

Missoula Board of County Commissioners

PUBLIC MEETING MINUTES COVER SHEET



THURSDAY, FEBRUARY 24, 2022 – 2 PM

Virtual Meeting – Microsoft Teams

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Time stamps (in green) correspond to meeting recording above. Please click to the time stamps listed to view a particular item in the meeting.

ATTENDANCE:

Commissioners Present:

Chair Vero
Commissioner Slotnick
Commissioner Strohmaier

Staff Present:

Violet Plummer, Administrative Assistant, Commissioners' Office
Michael Tester, Survey Technician, Surveyor's Office
John Hart, Civil Deputy Attorney, Attorney's Office
Mel Fisher, Strategic Initiatives Manager, Communications and Projects
Erik Dickson, Transportation Engineer, Public Works
Matt Heimel, Planner, Community and Planning Services
Tyler Gernant, Missoula County Clerk & Recorder/Treasurer
Jamar Galbreath, Equity Coordinator, Commissioners' Office
Diana Maneta, Sustainability Program Manager, Community and Planning Services
Allison Franz, Communications Manager, Communications
Nicholas Zanetos, Planner, Community and Planning Services
Bailey Minnich, Planner, Community and Planning Services
Todd Klietz, Floodplain Administrator, Community and Planning Services
Emmie Bristow, Community Engagement Coordinator, Communications
Shane Stack, Director, Public Works
Chris Lounsbury, Missoula County Chief Administrative Officer
Sarah Bell, Communications Coordinator, Communications
Anna Conley, Chief Deputy Civil Attorney, Attorney's Office

1. **CALL TO ORDER** *[Time stamp – 00:06]*
2. **LAND ACKNOWLEDGEMENT** *[Time stamp – 00:16]*
Missoula County acknowledges that this event takes place in the aboriginal territories of the Salish and Kalispel people.
3. **PLEDGE OF ALLEGIANCE** *[Time stamp – 00:50]*

4. PUBLIC ANNOUNCEMENTS

- a. **Proclamation: Black History Month** [Time stamp – 01:14]

5. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA [Time stamp – 05:18]
[None]

6. CURRENT CLAIMS LIST [Time stamp – 05:26]

Claims received as of February 3, 2022 to February 15, 2022 by the Commissioners' Office total \$3,482,179.04.

7. HEARINGS

- a. **Commercial property-assessed clean energy (C-PACE) Resolution to Adopt** [Time stamp – 05:57]

Diana Maneta, Sustainability Program Manager, Community and Planning Services

Commissioner Slotnick made the motion to make C-PACE happen [in Missoula County].

Commissioner Strohmaier seconded.

[Motion passed 3-0.]

[Resolution 2022-013. Book: 1072 Page:138]

- b. **Vandevord Family Transfer** [Time stamp – 08:56]

Matt Heimel, Planner, Community and Planning Services

Commissioner Strohmaier made the motion that [the Missoula Board of County Commissioners] approve the application by Halfred and Rebecca Vandevord to utilize the Family Transfer exemption to create and transfer one parcel to an immediate family member as presented in the subdivision exemption affidavit.

Commissioner Slotnick seconded.

[Motion passed 3-0.]

[Letter 2022-102. Mailed to: Halfred & Rebecca Vandevord]

- c. **Mackintosh Manor No.40 Minor Subdivision** [Time stamp – 23:50]

Bailey Minnich, Planner, Community and Planning Services

Commissioner Slotnick made the motion 1) that the request to vary from Section 3.4.7.5.C.1 requiring offsite roads not uniquely attributable to the subdivision to maintain a grade not to exceed 10%, have a minimum 20-foot unobstructed drivable width and 13-foot- 6-inches vertical clearance, specific to Dundee Road, be approved, subject to conditions; 2) that the request to vary from Section 3.4.7.5.C.1 requiring offsite roads not uniquely attributable to the subdivision to maintain a grade not to exceed 10%, have a minimum 20-foot unobstructed drivable width and 13-foot- 6-inches vertical clearance, specific to Highland Drive, be approved; 3) that the Mackintosh Manor No. 40 Subdivision be approved, based on the findings of fact and conclusions of law in the staff report, and subject to the recommended conditions of approval in the staff report and the modified Condition #11 as presented by the applicant.

Commissioner Strohmaier seconded.

[Motion passed 3-0.]

[Letter 2022-107. Mailed to: Martin & Janice Brown]

- d. **Erickson Family Transfer** *[Time stamp – 1:02:19]*
Nick Zanetos, Planner, Community and Planning Services

Commissioner Strohmaier made the motion that [the Missoula Board of County Commissioners] approve the request by Toni Erickson to utilize the Family Transfer exemption, as presented in the exemption application and affidavit.

Commissioner Slotnick seconded.

[Motion passed 3-0.]

[Letter 2022-101. Mailed to: Toni Erickson]

- e. **Campbell Family Transfer** *[Time stamp – 1:09:20]*
Nick Zanetos, Planner, Community and Planning Services

Commissioner Strohmaier made the motion that [the Missoula Board of County Commissioners] approve the request by Bryce and Marcey Campbell to utilize the Aggregation and Family Transfer exemption, as presented in the amended exemption application and affidavit.

Commissioner Slotnick seconded.

[Motion passed 3-0.]

[Letter 2022-106. Mailed to: Bryce and Marcey Campbell]

- f. **Recommendation for Maclay Bridge** *[Time stamp – 1:54:23]*
Shane Stack, Director, Public Works

Commissioners made the recommendation to remove Maclay Bridge as part of the proposed South Ave Bridge Project. No formal action was taken.

[Signed Request for Commission Action (RCA) form returned to Shane Stack.]

8. OTHER BUSINESS

[None]

9. ADJOURN

Chair Vero – Adjourned the meeting at 4:47 p.m.

BCC Public Meeting February 24, 2022 – Transcription

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[00:00:02] Ok, but we're all here now so we can go ahead and we'll call it to order. On. We'll again. With a land acknowledgement that Missoula County acknowledges, oh, there's a there's an Echo. Maybe folks can mute and turn off your videos. Violet, are you able to do that for folks?

[00:00:35] Yep.

[00:00:39] Ok. Missoula County acknowledges that this event takes place in the Aboriginal territories, the Salish and Kalispell people, and now you'll join us with the Pledge of Allegiance. Pledge allegiance to the flag of the United States of America

[00:01:02] For God and justice for all.

[00:01:12] Ok, then we have. Proclamation for Black History Month. Oh, you see, there's Joshua.

[00:01:25] I was I was spinning in some ephemeral,

[00:01:30] Oh words, one of you got to read the proclamation.

[00:01:36] I'm looking for it. Here we go. I'm happy to do it. Ok. Whereas in 1915, Harvard trained historian Carter G. Woodson and the prominent minister, Jesse Moreland, founded the Association for the Study of Negro Life and History, known today as the Association for the Study of African-American Life and History as HLAH dedicated to researching and promoting achievements by Black Americans and other people of African descent. And whereas in nineteen twenty six, the assailant sponsored a National Negro History Week in the second week of February, intentionally chosen because it fell between the birthdays of Frederick Douglass and Abraham Lincoln. And whereas in the following decades, mayors and cities mayors of cities across the United States began issuing yearly proclamations recognizing Negro History Week. And whereas, due largely to the contributions of the civil rights movement and a growing awareness of black identity, President Ford in 1976 officially recognized Black History Month, urging the public to quote seize the opportunity to honor the too often neglected accomplishments of Black Americans in every area of endeavor throughout our history. And whereas Zulu County recognizes that Montana currently has the smallest percentage of people who identify as black or African-American in the United States, reflecting the complexity of Montana's black history. And whereas Missoula County recognizes Montana's own black history is complex, spanning from the arrival of the first documented enslaved Africans in 1855 as part of the Lewis and Clark expedition into the Aboriginal territories of the Salish and Kalispell people, the publication of Montana's first black newspaper, The Colored Citizen in 1894 to the election of Geraldine Travis, the first African-American woman elected to the Montana Legislature in 1974 and the election of the state's first black mayor, Wilmot Collins, in 2017.

[00:03:42] And whereas the Missoula in Missoula County, the percentage of our residents who identify as black or African-American is 0.6, highlighting the importance of the preservation of black history culture in our community. And whereas Montana's black history is reflected in Missoula throughout the bravery and valor displayed by the 25th Inventory Bicycle Corps of the United States first unit of Black soldiers formed in 1896 to test the combat viability of bicycles, including an over 1500 mile ride from Fort Missoula to St. Louis, Missouri, in 1896. Wrap your mind around that, whereas other examples of Missouri's enduring black history can be found on the 1300 block of Phillip Street, where St. Paul African-American Methodist Episcopal Church, Missouri's first black church, stood

from 1910 to 1946 and whose congregants built a community and pursued racial equity with neighbors regardless of race in the face of threats from the KKK and other white supremacist organizations. And whereas Missoula County is proud to join the state of Montana in recognizing the accomplishments and contributions of Black Americans who are part of the fabric of our nation here in Montana. From throughout history to today and to today. Now, therefore, be it resolved, we, Missoula County, do hereby proclaim the month of February 2020 to Black History Month.

[00:05:15] Thank you, Josh.. Is there any public comment items not on this agenda or current claims list received as of February 3rd to February 15th is three million four hundred and eighty two thousand one hundred and seventy nine dollars and four cents. We have six hearings today and it's kind of packed, so we'll have our presentations be brief and then public comment. If you just limit it to three minutes, that would be great and violet. Well, help manage manage the time. Our first one is a space resolution to adopt Diana Minetta.

[00:06:04] Thank you, commissioners. So this is a final resolution to adopt a space program for Missoula County. Just as a quick reminder, this is a program that gives commercial property owners the opportunity to make energy conservation and renewable energy improvements to their properties and pay those back through an assessment on their property taxes. The commission approved a resolution of intent to create a space program at your public meeting two weeks ago following a public hearing, and this final resolution is the final step in the process to allow commercial property owners to move ahead and participate in the program. I did give a presentation on it two weeks ago. I was not planning to repeat the presentation. We do have Tyler Gurnett here, as well as, I believe, Seth Letter. with the Montana Facility Finance Authority to answer any additional questions there might be. Now, Tyler, did you want to add anything?

[00:07:05] No, I'm good, thanks, Dana.

[00:07:08] Seth, is there anything that you'd like to add? There any public comment or questions on bass?

[00:07:21] One, correct?

[00:07:22] Yup. Go ahead.

[00:07:24] Just because it seems like there is almost no good news out there. I would love to talk about sea bass because it's such a cool thing, and I'm also aware that we have six things on the agenda and some of them are really big and we need to go home at the end of the day. So suffice to say, I'm super excited about space in our community. Really grateful that Tyler put in the years of diligence to grind this thing over the finish line and thanks to the cooperation of the state too. So with that, I'm thrilled where we are, where we are with this. That almost sounds like a motion, that's a. Let's make this happen. Ok, I will. I will second it and just say that. Likewise, this is a super positive step forward. It's been something that's been in the work for many years, as as Commissioner Slotnick mentioned. Thank you to the state and the state legislature for actually helping get this over the finish line, and it's great to see Missoula County out of the on the tip of the spear here, getting it implemented in the state of Montana.

[00:08:29] Absolutely. Ok. First and second, any further public comment. Thanks so much, Tyler and Diana. Ok. All in favor. I. I said we were going to have champagne and confetti, but we don't have time for that today, but

[00:08:47] Yeah, hopefully they can. We can talk to Tyler after this.

[00:08:50] Exactly. Thank you. Thank you. Matt Hyman with Vancouver Family Transfer.

[00:09:02] Good afternoon, commissioners Matt Hymel here with Community Planning Services. I'll share my screen. I have a very brief PowerPoint for this family transfer request. Is the screen share shown on your commissioners?

[00:09:20] It is, yeah. Okay, thanks.

[00:09:22] So this is a request from Alfred and Rebecca Vanderburg to utilize a family transfer exception to create and transfer one parcel to an immediate family member. The immediate family member or intended recipient is Kenneth Hester, the claimant's adult daughter. So as I said, the claimant is Helford and Rebecca of Andover, and

their representative is Joshua Phillips with Ely and Associates. So this is a broader aerial image, the property is located at one one eight eight two Kadian Lane that's in the Wai Community Area of Your bucket loop, which is and this property is about one mile northwest of the intersection of Waldo Road and Highway 93.

[00:10:09] There we go. Oh, sorry.

[00:10:11] So here's a closer aerial image showing the existing conditions. The property is about 5.7 acres, and it's currently developed with one single family residence and looks like a couple accessory structures. It has direct access off Katie Lane, and the proposed tract would have also access off the end and at least one lane and all tracks would be served by individual well and septic. So here's another image showing the existing conditions with the building below. The property is zoned. It is described in our 2019 ladies element, which was an amendment to the 2016 growth policy and the land use designation for this location is rural, residential and agriculture, and the recommended density in that land use is between one dwelling units per 10 acres and one unit for two acres. So this proposal would result in a density of one unit for two point eighty five acres, so it is compliant with the growth policy and as I said, it is on the zoned. It was created in 2002 through a family transfer exemption just for a little bit of the track history. So here is a layout showing the proposed conditions, so the eastern half of the track would continue to be the residence of the claimant's daughter and a tester and the intended recipient, the track to the West is will be vacant at first would be retained and ownership by the claimant and is the intended site for a retirement home for the claimant. You can see there's a little call out for approximate future building site. So with that overview, I do have our standard family transfer questions for the claimant or the representative, and I did see that they are on the call.

