

RICHLAND COUNTY PLANNING AND ZONING COMMISSION

MEETING MINUTES

July 30, 2018 @ 3:00pm

Richland County NUTTER BUILDING

Marcy noted Tara DePuy, MACo Land Use Attorney had brought to her attention earlier that the agenda stated the meeting was to start at 3:30 pm. Marcy stated both newspapers, the Sidney Herald and the Round showed the meeting was to start at 3pm; she asked Tara if the Zoning meeting could go ahead start the meeting; Tara stated yes. Commissioner Mitchell stated the Agenda be changed to reflect the correct time.

Meeting was then called to Order by Chair, Commissioner Duane Mitchell at 3:10 pm.

Members Present: Duane Mitchell-County Commissioner, Loren Young-County Commissioner, Shane Gorder-County Commissioner, Stephanie Verhasselt-County Clerk & Recorder, Adam Smith-County Public Works Director, Devin Bell-citizen member. **Absent:** Kale Petrik-citizen member. **Staff Present:** Marcy Hamburg-County Planner & Zoning Administrator and via phone Tara DePuy, MACo/PTC Land Use Attorney.

Approval of Minutes of Preceding Meetings: Commissioner Mitchell entertained a motion to approve the July 16, 2018 minutes; *Commissioner Gorder moved to approve the July 16, 2018 minutes as written; motion was seconded by Commissioner Young; motion carried.*

Conflict of Interest: It was noted there were no conflicts of interest.

Staff Report: Marcy stated she has been researching the information requested by the Zoning Commission.

Chair reads public comment guidelines: It was noted no audience member were present, therefore the guidelines were not read.

Public Comment Including Comment on Agenda Items Not Scheduled for a Public Hearing: It was noted no public comments were provided.

Old Business:

- **Continue to review and discuss McGlynn Reservoir Citizen Initiated Planning and Zoning District Development Pattern and Zoning Regulations**

Commissioner Mitchell noted the Planning and Zoning Commission left off on page 22 of the draft regulations (dated 5-18-18).

Marcy stated she would like to go back to discuss the Density (page 16) a bit more; she said there was some confusion during the last meeting on this, she wanted to clarify it more, so the Commission has a good understanding of what it is. That way they would be able to answer any questions the public had. Commissioner Mitchell read the section as it was written. Marcy stated Density is how many units are on a parcel, then they determine the size of the parcel the Commission would like it to be. She went on to say the Commission did discuss whether or not to leave it at 20 acres with a total of five units on the property, one primary with up to four additional units. She stated the Commission also discussed what the acreage should be per unit, if the landowner only wanted one unit, or would they need to go up to the 20 acres. Marcy stated

the density could still stay at 20 acres, if the Commission wanted to leave it, or they could go smaller, it seemed it was better to make it be the same as the land division at 2.5 acres, but it does not have to match.

Commissioner Mitchell asked where the 2.5 acres came from. Marcy said the Land Division, for example let's say Devin has his property, 20 acres and wanted to give a portion to his son in the future, to be able to do that he would have to subdivide or he go through a family exemption (according to the subdivision regulations), If the zoning is going to have on a restriction on how small a lot can be then he would have to make sure that his lot meets the zoning requirement on the lot size. So the smallest the lot size (in the regulations) is right now at 2.5 acre, and the remaining parcel could not be less than 2.5 acres; all the lots would have to be at least 2.5 acres or greater.

Adam asked if they had one lot consisting of 2.5 acres would they be allowed to put a house on it. Marcy yes, even though the density is one unit per 4 acres; basically, the density is when they have multiple units on the property. Adam stated he understood. Devin said they just wouldn't be able to put another unit on it.

Marcy said if he subdivides it, he wants to have a total of three lots, and they have to be 2.5 acres or over, and he could put a house on each one, because they are each a separate parcel. But if they had a parcel that was less than 20 acres then they wouldn't be able to put multiple units on it, they would only be able to put one unit on it. Adam asked for clarification, so you can only put one unit on a parcel up to 20 acres; Marcy said that's the way she understood it. She stated she liked the idea the Commission came up with at the last meeting, that for each additional unit they would need an additional 2.5 acres, up to a maximum of 5 on a parcel, she is working the wording for it. What she is doing right now is going through the draft and doing the revisions per the Commission, and doing the research on the questions the Commission had asked about. She will have it ready for the Commission to consider before the public hearing, and to make sure all the issues, concerns the Commission had were addressed.

Marcy asked if this clarified the questions and concerns the Commission had on Density and Land Division; several members said no. Commissioner Gorder thought at the last meeting they had it pretty simple, that they decided it keep it standard between the two, at 2.5 acres. Marcy said yes, that is what it will be. Adam said what she is saying is that the Commission doesn't have to do it that way; Marcy agreed. She wanted to explain what density is a little more, but the Commission could have it either way. Adam stated he liked the way they described it at the last meeting, that way if they only had five acres they could put two houses on the parcel.

