COMMISSIONERS APPROVAL

CHILCOTT

LUND

THOMPSON

TAYLOR (Clerk & Recorder)

Date.....January 19, 2006

Members Present.....Commissioner Betty Lund and Commissioner Alan Thompson

Minutes: Glenda Wiles

Commissioner Greg Chilcott was in Fairmont Hot Springs for a MACo Loss Control Workshop.

Commissioner Lund attended a Fair Commission meeting during the morning.

The Board met with Planner Karen Hughes in regard to the re-creation of the Ravalli County Planning and Zoning Commission by Resolution No. 1792, and Resolution No. 1793, which is a Resolution to create the Rippling Woods Voluntary Zoning District. Also present at this meeting were Mr. and Mrs. Hendrickson of the Rippling Woods residential area.

There was some discussion of the membership for the Planning and Zoning Commission. It was noted this membership is a requirement of Section 76-2-102 of the Montana Code Annotated. Commissioner Thompson made a motion to adopt Resolution No. 1792. Commissioner Lund seconded the motion and all voted "aye".

There was discussion of the creation of the Rippling Woods Voluntary Zoning District based upon the petition that has been brought forward by residents of the boundaries proposed. Commissioner Thompson complimented the proposed boundaries, which are easy to follow and do not 'checkerboard' around the various residents. Mr. Hendrickson stated all the neighbors were invited to the meetings, which included ballots for their opinions. He noted some residents north of the creek (lots 19-23), did not respond to the meetings and therefore they were not included in the geographical boundaries. Mrs. Hendrickson noted the boundaries also reflect their homeowners association.

Karen noted this resolution describes the boundaries, creating the boundaries and creating the district. She also noted the Resolution is acknowledging that the residents have submitted proposed regulations, but those regulations will not be approved at this time. Commissioner Thompson also asked about the enforcement of the zoning district. Karen

stated their review will look at the regulations in regard to being enforceable and what should be enforced. Those recommendations will then be brought forth to the Planning and Zoning Commission for their approval. Commissioner Lund stated one of the regulations should address the placement of trailer homes. Karen concurred that language needs to be reviewed and tightened up.

Mrs. Hendrickson stated they were under the impression that if any resident violates the regulations, it would be the County's responsibility to interpret and enforce the zoning district. Karen stated the Homeowners, or County and/or both can take on the enforcement. She stated that would be addressed in the regulations.

Mr. Hendrickson suggested only those businesses that create offense should not be allowed. He stated he did not want to encroach on an existing home business that utilizes a computer. Commissioner Thompson agreed that the language needs to be reviewed and certainly can be changed. Mrs. Hendrickson stated most of the residents feel these regulations in Exhibit A are going to be adopted. Karen stated this Resolution does not establish Exhibit A as the actual regulations. Planning, legal counsel, and the residents would review the proposed regulations. After a thorough review the regulations will then be approved.

Commissioner Thompson made a motion to adopt Resolution No. 1793, which defines the Rippling Woods Voluntary Zoning District boundaries and creates the district. Commissioner Lund seconded the motion and all voted "aye".

In other business the Board met for a Request for Commission Action on the Ravalli Farm Block 3, Lot 6 AP with two variance requests. Present at this meeting were Planners Kelli Zittergruen and Ben Howell. Terry Nelson of Applebury Survey represented Rick and Rosa Bean who are the developers of this project.

The meeting was called to order.

Commissioner Lund read the following statement:
Today's agenda includes one or more land use issues. Because of my years of service as Ravalli County Clerk & Recorder and now as Commissioner and because members of my family are involved in the real estate profession, I am providing this statement in the interest of full and open disclosure. My husband, son and brother-in-law are realtors who conduct business in this county. I do not participate in their real estate business or related matters except as the passive title owner of the building rented by their real estate business. Although connections with my family or their business and the land use issues facing us today are possible, I am not aware of any direct connections and thus do not believe I have any conflicts of interest arising out of my participation in today's meeting.

Ben presented a power point presentation and entered the Request for Commission Action into the record as follows:

Ravalli County
MONTANA

REQUEST FOR COMMISSION ACTION

OG-06-01-47

Site Visit: January 17, 2005 at 3:30 p.m.
Meeting: January 19, 2005 at 2:00 p.m.
Request: To act on the Ravalli Farm Block 3, Lot 6 AP (Bean) Major Subdivision and Two Variance Requests

I. ACTION REQUESTED

This is a request from Rick & Rosa Bean, represented by Terry Nelson with Applebury Survey, to approve the **Ravalli Farm Block 3, Lot 6 AP (Bean) Major Subdivision and Two Variance Requests.**

II. BACKGROUND

This proposed six-lot major subdivision of a 6.49-acre parcel is located within a primarily large-lot residential and agricultural area approximately 0.5 miles east of Corvallis off Willow Creek Road. The property is located within the Corvallis Rural Fire District and the Corvallis School District. The subdivision will create six lots, each approximately 1.10 acres in size. Lots are proposed to be served by individual wells and wastewater treatment systems. An existing residence is located on proposed Lot 6F.

