

LAKE COUNTY PLANNING BOARD
March 12, 2014
Lake County Courthouse, Large Conference Room (Rm 316)
Meeting Minutes

MEMBERS PRESENT: Bob Kormann, John Fleming, Janet Camel, Steve Rosso, Jerry d'Aquin, Rick Cothorn, Roland Godan

STAFF PRESENT: LaDana Hintz, Robert Costa, Lita Fonda

Bob Kormann called the meeting to order at 7:01pm.

Two corrections were offered to pg. 1 of the minutes. The second motion made, on pg. 1 was corrected to Sigurd Jensen, and the spelling of Marc Carstens' name was corrected in the next to last paragraph. **Motion by John Fleming, and seconded by Rick Cothorn, to approve the February 12, 2014 meeting minutes as corrected. Motion carried, 7 in favor (Bob Kormann, John Fleming, Janet Camel, Steve Rosso, Jerry d'Aquin, Rick Cothorn, Roland Godan) and 2 abstentions (Steve Rosso and Janet Camel).**

MERRITT RANCH AREA ZONING DISTRICT AND REGULATIONS & DENSITY
MAP AMENDMENT (approx. 7:04 pm)

LaDana Hintz presented the staff report. (See attachments to minutes in the March 2014 meeting file for staff report.) She noted the Commissioner meeting for this item would be held on April 8 at 10:00 am.

Steve asked about the residential use for people to live in this zoning district. LaDana explained the proposed use was a retreat center. Part of the retreat center use was having the people living in the retreat center. There didn't need to be a discussion of residential use. It was like having a camp. Steve asked about building heights and exceptions stated on pg. 2 of the proposed regulations. He wondered if it was more appropriate to handle exceptions with variances, and if agricultural buildings were included in the definitions. LaDana thought the applicants could speak to this.

LaDana highlighted that this was more of a hands-off zoning district than what had been previously seen. It allowed the use that the applicants wanted. Planning staff knew they wanted to use this as a retreat center and didn't want to be trampling over that. Staff gave leeway so they didn't necessarily have to do a site visit. They could look at the plans and application materials and see if one was needed. She thought the applicants already had a site plan in mind for what they wanted to put on the site. There was set development in mind, so this wouldn't be like other zoning districts. If the Board felt it needed to be a little more defined, maybe this was something to work with. Steve wondered what would happen when property changed hands. LaDana replied the applicants could speak to their long term goal, which seemed to be to retain the property.

Bob asked whether staff would police the district. LaDana clarified the role that planners would take with zoning conformance applications. In this zoning district, the setbacks were to the outer

boundaries of the zoning district, not internal [parcel] boundaries. A zoning conformance permit would require a submission through the Planning Department, but staff would not necessarily go on a site visit for each application they saw in this district, unless staff felt there was a need or unless there was a variance.

Bob expressed concern about the access. The ranch was in one of the most remote places in the county. Both roads (Hwy 28 and Garcon) were rough in winter. The county road supervisor told him that after the storm a week ago on Friday, they didn't get plowed out until the following Thursday. That absolutely affected health and safety if there were no access. More people would live there than ever before on that piece of property. He thought it was wrong for the county to ignore that. He asked the applicants to address discussions held with the road supervisor about forming a maintenance district when the applicants spoke. He was concerned that if someone had been in distress out there last week, the only way to get to them was by helicopter or snowmobile. This had to be addressed. It affected everyone's safety and potentially their health. LaDana was unaware of details of the discussions with the road supervisor, although she knew the applicants had spoken with him. Bob asked the applicants to talk about the ranching activity, which was listed as happening on the east side of Garcon Road. The east side would be grazed down so the fire danger would be less. He was concerned about wildfire potential on the west side. When the applicants had their time to speak, he asked that they talk about the proposed fire station specifically.

Roland echoed Bob's fire concerns. He added the intangible infrastructure load of this project on the county—fire, police, road—would have to be addressed. It was a constant issue with the fire department strapped for funds and equipment as it was. This created a whole new small village within the county but on the other side.

Janet said her concern was water supply. She noted Dennis Clairmont's concern about the springs drying up and that this was one of the only water sources for wildlife as well as livestock in the area. She asked what the plans were for water storage and if they were going to do a pump test to make sure they weren't drawing down those springs, and what the provisions were for maintenance of the springs.

John echoed Bob's concerns about access and fire. He also wanted to hear that addressed. He checked with staff if the proposal complied with the density zoning map in the rest of the county. LaDana said they would have 2% coverage of the 8,900 acres, a minimal amount of coverage, so they could get the density they wanted in certain areas. Technically, they could develop each lot out there, but they wanted strategic areas developed. The rest would be open, natural, agricultural, timbered areas. John commented that one purpose of the density map was to ensure development happened where services could get to it more cheaply. He was concerned about the impact of putting people further away from fire protection, police protection and so forth.

Steve asked what permitting would be needed for a retreat center without the creation of the zoning district. LaDana said they would need to get sanitation permits. Steve asked if the number of single-family residences per parcel entered into these decisions, if they were going to build a facility to house 100 people on one parcel. LaDana said they couldn't get what they wanted to fit without moving lot lines or doing weird things. They could potentially subdivide

and get what they wanted or do other things. That wasn't their intent. They wanted to leave large acreages there and leave it like it was.

Steve checked that if a new zoning district was approved, the applicants wouldn't have to come back to have a public hearing about the development, such that as a result, the issues normally handled through subdivision review would need to be answered now, before the zoning was approved. LaDana thought the applicants would be able to answer some of those questions. Steve thought this was then the opportunity to make sure the roads, fire, police and so forth handled, as they were unlikely to get another chance. LaDana reiterated that currently all those lots could be developed without input from the Board, and the county would have to provide services; no one would comment on it.

John asked if they were talking about a cluster development. In regular county zoning density, there was a concept of clustering where you put everything in one place and got more units. Did that make it more understandable or more comfortable for people? He had been looking at it as a cluster, but from what was said, they didn't need to cluster. LaDana said that technically they were clustering. The applicants would speak more to that. Based on what she'd heard, things would be clustered and the rest would be open.

Steve asked about the bullets [with property descriptions] on pages 2 through 4 of the reports. LaDana explained that [within each bullet] after every comma, that description represented a piece of property. It was broken into section, township and range, with each piece in that section, township and range listed. Steve asked how many parcels there were. Nick Kaufman, agent for the application, mentioned 83 parcels. Steve summarized they could do 83 single-family homes, which was different for services than having a single facility with a large number of people clustered there.

Geoff Badenoch, representative for the applicant, introduced Pat Lawler from their board of directors and Nick Kaufman, agent for the applicant from WGM. He summarized background about the application. The property was purchased in 2009 with the express intention to develop a specialized Buddhist retreat facility. The vastness and remoteness of the former Merritt Ranch made it ideal for deep spiritual practice. Preservation of those qualities of vastness and remoteness underlay their developing plans. The Namchak Retreat Ranch sought to maintain that vastness and remoteness, rather than to diminish it through development. The rezoning request purposely and mindfully asked for restrictions and regulations on the development and use of their land. They were relinquishing their right to pursue many of the activities currently allowed on their property. They did not plan or intend to subdivide or sell off portions of the ranch, or lease portions of the ranch with the exceptions of grazing leases.

Geoff clarified that the ranching operations described in the application referred to the barns, sheds and so forth, which would be located east of Garcon Gulch Road. There would be ranching operations going on throughout the area of the ranch that had traditionally been grazed. He referred to the fire that went through there in a recent year. Their staff included a full-time soils expert/land management PhD and a wild land fire person, who had been a smokejumper for a number of years. The fire person cautioned them constantly on fire danger and advised them on what they needed to do to protect the land.