Marcy noted during the last meeting the Commission also asked about the Cell, Commission Towers needing to be meet the FFA requirements, she said it would be in the regulations.

Devin said he was playing doing blue prints for a shed, at 40' X 75' that it came out at 3,000 sq ft and on #8 it says less than 3000 sq ft then over on #1 it says great than 3,000 sq ft, if they had exactly 3,000 they wouldn't have anything; he recommended #8 should be 3,000 sq ft or less (page 14). Marcy noted the change.

IX-D. Conditional Use Procedure:

IX-D-1. Review Time for Submittal:

The Commission members appeared to be okay with the way it was written.

IX-D-2. Zoning Administrator's Report to Planning and Zoning Commission: starting at the bottom of page 21 with (a).

Marcy said she checked with Heather Luistra, County Sanitarian and Heather felt she was qualified, however Heather was not sure the Sanitation Office would be able to do this, it would be up to her Supervisor and Director. Marcy stated she sent an email to Heather and is waiting for a response, if the Sanitarian cannot perform this then the Commission would need to take another look at this. Marcy noted Tara was also looking into it. Tara stated she didn't think the County should have the burden of doing the testing, the testing should be the requirement of the applicant and if they don't provide the test when they are supposed to then the Commission could revoke their Conditional Use Permit.

Adam liked this idea, he then asked if the Planning and Zoning Commission was going to come up with what tests they wanted to see and how often. Tara stated when they are granting a Conditional Use Permit they

would state then what testing they wanted, what format they wanted it, and how often they wanted them; and if they fail to provide the remedy the Commission would revoke the Conditional Use Permit then it's a violation of zoning and they can no longer operate.

Commissioner Mitchell asked if the Commission wanted it to say "the third party shall be bonded licensed environmental engineer" and strict "or sanitarian" which shall be agreed upon by the Planning & Zoning Commission. Tara thought a third party could be an environmental engineer or sanitarian, not the County Sanitarian.

Adam said he didn't know if he would even be qualified to ask them what test they would need to take and how often they would need to take them. Commissioner Young asked if Terry would be qualified; Adam thought Terry would be able to provide a recommendation. Commissioner Mitchell asked how they would be able to put it in the regulations. Commissioner Young said they would have to research it, and then add it in at another time.

Commissioner Mitchell asked what the Planning & Zoning Commission is going to want that they don't already get from DEQ? Tara stated maybe DEQ didn't require a stock pond to be monitored for contamination, and the Planning & Zoning Commission wanted that stock pond monitored, they could require it. Devin stated at one time the landowners were told they couldn't go above and beyond DEQ; Commissioner Mitchell agreed. He went on to say, now you are saying we can do different monitoring practices. Tara clarified what was said is they can't require DEQ do anything, because they don't have jurisdiction over DEQ. Devin said he was not aware of this, and would change things. Adam asked Tara if they ask the applicant for additional ground water monitoring for whatever, he wondered if they have any qualification to do that or if they were just saying we are just creating busy work. Tara stated the public comment during a public hearing, someone comes they are worried about ground water, whether it is domestic well, stock water or whatever it is, the response to the public comment the Planning and Zoning Commission is to condition that well or stock pond to be monitored; the Commission wouldn't be grabbing monitoring out of the air it would have to be based on something they saw in the application or public comment that was raised. Adam noted it makes sense. Commissioner Young asked if it came to light could they ask for tests before (construction, operation) so they would have base line on the wells or ponds. Adam thought they could ask for a sample before they started construction.

Devin said for example what if someone asked about air quality, radiation in the air, those types of systems that would have to be setup on only some spots in the area that would show if there is any radon, is this something that could be put into the zoning regulations for monitoring? Commissioner Mitchell said it sounded like it could. Devin went on to say if public person came in and said it should be done, can it be in the regulations. Tara said if they had public comment it that was supported by some creditable information, yes, but if someone came in and said they wanted monitoring for UFO's, they wouldn't do that, it has to be creditable then they can ask for it. She was checking to see what's required in the application materials, there is water quality and water quality analysis; if the Commission wanted to add something on air quality back in Section 9(c)(1) they could do, she asked if there was a catch all; Marcy said yes, "any additional information..." Tara stated that would work, so if it is a conditional use where they were concerned about air quality then they could do it as a condition, they could require a base level before they actually start manufacturing or whatever the use.

Marcy thought (a) should read "Require the collection of existing surface and ground water quality and quantity and/or as requested by the Planning and Zoning Commission this may be done periodically during the use of the Conditional Use Permit and may be done by a third party and may be done at the expense of the applicant." Stephanie stated it shouldn't be "may" as the County is not going to pay for it. Marcy asked if it should be "would be"; several members agreed that it should be "will be". Stephanie asked if there would be circumstances were they (County) would pay for it.