The majority of the property is an abandoned apple orchard. It is bordered on the entire western boundary and a portion of the southern boundary by the Republican Ditch. According to the application, the subject property does not have irrigation water rights. The land contains no areas of special concern such as riparian, steep slope, timber, or noticeable topographic features.

The existing house on proposed Lot 6F is proposed to access directly from Willow Creek Road. The applicants originally proposed to have common accesses off of Willow Creek Road to serve Lots 6A through 6D, with individual driveways serving Lots 6E and 6F. The Planning Board stated they were concerned about the number of accesses onto Willow Creek Road and the

applicants changed the proposal to include an internal road to serve Lots 6A through 6E. A variance from the requirement that all lots access off the internal road is still required. The applicants are also requesting a variance to allow the internal road to be constructed to meet the new road standards, as amended August 4, 2005, instead of the standards in place at the time of application submittal.

Staff recommended denial of Variance #1, conditional approval of Variance #2, and conditional approval of the subdivision proposal.

III. PLANNING BOARD RECOMMENDATIONS

The Ravalli County Planning Board conducted a public hearing on this proposal on September 21, 2005 which was continued to December 21, 2005. At the December 21st public hearing, the Board took the actions outlined below.

VARIANCE #1 (from access requirements for Lot 6F)
The Board chose not to review the five criteria individually. The Board made a motion that the variance request from Section 5-2-2 (c) (6) of the Ravalli County Subdivision Regulations, which requires all of the lots to access off an internal subdivision road be **approved,** based on the findings of fact that if the road were extended to serve Lot 6F, the existing drainfield on Lot 6F would have to be relocated, that there is sufficient distance between the entrance of the internal road and the existing Lot 6F access, and that weed control and maintenance would be reduced by not extending the internal road. **The Board voted 6-0 to approve the motion.**

VARIANCE #2 (from the road standards for Continental Way)
The Board chose not to review the five criteria individually. The Board made a motion that the variance request from Section 5-4-5 (a) of the Ravalli County Subdivision Regulations, to allow Continental Way to be constructed to meet the new County road standards, as amended August 4, 2005, be **approved,** based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report. **The Board voted 6-0 to approve the motion.**

SUBDIVISION PROPOSAL
The Board chose not to review the six criteria individually. The Board made a motion that the Ravalli Farm Block 3, Lot 6 AP (Bean) major subdivision be **approved,** based on the findings of fact and conclusions of law in the staff report

and subject to the conditions in the staff report, with Condition #7 amended to require a $250 per lot contribution for Lots 6A through 6E be made to the Corvallis School District upon first conveyance of each lot and Condition #8 amended to require a $500 per lot contribution for Lots 6A through 6E be made to the Corvallis Rural Fire District. **The Board voted 6-0 to approve the motion.**

Comments from the meeting are contained in the record.

IV. PLANNING BOARD'S RECOMMENDED MOTIONS

(Note: Changes to staff's recommended motions are in underline/~~strike-out~~)

1. That the variance request from Section 5-2-2 (c) (6) of the Ravalli County Subdivision Regulations, which requires all of the lots to access off an internal subdivision road, ***be*** ~~***denied***~~ ***approved***, ~~based on the findings of fact and conclusions of law in the staff report~~, based on the findings of fact that if the road were extended to serve Lot 6F, the existing drainfield on Lot 6F would have to be relocated, that there is sufficient distance between the entrance of the internal road and the existing Lot 6F access, and that weed control and maintenance would be reduced by not extending the internal road.

2. That the variance request from Section 5-4-5 (a) of the Ravalli County Subdivision Regulations, to allow Continental Way to be constructed to meet the new County road standards, as amended August 4, 2005, ***be approved,*** based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

3. That the Ravalli Farm Block 3, Lot 6 AP (Bean) major subdivision ***be approved,*** based on the findings of fact in the staff report and subject to the conditions in the staff report, with Condition #7 amended to require a $250 per lot contribution for Lots 6A through 6E be made to the Corvallis School District upon first conveyance of each lot and Condition #8 amended to require a $500 per lot contribution for Lots 6A through 6E be made to the Corvallis Rural Fire District.

