

Paddy Trusler: I have to apologize to the public. Obviously if we had the appropriate legal tools we could dictate what the density is. We do not have them on this particular tract and so it's all the rest of the issues that we really have to deal with to see if we can't make this possible, so, I mean, we have to accept it as proposed.

Public: We can't hear you.

Paddy Trusler: We, unfortunately, legal advice is telling us that we have to accept the density – the number of dwelling units – as proposed [indiscernible]

[Public mumbling]

Mike Hutchin: Folks, folks, wastewater. Density is there. Wastewater. They fully understand the condition that they cannot accomplish what's on the table that they have to come back to the drawing board. Okay, stormwater; did you guys get enough explanation on it from Mr. Billmayer?

Paddy Trusler: I think the one comment that was brought up here in mitigation that I haven't heard anything a lot was offsite storage of additional units rather than parking them on the boat filter media. Do you recall the conversation that excess RVs and boats, if they can't have a slip they will be allowed to be parked next to the unit or something? What are you going to do with gas and the oil that leaks out of those?

Jay Billmayer: Did you want a response?

Paddy Trusler: Yeah, yeah, that would be great.

Jay Billmayer: You've seen our site plan as far as driveways. And they will be hard surfaced and the intent with the filtration plan that we submitted was that there would be catch basins on the paved surfaces envisioning parking areas not necessarily parking pads because it wasn't included by our site design. But if there are parking pads as well as the roof structures, they are direct piped to the filters. And there you will get your hydrocarbon removal.

Paddy Trusler: So, are you saying that all RVs and excess boats will be parked on impervious service?

Bill Astle: Yes, we will propose to include a cut - in the covenant as a restriction – covenants and restriction in regard to the common area that they will be only on paved areas.

Mike Hutchin: Okay, number eight. Paddy... It was on stormwater.

Paddy Trusler: What, where are we?

Mike Hutchin: It was on stormwater. I believe we'll elect pads. Sounds reasonable.

Paddy Trusler: Maybe offer to change Kootenai County, I hope?

Jay Billmayer: The naming of the sewer districts that we have typically seen, like we just finished Arlee and it was Lake County slash Arlee or Arlee slash Lake County and this would be Kootenai slash Lake County.

Paddy Trusler: But this says Kootenai County.

Jay Billmayer: I understand; that was a...

Paddy Trusler: Faux pas.

Jay Billmayer: ...a liberty was taken.

Mike Hutchin: Okay, number eleven is septic – no, setbacks from Johnson Creek. You understand the proposed concept versus the full 100' on both sides of the border. Do you like that?

Chuck Whitson: I'm fine.

Mike Hutchin: Fine with Chuck.

Paddy Trusler: Can I, can I ask just to save time the professional staff, what did they recommend in their staff report to the Planning Board?

Sue Shannon: A hundred feet...to go with the Fish, Wildlife Service letter.

Paddy Trusler: Okay, so I think it would be worth keeping, you know keeping the [indiscernible]. Those are our professional recommendations and I would recommend 100' buffer with the revegetation that was proposed.

Mike Hutchin: I'll agree with Chuck on this one, I like the alternative as an option that to pursue and I'm sure that you could probably get the same amount of square footage in that kind of a design, that capacity, as you would in a lineal on both sides of the border. So, I'll support Chuck in that effort to have an option, or a modified, and recapture additional open space to meet the same footage requirements. That's the language that would be proposed. Okay, fractional ownership. Got enough on that?

Paddy Trusler: And funneling?

Mike Hutchin: And funneling. Okay, now, those are the mitigated items. Now we have the conditions of approval that we have to meld those into, okay? Number one, prior to commencing activities or furtherance of satisfying any conditions required the former property owner or the record owner of the land proposed for subdivision or the responsible officer of the corporation offering the same for sale shall sign the Montana

Department of Environmental Quality Local Government Joint Application form and submit evidence of the same to the Lake County Planning Board. So, that's fully understood by you folks?

Jerry Peasack: Yes sir.

Okay. Second. Do we want to take these one at a time or do we want to – okay, we're going through em each time.

Paddy Trusler: Can I make a suggestion that Lake County Commissioners suspend their rules because we are past 4:30 now?

Mike Hutchin: Okay.

Paddy Trusler: I would like to move that we suspend the rules for conducting business until, on this particular date for this particular decision until such time as final conclusion is reached.

Mike Hutchin: Go ahead – do you want to second that Motion, Chuck?

Chuck Whitson: Second.

Mike Hutchin: Second, okay, that's, ah, any discussion? All in favor?

Chuck Whitson: Aye.

Paddy Trusler: Aye.

