didn't. Steve was skeptical of the reason for pursuing the variance that was given in section b in the letter [from Rowland Environmental dated 7/12/11 in the staff report]. He read the last sentence: 'Traffic from both roadways would try to utilize the new roadway due to its convenience and because the approach at Hwy 93 is safer and more accessible than the existing approach in Dayton.' The existing approach into Dayton was the Lake Mary Ronan Hwy, with a flashing light. He thought it was a pretty safe approach. Steve referred to the people from the other side of the highway who might want to use this road for lake access. That made more sense to him, but it wasn't mentioned.

Regarding the road coming out of Dayton that came through the cut, Sigurd explained that it was actually very difficult to see. He knew of people who would try to find other roads, because they couldn't see. Steve said if you were coming from the south on this road now, you came over the hill and past the pullout. The turnout was down the hill, before you got to the winery. He asked if this was more visible. Sigurd said you really didn't know it was there. It was used so little at this time. Marc thought the approach was built by DOT as part of the negotiations for the acquisition of the right-of-way from the Brewer family. It was built in such a manner that you had to have your eye peeled for it and not mistake it for a pullout. As you came up out of this division onto that, it was a pretty good approach, with pretty good sight distance.

Janet explained that she didn't like to see roads narrowed. Once the lots were sold, it was very difficult for people to come up with the money to maintain those roads. Potholes start forming on the edge of the pavement. Twelve feet wasn't a lot of room for two vehicles to pass, and you'd be getting onto a gravel shoulder. It could cause problems. She thought it should be signed as a private road, which might deter some people.

John said if you were relying on the argument that making a larger road would attract more use, he needed more than an opinion on that. Marc said it was difficult to quantify trespass. Lisa suggested they could provide information on who it would benefit, how many neighbors across the road would benefit, what would they be going down there for, just for an idea. Bob mentioned there were homes on the Meekers Da-Ha-Ma Villa sites. If those people wanted to get on Hwy 93, would the shortest distance be on Brewer Lake Trail? Marc said people usually took the path of least resistance. If it were a large road, there wasn't much resistance. Typically, if it was a less than large road, then it's slower and not as inviting. He thought the road was currently locked or chained. Bob felt he'd probably vote against this variance at this point.

Bob thought the water issue was big, but this Board would probably not have much to say about that. Marc reiterated that those comments would go to DEQ for review. Janet added that if DEQ didn't feel that former lot 4 could share a well with lot 5 because of the low yield, possibly lots 5 and 6 could be combined. She asked if the owner would consider taking out a lot. Marc said he would have to reconfigure, with a lesser density in some way. They would leave the Planning Board, if successful, with a condition to satisfy DEQ. If they were unable to satisfy DEQ, they would have to reconfigure the subdivision to do so. Typically it would be a reduction of density. With the review at this level of a higher density, it was not that big of an issue to drop one lot.

Bob clarified that one of the Board's charges was health and safety. He checked that DEQ would look at the 2000-gallon cisterns that Rocky Mountain Showers was going to fill. He

didn't think they'd think that it was a good idea to hire a private company to fill cisterns out there, in case they went out of business or something went wrong. Joel said there were rules in the State that addressed cisterns. It was probably more common on the east side of the state.

A brief break occurred.

**LAKESHORE REGULATIONS UPDATE** (continued from 1/11/12) (8:28)

Joel recalled that the discussion at the previous meeting had bounced around quite a bit. He pointed towards C.3 as a starting place for tonight. He noted this section would probably be revisited at least one more time. They would probably make revisions to outline standards for a conforming buffer or conforming lakeshore protection zone in regards to vegetation. There'd be certain permit requirements and standards that you'd need to adhere to if you had a conforming buffer. If the buffer didn't conform, you'd be subject to other standards and potentially permit requirements.

Some people mentioned they would like another copy of the vegetation management section itself, and copies were made and provided. Meanwhile, Steve commented that C.4 had been discussed, and they'd changed 'two thirds' to 'one third'.

Christi brought up a philosophical comment that these were really specific and could in some ways be more of a guideline than a standard. She was in favor of having a vegetation management plan guideline. It might be a long-term goal to have a more robust standard. She thought to get people to start doing the right thing, it might be better to have a guideline. The guideline might be how to develop a vegetation management plan that would be acceptable. The group also had talked about a sediment erosion control plan.

Steve thought they should look at this as 20 feet plus or minus from high water mark, except on the reservation, and it was probably part of a buffer. The only thing they could control was the 20 feet that was part of the buffer. Christi said it would be great to encourage a 100-foot buffer, but if they said here's your 20-foot buffer, that could backfire in the long run for water quality if more people wanted to have their impervious surfaces and development right up to that 20 feet. She had done site visits where people caringly said how they carefully followed the regulations, where they had a lot of impervious surface coverage right up to 20 feet. Then they had a natural buffer. These people were doing what they thought was the right thing, and they followed the regulations, but it probably wasn't good for water quality.