[00:12:15] So I guess that's where Alfred and Rebecca, the end of the claimants.

[00:12:24] Ok, thank you. So I have five questions for you. Question one. Did you buy the property with the intent of dividing it? We did not. Thank you. Question two. Do you or your transferees intend to transfer the property within the next year? We do not. Thank you. Third question, have you talked with anyone at the county about going through subdivision review?

[00:12:51] No, no. Thanks.

[00:12:56] Fourth question, will the property be developed?

[00:13:00] That's the long term plan, yes.

[00:13:04] Ok. And my last question is, will the recipient of the property be residing on their property?

[00:13:09] Yes. That would be us.

[00:13:14] Ok, thank you. So, commissioners, that concludes my presentation to Questions staff is recommending approval of this request. I will note that the only evasion criteria that did trigger was that the parcel was originally created through a family transfer exemption in 2002, but in our records, the claimant has no connection to that prior exemption.

[00:13:38] Thanks, but well, with the applicant or developer representative, I want to say anything is Joshua Phillips. Or Rebecca, or

[00:13:52] We can answer any questions.

[00:13:55] It looks like Josh was raising his hand.

[00:13:58] I was waving Hello.

[00:14:00] Ok.

[00:14:03] We don't have any additional comments unless the commissioners have questions.

[00:14:11] Don't see anything from Joshua David. Is there any public comment? And that's I see a hand, but Violet, I can't wait.

[00:14:23] It's Jean Curtis.

[00:14:24] See who it is. Ok.

[00:14:27] Yeah. Hello, commissioners, this is Jean Curtis. I want to make. I'd like to make a comment. Yes. So I'm very familiar with this area. When I was commissioner, that was when the sense the lawsuit came through about, you know, requiring paving of those roads because not only was this property created by family transfer, but almost all the property out there was, so there wasn't a lot of planning. So my concern is just I know that the my son lives out there and I know that that the testers have talked with them. And in the past it was said that they that they wouldn't have access from Katie Lane and Leishman Lane. So has that been cleared up because in the past they wanted to access through fire bucket loop and that whole section fire bucket really isn't a loop, and that section is in really, really bad shape. So I just wanted to make sure they had public access from the streets that make the most sense there. And then also, I just hope they know that water is really hard to find out there. So I hope they. Have luck getting a well. So my question is in regard to access.

[00:15:51] Thanks, so that would be Joshua or Matt, do you want to answer that?

[00:15:59] Our commissioner is the only. Come on, I have for this is that I do see in the application propose access would be Vacation Lane or Lane in the future that lead to fire bucket loop five Rocket Loop is a portion of the property information system a maintained road. But otherwise, I. Do not have additional information at this time as to whether access restrictions or requirements.

[00:16:29] And also, this is Joshua Phillips with Eli and Associates. There is nothing in our proposal that would preclude proposed tracks 52 from having access via a fire bucket loop.

[00:16:46] But the current plan is to

[00:16:49] Access via the Leishman Lane easement that we've shown.

[00:16:58] Thanks. Does that answer your question, Jean?

[00:17:01] No, it does not, because I have actually looked at all those properties out there looked at the the access from the roads and. But unless it's changed, what I read from Katie Anne and Leishman is they specifically state which lots have access. And so I don't believe that you have access from those other roads unless the other folks who live along there grab it. And don't they have to prove access? I mean, fire bucket is not developed there, so I don't know how they'll get there from fire bucket.

[00:17:37] I thought the actresses from Leachman.

[00:17:40] Well, they said that's what they're proposing, but if you look at the if you look at the deed restrictions on those roads, they say to access and they they actually live. And I don't know that a second access, I'm I'm not trying to stop this, I just want to make sure that these folks have, you know, an easy access to get there without being limited because of those restrictions on when those roads were developed. I think you should maybe delay until they can or somebody needs to look at the deeds, confirm so.

[00:18:27] Looking at Eli and Associates and Matt, be able to get a confirmation on this to make sure that access. Is viable.

[00:18:40] And this is Joshua with Eli and Associates, I have not seen anything that would inhibit

[00:18:46] This property from gaining access where we've shown it.

[00:18:55] Ok. Matt Hymel here, just to add a couple pieces of information on the certificate of survey that created this track to family transfer, I do you see a private access easement for the benefit of this subject property, but I'm just not immediately seeing a deed restriction that prevents that precludes access, saying it doesn't exist, but I just don't immediately have that available. I'd also like to just point out that on our. With a any subdivision exemption comes the. Comes its inherent lack of review for legal and physical access, so we do have recording requirements on a certificate of survey that's that would state that a division of land is not reviewed for adequate legal and physical access. So would be. It would behoove any claimant or property owners to make sure that they verify on their end if it is approved.

[00:19:51] I just saw County Attorney John Hart. Do you have something to offer?

[00:19:58] I was going to say exactly what matches our subdivision regulations require a statement on the certificate of survey that must be recorded to effectuate a family transfer that it's states explicitly this division of land was not reviewed for adequate legal and physical access, amongst other statements. So we don't we don't review for that. But it's it's never a bad idea to to put an applicant on notice that there may be issues. So, John, just to speak it really plainly, it's not on us.

[00:20:36] So the how

[00:20:37] I see it's it's on the claimants if. It if they're going to end up with a piece of property with no access, it's it's on them, correct? They're they're applying for this exemption from the subdivision act at their own risk. Yes.

[00:20:53] Ok. And I see Rebecca nodding yes.

[00:20:56] We do understand that

[00:20:58] It looks like there are two potential access points

[00:21:01] At least, and we're we are exploring those. We have talked to some neighbors. We haven't completed that because we didn't know if we'd even be able

[00:21:11] To do the the. Family transfer, so. And we need I'm ready to make a motion at any point if there's no more public comment.

[00:21:21] I just see one more hand up here. Gene, do you have one last one here?

[00:21:27] I just like I said, I have done a lot of research on this particular road and. There was also a lawsuit saying that the illegal subdivision folks that created it were supposed to gift land or they were supposed to redo the. As you know, county roads go to the middle of the people actually owned in the middle of the roads. They were supposed to change everybody's. Deeds, they did not. I guess my biggest concern is, like I said, I drive out there a lot because my son lives there is that if they aren't able to get their access in the way, that makes the most sense, which hopefully they can. Is that all of the any construction is all going to go right through my son's place. And that road, that whole three quarters of a mile of that section of fire bucket was never paved because there are so few people on it and it cost too much. So the commissioners, when I was a commissioner, didn't make them do that. But that road is horrid. It's probably one of the worst roads in the county. So if they add construction to that, it's going to be hard on people. So I know that it's on these folks and hopefully they'll have some neighbors that that agree that adding one more house on that road is not a problem, but there is a big problem out there.

[00:23:03] Thanks for that. Any further comment? Ok, we'll close public comment, commissioners.

[00:23:20] Ok, I would move that we approve the application by Helford and Rebecca Van VanDerveer to utilize the family transfer exemption to create and transfer one parcel to an immediate family member, as presented in the subdivision exemption affidavit. I'll second that.

[00:23:35] The further comment. All in favor. I. Ok. Thank you.

[00:23:45] Good luck.

[00:23:46] Thank you. Ok, next, we have Bailey Minnich with the McIntosh Manor number 40 minor subdivision. Yeah, give me

[00:23:58] One second to get my PowerPoint pulled up here and get everything. Setbacks I can see well. Can you guys see my screen? Hopefully it popped up. Awesome. Perfect. Ok. So this is the McIntosh Manor No. 40 subdivision request. The property, it's actually so this has pulled out, here's Lolo and Highway 12 way up here. We're way down here not quite to the county line, but just just short of that. And then I have a zoomed in portion here. So here is Rowan Street. The park and ride is right out here. There's these commercial businesses right here and so up row and street and way way back here is where we're located at. The property it is within the 2002 Lolo Regional Plan, and I'll get into this in a minute, but it's a real residential designation of one dwelling unit per 10 acres as what's recommended. So here is our proposed preliminary plot and bear with me. I realize it's not the best picture. Hopefully, you guys were able to get into the packet and take a look at the full scale version of it, and it kind of faded out on here. But this is a two lot minor subdivision for residential use. It's a total of 7.7 acres. There's an existing home located on the western side of the property here. It is currently served by individual septic system, and that's what they're proposing to continue the access to the property. There's two places, so you have Highland Drive that comes in over here and then this side, and this will really be the lot that I'm focusing on.

[00:25:43] The new lot is accessed here off of Dundee Road, right? Here's the corner of Sandy Drive and Dundee Road. They are asking for variances to a section of our subdivision regulations. One related to Highland Drive and one related to Dundee Road. And so I'll get into that here in a minute as well. So these are all the review criteria I'm not going to. I'm going to touch on each one, but not going to a ton of detail unless you have questions. But instead of just staring at this wonderful slide full of words, I will let you stare at the zoomed in portion of the side that is will have the the new lot, so not the existing home side. Most of the information I have, conditions really are related to this side. So I zoomed into that one, so you could see that a little bit better. But. So first of all, the property, it is zoned, so there is no minimum lot size out here. Both Highland Drive and Dundee Road are both within forty foot wide, dedicated public rights of way but are not maintained by the county. This area out here is actually really unique and that these roads actually were planted back in 1913. They actually are plotted county roads versus, like we talked about earlier.

[00:26:59] It must be an access topic today that most properties go to the centre line. This is not the case out here in this area. As I said, it's part of the 2002 Local Regional Plan. Has that rural residential designation of one dwelling unit per 10 acres recommended. They are proposing a residential density of one dwelling unit per three point eighty five acres. So at this point, it is not compatible with the 2002 Lola Regional Plan. However, according to state law, the subdivision cannot be denied based solely on lack of compliance with the growth policy or the land use plan can be one of the components, but it can't be the deciding factor of that. So. The property has not been used for agricultural production. There's no current egg use occurring on the property. There are some larger parcels nearby that could be used for agricultural operations. So we are recommending that notification of agricultural practices be included in the proposed covenants as a condition of approval. Just notifying future landowners that there could be things out there that are agricultural related. So the county subdivision regulations include standards for offsite roads that provide access to the subdivision specifically for emergency access traffic impacts. And this standard is includes a 20 foot width and adequate horizontal and vertical clearance. This is the section and I can specific three point four point seven point five point three point one for the public record that they are requesting a variance from so specific to Dundee Road, which is on Oops.

[00:28:49] Sorry, I lost my mouse here. Which side it is this side over here. If you can see my cursor, this is Dundee Road that is currently at fourteen feet in width. They are requesting to maintain that and stay at 14 feet. Generally, we support the requested variance due to existing topography. There's this Woody draw that I'll talk about here in a minute as well. There's no access to additional lots further to the South and the adjacent Painted Sky Subdivision. However, based on comment received from the Fire Department Missoula Rural Fire District, we are recommending a condition of approval that Dundee Road from the intersection with Sandy Drive would be a minimum 16 feet in width for drivable access for emergency services. So that so we're it's not the full 20, but it's not the 14 that they're requesting. We're asking for 16. The applicant again is asking that same variance specific to Highland Drive on the other side and not improve that existing roadway to the 20 feet. That one is currently at 16 feet and so would remain. And so we are supporting that request at variance due to the impact the widening widening the road would have on

adjacent properties, including removal of mature trees, altering existing driveways, and that the home would be located at the very end of Highland Drive, with no increase to traffic proposed.

[00:30:14] Minor subdivisions are not required to have pedestrian facilities per hour subdivision regulations. As I said, they will include an individual septic systems for each lots. They are proposing one new well drilled to serve this new home and the DNR see obviously review existing water rights for the subject property. They did comment that the subdivision is considered within their limits and may be developable without a beneficial water use permit. They did a site evaluation in July of twenty twenty one. No high groundwater was present in any of the sites monitored on the property. The subdivision regulations also exempt minor subdivisions from the Parkland dedication requirements, so that's not a condition of the subdivision. The fire hazard assessment completed for the property return to score forty nine, which does indicate a moderate risk for fire hazard on this property and the Twenty Eighteen Community Wildfire Protection Plan depicts the property within the high wildfire hazard area. And if you guys remember here back in 2017, there actually was a Lolo peak fire that wasn't very far from this property. And is it actual still visible out there? So SAFF is recommending a condition of approval that all residential structures are constructed with Class A fire rated roofing materials, and that would actually be included in the proposed covenants as well. They have chosen the installation of fire sprinkler systems for new residential structures as part of their proposed fire suppression plan. Let's see.

[00:31:57] Doo doo doo doo doo.

[00:32:00] The Missoula Rural Fire Department did comment on the draft subdivision. They recommended some some changes to the covenant language regarding addresses, address signs, driveway construction. They did also comment that they consider Dundee Road a road and not a driveway, and therefore would need to comply with County Road standards for turnaround requirements, et cetera. The property is surrounded by residential development, so no additional impacts to wildlife is anticipated. They are proposing within the draft covenants the living with wildlife information that was provided by fish, wildlife and parks. We didn't have any comments from fish, wildlife and parks on the application. There is this Woody draw here. Sorry, my, it's hard to see. So this area right here is an existing Woody draw that extends west to east across this proposed lot 4b. They have submitted a riparian resource management plan for this area that delineates the riparian buffer or the riparian resource area, and a 10 foot wide riparian buffer around the perimeter. We are recommending a condition of approval that this area be labeled as a no build zone on the final plat itself, and that that riparian resource management plan is attached to the covenants as an exhibit so that any future lot owner is able to find that very easily. We had comment received from Five Valley. Audubon's basically talking about this Woody draw and that it does deserve consideration for some protection, so they are proposing that. The property doesn't contain any floodplain, there's no areas of slopes over 25 percent or greater. We did, since this is a minor subdivision, we notify the adjacent property owners within 300 feet of the property.