Commissioner Gorder questioned if they should leave themselves completely out; he asked what if it was something above and beyond and the County is willing to take on the expense. Adam said he wondered how they were going to set it up before hand, like what are they going to do the test for, and how often; and are they going to need a third party. Marcy agreed with Adam, and asked on how long is it going to be necessary, and the level of expense of what it would cost every time they would have to have it done, if it would be

every three month, weekly, monthly? Commissioner Gorder thought they could choose it to be random; they could call up Barry and say well he was in town that he could do a report. Marcy said it says it could be done periodically. Commissioner Gorder stated he just wanted it kept the Commissioner in, if they going to need to do something above and beyond what they are doing; he liked the idea of not eliminating the Commissioners totally, to add an “Or” in the sentence.

Commissioner Young asked how often was the County’s landfill monitored; Adam, quarterly. Adam stated ground water elevations are taken monthly.

Marcy noted the change for (a) would include, in the sentence at, “this may be periodically during the use of the Conditional Use Permit, and will be done at the expense of the applicant or the County.” Tara questioned why does the County want to pay for it? Commissioner Gorder stated it’s not that they don’t. Tara noted the applicant is going say we don’t want to pay that it says “or” so the County can pay for it. Commissioner Gorder stated they need the wording in it that says, and if the County wanted any additional testing then the County would pay for it. Stephanie said that makes sense. Commissioner Mitchell stated they would then just put it on their tax roll. Marcy stated the way she reads it is that it can be asked by the Planning and Zoning Commission at any time and they take off “or County” then it would still be applicant’s responsibility to pay for it, to pull the samples by a third party would be at the request of the Planning and Zoning Commission.

Tara said she wanted to make sure they understood the process, when they grant a Conditional Use Permit they would set terms for testing in it, they can’t come back later, the Conditional Use Permit is for two year, then six months down the road add more conditions; it has to be set up front, it’s only fair to the applicant that they know what their requirements are, the Commission, Commissioners can’t change them in mid-stream.

Commissioner Young suggested to take out “or” and add a whole new sentence that the County will have right to do testing at random. Marcy reminded the Commission to keep in mind this is not just for the one applicant this is for all of the applicants. Commissioner Mitchell stated in this zone, that way if a feed lot comes in then they could test, example for a pig farm or turkey farm. Marcy asked for example in a DEQ application, how many times a year would they have to test, she asked about the County landfill; Adam said quarterly. Tara stated she though what they wanted to do, was not put anything in this paragraph (a), that they are looking at the County doing testing, that maybe what they would want to do is go somewhere past this, like towards the bottom of the list and add something to the effect the County retains the right to enter the property and perform testing at its own expense. She said they better retain the right to enter the property or they would be trespassing, they couldn’t just go on someone’s property and start testing. The Commissioners agreed they liked this better. Commissioner Mitchell stated this way if the County thought the third party monitoring isn’t up to snuff, then they could do the testing and pay for it. Devin said he liked this as it offered a check and balance. Tara agreed, but they would need to retain the right of entry onto the property so you can do the testing.

Commissioner Gorder stated there was nothing that really defined who the third party is, it could be the partner, which is why he thought it was important they have some control over it. Tara stated they have to be licensed and bonded; Commissioner Gorder stated it could still be a partner. He stated it would be like him wanting to have a third party audit on the State of Montana, but they audit themselves; all he is trying to do is give the County some teeth into it.

Marcy said it was asked if the Commission wanted to define the hours of operation in (b). Commissioner Mitchell said he thought it was already defined; Marcy, that was only for construction. Commissioner Mitchell stated then 6am-7pm. Adam stated what this is saying is that the Commission can require specific hours of operation for the Conditional Use Permit. Stephanie stated that was the way she read it. Marcy said so if the applicant says their operational are 24/7 would the Commission be okay with them operating 24/7? Stephanie stated the way she reads the Commission would set the hours for each applicant depending on what they are doing. Commissioner Mitchell and Tara agreed. Commissioner Mitchell went on to say that if you have a feedlot that if they are calving then they would have to operate 24/7, or lambing or farrowing, it would depend on the application. Adam agreed would be specific to each application.

Devin asked about the wording at the top “The Zoning Administrator ...may recommend conditions.” Then it is say “Require specific hours of operation”, so are they recommending it or is Commission requiring it.

Commissioner Mitchell said so if you are the applicant they are the Zoning board and you want to start a turkey farm, does a turkey farm require 24/7 hours a day, this is a conditional use permit but they want you to ship turkeys only from 8am-7pm; so the Commission could require that. Marcy said what Devin had asked is what the Zoning Administrator would do; they review the application materials, in the application they described their business hours, the (Administrator) report would show the hours the applicant wanted to operate, and then there would be a recommendation to the Zoning Commission from the Administrator, the Zoning Commission would decide whether or not if they want to approve it. Commissioner Mitchell stated then they do want it in there.

Commissioner Mitchell read the requirement for (c). Marcy explained that for the Security the funds would be set aside to pay for those during the term of the Conditional Use Permit, for those years; so they would have an outline for each one and the cost for the ten years. Commissioner Mitchell asked where that Section was at; Adam stated it was at the top of page 24. The members appeared to be okay with the way it was written.