They had a 20-foot lakeshore protection zone to work with. She didn't know if increasing the buffer to a more realistic buffer for water quality would be a long-term goal for the future. She referred to a wide variety of buffer widths for positively affecting water quality, from a minimum of 12-feet with lots of bioengineering to 100 feet, based on different things. These included different goals, like wildlife or noise reduction.

Bob asked how she would propose to do that. Christi described that there was section A for policy and section B for allowances. She thought it was important to say what kind of allowances or alternations may be allowed. A third section for the vegetation management requirements or vegetation management and maintenance plan instead of general requirements

might simplify it. That would be a guidance document where the standards would go. She understood that a guideline wasn't as good as a regulation; on the other hand, it might be simpler and more enforceable and easier to get people to actually want to do the right thing.

Bob checked that they just assumed people knew the lakeshore protection zone was 20 feet. It wasn't stated in this policy section. They could say somewhere in the policy for this section that the zone was 20 feet, but the more that was protected, the better the quality. Christi wasn't sure the County would consider redefining the lakeshore protection zone as a greater width; there was substantial improvements shown in the data for 30 feet compared to 20 feet. People at the state had done research, such as Linda Saul, and they recommended 30 feet.

Steve mentioned some zoning district regulations such as Upper West Shore and Finley Point discuss buffer zones. He thought state law allowed the counties to write lakeshore protection regulations for the plus or minus 20 feet area. Joel said some statutes authorized the county to extend it with a study, with scientific data.

Bob thought they were getting the cart before the horse. Christi said that could be the long-term. How would the landowner know if cutting out a tree would need a permit? How would staff go on site for that and pay for that? A guidance document might be more appropriate in some cases. There was room for standards. One would potentially be using native plants. The county might not specify exactly what that looked like, but could provide a guidance document. Lisa suggested wording it as a minimum of 20 feet, to lead people to believe that more was better. Bob confirmed with Christi that she suggested this would be in the policy statement.

LaDana referred back to the concept on which Joel spoke at the beginning. Joel described having standards that would outline the minimum standards for a conforming lakeshore protection zone with regards to vegetation. If you had a conforming lakeshore protection zone, there were certain things you could do without a permit. That might be cutting down a tree, if it still remained an intact buffer, and vegetation maintenance that could be done with or without a permit. When you didn't have a conforming buffer, if you took out a tree or removed vegetation, you would have to replace it.

Christi asked if it could be called a vegetated zone rather than a buffer. Joel answered that for the purposes of this conversation to not be afraid of the term buffer. They were talking about the lakeshore protection zone and the common word was buffer, and the jurisdictional area of 20 feet. There had been no direction from the Commissioners or Board to extend it beyond 20 feet. He knew there was a section [of code] that allowed them to extend the distance of the lakeshore protection zone.

If it were under the policy, Bob asked about adding a sentence to the end of the first paragraph to say something about the larger the protection zone, the better the lake quality. It wasn't requiring it, but suggesting the thought. LaDana suggested putting that in the note boxes that Joel mentioned at the last meeting. It might stand out more. A murmur of agreement arose. Christi reminded that there were goals beyond water quality.

Karl thought it might bring up some jurisdictional issues if they defined a conforming buffer as being 30 feet, and they could only administer for the 20 feet. If it didn't conform for the entire 30 feet, they could require something different within their jurisdiction. So the rules might be different within the 20 feet they administer, depending on whether or not the 30 feet conformed. Bob agreed with Karl that the planners needed to discuss that. Lisa said it sounded good.

Christi returned to science and action storm events. The buffer width needed to be wider for a heavy rainfall. For intermittent storms, the buffer could protect water quality. There were buffer design tools to take into account probable and actual storm events for a site, taking slope, substrate, soils, impervious surface coverage and so forth into account. She didn't know how the county would be able to come up with criteria for a buffer standard that could account for all these factors including storm events. Bob noted there would always be storm events. Bob checked with Christi that she was saying they could provide suggestions. Christi said she brought examples of what some counties had done where they provided the vegetation section on the application form. People were more likely to read the application form than the standards. These would still be referred to in the standards.

In section D of the draft, Christi suggested changing 'removed or destroyed' to 'altered or removed'. Steve recalled the discussion regarding 'native' and reminded to be consistent on that.

Christi recalled that they discussed moving section E to the Policy section. Joel suggested that some of the language about the Conversation District, Extension Office and Plant Society could be purged and put into the tips or a box on the side.