V. PLANNING BOARD'S RECOMMENDED CONDITIONS

(Note: Changes to staff's recommended conditions are in underline/~~strike-out~~)

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Effects on Agriculture)*

Notification of Irrigation Ditch and Easement. The Republican Ditch is located adjacent to this subdivision. Within this subdivision there is an irrigation easement for the Republican Ditch. All downstream water right holders have the right to maintain and repair their ditches/pipelines and diversion structures whenever necessary to keep them in good condition. The filed subdivision plat shows the irrigation easement on the property. The downstream water rights holders must approve any relocation or alteration (i.e. installation of a culvert) of an irrigation ditch or pipeline. Any act which damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance is expressly prohibited. The downstream water right holders have the right to use the easement to maintain the ditch. *(Effects on Agricultural Water User Facilities)*

Lots 6A through 6F do not currently have the right to take irrigation water out of the Republican Ditch located adjacent to the subdivision. Taking water without a water right for irrigation purposes is illegal. *(Effects on Agricultural Water User Facilities)*

Notification of Road Maintenance. Ravalli County, the State of Montana, or any other governmental entity does not maintain Continental Way, the road within this subdivision and therefore does not assume any liability for improper maintenance or the lack thereof. A Road Maintenance Agreement was filed with this subdivision and outlines what parties are responsible for road maintenance and under what conditions. *(Effects on Local Services)*

Limitation of Access Onto County Road. A non-ingress/egress zone exists along Willow Creek Road, which restricts vehicular access onto this County-maintained road, excepting the approved approach location(s) for the internal subdivision road. All lots within this subdivision must use the approved access point(s). This limitation of access may be lifted or amended with approval of the County. *(Effects on Local Services)*

2. Protective covenants to be filed with the final plat shall include the following provisions:

Waiver of Protest to Creation of RSID/SID. Owners and their successors in interest waive all rights in perpetuity to protest the creation of a city/rural

improvement district for any purpose allowed by law, including, but not limited to creating and/or improving a community water or wastewater treatment system and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Corvallis Rural Fire District has adopted the Uniform Fire Code 901.4.4 which requires the lot owners to post County-issued addresses at the intersection of the driveway leading to the primary residence and the road providing access to the lot as soon as construction on the residence begins. *(Effects on Local Services & Effects on Public Health and Safety)*

Access Requirements for Lots within this Subdivision. The Corvallis Rural Fire District has adopted the Uniform Fire Code. All accesses, including driveways to residences over 150′ in length, must have a minimum unobstructed travel surface width of 20′, a vertical clearance of 13′6″, and be constructed of an all weather surface able to accommodate the weight of a fire truck, approximately 40,000 lbs. to meet requirements of the Uniform Fire Code. *(Effects on Local Services & Effects on Public Health and Safety)*

Primary Heat Source. The primary heat source for the newly constructed residences in this subdivision shall be at least 75% efficient. *(Effects on Natural Environment)*

Control of Noxious Weeds. Lot owners shall control the growth of noxious weeds on their respective lot(s). *(Effects on Natural Environment)*

Living with Wildlife. (See letter from FWP, which is Exhibit A-2 of the staff report, for required provisions.) *(Effects on Wildlife and Wildlife Habitat)*

Lighting for New Construction. Full cut-off lighting shall be required for any new construction within this subdivision. A full cut-off fixture means fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light emitted. The source of light is fully shielded, top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. Spotlighting of flag poles shall be permitted. *(Effects on Public Health & Safety)*

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building

design and abatement techniques incorporated into structures. *(Effects on Public Health and Safety)*

Maintenance of the Fence along the Republican Ditch. The fencing of the Republican Ditch along the western and southwestern property boundaries shall be maintained in perpetuity by the owner(s) of and their successors in interest of Lots 6A through 6D and any subsequent subdivisions thereof. *(Effects on Public Health and Safety)*

Amendment. **The covenants filed with the final plat shall state that written governing body approval shall be required for amendments to provisions of the covenants listed above, that are required to be included as a condition of subdivision approval.**

3. The final plat shall show any additional County road and public utility easement width along the Willow Creek Road frontage of the subdivision in order to bring the total easement width to 60'. *(Effects on Local Services)*

4. The applicants shall include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners and any successors in interest to any future RSID/SID, based on benefit, for a community wastewater system, community water system, or upgrading roads leading to or within the subdivision, including but not limited to paving, curbs and gutters, non-motorized transportation facilities, street widening, and drainage facilities. *(Effects on Local Services)*