Commissioner Mitchell read section (d), (e), and (f). The Commission members appeared to be okay with the way they were written.

Commissioner Mitchell read the screening requirement stated in (g). Commissioner Gorder stated Loren would want the lathes in the fence; Commissioner Mitchell said to protect the view. Commissioner Young pointed out that was what the Commissioners did for the Schieffer subdivision application. Marcy noted they called the "Lady Bird"; Commissioner Mitchell remembered it was to keep the junk yards covered. Tara stated they may want to change to say "screened by an appropriate fence"; then in the Conditional Use Permit they would say what type of fence they want depending, because chain link fence may not work in some cases. Commissioner Mitchell stated they had an issue with the Steinbeisser one they wanted trees instead of the fence. Commissioner Young stated he didn't think they would want the whole thing fenced. Adam stated most industrial and commercial places would want their property fenced. Commissioner Mitchell suggested to put a period after "public street." then add an "a or i" to include a 6 ft chain link fence, wooden fence or appropriate fence". Adam suggested to cross out "with a six (6) foot chain link fence" and just put "by an appropriate fence"; Commissioner Gorder and Stephanie agreed. Marcy stated that when she would look at an application, the fence they are proposing, if it looked feasible that it would work then that would be the recommendation, if not then there'd be a recommendation for a better option, the decision would be the Zoning Commission's in the end. She agreed it would be better to say "by an appropriate fence". The Commission members appeared to be okay with the change.

Commissioner Mitchell read the landscaping requirements in (h). Commissioner Gorder asked Tara where the one year came from (in h. iv.); Tara asked Marcy. Marcy stated it came from one of the samples. Commissioner Gorder stated he did not think it was enough time, if they are planting new trees, more than likely 50 % will die. Marcy asked him to make a suggestion. Commissioner Mitchell stated to get an evergreen established it would take 3 years, they'll show growth the first year then if they are not water the second and third year they die out. Commissioner Young stated it he took him 30 years to get their trees to grow, but that would be unrealistic. Commissioner Mitchell asked about five years, the Poplar trees at Mitchell's that they planted came up real fast then in five years because of the wind they were gone. Commissioner Gorder agreed to go with five (5) years. The other Commission members appeared to be okay with the change.

Marcy stated when she was working on the draft regulations she thought (i) and (j) referred to buildings, when she visited with Tara about them Tara said they would want to know where they (landowner/applicant) was going to place their buildings. Tara said correct, so they have a large parcel of land and they have one residential house close on one side and they wanted to place the use right next to the house it may be appropriate to push them to the other side of their property. Commissioner Mitchell stated he was not sure about this, just because he owns the property and now he can't he build where he wants to build; just because he's infringing on the neighbor, and they didn't want him building next to them then they should have bought the property before he did. Marcy asked if the Commission preferred to leave it in or to take it out? Commissioner Mitchell said if he was a property owner he would be pretty upset, but he didn't know.

Commissioner Young stated that is why they were there is because they are zoning. Adam stated the nature of the Planning and Zoning Commission is to regulate that type of stuff. Commissioner Mitchell asked if they

are there to protect the person that has already bought it; some of the member agreed that it is to protect the person that is already there. Stephanie asked what a really good example would be why they would tell someone they couldn't build it were they wanted to. Commissioner Mitchell stated John Franklin went to the oil and gas board when they were going to drill the first well by his place, he said they cannot allow them to put an oil well in front of his house, because he bought and built his house for the scenic view of the valley; he didn't win because the oil company had rights, they said sorry. On the other hand Don Stepler liked to see the oil wells go up and down because that's money in the bank. If this was zoned and the zoning says they can't place the oil well there, because it's going to ruin the view of the valley. He asked if the Commission wanted it in the regulations; some members noted they did.

Stephanie stated it isn't just for the one application; Commissioner Mitchell stated it would be for anyone within the zone. Stephanie said it could be for anything that comes before. Commissioner Mitchell stated he is concerned that this is a start of something for the whole County; Adam agreed.

Commissioner Young asked if they wanted to sell off a piece of land next to someone's yard, just hypothetically, a hog operation just across the fence. Marcy asked Tara why she felt it was important to leave in. Tara stated in Park County there was a gravel pit and an asphalt plant that was proposed, there was a bed and breakfast on one side of it. It was forty acre parcel, there was residential occupancy to the north, to the west or to the east, they wanted to place their asphalt plant right next to the Bed & Breakfast, if it had been zoned the County would have been able to say no, it would be more appropriate if you moved your asphalt plant to the other side of your property so you are not impacting the residential use.