Mike Hutchin: Aye. It's unanimous we're suspending the rules so that we can complete this project today in some fashion. Ah, condition number two, the final plat and plan specifications in construction of all improvements shall meet all applicable design standards and requirements of Lake County subdivision regulations and Montana Subdivision and Platting Act and the Montana Code Annotated title 70 property, chapter 23 unit ownership act condominiums. Is that okay with the addition? Okay. Number three, the development of this division shall be in accordance with the general design, information proposed in agreements provided in the preliminary plat, submittal and revision will be accepted as modified by these conditions. That's okay? Okay, prior to filing the plat, a declaration and by-laws for the condominium property that meets 7-23-30 MCA shall be filed with the final plat. Okay?

Paddy Trusler: Did [indiscernible] – just for reference 7-23-3 is a unit ownership act? Is that? [Hutchin nodded affirmative]

Mike Hutchin: Okay number five, the stormwater water supply and sewage disposal system is a plan that shall be reviewed and approved by the Montana Department of Environmental Quality prior to final plat filing. Prior to sending the stormwater, water

supply and sewage disposal plan to DEQ, the consultant shall obtain copies of comments from the Planning Department regarding the sewage disposal system and include these comments in the submittal to DEQ. All approved stormwater management techniques shall be implemented and all stormwater structures shall be installed according to the approved specifications in accordance with the discussion the Commissioner Trusler had with the Milhous Group. The stormwater plan shall include impervious surface parking spots for RVs and Boats – that would be added to that condition, that understood?

Paddy Trusler: [nodded assent]

Chuck Whitson: Yes

Mike Hutchin: You're taking notes over there for us gang?

Pam Reznak: Um hmm.

Mike Hutchin: Okay, no questions on that on on board? Okay, the proposed sewer facility shall be established prior to filing the final plat as specified in 7-13-2201 through 7-13-2351 Montana Code Annotated. This is where we need to add a couple of things in my opinion as we've discussed them.

Paddy Trusler: Is that, ah – question. 7-13-2201 is the public water sewer facilities act, so proposed sewer facility. Public, is that what you're talking about – the public?

Sue Shannon: Yeah, right, create a sewer district, the creation of a water and sewer district.

Paddy Trusler: Okay.

Mike Hutchin: Okay, that's okay, Chuck? Okay.

Paddy Trusler: What did you want to add to the?

Mike Hutchin: Well, it's actually probably more appropriate to add it in the other area the owner shall obtain an amendment to the Ridge covenants allowing an off-site in the event that that does not occur then they have to go back through an amended application for filing of a different site and go back through the public process. That's a third of them, a third of everybody here, so that would be added on another conditional status I think, cause this clearly just talks about the public faction of creating a water and sewer district. So, number six is understood and okay? Number seven, the sewer line construction planning shall be reviewed and approved by Lake County prior to construction of the public road road-of-way -- right-of-way. And that's the Board of County Commissioners that has that ultimate authority. Okay? South Ferndale Drive and Sunburst Drive from Montana Highway 83 to the southern edge of the property shall be widened to current county standards, 26' with shoulders and drainages and sealed with a 2.5" asphalt matt. Prior to construction, the roadway improvement plan shall be reviewed and approved by the Lake County Board of Commissioners. Understood and

okay? Nine, the roadways within the subdivision as shown on the preliminary plat shall be developed to Lake county Standards including a minimum width of 26' drivable surface and a minimum of a chip sealed surface. Understood? Okay? The engineer – an engineer licensed in the state of Montana shall certify the roadways mentioned in conditions 8 & 9 have been built to the Lake County standards and all proposed stormwater management, soil stabilization and revegetation techniques have been implemented during construction. Okay with that? Paddy?

Paddy Trusler: Umm hmm.

Mike Hutch: Eleven, the owner shall provide a centralized box units a CBU or required post office boxes as part of the covenants to accommodate the mail deliveries. A CBU is provided and shall be placed on concrete pads according to USPS specifications as sufficient dimension on which to install the CBUs and turn out areas of adequate size in which to locate these mailboxes. Understood and okay? Number twelve, the owner shall provide evidence to the planning department that the following infrastructure and land set aside have been completed of the requirements of the Ferndale Volunteer Fire Department. A standpipe with a 2 ½" fire department connection at Sunburst and Johnson Creek with another 2 ½" standpipe connection at Johnson Creek at the south end of the stone bridge. A 2 ½" plumbed.

Paddy Trusler: I guess I'd like to expand upon that. And I think that we've had recent experience on that. Who's going to actually install it?

Mike Hutchin: We pretty much came to the conclusion on that one that the fire department - they ask it, they get it, they got it built, they maintain it.

Paddy Trusler: So we'll just say a maintenance agreement must be established between Ferndale Volunteer Fire Department – because they are going to have to grant easements and all of that for the particular usage of it.

Mike Hutchin: I don't know if we need to be that detailed there, Paddy. When you provide that and they have the hook up, the main thing that's understood that you aptly pointed out, who will maintain it. It will, and should be the fire department. I'd like to add that, I think that's appropriate.