[00:33:58] That notice was sent out on February 2nd. There's no legal notice or any sign that has to get posted on the property. We've had no comments on the proposed subdivision at this time, and so let me go to the next one. So these these are the two variants. It's the same section, but there are the variances that I had mentioned earlier that we're talking about Dundee Road and Highland Drive. And I was going to show you. So here's the one on Dundee Dundee Road kind of in that that bubble area where we're talking about. So this is actually the subdivision new subdivision lot here. This is the adjacent property to the North. And so this is the area of that's the off site section that we're actually talking about here. And then the same goes for Highland Drive. So here's the existing home on the property. Here's existing Highland Drive and the area that they are asking for the variance to one note I will make as far as my conditions. So my condition number 11 that I had in the report, it talks about the road. One of the things we were proposing was so when I went out and did my site visit and I'll go to the next picture here. This is my picture on the side. I was obviously, you can see where the neighbour has ploughed for their driveway, so I was not able to actually get to the subject property on the Dundee side of the road. So because of that, I was not able to show that they actually had. They have legal access because of the road right of way that's plotted out there, but they didn't have physical access to be able to get to the site.

[00:35:44] So I was proposing a condition that the the upgrade to Dundee Drive would not be allowed to have any essayé or any bonding for upgrading that road because we do require physical access to the lot, like if somebody is buying this lot, they need to be able to physically get to it without having to upgrade it themselves. So that's where I was proposing in my condition. 11 But Jeanette Missoula Engineering, they were able to provide pictures from

before it got really snowy out there, showing that you actually can drive to it. It is physically able to drive out there might not be upgraded to the standard that we wanted to for a county road, but you can't actually get to that side of the property. So because of that, I am recommending on my condition number 11 that that last portion of the or a portion of the last sentence be struck. That basically limits or removes the requirement that it can't be bonded for. So they would be able to submit an Saia request for the upgrading of Dundee Road. And I think that's the last information I have, and I do have some recommended motions. It would you would need to make a motion for each of the variances, one specific to Dundee, one specific to Highland Drive and then obviously the main motion for the subdivision as well. And I know Missoula Engineering Jenna, I saw, was on the line if if you don't have more questions for me at this time.

[00:37:19] Jenna, do you want to?

[00:37:22] Yeah, high commissioners, first, I'd like to thank Bayly for all of our work on this project. There's been a lot of back and forth in co-ordination generally agree with all the proposed conditions of approval except contingent of approval number one regarding the requirement that Dundee Road be improved to County Road standards. If you don't mind pulling up my proposed language change.

[00:37:57] Yeah, give me one second here.

[00:38:02] So as the condition states, right now, we're being required to upgrade Dundee Road to a 16 foot. Wide gravel road, and we would like to amend that to be a 16 foot wide gravel driveway, and the main difference is the construction requirements regarding this, and we're making this request for several reasons. First, like Bailey mentioned, this right of way was originally done back in 1913 as part of McIntosh Manor, and just the development patterns and road networks have changed since that was originally plotted in this area just does not see that type of use or demand. Secondly, Bailey also noted there's a steep Woody draw on the eastern portion of the subdivision and in coordination with Five Valley Audubon, we delineated that as a riparian area, and this Woody draw actually crosses this existing right of way and continues on through the property to the East. And they've also dedicated that riparian area as a no build zone. So as such, a future connection of Dundee drive down to Lamar Trail would require the partial destruction of this riparian area, and it's just very unlikely that this corridor is ever going to see that connection and therefore ever see an increase in use or access that that would justify improving this access to a county roads. Our proposed 16 foot driveway will meet the requirements for fire and emergency access standards, and it would sufficiently provide continued safe year-round access to to this proposed new lot. Additionally, these emergency access standards are already outlined in condition of approval number 10, so our proposed driveway would be required to adhere to those regulations. So we understand the intent of the regulation and why caps made this requirement. But we are requesting that condition of approval be amended based on the specific circumstances surrounding the property and the proposed development.

[00:40:37] Ok. Four. So if I understand you're saying you're asking to keep it 14 feet as it is and then and it's going to turn to the East well before it right now, it goes right to the Woody draw, but it's. You're going to it's going to change or turn instead of going to the Woody drop.

[00:41:02] Well, I thought you said it would be 16 feet.

[00:41:06] Correct. So we're sorry, the width of 16 feet, so where we're Sandy Drive and Dundee Road kind of meet at that 90 degree corner north of our property.

[00:41:19] Mm hmm. Thank you.

[00:41:22] We're just requesting from Sandy Drive down to our north property line. We're happy to increase the road width to 16 feet, but the difference is is the verbiage of road versus driveway. We want it to be a driveway. The County Road standards for actually installing a road require, you know, engineered road design plans, review and approval by county public works like this access ways accessing the existing home to the North and our proposed new home like it's a shared driveway. The requirement to improve this to County Road standards is just above and beyond the type of use that this act is going to see.

[00:42:12] Great. Ok, thank you. And. Bailey, how does. How does that sit with cats, is that livable?

[00:42:23] Yeah. Sorry. My thing was down, so we the way our subdivision regulations read and the way the Public Works manual, which after reading the Public Works manual, the subdivision regulations right, are the first thing than the Public Works manual. But both of them state that if two or more units or lots are accessing from it, then it's basically considered a road for subdivision purposes. So that's why we have the condition that it be looked at as a road, as well as that it's in a public road right of way. It's not maintained by the county, right? The county doesn't maintain the roads out here, but they are plotted, you know, public rights of way that are out there. So so that's why we have it that that set up the conditions set up that way.

[00:43:10] So Bailey one, can I ask a question? All right. Thank you. So Bailey, let's say 10 years from now, maybe other folks are involved and they say, Yeah, you know that that Woody draws real sweet. No, but we want to punch this road through because we're going to there's going to be other houses over on the other side. What would happen if what happens if that scenario just outlined occurs? And we had said this thing as a driveway, not a road, who at that point would be responsible for bringing this thoroughfare up to County Road standards?

[00:43:44] My gut would say it would be the county because it's in our county, it's in a county planted right of way. And therefore, I mean, that's the thing. The county could go out tomorrow and say, we want to punch this road through and we're going to do a road. It's our right of way. I know Shane would probably have some things to say as well about that. But but I mean, that's the thing in this situation. It's a very unique place because normally we don't have these planted rights at road right away, like it's not an easement, it is dedicated, you know, area that is county owned.

[00:44:18] Is there? Is there any sort of protective tool these folks could do around the Woody draw such that a road couldn't be punched through it and it would just have to end there and be a right of way? Or that don't get it. So it would be a road right of way vacation.

[00:44:38] Yeah, it would be a road of vacating that, that road right of way out there. Yeah, because it's not technically on their property, you know what I mean? It's actually plotted. So.

[00:44:48] Juanita, I have a couple of questions. If if that's OK. So this might be for Shane, or it could be for Bailey, or it could be for John Hart, for that matter. Is there a can you think of any examples where we have allowed for a driveway to exist within a public road, planted public road right of way? To me, I can't think. Yeah, go ahead. Yes, sorry, Dave. You know, as you guys are discussing this and I don't know if it's the same situation, but I don't know if you recall our discussions on this division that was happening on

[00:45:28] North Avenue where we had talked about, you know, the need to pave,

[00:45:32] You know, 14 or 15 feet rather than the 24 foot width

[00:45:37] Kind of outward north dead ends.

[00:45:39] And so I think that would that comes to mind is the example that's similar to this. I don't know, Eric, if you have thoughts on it or John as well. I don't, you know, I don't know if John would have an opinion, but I can't think of many off the top of my head examples, but I would have to say I'm sure that it exists.

[00:46:07] Actually, maybe one that comes up would be out in Clinton. We had someone build a driveway in a dedicated road, and it wasn't an issue that I recall. I mean, it is it is for the

[00:46:19] Public to use if there is ever the need for

[00:46:23] Improvement as the examples given what if someone comes in later and then it actually does become a road? I would think it's that second person that has to come in and make that improvement. I don't know if John, John or anyone else would agree that it would just be my interpretation.

[00:46:40] Yeah, thanks. I think that's a key question here. John, what what exactly is the question? So, Mike, my question is is there a precedent for or examples of driveways and allowing for a driveway to exist in a county

planted public right of way? That I can add a Part B to that. Maybe John could take both of them on, so if such a thing as Dave is describing, exists. And later on, after the date that this driveway hypothetical driveway is created, new owners on the far side of the driveway build some houses and need to turn this driveway into an actual road. At that point, who's on the hook for upgrading the driveway to the road? Is, is it, as Bailey pointed out, the county's responsibility? Or would it be the new homeowners responsibility? Who's desiring and needing this driveway to be upgraded to a road? Or is it the old older residents who put in the driveway where there should have been a road? Who's on the hook for the upgrade? Well, first of all, I'll try to tackle that. Is there a precedent for a driveway being built or existing within a county public road right away? And the answer is I'm sure there is, but I couldn't give you. I couldn't give you a specific example. Well, I mean, maybe I can Marshall Canyon Road. We know because we've talked about that within the last 12 months. That's a public right away, established years ago. And towards the very end of it, you know, it's it's the Marshall Canyon property that is accessed and the road.

[00:48:43] And so the road, I mean, essentially becomes the driveway into the Marshall Canyon property. And the right of way, however, extends all the way to the boundary of the Forest Service land to the north. But it is an otherwise developed and maintained that may not be the best example, but that would be the example that we would have is where one property owner lives at the very end of the county right away, and they're the only ones that use it to get to their house. So it's their de facto driveway to their house, and there's nothing wrong with that. But if somebody came up and maybe Marshall Canyon Road isn't the best example, but let's just say, you know, the Forest Service parceled out a piece of their property to the north at the end of the county right away, and somebody wanted to develop that property. Then, even though it's county right of way, the county doesn't have the responsibility under Montana law to actually improve and maintain that right of way to their house. And in that case, if somebody wanted to use that public right away as a legal and physical access to their property, they could not force Missoula County to develop the road to get to their property would essentially be up to them to make those improvements. However, Missoula County could require that they be built to public work standards. Um, so that's. Does that give any insight to the to the questions? Yeah, I think so. Go ahead, Bailey.

[00:50:31] Oh, I was just going to say one thing, you know, that is in, you know, a pro side to Missoula. Jenna's argument or request to do that as you're talking about, you know, accessing off of it, you know, really, there's this lot here. I don't know if you can see my little pointer when you put it back on. So, you know, this is the subdivision lot here. This there's this existing home here. The lot that would be in this corner way down here actually abuts Lamar Trail to the South. Actually, maybe let me go to a different picture here, so bear with me as I screenshot. Here you go. So this this is the subject parcel rate. We're talking about the section of the road here. So this lot here accesses from Lamar Trail, they you know, that's that's where their physical and legal physical access is off of. This is really the only lot that I can see that potentially could connect. Now, granted, talking about upgrading, if they were to subdivide, that could be a the same requirement that we would say, right, you'd have to upgrade the ROE, you're asking to deviate, you're asking to do something more than just build your house. But if they were just to come and build their house out there, I'm assuming it's not. There's nothing out there. I don't remember anything out there. But, you know, if they're just building their house, you know, they would have every right to access right off of this driveway as well. So I mean, that's more of a pro side to the argument. For driveways, there's really only one other than this new lot. There might be a total of three potentially that could just be built tomorrow that would access. It's not necessarily like you're building a county road where you could have 20 lots that come off of this. That's just not possible out there. So just food for thought.

[00:52:24] Any other comments, any public comments on this? Ok. Write a closed public comment then. Ok, Josh and Dave.

[00:52:42] So I'm open to making a motion here, but I'm looking at this language and I know that I'm going to bungle it, so I'm going to reach out to Bailey. How could we do this motion but allow the driveway to remain and not have it turned into a road?

[00:53:00] So there's two ways you could go. We could. And bear with me here. I've got like 20 screens open. I'm sorry. So I mean, that could be where we add. So, you know, this was where I was removing the language about not being the bonding thing. We could try to tweak this one a little bit, or I could put up Jenna's recommended language as well. If you wanted to take a look at that and see if that is more in favor of kind of your thought, I think. See if I did I scare my can you see this? Did I share my whole screen or just the PowerPoint? I can't remember?

[00:53:36] Do you see a PDF, OK?

[00:53:39] Yes. Ok, so this was this is the proposed language that Jenna had proposed here that also included, you know, the language that we get more specifically out in Israel about the acceptance of a lot, you know, constitutes the assessment for any future waiving of their right to protest any future or acid or acid for upgrading of the road as well.