Marcy said she understands what Tara is saying, she lives in Savage on the edge of town right below the hill from them is a pig farm and when the south wind comes they get the pig smell. Commissioner Mitchell asked if the pig farm was there before or after, Marcy after. He went on to say that if there had been zoning then they could have said they couldn't do it there. Tara stated if it's an allowed use then you wouldn't be able to stop them but you would be able to look at the placement on the property, so the smell wouldn't drift into a residential neighborhood. Stephanie stated just because it is in the regulations does not mean they have to use it. Commissioner Mitchell stated they will leave it.

Marcy noted (k) was the County's Noxious Weed Plan. The Commission members appeared to be okay with the way it was written.

Commissioner Mitchell read section (l), he asked if this was to stay in. Marcy said yes, for example if Devin goes to subdivide their property or if he wanted to give his son or daughter a piece of land in the future, they would still have to abide by the County Subdivision Regulations, whether if it an exemption or subdivision this would apply. For water and wastewater they would have to abide by those regulations, if they need a permit for a septic system then they would have to get it from the Sanitation office. Commissioner Young asked what if Devin decided to give his son a 20 acre parcel. Marcy said if he had the land and wanted to do it he could, he would still have to abide by the local regulations and requirements. The Commission members appeared to be okay with the way it was written.

Commissioner Mitchell read the last paragraph. The members appeared to be okay with it as written.

IX-D-3. Public Hearing:

Commissioner Mitchell read the hearing requirements; Marcy noted this is State law requirements. The members appeared to be okay with it as written.

IX-D-4. Approval Criteria:

Commissioner Mitchell read the criteria requirements in (a), (b), (c), (d), and (e). Marcy stated Commissioner Young had asked her about building permits she said it would fall under "all other applicable federal, state and local regulations." She asked if the Commission felt they should have their building permit first before the Conditional Use Permit is granted. Marcy reminded the Commission the regulations would not regulating buildings. Commissioner Gorder agreed they should have the building permit first. Adam asked if the Commission would be creating a catch 22, could a building permit be issued if it doesn't meet the zoning? Marcy said no, she signs off on the building permits, so if it does not comply with zoning and it's in the zoning district they wouldn't be able to get the building permit until they got their conditional use permit.

Adam noted then the Commission can't do it. Marcy said they would need the Conditional Use Permit before the building permit. Commissioner Young noted then they would need the Conditional Use Permit before the started construction.

Marcy asked Tara if they are going through the conditional use process and they plan to build a building on the property can they do this as a condition because they would need to meet all federal, state and local regulations, could they require a building permit before the Conditional Use Permit is issued? Tara said she thought they would have to have the Conditional Use Permit before they have the building permit, because if they can't meet the use requirements or if it's a prohibited use why would you want them to get the building permit first.

Commissioner Gorder stated when you read (e) it says "No Conditional Use Permit shall be issued without a valid septic permit and any other permits or approvals required by the county, state or federal government." Adam wondered if this might be more appropriate in the building permit process too. Tara stated what this is saying is that the Commission could grant them but they wouldn't actually get the Conditional Use Permit until the showed they have the building permit; if it was something that requires a building or septic. So when they are imposing conditions if it looked like it needed a building permit they would have to present the building permit before they would get the Conditional Use Permit. Marcy felt this could be caught under (e) and (l), it could be requested. Commissioner Young said where they put the building would fall under (i) or (j). The Commission members appeared to be okay with the way it was written.

IX-D-5. Planning and Zoning Commission Decision:

Marcy noted the timeline the Zoning Commission would need to make their decision on the application was within 20 working days; they would do their written findings of fact, approve, condition approve or deny the application which is to be done in writing; then approval of the Conditional Use Permit would be granted and the site development and map would be recorded at the Clerk & Recorder Office. The construction would have to begin within 2 years. Commissioner Gorder stated that this is pretty common. Commissioner Young noted the construction time was at one time one-year. Marcy agreed, then stated they change was a suggestion from one of the landowners. Commissioner Young noted it was the landfill, but this would apply to everyone in the zoned area. Marcy stated other the landowners seemed to be okay with the 2 years. The Commission members appeared to be okay with the way it was written.

IX-E. Transfer of Ownership:

Marcy said what this means is if they transfer ownership while they have a Conditional Use Permit they would have to come back in, make sure everything was abided by; they would have to have a notarized statement from the new owners agreeing to the all the conditions of the Conditional Use Permit; and proof the Security has been transferred. The Commission members appeared to be okay with the way it was written.