Paddy Trusler: I think one of the things, what we're saying is historically once these things are not used they are not normally maintained and then they become dysfunctional so we have to somehow determine that once they're put in somebody's going to maintain them. And that should probably be the fire department because they are the ones that are going to have to use this.

Mike Hutchin: Paddy, I would suggest, as a slot here, on the second bullet under twelve, the 2 ½" minimum fire department connection to be plumbed – it says plumbed there, Sean, I have to give you a bad time – plumbed, in the public water system on site and it says that the Ferndale Fire Department shall approve the site and maintain the hydrant.

Paddy Trusler: Okay.

Mike Hutchin: Okay, we'll put that in there.

Paddy Trusler: And show evidence that they will maintain the hydrant.

Mike Hutchin: Okay. Building site large enough for a 40' x 50' fire station on lot 4 of the Ridge subdivision. Location of the site shall be approved by the Volunteer Fire Department of Ferndale. That condition okay as amended? Number thirteen, the owner shall obtain an amendment of the Ridge covenants allowing the off site sewer facility. Two, a lot for the future fire station for the Ferndale Volunteer Fire Department, three a helispot for the Bigfork Fire & Ambulance service, a copy of the amended covenants shall be provided to the Lake County Planning department. This is the additional language that we need to insert there, is that in the event that this site is not approved, cannot be approved for septic installation of this nature, the Milhous Group will have to return with an alternative and have an amended plat filing and go through the public process again.

Sue Shannon: Amended subdivision plat review...

Mike Hutchin: Amended plat review, excuse me.

Dave DeGrandpre: Can I ask a question?

Mike Hutchin: Sir.

Dave DeGrandpre: Would that review focus on specific issues at hand such as the sewer, the helispot, or would it be full blown review? I'm just trying to get into the record exactly what that would be. The Planning Board seemed to feel that it would be limited to those specific issues.

Mike Hutchin: And related access issues such as where the pipeline would go in the event that it went into an altered [indiscernible] spots. It has the expanded issues that may be there, Dave, in terms of its location.

Dave DeGrandpre: I would just hope that we wouldn't get into lake safety and you know, some of the other issues.

Mike Hutchin: Right, it would be amended in the sense that it would have to deal with that specific issue and the ESA with it and all the environmental issues. Okay with thirteen, now? That way – Sean.

Sean Conrad: Did you want to add in there, amend that number two the lot for future fire station, thing to put in there for sheriff's search & rescue, did I hear that right? That you do a combination lot or a combination lot would maybe...

Mike Hutchin: What I remembered is there's – we can do that – that might be an appropriate place Sean, I thought there was another condition that might touch that. But that's as good a place as any.

Sean Conrad: Okay.

Mike Hutchin: And that they will provide a space for a search and rescue building either adjacent to or in a different location.

[Unknown] Up to the \$50,000

Mike Hutchin: And, yeah, with the \$50,000.

[Unknown] Up to \$50,000.

Mike Hutchin: Right. No, no. No, I'm sorry, that's not correct. Commissioner didn't want the \$50,000, I said not the \$50,000 the land is the only thing in.

Sue Shannon: Can they be on the same lot or do they have to be two different lots?

Mike Hutchin: They can be either/or. The search & rescue might like it in a different spot than the fire station or they might like a married up facility.

Sue Shannon: So, leave it up to the search & rescue?

Mike Hutchin: Yup. Okay, fourteen, an easement for a helispot for the use of the Bigfork Fire & Ambulance shall be established in the area of the offsite drain field. The location of the helispot shall be determined by the owner and the Bigfork Fire & Ambulance service and a letter submitted to the Planning Department confirming the location and signed by both parties. Right there we might want to modify that condition to say, well, maybe not, on the offsite drain field where ever it may land.

Paddy Trusler: I think the off site drain field and this location could be totally different depending on where you end up so I think you could take out the first sentence and just say the location of the helispot shall be determined by the owner and the Bigfork Fire & Ambulance service and Lake County Search and Rescue. And a letter submitted to the Planning Department confirming the location and signed by all parties

Mike Hutchin: Okay, that's a good compromise. That okay, Chuck?

Chuck Whitson: Yes.

Mike Hutchin: Okay. Fifteen, the plat shall be amended to show a second ingress or egress either next to the existing gate or in alignment with Wapiti Drive. Second entrance shall be constructed with a minimum of 15' driving surface with one-way

directional travel unless two-way travel is preferred in which case the minimum driving surface shall be 26'. Understood? And agreed to?

Chuck Whitson: Agreed.

Mike Hutchin: Agreed Paddy?

Paddy Trusler: Umm hm.

Mike Hutchin: Okay, sixteen a maximum number of 24 boat slips shall be permitted for the entire property, a statement shall be placed on the final plat reflecting this condition and those boat slips are subject to other enforcement agencies and their permitting process for more clarity. Seventeen, a private road users maintenance agreement shall be filed with the final plat. Agreed and understood?

Chuck Whitson: Yes.

Mike Hutchin: Paddy?