[00:54:06] So I had a question before we move on into motions here, so. So Bailey or John Hart, what do you think about this proposed condition of approval language, any from a legal standpoint, any problems with that? On the fly, of course, Dave, I don't have a legal problem with this because nothing that's being proposed here changes the fact that this is a plated public right of way. And that doesn't that's been the way it's been since 1910 or whenever this was plotted, and it's the way it will be into the foreseeable future. So it's from a legal standpoint. I don't have a problem with proposed condition approval number 11. You know, it's really it's really up to the experts at public works and and emergency services to weigh in on on the on. From their end. So it's the one, I guess, follow up question, and maybe this is a Shane Staff question. In practical terms, what is it? What's the difference between a 16 foot wide driveway versus 16 foot wide road that that accords with County Road standards? And you will what's the difference if you're looking at it on the ground, I mean, are we looking at pretty much the same thing or? Well, obviously eight feet and probably some some gravel thickness. But going back to your question, your original question, I think they're, you know, quite a few examples that you probably have driveways in the county roads. So if I guess I would just say I'm not concerned about it,

[00:56:12] Especially the short of

[00:56:14] A length, and if something needs to be done in the future, I think we can figure that out. I don't want to force an Dooley the the the requirements to build a county standard road to this, you know, property. Simply because they're probably going to be the only ones using it. Well, I guess if I'm understanding this correctly correctly, in either event, we're talking six foot wide gravel road. In one case, this is. Right versus versus twenty four feet, so you're just another eight feet, and I think it's just the, you know, the additional cost is the, you know, the thickness of the gravel. You know, I have, you know, there's probably, you know, not a standard out there that they're going to follow as far as, you know, thickness of servicing for their road or their driveway. But there would be, you know, that requirement for the thickness of the gravel if they were going to build it per standard.

[00:57:21] And I can definitely say, I mean, when I talked with Missoula Rural Fire, mainly about this, I mean, they were definitely concerned with the width for sure versus so, you know, emergency services, access for their fire truck, that kind of thing. I think that would be the only concern like the planning side of it is just making sure that it's, you know, providing public health and safety access. And so that's I guess I don't I don't know the difference between what you know, as I was talking with Tim, like the 2D version versus the 3-D version, right? Like the width is the 2D, the depth is it. I don't I don't know what that standard is, but I mean, that's what we're looking at in subdivision review is just publishing public health and safety and making sure that, you know, if a fire happened, that it's accessible with the fire truck. So.

[00:58:12] And a six foot drive. It's accessible.

[00:58:14] Yeah. Yep. Pete Pete was 16 feet is the minimum that they would need. So that's why we were recommending approval of the variance, but with the requirement that it be at least six feet with.

[00:58:27] Indiana was good with six feet

[00:58:30] And just wants it to be called the driveway instead of a road.

[00:58:32] Yeah, then she doesn't have to abide by the gravel thickness standards.

[00:58:39] That's correct.

[00:58:40] And I'm personally moved by the fact that if it changes later and becomes a road, it's on someone else's dollar to do that upgrade, not ours.

[00:58:51] Was that do you are you crafting a motion?

[00:58:55] I want to I want to make sure you and Dave are OK, too, if Dave still got to me.

[00:58:59] I am Dave. Go ahead.

[00:59:02] No, that all makes sense. And as long as it's as long as John Hart's salary is not going to be docked for this next session, we're good. All right now, we're into our language.

[00:59:18] Oh, back to the.

[00:59:20] Would you? Yeah, would it? Would it be helpful? Do you want to do the the two variances I can pull up? Let's see, because right now I have here. So it would have to. These are the two variances here. And then that condition number 11 I had done down here as modified by staff. But we could tweak this portion of the main one if you wanted to go with Jenna's language as well. But definitely, I mean, these two motions motion one and two for the variances I think are OK, as is.

[00:59:55] And then for motion number three, what's the change we need to make?

[00:59:59] I think it would just be subject to recommended conditions of approval in the staff report and then it would be the modified condition number 11, as presented by the applicant or something like that. Unless John has other thoughts. I'm just off the top of my head, right?

[01:00:16] No, I I don't have any additional comments, but I just can't let this one go. So Commissioner Meyer suggested that if I'm wrong, I might have to take a pay cut, and he could have said I would have to take a haircut. I'm waiting for that, which would be even worse. Ok. I've said enough. Thank you. Ok, I'm ready. I'm ready to let her rip. One if you're OK. Ok. Go for it. All right, I would move their request to vary from section three point four point seven point five. Point to point one, requiring offsite roads not uniquely attributable to the subdivision to maintain a grade not to exceed 10 percent, have a minimum 20 feet unobstructed drivable width and 13 feet six inches vertical clearance specific to Dundee Road be approved subject to conditions. To move the request to vary from section three point four point seven point five point one requiring off site roads not uniquely attributable to the subdivision to maintain a grade not to exceed 10 percent, have a minimum 20 feet attributable to the subdivision said that 20 feet unobstructed drivable width and 13 feet six inches vertical clearance specific to Highland Drive be approved. Number three I moved the McIntosh Manor Number 40 subdivision be approved based on the findings of fact and conclusions of law and the staff report, and subject to the recommended conditions of approval in the staff report and the modified condition number 11. As presented by the applicant. I will second that eloquent set of motions.

[01:02:00] Any further comment? Ok. All in favor. I.

[01:02:08] Thanks for the rich discussion.

[01:02:10] Yeah, thanks for helping us work through that.

[01:02:12] Thank you, commissioners. Appreciate it.

[01:02:15] Thank you, commissioners, and thank you, Bailey.

[01:02:17] Thank you. Ericson, family transfer. Thanks, Senator. Your last name. How is it properly pronounced, isn't it?

[01:02:30] Sorry. Isn't that us? Is how like lettuce and lettuce is how we always try to tell people do. But I will respond to anything. I've heard it all.

[01:02:38] So thank you. Ok. Sorry, go ahead.

[01:02:44] Let me get my staff report and notes put up here. Then I will get started. So this is the Erickson family transfer. I'm going to start with a brief background on the project. The location of the proposed transfer is off of West Twin Creek Road, which is along the Blackfoot River corridor, approximately seven point five miles east of Bonner. The personal question is one hundred and. Sixty acres in size, it is zoned and currently has no structures on it. The land use guide that designates this area as the 2002 Regional Land Use Guide. It split designates this track as residential on the western portion of which, which has a recommendation of one dwelling for 10 acres and open in resource on the rest of the property, which is a recommendation of one dwelling for 40 acres. Looking at the family transfer proposal, it would result in a claimant's adult son, James, receiving a 67 acre track records track one and the claimant's other son, Josh, receiving a 67 acre track with process track two. Then the claimant Tony would retain ownership of the remaining 26 acres, which proposes Track three. The application was sent out for comment to applicable county sorry to multiple agencies around the county and no comment was received on the project. Ballots go over. Staff analysis and over any points that were triggered during subanalysis general criteria point two was triggered. Tony purchased the property on October 12th, 2021, which is within the two year window that the criteria asked for. Then also criteria number 18 was triggered. This area does have a very high. Wildfire hazard level and is located in the wUI intermix, so there is likely some conditions that would be imposed if this project were to come through as a subdivision. Next, I will go over the family transfer questions with the claimant. Can I have you state your name for the record, please?

[01:05:01] Tony Erickson,

[01:05:03] Thank you for first question. Did you buy the property with the intent of dividing it?

[01:05:10] No. Question two, do you

[01:05:13] Or your transfer is intent to transfer the property within the next year? No question three have you talked to anyone at the county about going through Sunday's interview.

[01:05:25] I have not.

[01:05:27] The last two questions, will the property be developed

[01:05:31] At will

[01:05:33] And whether the recipient of the property be residing on the property? Yes. Thank you. And the conclusion of my presentation and staff is recommending approval of the proposed transfer, and I will turn it back over to you, commissioners.

[01:05:51] Thanks. So yeah, we just have. Or is it Eli and Associates? Is that who else is here representing

[01:06:01] Correct, Eli?

[01:06:02] Ok, yeah. So does anyone have any further comments? Eli or Tony?

[01:06:13] Hi, this is Joshua Phillips with Eli and Associates. I don't have any further comments, but I can take questions, of course.

[01:06:23] Ok. There are any public comments. Ok, not hearing any public comments, commissioners yeah.

[01:06:36] For that one, if I could ask Tony a question. Right. So. I took Tony, you bought this land just a few months ago. Yes. And so when you bought it, this wasn't in your head about using family transfer to get it to your sons.

[01:06:57] No, my husband and I bought it. He has since passed away.

[01:07:01] Oh, I'm sorry. I apologize. Sorry. I hate to even. It's hard to even ask, but did not precipitate this decision. Um, no. So what what changed then you bought this a few months ago, and now you want to split it up? What happened?

[01:07:24] I got one leg up on the mountain by myself and I would like to have my sons close to me so that we can be together, if that makes sense.

[01:07:33] Sure. But right now, you don't live up here, right?

[01:07:36] No, I live in Missouri.

[01:07:42] Thanks. This yeah, I do have a question. So I've been in a backup in this country before, and some of it's pretty, pretty dang steep, so are there on all of these parcels enough? Somewhat level ground to be buildable.

[01:08:06] Yes, there are. We've had an architect out, and he has given us approval. Yeah.

[01:08:18] I don't have any other questions.

[01:08:23] Ok, Josh, go ahead. Where are you going to say something?

[01:08:27] No, it's Nick could bring up the motion again. If we're ready.

[01:08:40] I don't have any questions.

[01:08:43] Ok, I would move that we approve the request by Tony Erickson to utilize the family transfer exemption as presented in the exemption application and affidavit.

[01:08:56] A map. The further comment. All in favor. I I. Thank you. Thank you. Thank you, Tony. Thank you. Joshua, thanks very much. Ok, Nick, again with a Campbell family transfer.

[01:09:25] Yep. Thank you.

[01:09:27] Once again, I want to start with a brief background. So the location of this proposal is approximately two miles north of the Y on the west side of Highway 93 north off of Baron's court. The parcel is six point one one acres in size and is currently zoned and vacant with no structures. The 2019, each element that this track as rural residential and agriculture with a recommended density of one dwelling for 10 acres to one dwelling for two acres. Now getting into the applicant proposal first, the applicants are proposing to abrogate a permanent boundary line that was flagged by the recorder's office during agency comment and the next, the applicants would like to utilize the family transfer exemption that this would result in the claimant's adult daughter. Adult daughter Jayden received a two acre track which proposes Track one, the claimant's minor daughter Alexis, receiving a two acre track reposes track two and the claimants would retain ownership of the remaining two point one one acres because it's Track three, and the project would be compliant with the land use designation at one dwelling per two point zero three acres. The application was sent out for comment. Like I just mentioned, the clerk and records office come in at about a permanent boundary line that was on the campus property and Blackcaps recommendation.

[01:10:58] The was added aggregation to expunge this boundary line. The health department, I'm confident that the project must go through a sanitation review or site in applicable exemption. The water, the water quality. District did have extensive comments regarding the O'Keefe Creek area in general and the Campbell's project site. The water quality district stated that the area is prone to high groundwater issues based on flooding in and frequent flooding of roadways and fields. They wanted to note that these issues do not happen annually, but have been noted to happen following high snowpack years, writing on frozen ground events and larger than normal rain events. In addition, the cable property is also located in an area that was once flood plain via a nineteen seventy seven HUD study. That study did not carry over to the FEMA recognized floodplain, so it does not end floodplain as we as we know it today with FEMA standards. But it was during HUD standards. Then last just for this. For the reasons stated above, the water quality district is advising slap on grade buildings. Advanced consultations with land sagittarians. And careful consideration of integrated stormwater management across all parcels.

[01:12:23] Next, I'll get into staff analysis and go over any rebuttable presumptions and evasion criteria that were triggered. Rebuttable presumption, too, was triggered as the intended recipient of proposed trek to is the claimants minor daughter. Rebuttable presumption before it was also triggered, as it is believed that they were simply off track to has no clear intentions to immediately reside on the property given her age. Sufficient criteria number two was also triggered, the cable was purchased the property on January 29, 2021, which is within the two year window that the exemption ask about. And last General No. Eight teams also triggered due to concerns raised by the water district. We would likely impose conditions that would mitigate impacts if this were to come through as a subdivision. So now I will go over the family transfer questions with the claimants, OK, please ask you to state your name for the record. I think you're muted. I'm not saying you're muted, but maybe you're the wrong source for the microphone. If you go to the to the top of the top and hit device settings, you should be able to to. Pick, which one is your microphone? Violet, please tell me if I explain that wrong to

[01:13:58] Know that that sounds right, it looks like it looks like they're unmuted, but can't hear them.

[01:14:16] I'm wondering if they could call in on a phone so we'd have the audio from the phone?

[01:14:22] Yeah. To the Campbell's, I can put the call in information in the in the meeting chat so you can see it and call it on a phone and we can hear you that way, just one second. Ok. We actually don't have the chat working, let me just read you the phone number really quick. It is for 06. Two, seven, two. Four, eight, two four. And it'll prompt you for a code here in a second, which I can give to you. The code is one to four. Seven to eight, two to four pound. Sorry about that.

[01:15:29] There we go. There we go.

[01:15:32] Thank you, Violet. Goodbye.

[01:15:35] Oh, and I

[01:15:40] Should be back.

[01:15:43] Yes, yes. You.

[01:15:53] Does that help?

[01:15:56] Oh, gosh.

[01:15:57] I think if you turn the sound off on your computer that way, it won't come through both. And I think that should help the Echo problem.