Geoff continued that the restrictions on their development plans would assure the Board, the neighbors and the Confederated Salish & Kootenai Tribe (CS&KT) that the rezoning they were requesting reflected the plans for the property. The Namchak Retreat Ranch would be a place where people came to study and practice Tibetan Buddhism. Those who came to study would stay for a weekend, a month or perhaps longer to study with their teachers and to practice what they learned. At the completion of their studies, they would leave to go home. The teaching would take place in a large central building. There would be dormitory-style housing, dining services, classrooms and administrative offices to support the retreat activities. In addition, they would have smaller buildings that would support the teaching function or be used by students practicing a deeper form of retreat that required more isolation. They would have the agricultural buildings to sustain the agricultural activities. They were not looking to convert anyone and they were not looking to encourage students to settle in the area or on their land. This was strictly a teaching center.

Geoff described that they were committed to maintaining an agricultural presence on the land with forestry, grazing and growing crops. Additionally, they were committed to a program of land stewardship that would express their care for the plants and animals as well as the land itself. They'd undertaken activities such as moving cattle away from riparian areas to help the land get restored. After the fire, they undertook a vigorous reseeding program so invasive weed species would not get a toehold. They've spent time, resources and care to take care of their land. This was a commitment into the future for them.

Geoff said staff would be integrated into the values of this special place and its purpose. This place was selected for its remoteness and its lack of development, where students could leave behind the busy-ness of their lives and focus on personal spiritual development. Their plans were in support of being able to offer this unique opportunity to serious practitioners of Buddhism.

Nick Kaufman spoke on the particulars of the proposals. The road was an issue they intended to address, and he would talk about that. He outlined time spend with Planning staff, looking at the property and regulations, and looking at understanding those for when you wanted to do something institutional, like a hospital, a small college or a retreat center. Another zoning district that allowed retreat centers was the East Shore zoning district, as a permitted use, which had been used as a model. He highlighted that they had been working with Polson Rural Fire Dept., both with John, who lived on the Irvine side and had 2 fire engines sitting in one of his machine shops as part of the Polson Rural Fire District, with Chief John Fairchild and with Randy Woods, who ran the Hot Springs Volunteer Dept. They talked with the people who ran the ambulances at the Hot Springs Fire Dept. They spoke with the Lake County Sheriff, Jay the Lake County Road Superintendent and Jeff the Road Superintendent for Sanders County. They [inaudible] a cooperative agreement between Lake County and Sanders County in terms of how some of that road maintenance and development happened on Garcon, on the Garcon side of the property. They posted the property in the required 5 places and made sure the signs stayed up. They also posted beyond the property, by Rex Merritt on the Irvine Flats side and by [inaudible] Road, which was close to the turnoff for Wild Horse Hot Springs. They went door-to-door to

talk with most of the neighbors about the zoning district, to answer questions, address concerns and explain what was going on.

Nick suggested they talk about this in a conversational way to answer questions. There was no intent to go around rules or regulations or to increase the density. Density didn't work well when you talked about institutional uses like a retreat center, or a hospital or a school. A shared value was that this was an agricultural area. The State and the Tribal ownership practiced forestry for years here. In talking with Planning staff about the rules and regulations, a lot of the regulations dealt with people who wanted to subdivide and develop property. These applicants had no intention of selling or developing the property. The highest values for them were the remoteness of the site and making sure health, safety and public welfare issues were addressed while they did that.

Nick observed that with 20-acre density, dividing 8,900 acres by 20 allowed about 450 [units]. He didn't think anyone wanted that. If they had an agricultural building with water to it, they'd need to create a parcel around that building of at least 20 acres. How many people with agricultural operations had a machine shed with water to the inside? He didn't think it was the intention of Lake County to have to create a 20-acre parcel to put around a machine shed with running water. That wasn't the intent, but that was how the regulations worked. The [zoning] regulations they proposed didn't give them anything beyond the current regulations. The [proposed] regulations did a couple of things. This put the intention of the property owners in writing. Each thing in the regulations was more restrictive than the density map. The reason they did this was the regulations defined what they said they were going to do, and held them to it.

Nick talked about agricultural uses. They didn't want a height restriction because agricultural buildings were part of the culture in Lake County. There were no height restrictions in the density map for agricultural buildings, and maintaining the rural character was important to them, so they left out a height restriction or restrictions on agricultural uses. They could certainly put them on if the Board wanted them to do so. With utilities, EPA power lines came down over the top of the property. That was a public utility. He didn't know the height; it was much higher than the 35 or 50 feet of the two districts proposed. Communication towers and facilities were public utilities that needed poles also. For fire protection, they might need a water tank. They'd like to be able to put up communication facilities that were common to emergency services, ranching operations and normal life, and also be able to have utilities without coming back to Lake County for a variance.

Nick talked about and read from the introduction of the application booklet (see the attachments to minutes in the March 2014 meeting file for applicant booklet), in section 1, pg.1. He mentioned that because the buildings happened in specific locations, they could make the roads the right grade, width and bearing capacity for the fire services and have the right turning radii, without building the miles and miles of road you would need to add a single-family home to each of the lots. This zoning prevented that, but the density map did not. The agricultural uses and the open spaces they proposed were critical.

Nick referred to the cluster of buildings they intended to have in the agricultural portion. A number of those buildings had plumbed water, which was the definition of a unit in the density map. He didn't think anyone wanted subdivision or a pie-shaped 20-acre parcel around each of the buildings in that cluster of agricultural uses to meet the 1 per 20 density requirement. The applicants just wanted a retreat center and to be able to continue agriculture and forestry. Nick pointed to section 4 of the applicants' booklet and the proposed regulations on pg. 1. (See the attachments to minutes in the March 2014 meeting file for applicant booklet, section 1, pg.1 of the applicants' booklet.) He read from the Purpose section on pg. 1.

Nick spoke about III. Applicability section on pg. 1 of the applicants' booklet, and proposed a wording change. The applicability part was to exclude lands owned by state, local or federal government and the CS&KT. It would read better if it the reference to CS&KT was moved to follow 'except lands owned by'. (I.e.: "The regulations shall apply to all lands within the District except lands owned by the Confederated Salish and Kootenai Tribes, the State...." He talked about other portions of the applicability section.

Nick continued through the proposed regulations. In permitted uses, regarding mining gravel and quarrying rock accessory to the construction of permitted uses, he described the location of an old gravel pit which Geoff pointed out on the map. They would apply for a permit and open the gravel pit as a resource for the road construction. Gravel was also needed for roads, and this was a resource site. It was not intended to be open forever. They proposed having this open during the construction of permitted uses during the construction period only. This would add a restriction [to the gravel pit] that they did not currently have. They also might quarry some solid rock in order to prepare the foundations for the buildings. That was also restricted to the construction period. He contrasted the proposed prohibited uses with the density map, where no land uses were permitted. He reiterated they were an institution (a retreat center) and they were not developers or subdividers. He touched upon the proposed space and bulk requirements, pointing out that the density map did not have these.

Nick moved to the map to point out and discuss features. He pointed out a portion where 6 or 7 buildings would happen. He showed the location of the spring about which the Tribe had concerns, and where cows grazed. The concern was for big game habitat. They did a survey of their vegetative types. Cows drank, trampled and grazed the riparian vegetation so for best practices, they fenced the cattle out of the riparian area to maintain the spring flows and bring back the riparian vegetation, especially the aspens. He showed and commented on an inventory map showing habitat. He indicated a side of the ranch for which they had no plans, and the area where most of the buildings would occur. He thought there were 23 or 24 existing lots on that side. They didn't care about the lots—they were a retreat. They wanted to cluster 6 or 7 buildings together. They would work with the Polson Fire District. He showed where the Polson and Hot Springs Volunteer Fire Depts. were located. John Fairchild (Polson Rural Fire) wanted to work with them on the ground level in terms of road design, buildings, turnarounds, radii, the structural capability of the road and road widths to make sure his fire equipment could get there. He was doing mutual aid with Randy Woods (Hot Spring Fire). He pointed out a portion for which they'd received a recommendation to annex a portion into the Polson Rural Fire District, so that was on their radar screen.