Paddy Trusler: [Affirmative nod]

Mike Hutchin: Okay, the developer shall install road and stop signs within the subdivision in accordance with the specifications of Resolution 04-01 prior to final plat filing. Understood and approved?

Paddy Trusler: Yes.

Mike Hutchin: Nineteen, the new structures except lake related structures permitted by the Lake County Lakeshore Protection regulations shall be located closer than 80' of the high water mark of Swan Lake and Swan River. Modifications to existing structures within the 80' setback is allowed provided the structures maintain the existing lakeshore setback. Within this setback no vegetative disturbance shall take place other than for the construction of walking paths to modify existing structures and clearing of trees for reasons of health and safety. Understood and agreed?

Paddy Trusler: Question, and maybe this goes without saying, and I thought I said it somewhere – does it say somewhere in here about construction within that 100 year floodplain?

Dave DeGrandpre: Yes.

Paddy Trusler: What condition is that?

Sean Conrad: That's condition, recommended condition number 29, an ongoing condition.

Sue Shannon: Yeah.

Paddy Trusler: Has the 100 year floodplain been established all the way through here? I mean they show it on the map, but is that the actual floodplain elevation?

Jay Billmayer: No, it's not a detailed study, it's an approximate FEMA boundary. But you have adopted – it's the official map, but it's approximate.

Paddy Trusler: Okay, we adopted the map but we haven't actually concurred with the placement of the hundred year floodplain here?

Jay Billmayer: Well, in the absence of elevations, you do have elevations on Swan River.

Paddy Trusler: Right.

Jay Billmayer: You do not have elevations on Johnson Creek.

Paddy Trusler: Okay.

Jay Billmayer: So, you're looking at a spacial boundary on Johnson Creek, but on the lake and the river you do have elevations.

Paddy Trusler: So, I would like to see that particular condition expanded to say that the floodplain, the hundred year floodplain has to be delineated on the final plat.

Jay Billmayer: Well...

Paddy Trusler: And you can do the elevations because they have that elevation benchmark on the bridge crossing 209.

Jay Billmayer; Well, you have a highway department flood elevation determined, but their analysis is typically a 50-year analysis to size their structures, but the FEMA study – there has not been a detailed study on Johnson Creek.

Paddy Trusler: Well, how do we know where the, the floodplain elevation is?

Jay Billmayer: Because someone drew it on a topo map and you adopted it.

Paddy Trusler: Okay, but.

Mike Hutchin: They flew in here from Denver about fifteen years ago and walked through there and drew lines. That's how –

Paddy Trusler: But, I mean, well so that line has to be on the final plat is what I'm saying.

Jay Billmayer: Oh, well, no problem. In fact we've included it on the preliminary plat.

Paddy Trusler: Okay.

Jay Billmayer: But it's well inside all these setbacks.

Denny Kellogg: Paddy, point of information. There's a photo taken in 1997 showing

Mike Hutchin: Yup, we got it. Okay, you can mark that language added Paddy as shown on the final plat will be added to that language of that condition okay? Chuck okay?

Chuck Whitson: Sure.

Mike Hutchin: Okay, building setback, number 20, shall be shown on the final plat along Johnson Creek. The setback along Johnson Creek shall include the hundred year floodplain with/or 80' on either side of the stream whichever is greater. Also we need to add to that that the condition would mean that the developer must recapture enough additional open space to accommodate the same square footage as 100' on both sides of Johnson Creek would come to.

Bill Astle: No, no, no. The distance between the existing riparian area and the 80'.

Paddy Trusler: From the centerline of Johnson Creek.

Bill Astle: Right, from the centerline of Johnson Creek out to eighty feet.

Mike Hutchin: I think that's what I just said, but...

Bill Astle: No, you said ... pardon me?

Sue Shannon: You said recapture open space, but you want them, the understanding is that they are going to revegetate the entire area between Johnson Creek and the 80' boundary.

Mike Hutchin: But then I wrote down capture additional open space, which would mean where there's – it's still going to be a straight line?

Bill Astle: No, it'll – yes, there's going to be an 80' line.

Mike Hutchin: Right, that's just what I said or tried to say, okay. That's exactly what it'll be then.

[Unknown]: The area [indiscernible] through us.

Mike Hutchin: Yes. Tied to the same amount of area as 100' would be. You losing it?

Sean Conrad: See, Mike, if you're okay with this. They want to revegetate with natural and appropriate vegetation within the fields of open spaces within the 80' setback.

Bill Astle: Right.

Mike Hutchin: Expand the riparian zone? Yeah, I understood it differently than that.

Bill Astle: We agree with Sean's statement of it.

Mike Hutchin: And we agreed earlier, I agreed with Chuck on that one, so that's – if you understand that then hopefully they will see to it that –okay. Within this setback no vegetative disturbance shall take place other than for the construction of walking paths and clearing trees for reasons of health and safety. Understood & agreed to?

Chuck Whitson: Yes.