[01:16:08] Better. Sorry. Just to add to complications, life throws up there for a minute, are we good to proceed then? I think so. We thank you. Ok. Can I please have you set your name for the record? Bryce Campbell and Marcy Campbell. Thank you. It's a question for one, did you buy the property with the intent of dividing it? No, we did not. Question Mark two, did you or your transferees intend to transfer the property within the next year?

[01:16:43] No, we don't.

[01:16:45] Question three. Have you talked to anyone at the county about going through the interview? We have not. The question for will the property be developed? Yes. Question five, whether recipient on the property, be residing on the property. Yes. Thank you. The conclusion of my part staff is recommending denial of the proposed request, and I will turn it back over to commissioners and I'm here for any questions.

[01:17:18] Ok, so. Mercy embraced you. And and because it's the only market and price who are on here.

[01:17:32] Adam Cromwell, the DCI, is on here, too.

[01:17:35] Ok, sorry, Adam, I didn't. Now I see you. Ok. Do you guys have any any comments or want to tell us more?

[01:17:50] Your.

[01:17:52] Yeah, so our intention was just to gift it to our daughters, but I know the question was raised when we spoke on Tuesday. Why now? If we can't do this, we're probably going to build smack dab in the middle and spread out across the whole six acres. If we can, then we'll build at the back. Being able to let our daughters build their eventually on the other two. I know it. It was questioned, the one being underage and one not my understanding is you can only do this process one time and then you're done on a piece of property. So we just wanted to get it done. If. Well, as we all know, because we're all doing this through a computer instead of in a meeting room somewhere in this day and age, you never know when something's going to happen to you. So if the properties are in their names, then anything happen to us, then there's no issue. So that was that was kind of our thought process, but I know that was raised. There was some issues raised about groundwater and flooding. I guess the only question I have is I wish somebody when we went through sanitation review and everything on this property, there was never an issue. One, we've got approval for all of all of our septic, well, traditional septic. No issues, but there's. Other issues that were found, so I guess we're confused on that part, too.

[01:19:16] And who do we have here from staff who be able to speak about? Groundwater. Nick, is that Adam?

[01:19:27] Yeah. Adam might be a little bit more specific. I'm not sure if he doesn't have sanitation. I did try to get Elaina Evans from the water district, but she is out of office for the week. We did briefly talk about the issues in general, and they are just issues that are relative to the O'Kieffe Creek area in general. The campus property is specific with a comment regarding that they were in the Old Hut study floodplain, but in general, they, the health department and WorkLife District, comments they receive various reports of these issues over the years, very dependent upon what's going on in the area and obviously with the how much snow and rain we get for for a certain event. So sorry, general,

[01:20:15] If you were to build here, sort of requirements would be no basement, that sort of thing. Or Adam, maybe you have more to explain. Help us out here.

[01:20:28] Yeah, I think based on what we've seen out there on the site, I think the Campbells don't intend to build with any basements. The site is generally pretty level with a gradual slope across it. Any concerns over surface flooding could be easily mitigated through good construction practices, elevating the finished floor level of the House providing for positive drainage away from the house. There doesn't appear to be anything that we've identified that looks looks like a major concern. In addition to that, we haven't been able to identify any current data anywhere in the recent history that would indicate high groundwater in this area. We have already performed a number of excavations on the site through the sanitation approval process for designing the septic system on the property and those those excavations were performed last year and didn't indicate any presence of groundwater that would affect the septic system as it was designed and eventually permitted.

[01:21:53] And so, Adam, when you're saying the property, you mean across all three, I mean, all three of these proposed tracks or were you just focus on? Where they wanted to build their home and track three.

[01:22:07] I'm referencing the the entirety of the parcel across all three tracks. Ok.

[01:22:16] It, Juanita. Yeah, I have a question just to follow up on the Campbell's comment about what is or is not allowable by way of future family transfers. So this would be a question for either, I guess, either John Howard or Nick and John. If you want to risk the possibility of cutting your hair by the end of this meeting, you can jump in here. But I guess I guess the question is just to game this out because I I am always a little concerned about family transfers that involve minors. If hypothetically, the Campbells were to only carve off one tract to their 19 year old daughter as their daughter, 19. Is that right? Do they get OK? Yes, yes. So hypothetically, if the family transfer only included tract one to the adult daughter could at some future date, the Campbells have another family transfer with the parent parcel that would include tracks two and three and essentially at that time sever off what is today track two to the the other the other child. Gave the Montana Subdivision and Planning Act doesn't. It doesn't prohibit a

subsequent transfer in the future. In other words, stated another way. This particular piece of land can the Campbells can do a family transfer to one or more children at this time and then to the remaining children at a future time.

[01:24:07] The only limitation is that you can make one family transfer to each child in each county in Montana once only. That's that's so, so they couldn't. They couldn't do a family transfer on another piece of land in Missoula County to the same child. Ok, so that's I don't know whether that's the assumption that you had Mr. and Mrs. Campbell, but but. I think what would be a possibility today, and I don't know if this we could do this on the fly, and we still have yet to hear public comment on all of this would be if we were simply looking at a family transfer to your oldest daughter. You could do a transfer of the two acre tract, one piece of property and at some future date. If it looks like your other child actually wants to live right next door to you, you could actually do if another family transfer of your parent of the parent parcel so you could build your house on track three today. You would also retain ownership of what you're calling track to here and do a family transfer to your oldest daughter. Just as an idea is throwing that out there, I just want to clarify what is and what is not possible. One can I

[01:25:35] Just I'm sorry.

[01:25:37] So I just I want to make sure I think it could be a brilliant idea, Dave. It could make it work for these guys. It just attract. Let's say if the if the parents were going to live on track three, basically Track three and Track two would be merged at this moment, that would be one. Call that track two and then track one would stay as tracked. One older daughter gets tracked one. When the younger daughter becomes a legal adult, the Campbells go through family transfer again, carve off a piece for her. In the meantime, folks who own this now can build a house where they like. And if their 19 year old daughter can make it happen, she can build a house on tract one. I think you just end up waiting a couple of years and then you carve off a piece for younger daughter. And the reason I'm suggesting this, it's it's absolutely not to make anyone jump through bureaucratic hoops. It's just based on the experience that we have seen problems with transfers to minor kids and or minor children. And and this would be a way to to thread the needle, to at least get get your adult child parcel, you'd still have the option at a future date. Heck, I can't imagine my 15 or 18 year old son being willing to live right next to me at this point in time. That'd be great if they did, but this would allow you some breathing room.

[01:27:06] I guess one point maybe it's null and void to make the reason we were doing this, we hadn't thought of this in the beginning. We were very fortunate enough to live next door to Bryce's mom. She battled lung cancer for eight years. So to be next door to her really showed us as a family, including my kids, because who would have thought your kids would want to live next door to you? Sometimes we didn't see

[01:27:34] How important it is.

[01:27:36] So I know both of my daughters, you know, Jane, they'll be 20. Alexis will be 17 in August. We're very fond of the idea of, you know, being close and being able to take care of one another like we could with Bryce's mom. So that was kind of this initial thought when we finally got to this point. What? Why we just want to do it and get it done with it, it is there's

[01:28:00] To, you know. Take care of us.

[01:28:05] Yeah, that's that's all great logic. If you can do follow through on Dave's idea and then wait a little while, you can make that work. The the issue we're trying to dodge here is that, you know, you guys, I'm sure, wouldn't do this. But people have used family transfer in the past as a way to carve off a lot and then sell that. And if it's in the name of a minor daughter, they can do with it whatever they like. And really what they should have been doing is going through subdivision and this is this is to thwart such a thing. But you could do this now and it's a one daughter. Wait a couple years, get it to the other daughter. Everything works.

[01:28:41] You see, Adam? Oh, I'm I'm sorry, Bryce, where are you trying to say something?

[01:28:49] Oh no, go ahead. Yeah, Adam, I was just going to kind of interject there and and say that while this seems like a good compromise too, and maybe the Campbells would be agreeable to to which you guys are proposing here, I think they are only trying to follow the current regulations as they're laid out with the provision for establishing a trust for the benefit of the daughter. And I think they really do have full intent to keep this property for

the benefit of their daughters so that they can live close to them. And I think that's evidenced even more by the fact that this track to for their minor daughter is in between where they would presume to build or will we building this year and their other daughter. And so I think that shows maybe even less likelihood that they would want to sell a piece in between them and their daughter that they. To the best of my knowledge, I have no intent to do anything like that. And that's why we had originally proposed this as such.

[01:30:09] Thank you. I. Oh, go ahead, Bryce.

[01:30:20] Oh, and I guess our understanding on the family transferable two was that you couldn't you could only do one family transfer on a property, which he cleared up. So I mean, as long as we could come back and do another one, then I would I would. I'd be OK with that. All right. I assume just get it all done at the same time. But if that's what we have to do that I'm then I'm fine with that. But I didn't think that was within the. I thought once you did a transfer on a piece of property, it was done. And like Adam said, I don't think we have any intention of having anyone move in between us that would that would not be ideal for any of us.

[01:31:03] So I guess for John or Dave Juan, I'm not sure. Can we do this on the fly? And we know these guys don't have to come back. Well, I'm trying to figure out where we ask for public comment, I mean, I see one hand on my screen. But you know, if the if I think if the applicant wants to, you know, right now, just change his. Application, then it makes more sense, we take public comment on the on the amended on the amended proposal and application. Maybe that makes the most sense.

[01:31:47] Ok, so the amended proposal is to. Keep track one, as is going to Jaden and then keep track three and two as one track, which we would call a track to. And then when Alexis is of age, then you have the opportunity to. Do a family transfer again for those two acres, then to her?

[01:32:20] Yeah.

[01:32:22] Ok, so that's the proposal. Can we ask for public comment now on that proposal? Absolutely. Ok. Vicki Rossetti, who I think is a neighbor.

[01:32:38] Hi, yes. I have a statement that I would like to read. Obviously, my name is Vicky Rossetti. I am speaking on behalf of my husband, Don, who is, I believe, just listening in on the phone somewhere. Tom Malem, who lives on Lot 73, the lots directly behind 72 and owns 10 acres, and also his father, who lives in the lot just directly south of our lot. Seventy two S. and owns 40 acres. Neither of whom could be in attendance but have given me their proxy to speak. So I'm speaking for all four of us. In December of 2020, my husband, Don and I purchased the lot, known as 70, to see under the CEOs two three three nine with intentions of relocating to the Missoula area for work. The Campbells were looking at the adjoining lot 72, A and B. We had expressed at the time that we might be interested in also purchasing A to use for growing hay. The Campbells realtor at first expressed interest and then stated the Campbell's intention to divide and sell the property. Our realtor attempted to contact the Campbell's realtor on numerous occasions and never received any return communication. Several months later, Parcel A. was listed for sale for two hundred and eighty five thousand dollars, which is more than we paid for our eleven acres and was unobtainable by us when Don and I were shopping for land in the Missoula area. We were looking for agricultural land where we could house three to four horses and possibly grow some hay. The property on Barons Court was exactly what we were looking for.

[01:34:28] It is located in an agricultural community with very large lots. Most being over five acres and with easy access to Highway 93 and I-90. We were very excited to be able to move into such a community. The community we will be leaving is located in Belgrade in an area that was once an agricultural community since moving to our current location in 2006. Much of the surrounding property has been sold off and divided up, and we are now surrounded by subdivisions with numerous large houses that have not only blocked our lovely views of the Spanish peaks and the tobacco route mountain ranges, but have created numerous problems with large amounts of traffic on small two lane county roads, among other infrastructure issues. From the time the Campbells purchased the lots and be, it appears their intention was to divide and sell off the lots. We obtained information early last year regarding the Campbell's intention to divide the two lots into five total lots and sell them. Information was later obtained that the cost to put in improvements was too great, so the Campbells opted to sell lot a and gift portions of Lot B with the intention of selling in the future. Living next to a minor subdivision was not our intention when we moved to the

area. We do not want to end up in a similar situation we are in now. We would like to see the area stay as an agricultural area where the residents can enjoy the open space.

[01:36:01] We believe the Campbells are gifting a portion of their remaining tract to their children in an effort to bypass review by the DNR S. and to evade the subdivision rules. All three of the costs two three three nine lots and the lots to the West are only accessed by Barons Court, which is nothing more than a single track dirt road that will not handle the excess traffic that five additional lots will bring without major improvements that would have been required during the subdivision approval process. It is our hope the commissioners will deny the family transfer and allow the property to maintain the existing agricultural feel of the area. I also would like to comment that Tom Malum has told us that those lots, in fact, do flood quite frequently. He lives in that lot directly behind lots. Seventy two, and that's one of the very first things he told us when we went over and were scouting for possible, well locations and a possible building site for our home. He also did state that there is a major larger water issue out there, and they have already had to build a second well. Our concern is the land does have water rights that goes with all three of those lots. And if we decided we wanted to use those water like water rights to possibly grow some hay at the bottom portion of our 11 acres, what kind of water are we going to have with five more wells and septic systems out there? Thank you for listening.

[01:37:54] Thank you, Becky. There any more public comment? I don't see any more public comment. We'll close public hearing.

[01:38:10] And we respond to that.

[01:38:14] Yes. Yes, but well, yes, go ahead. Look.