LaDana explained that the reasoning for section F was that some places along the lake had poor soil. Soil might need to be brought in for planting, and would need to be secured so it didn't wash into the lake. Steve checked about mentioning BMP's and LaDana pointed out where those were mentioned. Christi checked about including a note that straw should be certified weed-free. LaDana said weed-free soil had been mentioned above for the soil. Christi added that BMP's should be implemented on slopes to prevent soil or mulch from sloughing off. She scratched out the end of section F, so the last sentence read, "If mulches are used, they must be of a sufficient size to be held in place." Steve thought this looked like another place where the BMP's that might be required would depend on variations in the vegetation plan. Did they want to make a comment that the BMP's or methods required would depend on the revegetation plan? Section K talked about a vegetation design plan. Did they want to mention that in some of the other sections? LaDana said they could see how it fit together.

With section G, LaDana said that new plants might need to be watered in order to establish them. They didn't want new sprinkler systems installed in the lakeshore protection zone. To minimize the impact of watering, the thought was to do it by hand or to use soaker hoses. Steve asked if the meaning of sprinkler systems was clear. Janet suggested calling it a permanent system. Christi had the idea that the spray head could be a problem as well as buried systems. Drip line might be added after soaker hoses. LaDana replied that in the Whitefish regulations, they talked about drip line but those had to be buried. She didn't want people to bury systems. Those also got clogged and people needed to replace them. She thought the least minimal impact was to bring a hose or use a soaker hose.

Bob thought the last sentence of section G was too specific. They didn't want an installed or permanent system. Janet thought they could refer to those as permanent system. Christi said you wanted to avoid the hoses that go tch-tch-tch-tch-tch-tch-tch. Steve asked what the difference was between those and standing there with a hose spraying. The concern with sprinklers seemed to be that people would set them up and forget about them. Bob summarized that if someone was trying to establish some native plants in the lakeshore protection zone and wanted to go on a two-week vacation, they would need to get someone to water it or they would have to put a soaker hose on a timer.

John thought the last three lines of section G should be removed. It would be better in a how-to-do-it box. If the first sentence ended after 'the establishment of new vegetation', that would do it. Watering was limited to starting new vegetation or periods of drought. Steve asked if it should be stated that automated sprinkling system often produced too much irrigation and would wash into the lake. LaDana thought that belonged in a tip box, rather than with a regulation. Lisa pointed out they'd just crossed that out in the previous section. Less was more. Christi said that instead of 'are allowed' it could be 'are limited to watering required for the establishment of new vegetation' and end it there. Otherwise, some would interpret summer as a period of drought, and some would interpret it as okay to water their lawn all summer.

The group mowed through section H to section I. Christi suggested adding fungicides by referral to section J. Steve asked for clarification on prior to which lakeshore regulations a grandfathered lawn had to be established. Joel thought it would have to be prior to these regulations. Lawns weren't [currently] prohibited per se. John mentioned the list of prohibited treatments were listed in section J and perhaps they didn't needed to be listed in section I as well.

For J, LaDana described that sometimes a weed infestation would be so severe they would need treatment. In the lakeshore protection zone, if a situation occurred where it would be better to treat the weeds than to use some other method such as using a machine to dig them up, the regulations needed to allow for a variance in an extreme case. It would have to be very controlled, with a licensed person doing this with an approved plan. The planners had seen such instances. Christi checked if this applied to off the reservation below the high water mark. LaDana said they weren't thinking of something in the water. Christi suggested adding 'terrestrial'. Mike said a treatment plan was only a part of a weed management plan. To be successful, you had to kill the bad stuff and have a plan to replace it with good stuff. Instead of saying a treatment plan, it could say a minimum of weed management plan would be required to be developed. It could involve mechanical means of removal, spraying and reseeding and replacement. If you had a plan to replace the weeds with something desirable, you would be a lot more successful.

Christi checked that all of these things such as the weed management plan and treatment plan were part of the vegetation maintenance or vegetation management plan. She wondered if you could kill someone with too many plans. Steve thought people might choose to live with the weeds or not get a permit. Mike felt it implied here that by saying a licensed applicator, you wanted someone who knew what they were doing, but it didn't mean that. He was a licensed applicator; there was no formal training. LaDana intended it would do something like go

through the local weed district. They could write that in if that was what the group would like it to do. Mike further explained the licensed applicators often were doing lawns. John asked who was to create the treatment plan. Mike referred again to the implication of using a licensed applicator, when the majority might not be not educated [on lakeshore]. Janet asked if they needed to say that the chemicals had to be approved for use near a water body. Christi thought that was good to say.