Mike Hutchin: Twenty- one, the plat shall be revised to accommodate units with a 50' building setback along the eastern property line from Johnson Creek to the southern edge of the property. This setback shall be shown on the final plat. Within this setback no vegetative disturbance shall take place other than for the clearing of trees for the reasons of health and safety and for construction of roads and utilities. Understood and agreed?

Chuck Whitson: Yes.

Paddy Trusler: Fifty.

Mike Hutchin: Twenty-two, covenants shall be filed for the subdivision containing [indiscernible] of the wording along with the preliminary plat application and shall be modified as stated in the Commissioner's report and findings of fact. Understood? And agreed to? Utilities including electrical, power, telephone, from the existing overhead services shall be installed underground to all lots within the division in accordance with section 4, A-14 of Lake County Subdivision Regulations prior to final plat filing. Agreed and understood?

Paddy Trusler: Question. Where is the appropriate condition? I, when I look through these, where is the appropriate condition for formation of the zoning district that we debated in some way? Because we have covenants to be filed, but really covenants don't need to be filed if the zoning district is put in place.

Mike Hutchin: I think we have to craft a special separate condition.

Bill Astle: We'll want covenants so that the condominium association can enforce it as well.

Paddy Trusler: Okay, okay, okay, I understand that they will be separate from the zoning district. Okay, so as we are going through this, Mr. Astle could probably find an appropriate place to put the language that we talked about, okay?

Mike Hutchin: Okay, twenty-four, utility easement and service provider right to access statement found in section 4-A-14 Lake County Subdivision Regulation shall appear in the final plat. Agreed and understood? Twenty-five, all easements and rights of way shall be filed with and shown on the final plats including those easements used to access the property. Proof that the roadways are located within easements and rights of way shall be submitted to the Lake County Planning Department prior to final plat filing. Understood and agreed?

Paddy Trusler: Wait, which roadways are you talking about? Both the public roadways and the interior private roadways?

Sean Conrad: Umm hmm. You want that clarified?

Paddy Trusler: I think it should be clarified [indiscernible].

Mike Hutchin: All roads – it says all easements and right of way, but -

Paddy Trusler: But these are off site. You're talking about the off site ones, too, on Sunburst Lane or are you not?

Sean Conrad: Ummhmm.

Sue Shannon: You don't have to show the easements all the way out to Highway 83, that would be [indiscernible]

Paddy Trusler: I figured it should be just private.

Sue Shannon: Okay.

Sean Conrad: Just the private roadways?

Paddy Trusler: Because in actuality, when they pave that road they are going to have to do that.

Sean Conrad: Right.

Mike Hutchin: Okay, as amended okay? Twenty-six, the developer shall file a Lake County Weed Board approved weed management plan and show evidence that having paid the required inspection fee prior to final plat filing. Understood and agreed?

Paddy Trusler: Yes.

Mike Hutchin: Twenty-seven, the following statement shall be filed along with the final plat: Law enforcement will be provided to the residents of the Historic Kootenai Lodge subdivision as it is afforded to all other citizens of Lake County. Law enforcement forces and personnel are in short supply and calls are prioritized. Plot buyers are hereby put on notice that it could be quite some time before emergency calls are answered although law enforcement personnel will respond as quickly as possible. Understood and agreed?

Paddy Trusler: Yes.

Bill Astle: Mr. Chairman?

Mike Hutchin: Yes, sir.

Bill Astle: I think right here would be the point where you put in the one about zoning, twenty-seven says the following statement shall be filed. I think you could begin a new – whatever it is – a twenty-seven B - where you say the following statement shall be filed along with the plat, or on the final plat. When we put the thing about the zoning will be implemented and that the developer does not object to that implementation to the subdivision conditions herein in that zoning. And that then plat will run with record notice to everybody that buys a lot.

Mike Hutchin: Okay, that's probably a good suggestion especially where it's on the plat.

Paddy Trusler: You understand that?

Sue Shannon: No.

Paddy Trusler: Go ahead and summarize that again.

Sean Conrad: Go ahead and just summarize it.

Sue Shannon: Yeah.

Paddy Trusler: Go ahead and summarize that again if you would, please, Mr. Astle.

Bill Astle: I just think that a repetitive statement like twenty-seven introducing the following shall be filed along with the final plat or on the final plat is that the property will be zoned without objection by the developer or any successor owners of the property to implement the conditions.

Sue Shannon: Who's going to initiate that?

Paddy Trusler: We're going to require it prior to final plat approval. They have to have it done prior to final plat approval.

Public: Can't hear.

Other Public: Can't hear you back here.

Mike Hutchin: Mr. Astle, you want to recite that again? And we'll see if we concur.