[01:38:19] Well, as in response to us splitting and selling, I don't know where she got us, splitting it into five lots and so on and off, but when we bought that property, it was already divided. We bought two lots when we bought it. And they were interested, maybe buying ours. We were. They were told that we were going to sell the front lot. So that was the division dividing and selling. It was already too lost when we purchased the property, so we sold the front lot and kept the back six acres. But but I just wanted to clarify that I don't know where she got her information that we had all these grand plans that we didn't even know about, but that was that was the dividing lot. It was already divided before we ever even saw it on the market.

[01:39:05] Ok, thank you. And then I see a hand raised, but I don't know who. This is.

[01:39:16] Violet, see, Nick's got his hand up.

[01:39:19] Ok.

[01:39:21] I was didn't clarify, I think.

[01:39:23] Sorry.

[01:39:23] No, I think there is an additional one. I think the confusion might come from the. Campbell's original application did involve both lots and was a combination of mountain lion relocation family transfer exemption. Then they since amended it to only involve the rear lot that you see today. Thanks for clearing. And that was that was midsummer, I believe, of last year.

[01:39:50] Ok, thank you for that. I see. It's called attendee guest, and I don't know who that is.

[01:39:57] Can you hear me?

[01:39:58] Yes, go ahead and state your name, for the record.

[01:40:03] My name is Julie Evans, and we are property owners to the north of the property. That's. Looking at getting the family transfer exemption, and although we are not opposed to the division of the lot, we were always told that the loss out here were one one house per two and a half acres. And given the additional information of the

flooding of the property, which is true, I mean, we've lived out here for over 10 years and that property does flood from water coming across by the culverts from Interstate 93. And with that, earlier you guys stated that houses would have to be slab on grade no basements. I guess that's a concern to me as far as how far back setbacks would be for this property. We moved out here so that we didn't have somebody living right next to us or having a multistory house looking down into our backyard. So when you're looking at having a slab on grade, you're obviously looking at a two storey home and I know what the setbacks are for our area. And it was always my assumption that this property was part of the Meadows West Subdivision. Homeowners association where there are specific setbacks, and so I'm not sure if anybody on this call today can tell me what the setbacks are. For this property in question. Or maybe the current owners know any of that.

[01:41:51] Again. Yes, go ahead, Nick.

[01:41:53] So it's currently on zone, so there is no setbacks. It is proposed to be zoned with a two lot minimum exercise and the proposed draft that the zoning audit has put forth. I have seen the proposed covenants as well. I don't think I saw in there and I should add that there was no clause that I saw regarding a governing body authority to enforce. So I think this would be a private covenants that would have to be enforced within the country itself. But I did see a one, a one acre minimum size and thereby I did not see a two and a half acre size.

[01:42:30] Thank you. Thank you, Julie. Adam, did you have anything to add to that?

[01:42:43] I don't I think as as it shown here, they're proposing one house on two acres, which is consistent with the neighborhood and the proposed zoning that the county has proposed after.

[01:43:01] Thank you. Is there any more public comment? See the game.

[01:43:12] I would like to say that they're proposing that they change the dividing and have two acre lots, but that has not been implemented, so it's not fair to look at the future and then placing to acre lots next to bigger lots does not go with the character of the neighborhood. Most of the lots surrounding them are larger lots. Ours is 11 acres. The Muslims have 40 and 10, respectively. The ones on the back side. I think the smaller one is two and a half, but there's like one of those. Most of those lots in that neighborhood are bigger, and I'm not looking forward to having five houses right directly across the tiny one track road with no privacy.

[01:44:06] Thanks, Vicky. Sir. Duly noted. Any further public comment? Ok, we'll close public hearing, Josh and Dave, what discussion

[01:44:23] Just got one one comment. This is kind of almost in the abstract, but all this discussion we're hearing right now is further proof of the need for the process of subdivision that all of these things get discussed, discussed and worked through and made right in the subdivision process. And what we're talking about now is family transfer doesn't do any of that, and I'm not saying that I would vote against it or vote for it. It's just demonstrative of the need for a subdivision when we chop up pieces of land and their neighbors and roads and all these other things involved. Well, and if I might add, I think it's also demonstrative of the importance of zoning because the density and lot size and whatnot to a large extent would get resolved in that process, which we will be resolving soon enough for a good chunk of the greater Missoula area. Yeah.

[01:45:23] But currently it is unsound, and then the Campbells would be assuming all the risk of. Trying to build in this area and. They're comfortable. We're recognizing that. Further comment Sorry, Josh, you were.

[01:45:44] No, I'm just listening, thank you, though.

[01:45:51] Do either of you have a motion or how do you feel?

[01:45:58] Yeah, I guess I would be fine making. Well, unless you wanted to, Josh the I guess the nick, can you flash up what the original motion is? And I guess what we are proposing or contemplating is is an amended version.

[01:46:18] Of that small stab at changing it slightly. Not sure if it'd be adequate, but just changing their Peru then adding amended in front, if that is the way you want to go from

[01:46:33] And that's OK. And then how do we? Because the proposal that we're talking about is, yes, two, not three. So how do we? Where is that really we?

[01:46:46] Yeah, I do. I do believe we've done this once before. At least with one of my projects I want to say was the Brock family transfer. And what we did was during the approval letter, we specified it was a denial to one recipient and approval for another recipient. I would definitely defer to John on if he would be OK with that process being the same, if that is the way that you choose to go.

[01:47:13] John?

[01:47:19] Well, I haven't really thought this through, but but having heard the applicants, you know? On the record. Amend their application. I don't necessarily know that the the the letter stating the commission's decision has to say any talk about any part of the denial. I think it could just say I could just think the letter could memorialize that amended application that was made here at the meeting today and indicate that that was approved. Ok.

[01:48:03] Thank you.

[01:48:05] Well, with that, I guess I would I would make the motion I move that we approve the request by Brice and Marcy Campbell to utilize the aggregation and family transfer exemption as presented in the amended exemption application and affidavit. Well, second, that.

[01:48:23] Any further comment? All in favor, I. Thank you.

[01:48:31] Thank you. Thank you.

[01:48:34] Thank you. Good luck. Do folks want to take three minute break before we talk about a over water conveyance? Ok, three minutes.

[01:48:49] Can I ask you guys a question? Is anybody still here? Hello. Sorry, I think the commissioners are going to take a quick three minute break and then resume the meeting with the last item on the agenda. So can somebody help me and ask me, like what recourse we have when these people do turn around and just sell these lots?

[01:49:21] This is Deputy County Attorney John Hart, and how are you?

[01:49:28] I'm not very happy.

[01:49:31] Well, I probably I can't help you in that regard. Mr Rossetti, but I can tell you that there is a Missoula County and its subdivision regulations requires the Campbells to hold the property that that they're going to give to their daughter, that that has to be held for at least two years. So, you know, they won't be able to immediately turn around and do something with that with that property or their daughter won't be able to immediately turn around and do something with that property. But I'm not going to say that two years isn't very long.

[01:50:12] No, it's not when we plan on living there longer than two years.

[01:50:18] Well, that's that's the only backstop that we have in our regulations on it, which is more than the Legislature is put in the statute to the subdivision and Plotting Act doesn't require any holding period. That's just something that we've we being. Missoula County has put in our subdivision regulations to try to to to hold people, so to speak, to the commitments that they they've made at these hearings and as part of their affidavit and application process.

[01:50:54] And so what about that little tiny road like they want to add all these lots and all this other stuff and.

[01:51:04] Yeah, that's that's that's something between the, you know, the other people who have access to that road. That's a private matter. So we don't I this came up at an earlier. Um. Agenda item where we you know, we made it clear that. The county doesn't approve these for legal or physical access. We make people state that on the certificate

of survey that they have to record creating the family transfer lot so that, you know, the public is also on notice that that this particular division of land wasn't reviewed for legal and physical access.

[01:51:55] So basically, like this is done, there's nothing we can do. I mean, we're going to end up living right across this tiny track road from five houses because the the guy he sold it to is going to divide that other lower lot.

[01:52:11] Well, the division has been approved.

[01:52:15] Ok, thank you.

[01:52:17] Well, thank you.

[01:52:22] Ok, it's three fifty three. Who do we have presenting? Jane, thank you. I'm not sure if Josh is here. Ok, I hear him walking by, so. Sorry.

[01:52:41] Did you guys want to do another family transfer? Why not?

[01:52:47] Yes. Is a little shame. Ready.

[01:52:52] Yeah. You have something you want to transfer to,

[01:52:56] Baby, can you?

[01:52:57] So it's funny you say that he was, he was. He was sitting here with me like ten minutes ago, so I'd love if he could just hang out and be in a meeting with me. But I don't think he has the patience.

[01:53:14] Ok, well, we'll wait a couple more minutes for Josh to get back. I heard him walk by. Ok, Shane, take it away.

[01:54:25] All right, well, the agenda item before you today is to discuss McClay Bridge and request that the commission provide a recommendation regarding the future of the existing McLay Bridge. Part of the scope of the proposed South Avenue Bridge project includes the removal of the existing McLay Bridge and in the project team is requesting that the current Board of County Commissioners provide a recommendation for the existing McLay Bridge in the event a new South Avenue bridge is constructed. So really, you know, the topic today is is focused more on the Maclay bridge and not if, if or should there be, or should there not be a South Avenue bridge. So I just want to, I guess, point that out. It's not a discussion about South Avenue Bridge. It's really focused on Maclay. Public works in HDR developed a brief presentation that kind of shares several options that we've considered for McLay Bridge in the event a South Avenue bridge is constructed, so dust in the high. You can see him on the screen and John shook with HDR. They're going to do a quick presentation and, well, we're done with the presentation. We'll turn it over to you. So go ahead, Dustin. Ok. Share my screen here. It looks like I don't have a position or permission.

[01:55:58] I think I just gave you permission stuff and you see it now.

[01:56:03] Do so let's see here.

[01:56:07] We're looking at it, I think.

[01:56:08] Yeah, OK. Turn this off. Ok. Can you see the presentation, OK?

[01:56:19] Yes.

[01:56:21] All right. Well, hello, everyone. Thanks for having us here today. As Shane said, this is just a brief presentation to kind of talk through some of the different options that we considered as part of the Maclay for the Maclay Bridge is part of the South Avenue Bridge project. And essentially, there's there's two options, really. One is to leave the Maclay Bridge in place, possibly rehabilitate it. And of course, the other option is just to remove it all

together. And in considering these different options, of course, we we looked at the potential impacts from an environmental standpoint, from a river hydraulics standpoint and potential cost implications as well. Um, and as she mentioned, all of these options are are predicated upon the fact that a new bridge will still move forward on South Avenue. So there's two scenarios. As I just mentioned, one is you have a new South Avenue bridge with the existing McLay Bridge removed or there's a new South Avenue bridge, but the with the Maclay bridge in place. And so. You know, our goal is to with this study that we performed was to help inform the county in making a recommendation on whether or not to remove it. And ultimately, that decision would be used to help document the environmental process moving forward. So just a little. This is a project area map, I'm sure everyone's familiar with the project and where it's located, but just in case down here on the bottom part of the screen, this is South Avenue.

[01:58:06] And this kind of shaded in line work here. This is all new line work and this represents the proposed project. So this is where the proposed South Avenue Bridge would be located. And then, of course, the Maclay Bridge is located here to the north. Downstream, actually, the river flows to the north and in this particular situation. And here's the Maclay Bridge, located on North Avenue and currently connecting to River Pines Road. So just a brief history, I guess, rather, it's a brief recap of the project history of the project here. One of the key milestones was back in 2002. This is when the project was nominated to receive funding from MDC-T as part of the Assistant Bridge program. And then between 2010 and about 2013, that's when the Maclay Bridge planning study was completed or performed. And this was a pretty NEPA study to vet various project options and kind of set the stage for the environmental document. In 2013, that study was completed. And at that same time, the commission voted to pursue the funding from MDT and replace Maclay Bridge. And then in 2015. The commitment to replace the clay bridge was reaffirmed by the commission, and that's when HDR was selected to move forward with the final environmental documentation and the design of the project. And so between that time and now, we've been performing preliminary design activities and working to prepare the environmental documentation, and for the most part, the preliminary design has been has been paused just to wait in while the environmental document has been going under review.

[02:00:19] So quick overview of the different options we we considered for McClay. And I guess maybe it's important to maybe talk about the Maclay Bridge just real briefly so that it has some important characteristics that really need to be considered if we keep the structure. You know, as you know, Clay Bridge has been around for a while. Currently, it isn't set high enough to pass the design flood event, so that essentially means that the superstructure is impact is impacted during the 100 year, 100 year flows. On the bridge is vulnerable to scour the piers are misaligned with the river, the direction of river flow. There's really limited information on the existing foundation construction, so it's hard to determine just how resilient that structure will be to scour. There's currently a scouring hole located at one of the intermediate piers. The bridge is load restricted. I believe it's posted at 11 tons right now, and obviously the structure is aging and really beyond the useful the expected useful service life currently subject to corrosion and other types of deterioration. So there's there's several options we can consider. One is to, of course, remove the Maclay bridge altogether. The second option is to do nothing, basically just leave the Maclay bridge in place as it is right now.