The group revisited section K. Joel recalled that at the last meeting, they talked about consolidating [the design plan and the protection plan] and being specific about when they were required. This would be a vegetation management plan. Steve said there were erosion control devices and BMP's both listed. Were both needed there? Christi supported having one vegetation and erosion control plan (VEC) or sediment, erosion and vegetation plan (SEV). The BMP's would be a component under each section. She thought they could incorporate a lot of what they already discussed into section K. Steve commented that earlier Christi didn't like the use of the term 'devices' here. Christi agreed. Bob noted that 'disturb or destroy' had been changed to 'alter' in an earlier section. Steve said the wording would need to be consistent throughout the whole document. LaDana reminded not to get hung up on the words right now, since this would come back in an altered form.

LaDana turned to the 'Note' section on the last page and potential items to add to section 3-6, which was previously reviewed, regarding construction or activities not allowed in the lakeshore protection zone. She asked if the group had thoughts on this. Christi thought the last one had been done. She agreed about new orchards and new lawns, and with some reservations she agreed on rain gardens. Steve asked what section 3-6 was. LaDana said it was a list of constructions or activities that were not allowed in the lakeshore protection zone. Steve checked that it occurred earlier in the lakeshore protection document than tonight's chapter. LaDana confirmed.

Christi thought the rain garden item might be a little tricky. In the upcoming demonstration buffer, there would be a ponded area. It wasn't a rain garden. They would be using plants that could be drought-resistant but also water loving. These were the same plants that could go in a rain garden. People might look at the plants and think 'rain garden'. Steve asked about adding a definition of rain garden. LaDana said she'd added a working definition. Christi thought the purpose for not allowing rain gardens was to avoid stormwater treatment. LaDana pointed out they wanted native vegetation out there, rather than rain gardens and flower gardens and non-native vegetation. Christi said that the garden in the demonstration buffer would be native plants, although they weren't calling it a rain garden. LaDana understood. Christi said they didn't want people channeling their stormwater into the lakeshore protection zone. Christi and LaDana discussed this further, including discussion that a garden that was not a rain garden was one that wasn't connected to a downspout or something like that. They didn't want a rain garden where gutters headed to it. Steve pointed out the reason to have people vegetate the lakeshore protection zone was to treat stormwater. Christi said they didn't want channeled water. They could have overland flow, but they didn't want a downspout going into the lakeshore protection.

Robert thought the description of the demonstration buffer sounded, ecologically speaking, like the flushing of a wetland, and asked if she disagreed. Christi detailed that it would be a

demonstration buffer of only 30 feet. There was a ponded area that was there naturally already, probably a spring or a seep. LaDana reiterated it was there naturally. It wasn't being created so water would drain to there, which was what they didn't want people to create. Christi said they wanted to avoid creation of a [inaudible] area or a stormwater treatment area or channeling or funneling water to an area. Rain gardens were actually good. LaDana suggested someone could potentially ask for a variance. It seemed like it might be appropriate to grant a variance for it. The area was naturally wet. Christi gave another example where it might be useful if the roof overhang was exactly 20 feet from the lake. That situation would be better with a rain garden than without. Steve suggested saying development of lakeshore property that required some stormwater management must be done outside of the lakeshore protection area. Joel said they would work with it.

Christi returned to the new definitions to consider. She found both of them confusing. LaDana said this went back to the plan, which would now be called the vegetation management plan, so they needed a definition for vegetation management plan. Joel added it would address existing vegetation to be preserved and/or removed and new vegetation. Christi suggested rewording within that definition where it said 'that is required to be developed if...' so maybe reword that sentence to be 'a plan required if all or a portion of the existing lakeshore protection zone vegetation will be affected by proposed work or alteration.'

Robert relayed a comment from Jerry d'Aquin, who suggested adding a purpose section or some sort of mission statement to the document to the vegetation section, beyond the policy statement. Joel thought they'd done both a policy section and a purpose section in the Best Management Practice section. John mentioned that sometimes that could be clarifying, to refer back to what we were trying to accomplish here type of statement.

Bob asked where things were at with the lakeshore regulations update. Joel said they were pretty much through it. They'd have to put together a full document, and there were some gaps to fill. The next thing would be an entire document to work with. There might be a couple of sections like this one where they might return to the Board with just that section before they came back with a full document.

### **OTHER BUSINESS**

Christi mentioned an April stormwater conference in Kalispell, including the availability of scholarships through the Flathead Lakers, and shared a brochure. Lisa and Joel touched upon state statutes and Board appointments. Bob noted the water rights for next month's subdivision that weren't going to be transferred to the subdivision might be a sticking point where there would be questions to mention to the owner or agent. LaDana explained in response to Lisa's question that Marc was the surveyor on the subdivision, and Shawn Rowland was actually representing RJ, the owner. Sigurd asked about Lake Mary Ronan. Joel said he'd made progress with drafting. They might address the mapping discrepancies first, and then deal with the text amendment.

**Motion made by Lisa Dumontier, and seconded by Janet Camel, to adjourn. Motion carried, all in favor.** Meeting adjourned at 9:36 pm.