Bill Astle: Point of clarification: I felt that what we talked about in the mitigation was that the developer and the successor owners would have waived any protest or objection to a zoning district being created. Okay, and so that if we went to final plat that would be forever on the plat and that would be a covenant that ah, like a waiver of protest to annexation in Montana. The Supreme Court has upheld those protests once they're of record of being binding on all successive property owners. So I think in this instance it wouldn't necessarily have to be initiated by the developer. At whatever time you want to, we would have the covenants in place, the County would get it's zoning and it would be able to do it without any protest from the property owners which is a way that that can be stopped. And also it protects that the future owners have taken the property subject to that plat statement.

Mike Hutchin: Okay, got that pretty much? Okay, I got it here somewhere close I think in my mind. Okay, ongoing conditions, number twenty-eight, [indiscernible] of filing of the condominium units the owner shall use a hauler to remove construction waste. After construction, the owner shall contact directly with BFI or other contractor to collect and haul all household waste. Understood, agreed? Twenty-nine, prior to construction of all road crossings, buried utility lines or any modifications to the existing structures within the floodplain along Johnson Creek or Swan Lake the owner shall obtain a permit from the Lake County Board of Commissioners and Floodplain administrator. Understood and agreed?

Chuck Whitson: Yes.

Sean Conrad: Hey, Mike, just a clarification. Paddy, you wanted the floodplain shown on the plat – I think that should just be made a separate condition prior to - I wanted to add it to this, but...

Paddy Trusler: That's fine.

Mike Hutchin: Are we adding it?

Paddy Trusler: Yeah.

Mike Hutchin: Let's just add it rather than have another condition, let's just add it to this, the floodplain –

Sean Conrad: Well, this, the only reason I say add it a new condition because these conditions on here are ongoing. They need to obtain these permits prior to doing road construction and buried utility lines. You want to just add it there or?

Paddy Trusler: Well, I think that there's a, there's two different issues. One is the floodplain from Swan Lake and the other is the setback from Johnson Creek and not necessarily are the two the same. I think, the point I'm making and for clarification, and I did actually receive this particular photograph, I think if the floodplain is clearly shown on that and the purchaser is aware of that when this stuff happens like happened in '97, you know, these properties come under water, they're not going to be able to come back on Lake County and sue us and say they weren't given the proper information.

Mike Hutchin: Okay, I kind of tend to concur with Sean. Let's just make it a separate condition on the floodplain issue at the end of this line, okay? Redundant in some ways but it's a little more specific. Number thirty, proper permits from the Lake County Conservation District shall be required for any work within the bed and banks of Johnson Creek. Understood and agreed?

Paddy Trusler: And I guess I would say or the Swan River. And...

Mike Hutchin: And for Swan River?

Paddy Trusler: I mean, they would have...

Mike Hutchin: Yeah, they do have jurisdiction.

Paddy Trusler: ...jurisdiction of the Swan River at least part of the [indiscernible]

Mike Hutchin: Okay, got that Sean? Susan?

Sean Conrad: Umm hmm.

Mike Hutchin: Okay, agreed and understood?

Chuck Whitson: Yes.

Mike Hutchin: Number thirty-one, prior to construction of the units the owner shall obtain a building notification permit from the Lake County Planning Department. Understood and agreed?

Paddy Trusler: Okay.

Mike Hutchin: Thirty-two, activities which fall under Montana Code Annotated title 50 chapter 51 shall be prohibited on the property. I don't know what the heck that is, but nudity probably is included.

Paddy Trusler: What is, what is that?

Sue Shannon: That's um...

Chuck Whitson: Hotel/motel.

Sue Shannon: Yeah.

Sue Shannon: It requires public accommodation licensing.

[Unknown]: Commercial. It should say commercial.

Mike Hutchin: Okay, thank you John. Is that understood and agreed upon? Number thirty-three, all unit owners shall waive the right to protest a road improvement district, RID, for Sunburst Drive. Understood & agreed? Okay, all new and modified shall not exceed 30 feet in height. That was for discussion amongst us here. I have made the argument that I believe 35 is more appropriate in the sense that height going up is better than going out.

Public: No.

Other Public: No

Lots of Public: No.

Public Comment: You're setting another precedent.

Mike Hutchin: Okay, it's up to you boys.

Paddy Trusler: What do you want?

Chuck Whitson: [indiscernible]

Paddy Trusler: Thirty? Thirty.

Mike Hutchin: Okay, so it's thirty.

Public: All right.

Other Public: Yes.

Mike Hutchin: Okay. Okay, now the additional floodplain zoning, the condition will be thirty-five, thirty-five. That's for Johnson Creek and whoever as well.

Paddy Trusler: That would be noted on the - clarification. Jay, if I heard you correctly there isn't a designated - is there a hundred foot or a hundred year floodplain designation for Johnson Creek?

Jay Billmeyer: There is a boundary designated for Johnson Creek but there are no flood elevations.

Paddy Trusler: Does that exceed the hundred flood, or the 80' or whatever that was finally adopted to your recollection?

Jay Billmayer: Since the stream meanders, I think there are a couple of places where the flood boundary cuts the setback but generally the floodplain is within the setback. On Johnson Creek. I think it's ...