Rick asked whose jurisdiction the fire area was in currently. Nick pointed out where the Polson Rural Fire District was. If there was a fire in an unassigned area, they would call the County Commissioners for permission to respond to that fire. They didn't have structures there. In terms of wild land fires, it was Tribal fire protection/ suppression. It was the Hot Springs Volunteer Fire District except a little piece that he pointed out in the Polson Fire District. They didn't intend to have buildings up in that area. He pointed out where the fire trucks were, where John Clapp worked. The applicants' future consideration was to work with the fire districts so they could get the appropriate service there and make sure that they had this taken care of in terms of fire services when they got to the design stage. They proposed fire sprinklers in all of the buildings.

Nick returned to pg. 2 of the proposed regulations. Regarding the space and bulk requirements and building coverage, he thought less than 1/10 of 1% of the property would have buildings on it. If you set aside the portion of the property with slopes over 25% and looked at the remaining area, [the coverage] was still less than 2%. He touched on lighting and signs.

Definitions began on pg. 3 of the proposed regulations. He talked about the various definitions. He highlighted that they only wanted people to come back if it was for another retreat or practice. He emphasized that for the people who were there, they didn't want people having to drive back and forth.

The administration section began on pg. 6. They needed to get zoning conformance permits for new structures and for signage, and he spoke about that section of the regulations. They needed a permit for everything except for a modification to an existing building or sign. He pointed out specific features and mentioned discussions with service providers. He read the portion pertaining to site visits. He didn't have a problem if the Board changed that section; it was designed to meet the request of the Lake County Planning office. He continued through the proposed regulation section for Administration, X.I.C, highlighting that they met with John Fairchild (Polson), Randy Woods (Hot Springs) and Tribal Fire Protection, and the Lake County Sheriff. He reiterated if the Board wanted more site visits, this was the time to say so, although they might want to hear what Planning staff had to say on that. He pointed out the appeals and variance section.

Nick checked his notes and listed out some items he'd covered, in summary, and added some comments.

For access, he added the road on the Garcon roadside had supported logging trucks. There would need to be cooperative agreements between Lake County, Sanders County and the applicants to make sure that the road could structurally handle the construction period. He wasn't worried about the trip generations for the retreat. It would be small once the operations were up, at most 10 to 20 trips per day. Access would be from Hwy 28, not Irvine Flats, unless it was the choice of the person who wanted to go that way. He recommended seasonal warning signs at the top for the road conditions. The people who lived there knew there were times that you didn't go through Windy Gap. He didn't know that the County would want to maintain that. There's a good road that needs some help and work out the Garcon side.

The applicants had their own fire truck until someone stole it. It was a class 6 pumper truck on site until someone drove it off. They hadn't found it yet. They were sensitive about fire and fire protection. John [Clapp], the chairman of the Polson Rural Fire Dept., talked to them about potential cooperative agreements if the applicants bought fire apparatus [inaudible]. The single message Nick took away from the fire departments was that they were all about cooperation and working together. The applicants would work with them every step of the way in terms of designs as they move forward to make sure there was adequate fire protection and it was addressed.

The difference between the previous grazing of the ranch and what the applicants would be doing was that they would be using grazing animals as part of stewardship, along with trying to return some of the native vegetation, taking grazing out of the sensitive riparian areas and using grazing as a tool for fire protection.

Nick asked John F if his questions were answered. John thought so, although he wondered what the people whom the applicants spoke with had to say.

Nick reported that John Clapp, a neighbor of the ranch, was a volunteer fireman and the chairman of the board of directors for the Polson Volunteer Fire Dept. He knew their fire truck had been stolen. He wanted to be sure that as they did things on that side, the Polson Rural Fire Dept. would work with them. The applicants talked with him about the possibility to work with [the fire dept.] in terms of how [equipment] was acquired or maintained, or how it could be used. They talked with Chief Woods, who was also the Hot Springs mayor and might also own a business there. They were in his district, his tax [inaudible]. Lake County collected the money and sent it back to Sanders County. He was comfortable being able to service the area. The internal fire sprinklers were important to them, and access and emergency services. Chief Woods had an ambulance district and an ambulance, and his fire dept. also had an ambulance. He was going to get together with Lake County so they could be the first responders both for emergency medical services and for fire. They rolled on wild land fires, where everybody came together. They particularly watched for lightning strikes up there.

Nick relayed that the Sheriff was glad to see them, and did not raise specific concerns relative to the project. He was aware of the fire truck theft. He had the [project] information and there would be follow-up conversations with him.

Nick said that Chief Fairchild was gracious. Almost all of [these people] were surprised to see them. They tended to be surprised, then glad and then blunt. Chief Fairchild wanted to make sure they were aware that he wanted that annexed into the fire district at the appropriate time, and that the applicants started in advance to get that done, since he thought the timeframe was about a year. The Commissioners thought it would be two months. Nick thought the mutual aid agreements were already in place.

Regarding the neighbors, Nick said they were very gracious. They listened quietly, which was refreshing, and then they asked their questions. The Merritts' concern was dust on the road. The neighbors also understood private property rights. This wasn't about private property rights, though. This was about taking a piece of property that was remote and in solitude, agriculture

and forestry, and clustering buildings for a retreat center, and providing the appropriate services including accesses so it would work and fit with their neighbors.

Janet Camel wondered under prohibited uses, if commercial cell towers could be prohibited. She understood they might need to put in a small tower in for their purposes and utilities. Geoff said yes. Looking at the EPA towers was enough.

Janet asked if they could prohibit water development that would dry up natural springs or local wells. Her concern was Dennis Clairmont's issue with spring development and springs drying up. If they put 6 to 7 cabins in the one area, plus water storage for fire and sprinkling, she was concerned. She described a well near Hot Springs that [the Tribe] test-pumped and tried to get higher yields. It dried up the natural springs, so they didn't develop that well. Nick asked her for language. She suggested a prohibited use might be water development that dried up natural springs or local wells. Nick said there were two ways to answer that. One was the natural springs and wells they would affect were on their own property, if you looked at the basin. When you got to the Irvine Flats side, they were at the high end of the drainage. They didn't have an intention to develop that spring. Their intention was to make sure the cattle stayed out of that spring. Janet said they would have to drill a well to service the structures they planned to put up there. She was concerned they would drill a well and pump it to the extent that they could dry up the spring, depending on how much water was there and the hydrology of the area. Nick checked that her concern was that they demonstrate through hydrologic studies that use of water resources wouldn't dry up adjoining water wells or spring water that served adjoining properties. To that, Janet added spring water that wildlife currently used on that property.

Geoff understood how important water was, and that it wasn't something to take for granted. They spent money trying to understand their water resources and would probably spend more money to understand those. They wanted things to work in perpetuity; they didn't want themselves or anyone else to run out of water. He wanted to address Janet's concern by pledging that they would be doing the hydrological studies and they would understand their water before they developed it. He didn't know how to put that in a regulation. Janet referred back to prohibiting drying up springs currently used by wildlife, or something like that, when they did their test pumping and well development. Nick suggested they sit down and work on that, or hammer out language now that they could work with. Geoff thought they should work on it. He also wanted to bring in people who were expert at that to help craft the right language to address the concern. He didn't feel adequate to do a good job with that right here on the fly. He would be happy to talk with people who were experts in that. Nick suggested language to maintain adequate flows for wildlife in existing springs. Janet asked where he would put that language. Nick wasn't sure that it belonged in a zoning district. When they went through Lake County in terms of meeting the health department regulations and requirements, they would have to do that. Janet didn't necessarily agree. They were looking at providing water for the new development rather than protecting resources for wildlife when they went through health and sanitation. Nick asked if he could work on it during the meeting to come up with something. Janet agreed.