[02:01:51] The third option is to raise the structure, so we would lift the superstructure up so that it will pass the 100 year flood event and then possibly rehabilitate it, perform some structural repairs and upgrade it for use by pedestrians and bicycles. And then the fourth option is really the same as the third option, except it's kind of a multi-stage rehab that would limit the upfront cost to rehabilitate the structure and just basically spread that out over multiple years of construction. So the initial financial burden isn't as high. So what we did is we prepared a matrix, and this is these are just snapshots from the Matrix that we prepared and we'll make sure this is available so folks can review it in detail. And I'll just walk through some of the the advantages and disadvantages, and I'm not going to talk through every one of these, these bullet points here, but because folks can obviously read that. But I will highlight some of the some of the key points here. So the first option is to remove the McLay Bridge. And some of the advantages of that. First of all, is the low cost long term solution. So this is the the least financial burden to the county is if the Maclay bridge is removed altogether. A second key point of that is that it best mitigates flood risk. And then maybe another key thing to point out here, too, is that per our communication with the resource agencies removal the Clay Bridge and the river restoration mitigates in part the impact the environmental impacts of the South Avenue Bridge located upstream.

[02:03:40] Of course, the disadvantage of removing the Maclay bridge is that require some documentation on the impacts of this historic research resource that the McLay Bridge is classified as a historic resource. And some flood

plain and river hydraulic considerations that need to be considered as well is that if we remove the bridge, this best improves hydraulic opening and can actually expect the 100 year flood of upstream of the Maclay Bridge to drop by more than one foot if that structure is removed. So this best mitigates flood risk if we get rid of that. Additionally, we eliminate the issue with pure scour or increased scour associated or flooding associated with debris and ice collecting on the pier. So long term financial impact is none. The initial cost we're estimating at about three hundred and fifty thousand dollars to have the bridge removed. So, of course, the next option is to do nothing, so this would leave the Maclay bridge, as is, the bridge could possibly be barricaded. The traffic allow pedestrian access over the structure. And of course, the main advantage of this option is that it preserves the historic resource. Some of the disadvantages is that there's some significant ongoing maintenance cost potential liabilities for the owner or the county if the county continues to own the structure.

[02:05:13] I think to you know, another thing to point out is that right now traffic goes over the bridge, right? So if you close it to traffic, it's possible that you might see some elevated unwanted use know if it's not as easy to get out there and patrol it, in particular people climbing and jumping from the structure. Of course, the you know you're not resolving the risk of scour, wash out or any flood risk flood risk. I think another key thing to point out is if the structure remains there is that during the 10 year event, nearly twice the volume of water will overtop River Pines Road compared to that flood of elevation decreasing by a flood if that bridge was removed. I think another thing that we discovered recently, too, is that the rise, so the base flood elevation due to both bridges being in place would exceed state and county floodplain regulations. So keeping both keeping the clay bridge in place as it stands right now files the state and county floodplain regulations. Obviously, there's minimal cost associated upfront cost associated with this alternative, but the long term financial impact would likely be high just to due to the ongoing maintenance with the structure. So option three, this is to raise and rehabilitate the structure for pedestrian use, and the reason we would raise it is to get the superstructure. That's the part of the structure that the cars are traveling on now is to get that above the hundred year flood elevation so that it can adequately convey that flow.

[02:07:13] So the benefit of that, obviously, is that it keeps the historic resource potentially assuming we don't have to modify the bridge significantly, and it means maintains that historic value and it helps reduce the risk of washout compared to doing nothing and just leaving there as it is. Um. Some of the disadvantages, of course, is that this has a very high initial cost \$3.6 million in order to is what we're estimating as a construction cost. And it will continue to require annual maintenance and inspection costs throughout the life of the bridge. I think another thing to point out to you is that even though the structure is retrofitted, the piers would still be misaligned with the direction of flow. They're still susceptible to scour and collecting debris, which is another maintenance issue. And really under this alternative, we actually looked at replacing one of the intermediate piers is the only viable alternative to fully eliminate risk to that pier that is exhibiting a scour hole right now. But really, the other piers would go unmitigated, so the cost to mitigate scour at those piers would be likely substantial, potentially cost prohibitive. And so right now, this cost estimate only considers mitigating scholar risk at one of the piers. Another point to consider with this option is that despite raising the structure up, I think we would raise it about two feet in order to convey high flows.

[02:08:59] It really has negligible improvement on river hydraulics. And that's because really the obstruction is created by that bridge substructure. So raising the bridge, you know, it eliminates some risk of high water impacting the superstructure. But you're not seeing a significant improvement in the river hydraulics. And so the final option, which is the option for this, is very similar to the option I just described. We would rehabilitate the structure. We would raise the structure to convey the high flows. It would just happen in two phases. So I can't actually see the cost estimate there. But basically, it reduces that initial upfront cost to just over \$2 million and then the second stage, which would be the full conversion to a pedestrian biped structure. You'd be you basically divide the cost into if you're paying \$2 million for each stage. So that's just a quick recap of our evaluation of the Maclay Bridge, and I guess, Shane, maybe I'll turn it back to you to cover this. This last slide? Yeah. Yeah. Thanks, Justin. I appreciate the information from public works perspective. We're recommending that we've removed the Maclay Bridge in association with the proposed South Avenue Bridge project in the event the South Avenue Bridge project moves forward to construction. So with that, I don't know if you guys have questions comments you want to ask.

[02:10:51] Oh, thanks so much, Dustin. Should we open it up for public comment right now?

[02:10:57] Yeah.

[02:10:58] At this late hour for 12,

[02:11:02] It's up Bob Gentry's hand go up.

[02:11:05] Oh, great. Bob Gentry. It looks like he's unmuted. I know you still needed.

[02:11:25] Let's give them a sec to figure it out.

[02:11:35] Bob, you're still muted, if you can hear us. Ok. I think we'll we'll come back to you, Jean Curtis.

[02:11:49] Thank you, commissioners. I did send you a written comment today, too, so I'll go over it quickly because I know I know what it's like to be there for a long meeting. I've read The Matrix prepared for you by HDR Engineering that summarizes several options. The options are either for leaving the bridge as he talked about retrofitting or removing it as part of the project. The safety, functionality and alignment of the McLay Bridge has been a concern to the citizens and to the county for decades. There have been many studies costing millions of dollars that have been done over the years. The existing bridge was relocated from Greenville when the original bridge washed out, even though it did not reach all the way across the river. As you know, looking at an aerial map of the area, it is clear that this is a narrow portion of the Bitter River, which is likely why the Maclay family built the original bridge in this location to access their land. However, the dynamics of the river and the resulting strange alignment would never be chosen to locate a bridge today. Today, your discussion and action are focused on the future of the existing bridge based on the extension information. Extensive information presented by HDR Engineering. Each alternative has advantages and disadvantages, assesses the river hydraulics and the floodplain implications. The long term impacts and the costs. The cost to remove clay bridge and restore the river's banks are minimal and can be included in the project costs funded by the Federal System Bridge Program.

[02:13:29] The cost of the other options will be borne by Missoula County taxpayers. Missoula County Road and or Bridge funds are not available for pedestrian, equestrian or bicycle trails. Therefore, the commissioners will have to levy additional funds and plan for the potential of future maintenance and liability costs. And I would remind you that that in not too many years ago, we had a lawsuit because someone jumped off the Deer Creek bridge and landed on a floater, and that was a. The person was hurt really bad, and the county was held, was sued and had to pay quite a bit of money. So liabilities are important, as well as things like rushing out the bridge. The Matrix, with the summary of options addressing the river hydraulics, flood plain and costs provide you with a clear choice. The Maclay Bridge needs to be removed and the river banks restored as part of the South Avenue Bridge project. This will allow the river to flow naturally by removing those bridge piers, eliminating issues with pier scour and flooding from debris collecting on the piers. The Matrix notes also have some suggestions for flood floodplain mitigation along a longer stretch of the river that can be addressed. Separate from the bridge project, the new South Avenue Bridge will also have a pedestrian and bike lane. Elected officials have tough decisions to make. You've been provided with the information you need to make this decision today. Please take the recommendation of the engineers and your public works director and adopt alternative one. Thank you.

[02:15:14] Thanks, Gene. Bob Gentry will try you again. Be able to unmute, yes, you are fantastic.

[02:15:23] All right. So thank you for this opportunity to comment. As you know, I'm Bob Gentry, an attorney for Clive Bread's Alliance. I submitted some written comments to you rather than reading them into the record. I'll summarize if that's OK with you.

[02:15:40] Great. Thank you.

[02:15:42] Ok. First of all, expressing a preference for the fate of the bridge today, it's premature. It does, in fact, actually presuppose an outcome that a new bridge will be built at the western terminus of South Avenue. As such, it constitutes a predetermined outcome of the NEPA process. Looking at alternatives and evaluating impacts of those is one of the primary purposes of NEPA and NEPA. It's the common sense look before you leap component. You can't consider this request of a hypothetical, you can't consider it as a in the event of. There are no hypothetical decisions under NEPA and NEPA. But there are predetermined, determined outcomes in violation of NEPA and NEPA, which is what this would be. You make this decision today. So in connection with that, a Cat X from environmental review is inapplicable here. There are identified impacts of this project and regulations in NEPA jurisprudence expressly rule out. Excluding this project from full evaluation. Cat in the exclusion of formal public

comment. Violates both NEPA and NEPA and constitutional right of citizens to participate in government decision making. Now prior input, including today's input by me and other members of the NBA, does not constitute public participation under NEPA or NEPA, when an agency is not required to publicly solicit comment, formally respond to those comments and make those part of a napalm EPA record of decision in comments received to the course of project development don't constitute any form of public comment.

[02:17:42] And the circular justification of choosing a cat for this project. Is insufficient, just stating that there are no significant impacts, therefore, we don't have to determine whether there are significant impacts is the very definition of arbitrary and capricious. And the fact that this bridge may replace services of an existing bridge falls far outside of the categorical exclusion for bridge replacement. When a new bridge is on a completely different alignment involving disturbance at flood plain wetlands, riparian habitat stream bed and importantly, the taking of private property through eminent domain on Meet the Regs and Jurisprudence clearly state that the project is ineligible for cat acts. I encourage you all to look at MDC's own environmental manual in which it considers unusual circumstances to elevate a caddick's to an area. Aei's and this section specifically references Federal Highway Administration regulations located at 223 CFR. Look at that several of the factors listed there apply specifically to this project. A stand alone basis for excluding Caddick's from jurisprudence of these sections is any taking a private property for eminent domain 10X doesn't apply. And as just stated, removal of McLay Bridge would mitigate environmental impacts of building South Avenue Bridge upstream. Well, impacts that will require mitigation. I know he's talking about that. It may change the hydraulic flow upstream such that there won't be as many problems. But that assumes that they're going to be hydrology or morphological issues associated with the construction of a new bridge upstream that requires examination under an environmental impact statement.

[02:19:44] And next, the real quickly the payback provision of the 2015 project specific agreement can't play a role in your decision making in this matter. It can't be a coercive factor ordering for any determination. It's my opinion, and I can provide you with a legal memo that the provision is contractually unenforceable. This the record in this clearly demonstrates that there's no meeting of the minds 2017 meeting. It depends is no answer. I mean, this is no meeting of the minds and it's void for vagueness. From the outset, final point project is much bigger than what has been considered by the agencies. The safety of the traveling public, pedestrian and bicyclist and the impacts on private property rights and interests extend to the east and west of the bridge due to the construction of a new high speed traffic inducing structure. Third. If you want to work a slice of project into small enough portions, any impact would, of course be insignificant. Without considering the whole of the project, without segmenting it. Then you don't get a look at the real impacts of the project. Segmentation is a clear violation of NEPA and NEPA. And it would inevitably occur here if you only consider construction of the bridge. Ok, thank you.

[02:21:19] Thanks, Bob. Ok, Michael, and this is a good reminder. It's 420, too. And so let's try to keep our comments to three minutes.

[02:21:29] All right. Can you hear me? All right? Yes. All right.

[02:21:33] Well, I intended to comment and this is something else. But after hearing

[02:21:38] Mr. Gantry, I would just like to respond to a couple of his points. First of all, on NEPA and NEPA, I think it's explained to you, all the commissioners and your previous meetings with the MDT and the Federal Highway Administration. They are the ones responsible for complying with the NEPA and NEPA, not you, not the county. The county decisions are not subject to meet the NEPA, as evidenced, for example, by your development at Fort Missoula. There was no NEPA need been done on that because it was a county decision. The main categorical exclusion authority that's being

[02:22:16] Done now is for the Federal Highway Administration because they

[02:22:20] Are subject to it. So what you're being asked to do today is not

[02:22:24] Make a so-called

[02:22:25] Nepa NEPA decision. You're being asked to make essential, I guess, a recommendation a statement to Federal Highway Administration who will actually make the decision that could be subject to to litigation or

whatever. So I wanted to clarify that. The other point that I'll quickly make is that some of the options that and went over, they involved retaining the bridge, for example, three and four. I think one of them mentioned putting in a parking place, parking lot and doing some other things. I would just point out to you that there are some additional financial ramifications of that. You're essentially then turning that into a develop recreation site, which comes with it, litter and garbage and and sewage and lots of other implications. And you know, that's hardly. Needed, although a river access should be provided and will be regardless. But with Kelly Island nearby and also McClay flats, I think it would be redundant in that regard to look at putting any sort of a recreational facility there. I mean, there really isn't the space for it. And and as some of the things that Dustin pointed out, it would be an environmental and public safety liability. That's it. I'll let you go home.