IX-F. Time Limits of Conditional Use Permit:

Marcy stated this was three years, was changed to 10 years. Commissioner Mitchell asked if they wanted it to be ten years? Devin said he did not remember it; Marcy checked the first draft and noted it was 10 years from one of the samples. Commissioner Mitchell stated in 10 years a lot of things can change. Commissioner Young asked if there would be any fees for this. Commissioner Gorder stated this was a long time for a Conditional Use to be out there with laws changing. Commissioner Mitchell asked Marcy how long she had to get her subdivision application done; Marcy, three years. She stated she would not have a problem with it because it would be the life of the facility. If someone bought a piece of property, whether it is the landfill or if was a pig farm or anything like that, and they have for 5, 10, 15, 20, 30, 40 years, it is going to be the whole life of the facility. She asked how often did the Commission want them to come back in to get it re-permitted, 5, 10, 15... years? Commissioner Young asked if there was a fee associated with the permit; Marcy said there was a fee for the permit, but did not recall if there was a fee for re-permitting, if they could do it as a conditional use which would be \$200, if it's not then the Commission may want to add the fee for renewals. Commissioner Mitchell asked the renewal process is just a renewal; Marcy yes. Devin asked if they couldn't throw anything else in there (add extra conditions). Marcy said no, they would be just going back over everything, the staff would go back through application, the conditional use, the conditions that were set on the application then to make sure it complies with the Permit requirements, then just issue a new one.

Commissioner Mitchell stated on page 28 it states it says application renewal is \$100, it's shown in blue, and the Conditional Use is \$200. Commissioner Young thought the fees should be more. Marcy noted the Commission would be able to discuss the fees when they get to that section; members agreed.

Adam stated the only place he could find it in the minutes where the landowners talked about the timeline was that the gentlemen from the landfill suggested the CUP run with the land and that Raymond recommended leaving it as a 10 year period.

Marcy asked if the Commission wanted to leave it at 10 years. Commissioner Gorder suggested that it be consistent with what is in the County's subdivision regulation, 1 to 3 years. Commissioner Mitchell stated the thing with the subdivision regulations they have 1-3 years to get it built; this is already in operation when they give them the Conditional Use Permit; Commissioner Gorder stated not necessarily. Marcy stated the 10 years is once they meet all the conditions, then the Conditional Use Permit would be issued.

Commissioner Gorder stated to build it; Mitchell stated 10 years to operate it, Marcy agreed with Commissioner Mitchell. Adam and Devin stated they would have 2 years to build it. Marcy said once they meet all the conditions for the Conditional Use Permit it would be issued, then once it's issued then they would have 10 years for the Conditional Use Permit. She said this is different than a subdivision application, because once they approved a subdivision application then it's done. Gorder stated he did not have the facts in front of him, what'd they project it to last, the municipal side to last so many years and radioactive to last so many years. Commissioner Mitchell stated the municipal side was 30 years; the hazardous was good for 15 to 20 years for the oilfield waste. Marcy asked if this was not the landfill, it was a feedlot how long would the Commission want to grant the Conditional Use Permit for? Tara stated it does state "no more than 10 years", so they don't have to give them 10 years.

Commissioner Gorder stated so they give a pig farm a conditional use permit on what they decided, by year 8 the pig slop has not been cleaned out and it is running beyond the property because it has not been cleaned; because they are waiting for 10 years to issue them a renewal, can the Commission (County) tell them to clean the slop? Adam asked if the Zoning Enforcement Officer could go out there based on a compliant; Marcy yes. Commissioner Gorder asked if they are changing the conditional use, it didn't have in there that the pig slop had to be cleaned out very year, so they wouldn't change it until they come to year 10?

Commissioner Mitchell stated they already changed it, that they have the right to come on the property and investigate it when they choose, so if they don't clean up the pig slop and it goes into the McGlynn Reservoir then they (County) will give them a cease and desist to stop the operation, because they have that right as County, the county sanitarian or whoever they decide to send out there. Commissioner Gorder stated they didn't want to put up with it for 10 years. Adam asked if its granted for 10 years, they just go out and do whatever they want to on their property and someone puts in a compliant, then Marcy or whoever goes out, they would be able to pull the Conditional Use Permit right then. Marcy asked Tara if they find out they are violation of the permit and they (applicant) won't correct it, can the Planning and Zoning Commission revoke the permit; Tara said she was reading the Compliance section if they violated they have to notify them in writing, request discontinue illegal use, or take any other action to ensure compliance with or prevent a violation, so yes.

Adam asked if they get to the end of their 10 year period, can we add conditions to their renewal? Marcy indicated no. Adam, then it wouldn't really matter, so then they would come pay their fee. Commissioner Mitchell stated they don't have to renew it; Adam said that would be their only other option at that time, to approve it or deny it. Commissioner Mitchell stated the rules are always getting stricter and stricter, like DEQ and the rest of them. Adam stated they could deny it, then maybe they could have them resubmit for a new conditional use permit. Commissioner Gorder asked if Tara read if a permit is issue contrary to the regulations; Tara yes. Stephanie said it says no more than 10 years, so does this mean each applicant can get a set amount of years depending on what it is, they can change it for each applicant; Tara said yes. Marcy said no more than 10 years.

Marcy asked the Commission they were okay with leaving it at 10 years. Commissioner Young pointed out that "then prior to the end of the ten-year period" should be modified per. He said he understood what she was saying, but the next sentence contradicts what it says. Commissioner Mitchell stated it says that before your

ten years are up you have to submit a renewal application. Stephanie said if we pick 2 years then prior to the 2 year term ending they would need to submit their renewal. Marcy asked Tara if they should change it to “Prior to the end of the approval period,” instead of “ten-year”. Tara said agreed.