Roland noted the parcel was nearly 14 square miles. The ratio of development was small, but there was an impact that this would have for the two main communities on the east and west boundaries. He hadn't seen that addressed in a quantitative manner. There were models out

there that would articulate both economic and tangible physical impact to communities in the vicinity of a project of this size. He guessed the traffic count was small in relation to what would really happen. At peak operation, how many people would be in the facilities? Geoff replied that if they had all of the anticipated students, teachers and support staff there, the number estimated was about 250 to 260. That included the ranching operations and so forth. 260 was the number they'd been using. Roland checked for studies on the impact of that quantity of people matched with the type of curriculum and the historic traffic pattern. He was interested in knowing more about that for the decision process.

Roland asked about wanting people to come here but not wanting them to stay. Geoff explained that they wanted to create a facility where people could do a very specialized, deep spiritual practice. They weren't the chamber of commerce, a spa or a dude ranch. Their purpose was not to attract people to come live here. If they did their job right, people would come and get their training, and develop themselves and become better people, and go back and share that where they come from and with the people they lived with. Roland thought that didn't always happen, 100%. They might like the area. There was nothing wrong with that. Geoff agreed. People came for Mac Days, for fishing, for rodeos, for Glacier Park, for Big Mountain, and stayed. When they come to the retreat center, their look would be inward, working on themselves, their minds, the spiritual aspect of who they were. This wasn't a dude ranch, spa or resort. People would come and live an austere lifestyle, spend a lot of time in classrooms and in practice. It was not meant to be recreational.

Roland asked roughly how many landowners or homes bordered this property. Going from memory, Nick listed five neighbors on the east side and four neighbors on the west side. Roland concluded it wasn't dozens. He asked about access for the two 40-acre parcels that were contiguous only in that corners touched. Nick said they worked cooperatively with the adjoining property owners. He gave an example of the neighbor's buffalo who visited at unexpected times. They'd give the neighbor a call and help him bring the buffalo back to his place. He gave other examples. New fences were created since the fire. He wasn't sure how that worked, but he knew it was done in cooperation in talking with all the landowners. He'd sat in on some of the meetings. He read the review criteria section on pg. 7 in the proposed regulations. If there was something else they needed to do, he asked the Board to work with them so they could address it. They were choosing to put on restrictions. If they needed others, they wanted to get them in there. Roland heard sincere and honest promises. His concern was 50 years from now, the people who occupied the property might see things differently. The intent with height restrictions and so forth was to protect the area in the county in the long run. Once you waive restrictions, it was very hard to get them back down the road. He thought it was better to have restrictions in place and request variances, to help the land stay where they wanted it to be in the long run.

Bob asked about the conversations with road supervisors in both counties. Nick said the first conversation was about a year ago. They talked about the roads and how they worked. Nick asked if Bob wanted him to go into road construction and some ideas on drainage and grade. He talked with the road supervisors about their concerns for the road and how they could work together in the future. They talked about the gravel resource to be developed to see if there was a way it worked for them, and about the potential for a maintenance district. This was a zoning

regulation because they were in the planning stages of something. It wasn't planning and development where he could say where the commercial and the multi-family would go and how it would be sold and how many trips to the store. This was about wide-open zoning. They could change around the 83 parcels and create a bunch of new 20-acre parcel for the few buildings proposed, but that didn't seem appropriate. He thought it was appropriate to understand the values there now that might not be reflected by the density map, and try to get those values memorialized, and put the regulations in place to make sure that what they're talking about was what they did. That was what they were trying to do here.

Bob specified that his concern with the roads was emergency access in bad weather. If the center was going last week and someone had a heart attack, the roads weren't plowed and there was no way to get in there. How did they address that? Nick thought there were lots of places also trying to address that, inside and outside cities. Bob asked what would happen if you had 260 people there and you had a catastrophe, like a big fire. Nick said they'd have the best plan in place to keep that road open for a snow event or snow drift or whatever. Except seasonally because of Windy Gap, there were 2 ways in and out. Bob reported the road supervisor told him yesterday that was the last place that got plowed in the county. Nick said that was the last place that got plowed now. What would it be with a different owner, and 83 residential homes, at 3 people per home? He didn't want to make the situation worse than it was. When they started to occupy, that was when more services would be provided. They would work with [people] to make sure those services were provided, whether [the applicants] provided the resources and facilities to do that or whether they contributed to it. There was absolutely a problem. Bob said he didn't want to see that get dropped if this got approved. Then everyone lost. Nick referred to 4, 5 and 6 on pg. 7. Those dealt with legal access, Lake County Sheriff and the fire services. If there was wording to change to be more absolute, they could discuss this. He appreciated the values of the different perspectives of the Board members.

Bob asked what was involved in putting together a maintenance district. Nick said you looked at what the intended [patches] or improvements would be. For this particular one, you might want to look at some road improvements. Then you would look at fair and equitable distribution of those maintenance costs to people generating the traffic or use relative to the ambient traffic or use that happened in the area. Then you'd come to a mutual agreement on how that would work and what the compensation would be. Bob checked that if the gravel source was developed, they would sell the gravel to the county. Nick said if you were in roads or contracting, gravel was as valuable as cash. The biggest value added to gravel was when you hauled it from where you dug it to where you were going to use it. Given the historic location of the gravel pit, this was a resource that could come to bear in working with counties to make sure that fair impact and fair compensation were arrived at.

Bob checked about the reference to grazing on the east side that was in pg. 3 of the introduction section. Nick explained that this referred to the ranch headquarters. Ranch operations were the grouping of buildings that dealt with agriculture and stewardship associated with agriculture. He showed two groupings of homes on Garcon Gulch Road, and where the grouping of buildings for the ranching operations was located. This included barns, building maintenance facilities, where the agricultural workers lived and the corrals. The animals were all over. Bob asked if the animals would be grazing the whole property. Nick affirmed, as a stewardship tool and for fire

prevention, not for profit. Bob asked if there would be maintenance such as lawn mowing around the buildings. Nick noted they didn't intend to have irrigated lawns. The vegetation would be maintained as it was now, and they brush-hogged everything, including both sides of the roads. People who worked for them had worked for the Forest Service in fire and aviation management and smoke jumping. One was passionate about it, knew fire suppression and had gotten the fire truck. They did their best. When they went up there during the potential fire season, they notified the ranch owners and told them where and why they were going. The fire truck or an ATV with a 25-gallon tank might be sent along to make sure that an inadvertent spark wouldn't do anything. Back to agriculture, it would be used for stewardship and maintenance of the vegetation.

Steve commented that it would help for future interpretation to be clear on a couple of points. In the permitted uses (section 4, pg. 1, IV.D), it said accessory buildings. In the definitions (section 4, pg. 3, IX.A), it said accessory structure. He thought those should be the same. Nick said they'd use 'structures'. Steve was concerned about the generality for exceptions under height for the last item, which was structures (section 4, pg. 2, VI.B). The intention seemed to be for a single group that could be called utility buildings or utility structures. He thought that needed to be added to the definitions, to describe what utility buildings and structures might be. Nick agreed.

Steve thought for section 4, pg. 10, XII, that the County Commissioners were also allowed to initiate zoning amendments in other zoning districts, and he would consider adding them to that. LaDana said that they could but she didn't know if it was in all zoning districts. Steve wondered under XII.B if the reference to 'substantially the same procedures as provided for above' would be clearer if they had a paragraph at the beginning of the amendment section (XII) that described how the proposals would be initiated for either kind of amendment, and then have XII.A and XII.B. Geoff clarified that Steve wanted to have the administrative process, and then talk about the text (A) and the maps (B). Steve affirmed. Nick thought these were productive suggestions.

Jerry asked if the 260 people for the population were on a permanent basis looking forward or could they see 500 people being there in 10 years. Geoff replied that this number was if they were completely filled up. There would be times where they did not have the full occupancy. They expected that would occur seasonally. They were in the process of developing the program for students who would come on retreat. Some people might not want to come to western Montana in the middle of winter and would prefer to pick a nicer time of year, and that might be an occasion where they fell well below that number of 250 or 260. Doubling that number would be well beyond the owners' plans for the retreat program. Part of the reason they chose this place was because it was remote. If they made it less remote by having five hundred people or so there, it stopped being the place that they wanted it to be, which was remote and not overrun with busy-ness and people, and all of the things you have to do to take care of people.