5. The final plat shall show a non-ingress/egress zone along the Willow Creek Road frontage of this subdivision, excepting the location for the proposed internal road~~. The existing access for Lot 6F shall be removed and all lots shall access off of the internal subdivision road.~~ and the existing access for Lot 6F. *(Staff Note: This condition wasn't amended at the public hearing, but it has been changed to reflect the Planning Board's recommended motion) (Effects on Local Services & Public Health and Safety)*

6. The applicants shall install a stop sign at the intersection of the internal subdivision road and Willow Creek Road, subject to review and approval of the Planning Department, in consultation with the Road Department. *(Effects on Local Services)*

7. ~~Space for school contribution condition.~~ The final plat shall include a statement that a $250 per lot contribution for Lots 6A through 6E shall be made to the Corvallis School District, upon first conveyance, including lease or rent, of each of the lots. *(Effects on Local Services)*

8. The applicants shall meet the water supply requirements in the Uniform Fire Code, subject to review and approval of the Corvallis Rural Fire District or provide a financial contribution of $500 per lot for Lots 6A through 6E, for a total of $2500, shall be made to the Fire District prior to final plat approval. *(Effects on Local Services & Public Health and Safety)*

9. The applicants shall provide evidence with the final plat submittal that they have applied for County-issued addresses for Lots 6A through 6E ~~each lot~~ within this subdivision. ~~It shall also be required that the address for the existing homesite off Willow Creek Road be changed to one that uses Continental Way, in accordance with E-911 addressing policy.~~ *(Staff Note: This condition wasn't amended at the public hearing, but it has been changed to reflect the Planning Board's recommended motion) (Effects on Local Services & Effects on Public Health and Safety)*

10. To improve the longevity of the fence along the Republican Ditch, treated wood or metal fence posts shall be installed. *(Effects on Public Health & Safety)*

~~11. Prior to final plat approval, the Road Maintenance Agreement for Continental Way shall be amended to include Lot 6F. (Effects on Local Services)~~ *(Staff Note: The Planning Board didn't strike this Condition, but it has been deleted to reflect their recommended motion)*

12. Continental Way shall be dedicated as a "public road and utility easement" on the final plat. *(Effects on Local Services)*

13. The applicants shall submit the road plans for Continental Way to the Ravalli County Road and Bridge Department for review and approval under the new road regulations, as amended on August 4, 2005, prior to final plat approval. The road shall be built to meet the standards in the Ravalli County Subdivision Regulations as amended on August 4, 2005. *(Variance #2)*

REMAINING ISSUES:	None known.
FISCAL IMPACT:	No extraordinary fiscal impacts noted.
ATTACHMENTS:	Application package and additional application materials Staff Report Planning Board meeting minutes (with relevant attachments)
STAFF:	Kelli Zittergruen
DATE:	January 13, 2006

Terry stated they agree with the Planning Board, but disagree with the Planning Staff's recommended denial of variance #1, due to current location of the driveway and location of the drain field. This would increase the amount of land between the drive and weed control would be a problem.

No other members of the public were present. Public comment was closed.

Board deliberation then took place. Commissioner Thompson commended the Planning Staff and Planning Board because the problems were handled by the Planning Board and the Planning Staff. One issue is criteria #6; #1 that the findings show the public health and safety override the Sheriff's letter. In regard to variance #1, he understands what the Planning Staff has stated, but Lot 6F with a paved driveway, and the existing drain field is troublesome. He stated there is enough separation and does not see any problems to utilize the Planning Board's recommendation.

Commissioner Lund stated she agrees that variance #1 should be approved. While it allows one more access to Willow Creek, she would not want to remove the existing paved drive to Lot 6F. Kelli stated they would amend the findings based on this discussion and agreement. Terry also noted the Planning Board had findings.

Commissioner Lund stated her brother-in-law had property next door to this property, but he sold it prior to this conditional approval request. Kelli noted the new owner would be reflected on the final plat, not the old owner, who is Larry Lund. Commissioner Lund expressed concern that a member of the public might see a conflict of interest, when there is none.

Commissioner Lund asked about the sub-surface regulations in regard to the mixing zone. Discussion included the new regulations for sub-surface water that will take effect on March 1st. Terry stated this plat would not violate any DEQ requirement.