Sue Shannon: It's shown on there, I mean...

[people talking over each other]

Paddy Trusler: So that's the hundred year flood boundary?

Jay Billmayer: Yes that is the boundary that you have adopted.

Paddy Trusler: Okay, so the hundred year flood boundary and the hundred year flood plain: the hundred year flood boundary towards Johnson Creek and the hundred year flood elevation for Swan Lake can be shown on the final plat.

Jay Billmayer: Yes.

Paddy Trusler: Okay.

Mike Hutchin: Okay, that's in that condition number thirty-five. As I have my notes here, we concluded all of the other things in other conditions such as the zoning district and what not. Do we have any –

Sean Conrad: The only other thing I got is the fencing along the northern boundary and the landscaping there. I have that in my notes and I can read you a proposed condition anyway for the Commissioners to consider.

Mike Hutchin: Yup. Do it, Sean, please.

Sean Conrad: To legally fence and provide more trees to the berm and proposed landscaping as shown on Exhibit A which is what they gave us with the mitigation plan along the northern property boundary. A revised plan shall be reviewed and approved by either the Lake County Commissioners or the Lake County Planning Department and the plan shall be implemented prior to final plat.

Mike Hutchin: Agreed, understood?

Dave DeGrandpre: May I ask a question for clarification? There was a condition that was a thirty foot height limit that was recommended. It wasn't recommended by Staff, it was recommended by the Planning Board based on health and safety concerns. In other words the ability of the fire department to put out fires. Now, we have since talked to the

fire depart, submitted all of our architectural drawings and they said they had no problem with the building height. So it's no longer a public health and safety issue.

Paddy Trusler: The conditions of approval as recommend was for 30', we're upholding that particular condition.

Dave DeGrandpre: Can I ask what that's based on?

Paddy Trusler: It's just a recommendation that we're going to [indiscernible], same as you, ah, you made recommendations for particular [indiscernible] that you have. The one question that I have, Sean and Sue, you know I keep going back to this zoning district and it's because of the fact that I do believe that it gives the County more involvement in enforcement of these thing. What point did we cover the funneling and also the fractionalized use? You indicated you were going to put that in within your particular covenants, and then, but you said you wouldn't then go ahead and oppose a zoning district implementation, but, most normally, zoning districts in Lake County are citizen initiated and not County initiated. That's why I'd like to see the process, you know, the process completed with the final plat. And obviously if we only have, quote, you to deal with it's a lot better than dealing with a gazillion people. And so, I just have one, I want to go back and revisit that issue and say that the zoning district has to be in place prior to final plat.

Peter Leander: And the claim to funneling, that the zoning will have within it a zoning restriction.

Paddy Trusler: Excuse me. Jerry.

Jerry Peasack: Thank you. If in fact, um, and this is really good from our perspective, very vogue-ish. If we were going to revisit the evidence of the the zoning condition, I would really appreciate the opportunity to revisit the whole process that we are going through with the Planning Board as it relates to height.

Public: No.

Public: No.

Many Public: No [General dissent]

Peter Leander: Point of order: it's been voted on, raised and voted.

Jerry Peasack: We are reconsidering other issues then I would like to...

Paddy Trusler: I don't think, hey Jerry, I understand your concern. I mean I know it's contiguous to you, you know we've had to make a conscientious decision. I think what I am asking for is more of a point of a clarification because as we went through that we said that you would not oppose the formation of a zoning district. And I understand that.

And I guess if we want to go ahead and accept that condition then we can impose it prior to the time that you do the final plat. And that's the only thing I'm saying, you know? If you're going to waive your right then we'll impose it prior to the time that you need final plat approval. So it's six to one and a half a dozen of the other. I'm saying, let's just get it done and agree to it.

Dave DeGrandpre: Well, there's no problem with that. We can come up with the text very easily that adopts all of the conditions of approval that would normally be put in zoning.

Paddy Trusler: Thank you. You know, I do happen to believe that that is the easiest way to do it.

Peter Leander: And Paddy, will that necessarily include the funneling and fractionalization?

Paddy Trusler: It has to.

Peter Leander: Okay, that's all I wanted to know.

Mike Hutchin: Along those lines then, what about the sprinkeling thing? We've had people bring up sprinkling and we just approved a subdivision the other day for commercial that anything about 30' had to be sprinkled. Is that not an option?

Paddy Trusler: Not in my mind.

Public: No.

Public: No, you've already voted.

Mike Hutchin: Okay, so be it. That condition still reads all new and modified structures shall not exceed thirty feet in height.

Sue Shannon: Okay, how about the fractional and funneling? What their amendment to the environmental assessment stated fractional and interval ownership will be prohibited and rental will be restricted to thirty days. We want to say funneling, fractional rental and interval ownership.