Jerry said they were taking a substantial portion of the potential development of 83 parcels and developing in one location. If it was 250 people maximum, he thought the owners would be willing to put on that kind of maximum at this time, so the county and owners were guaranteed there would be a maximum. Jerry's concern was when they were speaking of water, they were taking the equivalent of roughly 40 home sites and would drill wells in a very defined area rather

than scattered over the ranch. Although it appeared minimal compared to the overall use if every [residence] was there and filling their hot tub, that concentration in one location would create a drawdown in the aquifer that was not probably natural for the conditions and the dry area of that property. Their purported use of water included agriculture. Did they plan to do irrigation as part of agriculture? That hadn't been mentioned. Was there an opportunity to look at the amount of water that watershed collected versus the potential drawdown that they would impose on it? That got back to the 250 people as a maximum drawdown capability. His suggestion was to be sure that the aquifer was not drawn down beyond the replenishment capabilities of the area.

Geoff thought he and Jerry were on the same page. As the applicants went forward and learned more about their land and its carrying capacity that would be probably the primary self-limiting condition: how much water could they use sustainably and not [inaudible]. One reason the Merritt Ranch was never irrigated was there was no profitable, meaningful way to irrigate in the conventional sense of irrigation. For growing crops and so on, they were thinking of greenhouses and hoop houses and ways of agriculture and permaculture where they were very mindful of the water. It was an important factor. Their consumption of water was going to be mindful of those kinds of things. He didn't see that they'd run more cattle than had been run historically, using the traditional springs that had watered cattle in the past.

Nick checked that Jerry's suggestion was to include a limit on the number of occupants. Jerry affirmed, and added he'd like to see something in writing that definitively and unequivocally supported the protection of the water resource of that property, so [the applicants'] use didn't exceed its replenishment capability. Nick said fair enough.

Steve checked that the only difference between subdistricts A and B were the height standards. Nick affirmed. Janet asked if they'd talked with the fire districts about the building heights. Nick said they did per suggestion. [The fire districts] didn't have concerns about that. He mentioned the fire sprinklers again.

Public comment opened:

Rex Lang: He lived on Garcon Gulch Road on 120 acres on the west side of the Bitterroot River at the end of Lake County. They got about 10 cars a day, up and down the road. His concern was with dust. The road now had lots of chuckholes on the Sanders County side. He didn't care what the applicants did on their own property. His concern was the road going in and out that he had to drive on, and the dust and the maintenance on the road, more than the amount of traffic. The dust got on the grass and it was hard on the livestock that ate the grass. The applicants proposed to develop maybe 1 or 2 % of the property in buildings. In his estimation, that would be 180 acres of buildings in a small concentrated area. He wasn't really concerned about that, but if you put that many buildings in a concentrate area, it seemed like there would be a lot of people and traffic coming and going. They'd have to get food and whatever. His other concern about it was taxes. If they did this, would it raise his taxes? Someone said it would enhance the land value, and he was sure that it would. What about him? He was just running livestock on his place. Would that make his land go up in the taxes? He asked for comment on that.

Bob K and LaDana didn't know.

Rex Lang: He asked if they could put in some provision with a road maintenance deal that they would also maintain Lake County road and Sanders County road there, in and out of their property. That would be the main road being used, and maybe look at some type of paving or oil or something like that.

Public comment closed.

Bob asked if the applicants could answer questions that were offered on taxes or road maintenance district. Nick said he couldn't say to any property owner that no one around them would ever do anything. He gave Wild Horse Hot Springs as an example. People worked together as a society with a taxing structure to be able to maintain the roads. When change came to an area, there were increased property values that could be associated with that and increased tax [inaudible].

Nick thought the chairman suggested they needed to be able to work with Lake County to make sure they had appropriate, fair road maintenance considerations relative to the impact of the project. He had no problem with that. The soils were kind of clay along the Bitterroot River. What happened was the road got soft in the spring and the silts and clays literally pumped up into the structural gravel section. The vehicle went by and the dust became airborne. He had the same kind of soils at his home where they used magnesium chloride very effectively to stabilize that surface area. It brought moisture into the road section, which bound the dust particles. He wasn't proposing this exact solution here—he needed to sit down and work with the road people in both counties and see what the issues were with putting a dust palliative/stabilizer like mag-chlorine within the impact zone where Rex Lang's home was. Along Garcon Gulch Road, there weren't a lot of homes up close to the road. Rex reminded Nick about the problem with the dust in the fields where animals were grazing. Nick asked what Rex's frontage was. Rex replied $\frac{3}{4}$ of a mile.

Nick referred to a saying about taxes and death. His taxes had never gone down. They were trying to restrict it. One of the things in the growth policy was to maintain property values. He didn't think this would hurt the property values. He knew that compared to other uses under the density map that could go on there that could affect property values, this was a better deal. He didn't know if Rex Lang's taxes would ever go up. They shouldn't go up because of this use. If they put a fair maintenance district together, then that shouldn't affect him. [Rex] had traffic on [the road]. It sounded like he was a fair man and he was willing to pay for his burden. They were a neighbor and wouldn't be any different. They just needed to figure out how to do that. He asked Rex if he'd answered his questions.

Steve asked if this entity was eligible to be relieved of property taxes. Geoff said they paid property taxes. Steve guessed that if anyone's taxes went up as a result of this project, it would be the applicants'. Nick said they weren't here asking for a free lunch. They were here talking so they could get the issues on the table and get them addressed. He had created a list of concerns that he thought could be addressed as conditions.

Bob asked Steve if he could make a motion after discussion, and pointed to pg. 11 of the staff report, which might be of some help. He wanted to be sure to include Janet's concerns about the spring in the motion.

Janet wanted to see the regulations amended in a couple of places. Under permitted uses (section 4, pg. 1) in IV.C, she would like the word 'only' added to the end. She suggested specifying the location of the old gravel pit. Nick said that didn't work for the quarrying. They might quarry under their buildings. Maybe that just fell under building excavation. Janet checked that they weren't mining other times besides those specified in IV.C, aside from maybe county gravel road maintenance. Geoff clarified that they would have to satisfy the State and DEQ on open pit gravel mining. They had to have a permit, and a reclamation plan and they had to post a bond while the gravel operation was in operation. They didn't get the bond back until they reclaimed it. They anticipated a 45 to 60 day period of gravel operation once they got their permits in order, where they extracted and stockpiled gravel for their use. He didn't know if that would be enough, but this was their intent. They were working with two kinds of gravel from two sources. They were applying for the permit on the old pit. They didn't know if it would be adequate so they had another smaller source nearby for which they were also getting a permit to make sure they had enough. Their intention was not to go past their construction period with the mining or the quarrying. He couldn't stress enough that the quarrying they did would be for their own use on the property. None of the rock was for sale or to be given away. It was for their use only, incidental to the preparation of their building sites. They weren't opening a quarry anywhere that they weren't going to building buildings. Janet checked with him about adding 'only' to the end of IV.C. Geoff replied he was comfortable with that, with the recognition that in twenty years, if Lake County wanted gravel and wanted to ask them to open it up, they could take it to the Commissioners, and the Commissioners could deal with permission to change their zoning to allow them to do that. Janet checked that he was saying they could come forward for a variance request at that time. Geoff agreed. They were trying to do as little violence to the land as possible. Janet concluded they could add 'only' to the end of IV.C.

Under V. Prohibited Uses, Janet noted they would add commercial communication towers. Also, she suggested language for the spring issue, where a prohibited use would be: Any water development that exceeds aquifer and spring recharge rates. Nick said that worked for them.