IX-G. Conditional Use Permit Extension:

Commissioner Mitchell read the requirement. Marcy asked Tara about (d), the second part of the sentence did not make sense to her, why would the Zoning Administrator approve it when it’s going to the Planning & Zoning Commission, wouldn’t they approve it. Tara said if there is no objections then the Zoning Administrator would grant the extension, or the conditional use permit; if there is an objection then it goes to the Planning and Zoning Commission. Listening to the group discuss this thought, it seemed that the Planning and Zoning Commission would rather be in charge of granting the extension of the conditional use permits. Adam said if everything is running smoothly and no public objections what’s going on out there then he would just as soon as leave it with the Zoning Administrator. Devin asked if they would be notified that it is coming up. Commissioner Young stated they automatically will if there is an issue out there.

Commissioner Gorder asked back on (iii) “whether the site has been maintained and kept in good repair.”; what defines “maintain” and “good repair”. Tara stated what the Zoning Administrator considers maintained and good repair. Commissioner Gorder asked so that could be grass taller than 6 inches, where are the guidelines at for the Zoning Administrator and the developer to have or know where they are. Commissioner Mitchell asked on that same issue, is that if the Zoning Administrator doesn’t particularly like the way this property has been maintained and kept in good repair, can they put an objection in so they can’t get the extension. Tara stated the way this is worded is that notice will go out those who received a notice of the original application and if they object then they have a hearing.

Commissioner Gorder asked who was going to be the Administrator? Commissioner Mitchell stated Marcy is at the moment. Commissioner Gorder stated and Planning, then asked her if she could wear both hats. Marcy said yes, it’s in her job description. Adam said they were the Planning and Zoning; Commissioner Mitchell they are the “Commission” but Marcy is the Administrator. Marcy said the way she sees it is that if she went out to a site and looked and seen it wasn’t being maintained how they proposed it in their application and plans, and they had a mess out there, she said she do a report, then bring it back to the Planning and Zoning Commission. Commissioner Mitchell asked if she sent them all an email to ask them to go check out the site. Marcy asked Tara if they could go out there, Tara said they would have to notice it in the paper they are having a meeting. Commissioner Mitchell stated not if they went out one at time; Tara agreed. Stephanie asked if they could go out in pairs, except two Commissioners; Adam thought they had changed that. Commissioner Mitchell stated it just couldn’t be a quorum of this Commission.

Marcy said the way she sees it, she would do the report, make sure they met all their conditions, as part of the extension and if they weren’t, she would put the report together and send it to all the Commission members, and schedule a public hearing for it. She would follow the outline in the regulations. Adam said it does say she would have to consider the following. Marcy said she would have to notify the applicant and the parties who were involved in the first public hearing notifying them that there are issues out there, schedule the public hearing, then the Planning and Zoning Commission would hear it then they would make a decision on it; then the Administrator would make sure they met the requirements the Planning & Zoning Commission had set.

Adam asked if the Zoning Administrator can make an objection, based on the three (i, ii, & iii); Marcy yes, then they (applicant) could appeal it to the Planning & Zoning Commission. Commissioner Gorder asked what if the Zoning Administrator and Zoning Enforcement Officer had two different sides, can she weigh in as the Administrator then turn around and give another on the enforcement side. Marcy didn’t know if her would be different. Commissioner Gorder asked if it would be better to have two different people. Tara stated in larger communities where they have multiple people in planning office they have one person as the Administrator and one as the Enforcement, but it’s common in smaller communities they are the same person. Commissioner Gorder thought if he was the developer and he was going to be spot checked, he wouldn’t know what he was being spot checked for, or if they are just going to determine it is maintain good and kept in good repair. Tara said it does not have to be in there it can be taken out. Commissioner Gorder said he just doesn’t know how they would come up with the terms to define a good repair. Example his hog barn has the

shingles off on one side because of a thunderstorm, or is he going to get written up because that might fall under not kept in good repair. Commissioner Mitchell stated it is up to their own discretion. Commissioner Gorder said he just likes rules when he is going to build something. Commissioner Mitchell said he wife would not consider his yard maintained. Commissioner Gorder stated if the Enforcement Office tells him that he has to get rid of a tree then doesn't tell him why then he doesn't know why he is getting rid of that tree; Adam said it sounds like a personal experience. Marcy said that it has to be in writing. Commissioner Mitchell asked is there any universal rule about maintenance and good repair or is this just their own personal opinion. Commissioner Gorder stated he was just thinking into the future they could run into a bad enforcement officer, constantly writing them up, and could just make it difficult.

Commissioner Mitchell asked Commissioner Young if he liked the statement or wanted it stricken.