Paddy Trusler: I don't know the legal definition of each of those statements. I think funneling means that, use by entities outside of the particular subdivision or condominium development would not be allowed. I'm assuming that that's what the restriction of funneling is. Fractionalization means that you can't time share and obviously – what's the other one? Interval granting?

Sue Shannon: Interval ownership.

Paddy Trusler: What's that?

Sue Shannon: Time share.

Public: Time share.

Public: Time share.

Paddy Trusler: How is that different than fractionalization?

Peter Leander: They're different methods about the same thing.

Paddy Trusler: They're the same thing?

Peter Leander: Yeah. Different schemes.

Sue Shannon: [indiscernible]

Public: Actually, Paddy, as a point of clarification regarding funneling, in their CC & Rs it is said the right to expand and that they would be considered a part of the Historic Kootenai Lodge and that would be on non-contiguous properties. So, for instance, they could purchase property down at gun club and funnel into, and so it isn't just within the subdivision, it could, and more importantly with non-contiguous properties.

Paddy Trusler: Okay.

Sue Shannon: That's in there, too— remove the right to expand language under the draft of the covenants.

Mike Hutchin: Any other points of?

Sean Conrad: No. That's all I have.

Mike Hutchin: Any last thoughts, gentlemen? Dave, any last comments. Any clarification. We went through each and every one of these one by one and its time to have questions answered in terms of understood.

Dave DeGrandpre: I believe we understand all of the conditions as discussed. The only one we take issue with is the building height and I just have to say with all due respect the only document that Lake County has adopted that refers to scenic view is the Lake County Growth Policy. And I assume that that is what this is based on now, because it's not based on the public health and safety issue.

Paddy Trusler: Try equity.

Denny Kellogg: Equity.

Dave DeGrandpre: Well...

Paddy Trusler: I think that you made a good point that you were not being asked to do, you do not take pleasure in being asked to do things that everybody else isn't being asked to do: we're not.

Kenny Kellogg: Way to go.

Public: Way to go.

Mike Hutchin: Okay, gentlemen?

Peter Leander: Commissioner, we've got a question. There's something in the covenants that we don't understand and it's section 1.4. It seems to exempt certain lots within the subdivision from the rest of the subdivision or the rest of the covenant rules. Wondering if we could get an explanation of that and also I just want to make very clear on the record our objection to the limitation of the public input time. But if we could have an explanation of the 1.4? And I'll bring a copy of that covenant up.

Paddy Trusler: And I think, I think that that will be addressed in the zoning because you can't exempt properties within the zoning.

Mike Hutchin: That would be the intent of the zoning district. Understood?

Peter Leander: [whispering] Understood.

Paddy Trusler: Public, thank you very much, I appreciate your patience and hopefully you understand how difficult it's been for this Commission to go through this process, too. So, thank you for all...

Mike Hutchin: No, we're not done.

Paddy Trusler: Oh, sorry.

Mike Hutchin: We, the chairman needs a motion.

Paddy Trusler: I would move that we adopt the Kootenai Lodge proposal for 57 units as per the amended conditions of approval that were put forth through the mitigation process consisting of – how many now, 30?

Mike Hutchin: Thirty-five, thirty-six.

Paddy Trusler: Thirty-six conditions.

Mike Hutchin: Commissioner Trusler has moved to grant preliminary approval.

Sean Conrad: I would also suggest you mention the variance requests in there. Or are you going to grant those or not? The variance for the bridge and the entrance gate?

Paddy Trusler: The bridge I don't have a problem with. And I don't know if the public recalls this but they wanted to leave that existing bridge intact rather than double, you know, double the width of it. I think in keeping with the character the bridge will be allowed. That's fifteen right now, isn't it Sean? Fifteen feet wide?

Sean Conrad: The bridge?

Paddy Trusler: Yeah.

Sean Conrad: I think it's about ten.

Paddy Trusler: Ten?

Dave DeGrandpre: Twelve.

Paddy Trusler: Twelve? Ten or twelve, yeah.

Mike Hutchin: Do we want to take that as separate motion to grant the variances?

Paddy Trusler: For the bridge I would grant that we, we move that we grant the grant for the bridge. The bridge.

Mike Hutchin: Add that to this motion.

Paddy Trusler: Okay.

Mike Hutchin: And your roadways?

Sean Conrad: The other one was for the gated entrance.

Mike Hutchin: This historic one.

Sean Conrad: About fifteen feet wide.

Paddy Trusler: Okay, but they are going to put another one alongside so it's not a continuous 26', but two separate entrances. I think that, I think that's reasonable.

Dave DeGrandpre: Does the motion include adoption of the findings of fact?

Peter Leander: [whispering loudly] I doubt it.

Mike Hutchin: Yes. It should be.

Chuck Whitson: Second.

Mike Hutchin: Second by Chuck. Any discussion? That enough? Okay, call for the question. All in favor. Unanimous. You'll have that out by when? Dave...

[Audience erupted into conversation as everyone began departing the room. End of meeting]