Jerry wanted to include the maximum number of inhabitants or users at any one time. Nick checked that this would be a maximum occupancy for the retreat center. He thought that would be under IV.A. It could read: Retreat centers, with an occupancy not to exceed 250 people. Pat Lawler checked with Jerry that his concern was specifically related to water and drawing down the aquifer. He noted that one response Geoff gave was that they didn't really have the information; they were doing research on the aquifer and replacement rates, etcetera. In a way, that was an unknown. Jerry said his other question was how many people would be there eventually. If the intent was 200 to 250, let it be said that there would be 250 people. Nick mentioned they had the ability for a variance. They were in a planning stage, a preliminary stage. They were setting the guidelines. If something came up, they could come back with the amount. Jerry didn't think the Board was in a preliminary stage as far a planning was concerned. The applicants were, but the Board was not. Steve asked if the number should be 250 or 260. One of the applicants thought 260 should be used. The programming was in a state of

development. He thought they could make 260 work. He would be surprised if it did not. Steve observed there were two pages on how to amend these regulations, so he thought they were covered.

Roland thought they ventured into a legal nightmare with that one. He thought the better way to phrase it was not as a head count, but as infrastructure and design specifications, designed for 260. If you imposed a regulation that specific, you had to follow up with implementation and enforcement. Who would go out and count people? Steve said it would then read: Retreat centers with a design occupancy not to exceed 260 people. Nick said they worked through the Lake County sanitarian's office for a project like this. They would have a design occupancy for which they had to provide and show appropriate water supply and meet the State codes for that. They also had to provide for the adequate disposal of that water. Lake County health department regulations were enforceable. A permit for a home would say how many bedrooms, rather than how many people. There was a design capacity. 'Design' went right to what was in place in Lake County now in terms of infrastructure, and would be better.

Janet referred to an earlier comment Nick made under III.Applicability on pg. 1 of the regulations, where he wanted to amend the sentence to read: The regulations shall apply to all lands within the District except land owned by the Confederated Salish and Kootenai Tribes, the State....

Bob asked LaDana and Nick about the maintenance district. Did it need to be in here? There was going to be more traffic, and there were potholes and dust now. What was the best way to address that? LaDana said Nick had those discussions with the road supervisors. Nick said the concerns of Bob and of Rex Lang were the same as those of the applicants. They couldn't have a retreat facility that people couldn't get to. If there were an unforeseen natural disaster or a hundred-year snowstorm event, everybody would be in the same boat. Hopefully they'd have the right facilities in place to deal with that. He saw a rollover event in Hot Springs, where a helicopter came from Missoula to deal with that. (There was no snow.) That was the appropriate means to deal with that. They talked with the Hot Springs fire chief about how they'd call in air support if they needed it. It looked like that would come from Kalispell. They needed to have roads that worked for getting construction vehicles up there and back, and roads that worked for the workers during the construction period and for retreats. They didn't want dust in their area any more than the neighbors did. They would work with Lake County to arrive at a fair and equitable way to maintain the roads in an appropriate condition. Lake County had a road superintendent and they were willing to work with him.

Bob asked what a maintenance district meant. Nick compared it to a fire district. A bunch of people got together because they wanted fire protection. They asked the cost. Was it staffed by full-time people or volunteers? They figured out the cost, and how to work with people to get the end result and service needed, and then they created a fair and equitable way to pay for that. If you owned an agricultural field that you leased for someone to graze, your taxes were different than if you had a house there. The value of the land got in, and that was what the fire district was there to protect, lives and structures, although wild land entered more into people's consciousness each year. You annexed appropriate areas into the appropriate fire districts, so fire districts and EMS people could do their job and have the appropriate revenue stream from

that. You'd extend that conversation to the road of Lake County. Bob asked if Nick thought that should be put in as a condition. Nick thought there was a County Commissioner in the audience. He would like to be able to listen to and understand [the Board's] concerns and be able to think about this and work with Lake County to figure out how they'd do this before April 8.

Bob observed he was hearing that if they created a maintenance district, the neighbors' taxes would probably go up. Nick said if he was in the district. Bob said if he let [the applicants] work it out with Lake County, then it might be between [the applicants] and Lake County. Nick clarified that a district could be one property. You'd levy a certain number of mils for the road department in Lake County. That was how the neighbors paid for their road stuff. The applicants figured out what their impact was and what the fair and equitable portion that Lake County should pay because they were a resident of Lake County, and what was fair and appropriate beyond that for them. That was an equitable transfer of wealth in the form of gravel or whatever to make sure that both parties met the same goals to keep the road open so business could take place.

Geoff mentioned he once got a political science degree at the University of Montana. He hadn't used it much. He would use it now and make his mother proud. The creation of maintenance districts, like so many other districts, was governed by state law. It was the purview of the counties to do that. The county commissioners would, at their discretion, and following the state law processes, create whatever means [or] districts, there were. He didn't know that the Planning Board could do anything more than recommend [the commissioners] consider it. The Planning Board could not bind the commissioners to do it. The commissioners might have good reasons to not do it. That's why we elected them. He thought if the Board wanted to make a recommendation to the commissioners to investigate a road district to deal with the concerns heard from Rex Lang, this would be a great way to go ahead. He said on behalf of the owners that they would be there at the table working it out.

Bob asked if he could count on staff to make sure that the commissioners understood that they were concerned about the road. He didn't think having a maintenance district would be part of the motion, but he thought it should be discussed with the developers. LaDana affirmed.

Steve referred to XI. Administration (pgs. 6-7 of the regulations) where it talked about a zoning conformance permit. He thought this was another opportunity to evaluate specific development that would take place here, and make sure regulations were met, and health and safety was provided for. Under XI.4, it talked about evidence that the site was served by emergency medical and fire services. He suggested adding the word 'adequate' prior to emergency. LaDana commented that items XI.4, XI.5, XI.6 and XI.7 were unusual. None of the other zoning districts required that someone submit a zoning application and address these things. [The applicants] had already gone above and beyond what anyone else had to do. She wanted [the Board] to be aware of that. Steve thought this was one of the things that made him feel better about this. He recognized that they were doing something here that didn't require subdivision. There would be development taking place. The review that took place for subdivision wouldn't happen, and these [items] were some of the things that happened when a subdivision was reviewed. Because this would take place without subdivision, it was good to have them in here.

Steve also suggested adding 'adequately' to XI.5 so it would read 'served adequately'. That might just be a letter from the Sheriff. Finally, under XI.6, he suggested that the sentence begin: Evidence that legal and physical *properly maintained* access is provided.... That might mean that a maintenance agreement had to be developed before a zoning conformance permit was issued, or some other evidence provided to the Planning Dept. that not only was the access there, but properly maintained.

Rex Lang asked to speak. He said that Lake County did a very good job of maintaining the road to his place. It ended at his place and Sanders County took over from there. They did a very poor job of maintaining it. He would like Lake County to oil the road in front of his place. That would solve his problems with dust control there. He talked to his neighbors in Sanders County on Garcon Gulch Road. They all agreed that the road needed to be taken care of, with the dust and the chuckholes and that type of thing. If they just did something with just Lake County, how would they incorporate Sanders County to take care of this traffic and maintain their road? He guessed they didn't have the power to do that. Rex mentioned that [Nick] suggested they move in and have a maintenance program that Rex would have to participate in, which he never had to pay before. He didn't mind people coming up there. He just didn't want to pay for them.

Gayle Decker said these folks didn't really have control over whether a maintenance district could be formed. It was citizen-initiated by petition process. They might want to participate in a maintenance district. If they couldn't get the number of signatures on a petition, it couldn't move forward. You might be asking [the applicants] to do something that they really don't have any control over. They had some control.

Geoff observed that when he talked with Jeff, the Sanders County District Two road supervisor, they actually did perform some of the maintenance on the road for Lake County, and Lake County did some maintenance on some Sanders County roads that Jeff couldn't get to. There was already a swap of duties that involved cooperation. When [the applicants] talked to them about these kinds of issues, [Jeff] was going to be very well plugged into it. He thought that Jay knew that too.