Commissioner Gorder asked Tara in the other Counties that have spot zoning, have they put together what they consider well maintained or good repair. Tara stated in Part 1 zoning, the regulations are usually pretty vague, it would be something they wouldn't normally see, if it bothers them to just take it out. Marcy stated she did not think it should be take it out, because, if they take it out it wouldn't give your Zoning Administrator or / and Zoning Enforcement the opportunity to go out to the site and look at it, for the extension. Commissioner Young stated you lose your teeth. Marcy suggested if the Commission wanted to take out "and kept in good repair" to change to "Whether or not if the site has been maintained according to the permit". Tara suggested adding "according to the conditions"; she said she would not have a problem with that. Marcy restated the suggested changes to state "according to the conditions of the permit."

Commissioner Gorder asked if they are able to do any penalties or fees with it. Commissioner Mitchell said they just won't renew it. Marcy stated for the renewal she thought that fee could be applied but as far as fees for violations or anything there is no violation fees allowed in Part 1 zoning.

Commissioner Mitchell said so they have this pig farm 9 years and six months, and they know the 10 years is coming up and the Administrator knows it's coming up and she goes out and visits the site, she notices that half of the farrow barn is caved in, so she would send them a letter, oh you don't send them a letter until they apply for renewal. Marcy explain first she would go out and ask them, using her common sense coming from a farm; what's going on, what caused the barn to collapse or whatever, how long it has been that way, is there plans for repairs, and how long. That's' when she would put the report together, or don't reissue the conditional use permit for the extension, it would go to the Planning and Zoning Commission, then they would extend it (the permit) for a short period of time until the applicant got the building fixed; then if it's not fixed they revoke the permit. This was the way she pictured it being done. Commissioner Mitchell agreed that's the way he figured it too, if it was something blatantly but if it was just the weeds it's not going to be an issue. Commissioner Young stated if they are noxious they have to follow their Noxious Weed Plan. Commissioner Gorder said that they can go up there and there is going to be one farmer who is going to be perfect then they go to the waste, it's not perfect, its scatter all over the hillside and the wind blow it over this way and that way. Has it been maintained? He just wants some teeth to it.

Marcy asked for clarification if the Commission wanted to leave (iii) the way it was stated or to change it to "Whether the site has been maintained according to the conditions of the permit." Commissioner Mitchell stated it should be "according to the conditions of the Conditional Use Permit". Commissioner Mitchell asked if the 10 working days was going to be enough, that it was two weeks; Marcy agreed. The Commission members appeared to be okay with the suggested change to (iii).

X. Variances

X-A. Authorization to Grant or Deny Variances:

Commissioner Mitchell read the requirement. Stephanie asked why it is the Commissioners and not the Planning and Zoning Commission. Adam asked if this should be the Zoning Commission or is it the County Commissioners. Marcy stated that it was stated State law MCA 76-2-106(2). The Commission members appeared to be okay with the way it was written.

Commissioner Gorder asked why they couldn't do this, in all the subdivision applications where they granted a variance, they were never able to attach conditions that they might have found necessary as a County

Commissioner; that they always had to live with what was there. He asked Tara why they couldn't; Tara said she could not follow what he was saying. Commissioner Gorder explained that according to 76-2-106 that as a County Commissioner they could attach conditions if they find it necessary, he questioned if it would not be the same thing for subdivisions. Tara said yes they (County Commissioners) can grant conditions for variances in subdivisions. For example, if someone comes in for a subdivision and they say they can't meet the road grade for a section of the road they can grant them a variance, but instead of meeting the road grade they have to have pull outs so there are places where emergency traffic can pass and people can pull out of the way. The Commissioners have always been able to condition variances in a subdivision. Marcy stated they did that for SchMart Subdivision. Commissioner Gorder stated they could've of went with less. Marcy stated they did, with the SchMart Subdivision for the secondary emergency access it was not up to the full standards in the subdivision regulations as a secondary access as they were only going to use it for emergencies, they allowed them to do a little less than the standards.

Commissioner Mitchell asked if they liked what was written. The Commission members appeared to be okay with the way it was written.

X-B. Criteria for Granting Variances:

Commissioner Mitchell read the requirement. The Commission members appeared to be okay with the way it was written.

X-C. Procedures.

Marcy stated the Procedure requirements are pretty standard, they submit for the request, the fee, Zoning Administrator reviews it within 20 working days, then it goes to the County Commissioners, they hear testimony, the notice of the hearing requirements will be published in the newspaper, then approving an application for a variance and the Commissioners designates lawful conditions, it has to meet the criteria set forth in the regulations, they have to have written findings of fact, and it has to be done within 15 working days. The Commission members appeared to be okay with the way it was written. Commissioner Gorder noted it was pretty much standard.

New Business: It was noted there was no new business.

Adjourn: Commissioner Gorder moved to adjourn the meeting.

Duane Mitchell, County Commissioner
Chair of the Of the Richland County Planning and Zoning Commission

Date

***All Planning and Zoning Commission meetings and hearings are electronically recorded; if you feel there is an error in these minutes an electronic copy of this meeting/hearing is available upon request.