Commissioner Thompson made a motion that the variance request from Section 5-2-2 (c)(6) of the Ravalli County Subdivision Regulations be approved, based on the findings of the Planning Board, and that the variance request from Section 5-4-5 (a) of the Ravalli County Subdivision Regulations, to allow Continental Way to be constructed to meet the new County road standards, as amended August 4, 2005, be approved, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report. And that the Ravalli Farm Block 3, Lot 6 AP major subdivision be approved, based on the findings of fact in the staff report and subject to the conditions in the staff report, with the amended conditions by the Planning Board, with Condition #7 amended to require a $250 per lot contribution for Lots 6A through 6E be made to the Corvallis School District upon first conveyance of each lot and Condition #8 amended to require a $500 per lot contribution for Lots 6A through 6E be made to the Corvallis Rural Fire District. Commissioner Lund seconded the motion and all voted "aye".

The Board also discussed the At-Large position for the Planning Board. This position was filled on January 17th with the appointment of Bill Swendsen. After the

appointment, Bill declined the appointment due to a new job. Commissioner Thompson made a motion to appoint Gary Zebrowski to the At-Large position with a 2-year term ending December 31, 2007. Commissioner Lund seconded the motion and all voted "aye".

Civil Counsel met with the Board in regard to the 9-1-1 Advisory Board Resolution No. 1751. Also present was 9-1-1 Dispatch Supervisor Joanna Hamilton and Glenda Wiles. James stated as he did research as per Glenda's request, he found issues regarding the subcommittee that are needed for the NCIC and CJIN terminal usage (ORI – license assignment) The ORI management control requirement addresses the management control agreements through the FBI. Based on the letter from Jennifer Veith of the Department of Justice, James stated the bylaws must define management control. He has taken that language and inserted it into an Inter-local Agreement to Establish a Ravalli County 9-1-1 Center Board. James stated the day- to-day operations of the 911 Dispatch Center shall be managed by Ravalli County, in accordance with standards and policies established by the 9-1-1 Center Board on CJIN/NCIC operations. However, the management control for the selection, supervision and termination of personnel, which standards shall not contradict the Ravalli County Personnel Policies. This inter-local agreement also changes the amount of membership to nine, which will include 51% law enforcement personnel.

While discussing the membership of this Advisory Board, Commissioner Thompson stated it is important that one person does not rule the board. Commissioner Lund concurred. It was concurred that the 9-1-1 Dispatch Supervisor should be the Chairperson of this Board, with seven members of the board being law enforcement, a County Commissioner, or their designee, a member of the Fire Counsel, Hospital staff, and the 9-1-1 Dispatch Supervisor.

Commissioner Thompson made a motion to rescind Res. 1751, and to run this inter-local by the State for approval and then circulate for signatures. Commissioner Lund seconded the motion and all voted "aye".

In other business, the Commissioners met with Joe Frolich on a personnel matter. Joe reported that George Corn expects 72 hours notice before shutting down the Internet to his office. George spoke this to Joe as an order.
Joe said he gave George's office notice to print their calendars and other necessary information the night before, which was all the notice he was able to give. Cindy, in George's office, said that the calendars were printed in time, but George insists that he receive the additional advance notice.
Joe said the State was insisting on shutting down the Internet last week, but Joe argued that the problem was not with our equipment. However, they insisted on shutting it down, and their authority supercedes his.

Joe said, as a department head, he has the authority to shut down any server that might have a virus. Commissioner Lund said it would be necessary to shut down a suspect server to prevent further spread of the virus.

Joe said George intends to send a memo to the Commissioners, complaining that Joe shut down his office without sufficient notice. Commissioner Lund said the Commissioners would send a memo to George, outlining the fact that Joe has the authority to shut down whatever needs to be shut down. Commissioner Thompson said department heads do not have authority over those not under their jurisdiction. They need to respect the authority of other department heads. The Commissioners will make it known that Joe has authority over his department.

Commissioner Lund said the Commissioners would respond to any memo from George's office, relative to this issue. Commissioner Thompson stated clean lines of authority must be maintained. If someone feels Joe is in error, they should call on the Commissioners to straighten out the situation.

Joe stated he doesn't want the animosity to continue. His department is at the mercy of the State. The State threatened to shut down the entire system. He understands the State's concerns, though he knows the problem does not come from here.

Commissioner Thompson said there is a clear chain of command in the County. Commissioner Lund said Joe did what they would have expected him to do, and the Commissioners will defend him to George. George should know that a virus could take out the entire system.

Joe said he hopes to have all the problems solved by tomorrow.

Commissioner Thompson asked if the Stated has determined the source of the problem.

Joe said they gave a general explanation, saying there had been unusual activity.

Commissioner Lund said Joe had done what he should have done. Commissioner Thompson said the situation would be taken care of in the next few days. It is the Commissioners' responsibility to deal with it. Department heads need to be receptive to people they are responsible for, as the Commissioners are responsible for Joe. He encouraged Joe to continue to do what is best for the system.