John F asked LaDana if Jerry's feeling about this being the Board's only shot at this (since there was no subdivision review) so these things needed to be put in was correct. LaDana said they weren't doing a subdivision review. The applicants had gone above and beyond in creating their zoning, and included things that most districts hadn't been required to do. She thought they were trying to address some of the issues, especially when they would be submitting applications to staff. John asked if she thought the word 'adequate' was necessary. LaDana asked what 'adequately' or 'adequate facilities' meant. Was there some standard to go off of? That was the tough part when you were the planner trying to figure this out.

Roland understood that one of the reasons for a subdivision review was because of the impact that subdivision had on the infrastructure of the surrounding community. This was a subdivision. It just wasn't being created in the way a subdivision was normally created. It was still a huge impact on local infrastructure and roads, and the neighbor's driveway. They'd gone above and beyond the legal requirements but he thought they should. LaDana said it didn't meet the definition of a subdivision under state law. Roland agreed. LaDana said she didn't want them to

then end up suing Lake County because this wasn't a subdivision and they reviewed these things. Roland understood. LaDana agreed that concerns needed to be addressed; Nick was trying to address those. She thought as they went through the process, they would work through some of the issues. This included a chance for review with the Commissioners. At this point, the decision was up to the Board. The items that they wanted to put in there would be a recommendation to the Commissioners. Ultimately, the Commissioners could take a different route with their decisions. She didn't know how they would vote.

Roland commented that once they had a district, they were a local public agency and could approach funding sources through the Dept. of Commerce to get either grants for equipment or matching fund. It was a different world once you started a district. LaDana asked what kind of district. Roland gave the example of a water district. LaDana stated this was a zoning district. Roland said they were jumping in to include making a road district. There wasn't a complete understanding of what a road district was, so how could [the Board] propose wording in this if they didn't have it defined? LaDana observed that Gayle pointed out that maybe they shouldn't propose wording for that because there were other implications to look at.

Bob said they weren't proposing a maintenance district. They just wanted to make sure the commissioners thought about it and that the neighbors came to the commissioners meeting with their concerns.

Nick clarified that it was not their intention to include other properties in that maintenance district besides the applicants. He wasn't proposing that the neighbors be included in the maintenance district. He was concerned that Rex Lang might have misunderstood and thought his taxes would go up because he would be included in the maintenance district.

Motion made by Steve Rosso to recommend approval of the proposed Merritt Ranch Area Zoning District and Regulations and the Density Map amendment with the following changes:

III. Applicability: to include the Confederated Salish and Kootenai Tribes in the exception for the land regulations (i.e.: "The regulations shall apply to all lands within the District except lands owned by the Confederated Salish and Kootenai Tribes, the State,")

IV. Permitted Uses:

in IV.A. Retreat Centers add 'with a design occupancy not to exceed 260'.

In IV.C, add the word 'only' to the end of the sentence.

In IV.D, change the word 'buildings' to 'structures'.

V. Prohibited Uses:

Add V.D Commercial communication towers

Add V.E Any water development that exceeds aquifer and spring recharge rates.

IX. Definitions:

Add definition for utility buildings or structures (to be agreed upon by the property owners and the planning staff).

XI. Administration:

XI.4: add the word ‘adequate’ before emergency medical

XI.5: add the word ‘adequately’ after the word served

XI.6: add ‘properly maintained’ after the word physical

XII. Amendment:

**Add ‘County Commissioners’ to the list of people that could propose amendments
Reorganize the description [for XII. Amendments] to include a paragraph to
generally describe amendments, followed by a section on text amendments and a
section on map amendments (to be agreed upon between the owners and planning
staff).**

Seconded by John Fleming. Motion carried, 6 in favor (Bob Kormann, John Fleming, Steve Rosso, Jerry d’Aquin, Rick Cothorn, Roland Godan) and one abstention (Janet Camel).

A brief break was requested and granted.

Bob requested that public comment be limited to 3 minutes if possible, and to keep in mind that this was not the last time people would get to talk.

LAKE COUNTY DENSITY MAP & REGULATIONS (10:17 pm)

LaDana Hintz presented the staff memo. (See attachments to minutes in the March 2014 meeting file for staff memo.) She emphasized this was just a working session. She saw this as a springboard to a process, and a time to take comments.

Public comment opened:

John Swensen: He asked about the process.

LaDana: She explained the Commissioners asked that the process to take comments begin, to see if the public even wanted to see the regulations updated, and what they wanted to see updated. Tonight the Board was inviting the public to come forward in that process.

John Swensen: He asked if over time, those recommendations would be made to the Commissioners.

LaDana: Working sessions would be held. A couple of items might be worked on at each session. Eventually, the [updated] regulations would be put together. The regulations would go through a public process with legal notice requirements under state law. It was the same process used for the zoning district. The Commissioners would be involved.

Bob: He noted that the Board was glad the attendees showed up. He was involved in the original process [for the density regulations]. They went out to different neighborhoods and areas of the county, trying to get people to come out. They wanted to hear from the public.

They didn't want to put something in place that people didn't want. The Board was a vehicle to pass it on to the Commissioners. The input was important.

Rick Van Voast: He'd been with the density units since the get-go. He didn't want to see them go away. He had about 10 sections on the east side of the people who were presenting earlier. He thought he had 850 or 900 density units so he wasn't worried about the shop with water. He was worried about keeping his entitlements.

Nancy Posivio and Company: She wanted to address the issue of inherited properties and the density map. Between 1978 and 1982, she and her two siblings inherited 2.47 acres of Swan Lake property, which the family owned since 1959. They sought ways to divide the property. As it was, the siblings had different ways they wanted to use the property. They tried to go through variances and were told that with three of them it wasn't able to be divided, and the cost factor would be significant. Each wanted a piece of the pie. It caused a family rift and was very uncomfortable. It was now up to the courts to decide. They'd gone through referees. Their hope was that provisions were made to take into consideration the rules and regulations that divide property rather than divide families. She asked for consideration of this aspect in reviewing the density rules and regulations. It was sad that this could not be done before their property and family were divided because it was going to a judge, since they couldn't get a variance.

LaDana: She commented the Posivios had talked to the Planning Dept. for several years, trying to get this done. This was the exact situation that she was pointing out, where multiple family members owned property and not everybody agreed on what to do. In the end, people wanted their own piece. She understood that. The regulations made it hard to give them their own piece. Ultimately they ended up going to court to get their part of the ownership. These weren't the only people who had to do this.

Janet: She asked if this could be handled under the family transfer exemption.

LaDana: No. Part of the problem was that multiple people owned the property. A lot of times it was in a trust, which was an entity and could not transfer to family. It was a good point, but couldn't be addressed that way.

Steve: He checked that the issue was that the density regulations didn't allow two and a half acres to be divided into 3 pieces and the minimum lot size in this location was bigger than 0.8 acres.

LaDana: She affirmed. Three family members owned it, and there were currently 3 cabins on it.

Nancy P: The cabins were in one section.

LaDana: That was the other part. Sometimes people tried to get a variance for division, but how would you divide that? There were provisions in the density regulations currently that said if things existed in the tax rolls, you could possibility divide it and get them on their own lots, but

they had to demonstrate they'd been on the tax rolls. In this case, the cabins were clustered together so you might not be able to get each cabin on its own lot.

John Swensen: He spoke in opposition to the density map. If someone wanted to restrict their own property, like the earlier applicants, they were forced into this because of the density map, but they chose, and may have chosen regardless, to restrict themselves. The newspaper had quite a lengthy article about what would happen tonight. He felt insulted that he had to sit here so long to talk about an issue. He thought it was ridiculous to have a density map review after 9 years at this time of night. He referred to statements that the intent of the growth policy and the density map was to move people to where services could be provided. He didn't believe that was their job. The person who wrote the Growth Policy used those words, which described smart growth. He said if you did research on the subject, you knew where that came from, what document and when those words were first uttered. This density map and growth policy served the purposes of moving people to the urban center and out of the agricultural ring and out of the wild lands interface. He disagreed with that. He didn't think his land should be restricted unless it was paid for.

Rick Van Voast: He thought Agenda 21 was a concern. When he first looked at the density map, the units were restricted to corridors. He owned river property. He looked at maps across the northwest and a lot of that river property was developed in other communities. He thought it should be developed here too, whether he wanted to do it or not. He came to a meeting as they were writing these, and got proof of that. He wasn't in an area that was trying to draw them in. He was miles away from there. It was a target of this committee to draw people in tighter and free up land.

John Schnase: He was from Ronan. He was involved with the family transfer process in 2010. He wanted to sell 5 acres and a residence to his son and keep the other 15. It took from September to the end of May and cost \$3640. He hired Dave DeGrandpre to take them through the steps. If his neighbor had a problem with what he was doing, the neighbor could talk to him and they could work it out. If that wasn't good enough, the neighbor could take him to court, for trial by jury or a decision by judge as to whether he was violating the neighbor's rights. That's where he thought it belonged. He thought that was a better solution than a density map or things that restricted people. He and his son and daughter-in-law sat in front of a group of good people where they had to prove something. He felt humiliated and intimidated by the whole thing. He thought it was ridiculous to have to ask permission to sell 5 acres to his son. He didn't think anyone had the right to tell him what to do.

He and his wife bought the property as an LLC, and had to do a quit claim deed. They thought that raised suspicion that he might be setting his son up as a straw person to subdivide and sell. They arbitrarily told him that his son couldn't sell the property he bought for 2 years but they were going to restrict him for 5 years. He used the 15 acres for his cow pasture. He had to ask Jill Todd and propose where he might build his house if he were to build a house in the cow pasture. They had a water association out there. The water system was enclosed. They had a community well. When he got this thing back from the Montana Dept. of Environmental Quality (MDEQ) that said he had to have a sewer that was pressurized to pump his sewage uphill. He described what he proposed to Jill Todd, to which she said no, he had to put in on the top of the

hill. Several of his neighbors went through the same thing in that subdivision. He got a whole set of regulations from MDEQ where he had to build his road a certain way into the property and have a regulated downspout on his house 3 miles out of town. He thought that was ridiculous. Where were the days where Al Huckaluk could show up and say oh, yeah, that sewer system works fine, like in 1991? He asked if Lake County had to follow what MDEQ set up. Did this Board have to follow those rules?

LaDana: She thought he was talking about something that wasn't a discussion for this Board on the density regulations. She understood that it sounded like he definitely had issues in this process. She thought these were discussions that they needed to have with the Environmental Health Dept. because when you started talking MDEQ that was the Environmental Health end of it. That wasn't what the Board could talk about.

John Schnase: He was required to do that to finish up his process. He had permission to do this thing by around Nov. 20. He was still trying to get his approval from MDEQ in May.

LaDana: She mentioned this Board didn't approve family transfers.

John Schnase: He said the density plan controlled family transfers.

LaDana: The density put the 2-year restriction on there. As far as the MDEQ requirements, that wasn't coming from this Board. That's why she said she thought that was a discussion to have with the Environmental Health Dept. and their requirements. She would be willing to have that discussion with [him] and them.

John Schnase: He went through the red tape to get this done for his son. He didn't think he should have to go through that. His name was on the property deed. It wasn't someone else's property or money. He said no trespassing.

Bob: He understood it was an awful thing to go through. He went back to a guy who told him once that you thought you owned your property until you didn't pay your taxes, then you'll see who owned your property.

John Schnase: He agreed. It was a fine for living.

Andrew Spear: He agreed with John Schnase and John Swensen. He thought property rights were property rights. He wanted to see the government minimized in their involvement in people's property. He wanted to see the density map go away.

Michael [inaudible]: He had been against [the density map] since it was invented. It was a violation. Everyone here spoke why and he thought they'd heard it for the last 10 years or more. Some of the people who could really speak out about it couldn't come. The density was too restrictive. It complicated their lives rather than making them better.

LaDana: If he knew of people who didn't want it, she asked that he tell them to come out. They wanted to know if people wanted these regulations and if [the regulations] were working. They needed the public to come out and say they didn't want this.

Michael: He asked what she wanted them to say, and if she wanted it in a letter.

LaDana: A letter would help.

Michael: He listed two people who hadn't been able to come tonight. How did she want people to tell her?

LaDana: Submitting letters would be best. This was why the commissioners wanted to initiate this. Did the public want this? Was it working or not? It was difficult to administer. She wanted to know if it wasn't working for those who had to live under it. They wanted to receive letters.

John Swensen: He asked if there was a time frame.

LaDana: She replied this was just the start of the process. It was overdue for review.

Andrew Spear: He asked where to send the letters.

LaDana: Those would go to the Planning office.

Alan Griffiths: He thought this would be a workshop on the density plan. He thought there was too much regulation. He was a building contractor and a local farmer. His experience with the density planning and the Planning Dept. was the only way to accomplish something was with an attorney. They bullied the average citizen. They dictated the way they read and interpreted the law. He had a similar experience with family transfers. He had a 140-acre parcel west of Polson in the 20-acre density acre. He was going to give 40 acres to each of his children. He offered to give them a bigger piece so he wouldn't have issues. He hired a surveyor to handle the process. He was told there would be a review and after the review they'd have a meeting. That meeting was at 9am in the morning. He showed up assuming they would get approval for the family transfer. Five minutes before the meeting, the planner handed him a thick brochure of comments with 'disapproved' on the last page. He sat there and listened to the Planning Dept. call him a liar and say that he was trying to subdivide his property and use his kids to do it. It was embarrassing and humiliating. The county attorney basically called him a liar to his face and refused the process. He spent an additional \$5000 on an attorney in addition to the ten he'd already spent with the surveyors. Finally, through a meeting with the county commissioners, they approved it with restrictions. It was out of control, frustrating and humiliating.

LaDana: She pointed out that they weren't using the same process that the Griffiths went through. She was sorry that was what happened to him. She wasn't part of that process at that point. They were definitely not using that [process] for the specific reasons heard here tonight. She didn't feel that people should have to go through something like that to get approvals. [The County] did have to ask some questions. The commissioners would like to see some changes

made on the family transfer. Still, they'd worked with the county attorney to streamline the exemption review processes a little more so people wouldn't feel that way.

Alan G: He got over that. The density plan needed to be reviewed and changed. People had private property rights. Lake County shouldn't control property rights and property value. They were talking about changing lines on a map. When a line was changed, you affected the value of someone's property or the access of a property. Who gave the power to do that on someone's private property?

John Schnase: He didn't like going to the hospital, the sheriff's office or the courthouse. He said that with tongue-in-cheek. Everybody here was a servant to the community and he appreciated that. There was a difference between being or not being user friendly. He remembered Al Huckaluk and Al Sampson whose attitudes were like how can I help you get through this. Public servants had a challenge in front of them and he appreciated that. It couldn't be easy.

LaDana: She wanted them to be aware that the Planning Dept realized this image that they'd had in the past and were working to try to overcome that. That's why they were here tonight to take comments. The Planning Dept. wanted to work with them, and help them through the process. She understood that no one should have to go through that.

Bob checked for more comments. None were offered.

Public comment closed.

He thanked people for the input. There would be more opportunities, and [the Board] welcomed what they had to say. LaDana said she hoped they got some letters in, so they had something to discuss. Then they would discuss what they would have at the next meeting. Maybe they didn't want the regulations and they wouldn't need to set up a bunch of meetings to go through regulations that they would not ultimately have. She requested that people get their comments in. It helped when the comments were in writing. It helped to keep track of things.

Motion made by Rick Cothorn, and seconded by Janet Camel, to adjourn. Motion carried, by acclaim. Meeting adjourned at 10:58 pm.