[02:23:49] Not quite yet, but thank you, Sharon service.

[02:23:54] Can you hear me? Yes. Ok. I would. I'm a member of Missoula McClay Boots Alliance just to point that out, and I live on South Avenue, near where the new bridge site is going to be. What I would like to point out that hasn't been presented in this in the presentation is that Maclay Bridge was looked at as being a pedestrian facility because MDC-T is unwilling to pay for the shared use path on the new South Avenue Bridge, which is part of the environmental documents they've been working on for years. And so now there's a new wrinkle. They don't want the shared, they don't want to pay for it because they say that there's no bicycle possession facilities on your side of the bridge so that there's not needed. But that's the whole point of why the project is flawed. To begin with, there is no safe way to travel on South Avenue past humble

[02:24:47] If a new bridge is put in with no pedestrian bicycle facilities.

[02:24:53] So basically, we kind of have to. You can't decide about the clay at this point until you know what is going to happen to make sure that there is safe route to get to the river and to get across the river. Right now, the only safe way to get at least to the river is taking the trail, their shared use path along south that turns on humble and then turns on north. So I that you should not be making this decision right now.

[02:25:21] Mdt is pushing you a federal highways pushing you, but they're not giving you enough information

[02:25:26] To make this decision. Thank you.

[02:25:29] Thank you, Sharon. John St. Peter.

[02:25:37] Good afternoon, commissioners. Hope you can hear me, OK? Yes. All right. So I think thanks to Mr. Gentry, we've just seen a preview of the lawsuit that played Rachel Lyons fully intends to file at some point in the future as part of their ongoing attempts to delay the South Avenue bridge there. Their attempts to delay the South Avenue Bridge project started in the 1990s, and they continue through today. And so Maclay Bridge Alliance has been relatively successful in delaying them. The South Avenue Bridge project for, you know, a good 20 years, you do not have to be sucked into their program of delay, delay, delay. As Mike indicated, you're not subject to NEPA and NEPA. That's not what you're being asked to do today. You're being asked to give advice to to the ultimate decision maker who can then deal with the Maclay Bridge Alliance lawsuit. And I would encourage you to, as you demonstrated in the hearings prior to this one today. Have faith in your staff. Have faith in their engineers and attorneys at the Department of Transportation and follow their recommendations. The the thing that I disagree with very much about what Bob Gentry said is that you should be taking into consideration the tax impact of your decision and the the the ultimate removal or decision to leave in place in the clay bridge.

[02:27:22] You should be taking into consideration the impact of that decision on the taxpayers of Missoula County. That's what you as commissioners are responsible for doing and there's nothing wrong with you doing that. But clear impact of the decision should lead you in the direction of removing Maclay Bridge with regard to the comments that Sharon service made. You know, let's keep in mind, folks, there is no bike pedestrian crossing on the clay bridge, so we're not going backwards. If we go to a new bridge, that's two lanes that's much wider. And so the the premier said that Sharon put to you is just a false premise. This is not. The pedestrian bike path is not a critical factor in this decision because there is not one of those today. Maclay Bridge does not believe me. I cross the clay bridge both on foot and I bike many times and it is. It is. It is not pedestrian or bike friendly in the least. And so I would encourage

you to follow your staff, have faith in your staff, have faith in the Department of Transportation and the engineers and attorneys there follow the recommendation and vote to remove Maclay Bridge. Thank you.

[02:28:51] Thank you, Don. Dana.

[02:28:57] Hi, thank you very much for taking comments. I know that it's really late, so I will be very brief. My concern during this whole project has been that there has been such segmentation and not looking at the whole environmental and safety issue. So that's I'm very concerned about that. The second is, I think Missoula County commissioners do have a significant responsibility for the safety of pedestrians and bicyclists in this area. You know, there is no safe way with increased traffic from the from the South Avenue Bridge. There is no safe way for the children from the trailer park at the end of South Avenue on the east side of the river to get up to humble. And it's right now there are very few cars, but with a bridge there will be significant faster traffic. So again, my concerns are one the segmentation of this project, which has occurred since the beginning, and secondly, the safety aspect which everybody seems to be passing off. So thank you again very much for allowing for public participation.

[02:30:26] Thank you, Dana. It I don't see any hands raised. Oh, Fred, Stuart. Fred, your your muted.

[02:30:49] There you go. Thank you, Fred Stuart, with Macquarie Bridge Alliance. And I just want to very quickly go over a points for the commissioners to consider. The first one is that our engineers have shown that the bridge can be rehabbed to thirty six tons, and that's adequate for all fire and safety equipment and loaded school buses. The cost estimate of the rehab plan that we submitted was less than \$4 million, and I realize that was in 2016 and prices have gone up. But that particular design would also include a separated bike pad lane. The approaches for the historic bridge can be can have a design exemption, so no structures would have to be removed on the west side of the river. And here's kind of a key point. The estimates for traffic for the year twenty forty five, based upon the update from Missoula MPO was one thousand four hundred and twenty nine one thousand four hundred and twenty nine average annual daily traffic count in the year 2017. The actual number was one thousand nine hundred and forty six, excuse me. So based upon these future demand estimates, there isn't really a need for a new high capacity bridge. There just isn't. And as people have mentioned, the rehab bridge can be raised about the 100 year flood plain. It's possible to preserve our historic bridge by rehabbing it, and a rehab bridge would be eligible for categorical exclusion under NEPA analysis. Because you just be rehabbing the existing bridge. Thank you and you're in a tough position, but I got confidence in you guys. Thank you.

[02:32:57] Thank you, Fred. And again, I don't see any hands. Any more comment? Violet, do you see anything from your end? And you went on.

[02:33:15] There's a couple of phone callers, I would just remind them if they do want to give comment, they just have to hit star six on their keypads and let us know. But there's only a couple of them, so I'm not sure if they want to give comment or not.

[02:33:29] Phone numbers ending in four, one, three two. Or six, three, two two. Star six. Ok, we're going to close public comment. And discuss amongst the commission. Ok. Josh and Dave. I can't see Josh Dave, can you see Josh?

[02:34:09] Here I am. Can you see me now?

[02:34:12] Oh no, we can. Yep.

[02:34:15] I can't see Dave, but really? Ok, yeah, I'm under the red.

[02:34:25] Ok, so again, the question for us today, and I know it is incredibly frustrating. People have expressed frustration over the segmented kind of process here, but the question before us today is if South Avenue Bridge is built. What do we do with Maclay?

[02:34:46] Yeah, let me just go ahead and break the ice here a little bit, so I think that's exactly right when need. So the question before us today is not what is the correct level of environmental analysis? We've had discussion about this in the past, and I completely empathize with concerns that see a categorical, categorical exclusion may not be the ideal level of environmental documentation and analysis, but that's not what's before us. Similarly, it's not a

question before us today over whether or not to build the South Avenue Bridge or even whether or not Maclay Bridge could be rehabilitated and restored in a way for vehicular access without. A South Avenue bridge being constructed. We've heard from in recent meetings from Fish, Wildlife and Parks or Floodplain Administrator Clark for Coalition on this matter as far as hydrologic impacts. And I think unless Josh and Juanita, you have different thoughts on this. The consensus was pretty clear that that if one new bridge is to go in, namely the South Avenue Bridge for the sake of mitigating hydrologic impacts, the Clay Bridge should be removed. And I should also say that to the concern about whether a new South African facility would include non-motorized bike pad facilities. I think we've made pretty clear in no uncertain terms the Montana Department, Montana Department of Transportation that it would be an unacceptable outcome to have a new bridge built in the 21st century without non-motorized facilities as part of it, and certainly as my role on the Metropolitan Planning Organization's Transportation Policy Coordinating Committee.

[02:36:56] As the chair, I will do everything in my power. Should there, should there be if there is a new South Avenue bridge that it contain those non-motorized pedestrian facilities in? The last thing I would say is that the removal if there is a removal of the Maclay bridge, that does not mean that public access will be eliminated from this site. I think that's pretty, pretty important to bear in mind. Thanks, Juan, can I toss something out? Dave, you did that so completely and thoroughly. I agree with everything you said. I'm just going to reiterate and it's tough because this issue is so contentious and people have so much on the line that there are folks who live right next to the Maclay Bridge and people who live right next to the South Avenue Bridge and their lives are going to be profoundly affected by what happens to this. And yet the question before us isn't which which bridge should go or stay or go. It's if if the South Avenue Bridge goes, what should be done with the Maclay Bridge? And then considering along that matrix, all those criteria liability cost, what's going to happen to the river flooding, et cetera. And just looking at that matrix, it seemed obvious to me that if the South Avenue Bridge is built, the best thing for the river is to have the Maclay Bridge go. That's that is not a question about NEPA and NEPA or greater responsibility. I'll just leave it at that. And and deep empathy to everyone involved.

[02:38:35] Shame.

[02:38:39] The only thing I would say want is, is, you know, from my perspective, this is one of the unfortunate parts of my job, and just building infrastructure in general is, you know, you always run into the situation where, you know, roads change and, you know, the folks that live on those roads. Not they're not always happy with with those outcomes and or the plans. And it's one of those things that is probably the worst thing in what we have to do. I wish there were easier answers. And these are challenging projects. But at the end of the day, we have to look at a county as a whole. And it's hard because sometimes the individuals are not taken care of as well as they they may be, but. And just because of the simple fact that we have to look at these things more at a global perspective and not on that individual perspective, so. We need I have a question for for Shane, so Shane, could you operationalize this a little bit for me? So what we're basically talking about is whether. Well, the Section 106 process, so and I don't know if anyone from HDR on the line, maybe they would want to speak to this also.

[02:40:08] But what what's brought this to the surface is clearly if the bridge remains either in any of the options that are portrayed there, either no action alternative, if you will, or with major rehabilitation, then you don't need to go through. My understanding is you would not need to go through the the balance of the Section 106 process by way of figuring out mitigations for the adverse impacts on this historic structure. If if the bridge is removed, then that needs to continue to move forward as far as whatever public process or otherwise to look at mitigations to the adverse impact. Is that roughly correct or do you want to clarify any of that? Well, I think you're right and I, you know, certainly let John Schick jump on to if he's still on here to add to that. But I think there's other component to that, Dave, that we want to discuss is that the American Council on Historical Preservation would still have to do a presentation with them if we decide that, you know that the removal of the bridge

[02:41:23] Would happen in the event of a new South Avenue bridge,

[02:41:26] And then they would give some feedback and guidance to Federal Highway Administration. But yeah, you know, I think there's that Section 106 process that we would have to to finish up, and we still have activities in the NEPA process that this really, truly informs that we need to finish up to.

[02:41:47] And I saw a flash on, but John?

[02:41:51] Yeah, this is John. Can you hear me OK? Yup, yup. Yeah. You guys are both accurate. I mean, there's a Section 196 process that needs to be worked through. You know, the bridge is it's on the National Register. Therefore, it's protected under the the National Historic Preservation Act, but it also is protected under section four of the Transportation Act. But to move forward, if McClay was

[02:42:17] Removed correct, we'd have to get to work through the adverse

[02:42:21] Effects of that. And there is a process in place that MDT has in terms of mitigation and the adopted bridge process. And so moving forward, you know, as as kind of an informational purposes, we'd meet with the Advisory Council on Historic Preservation to kind of step through the process just to kind of allow them to, you know, hear, hear the project and provide comment or not. But then we'd also have to work through the Section

[02:42:52] Four process prior to finalizing the environmental document. Thanks. And one could ask John a question, yeah, please do. John, in that Section 106 process, is there opportunity for the public to be involved? How does that work? What's that process like?

[02:43:17] Thank you for asking.

[02:43:19] Yeah, I mean, currently they're they're

[02:43:21] The concerned parties are

[02:43:22] Involved. They've been granted what's called

[02:43:25] Consulting consultants, consulting parties status in the Bridge Alliance

[02:43:30] And the the Bitterroot Bridges Coalition on either side of the of the the topic are involved in the processes of comments have been submitted by on both parties

[02:43:42] And those are all

[02:43:45] Considered, as you know, federal highways moves forward with the decision. And so there's there's nothing precluding you no further comment to be submitted. And those parties would all be privy to the forthcoming presentation with the VP.

[02:44:03] Thank you.

[02:44:15] How are you guys feeling?

[02:44:19] What do you think we need to?

[02:44:22] Yeah, I mean, I said it earlier. We have a very specific narrow decision in front of us and The Matrix Shane and Dustin provided was. Pretty overwhelming or overwhelming in the sense that it was very clear that the bridge needs to come out if South Avenue Maclay Bridge needs to come out of South Avenue is built. Yes.

[02:44:54] I concur. So you got a decision? Yeah, and none of this diminishes all of the heartfelt feelings and and impacts that this brings with it articulated today. But I appreciate you guys listening and making a decision or providing that recommendation, I guess even though this is a challenging topic, I wish they were easier.

[02:45:32] But this is what happens when vibrant, dynamic community like ours is growing, and this is this is a reality. What we get to work with. So thank you all for being here, and thanks for. Thanks for sharing.

[02:45:52] Thank you. Thanks. I guess we're done, OK. There was no formal journey, but we're out, we're out.

[02:46:14] Josh, do. This is Kristen Anderson. Just just for procedural purposes to make a motion in this case, given that you have in other situations or not.

[02:46:25] I don't think so. Our public works staff asked for a recommendation, and we gave them our recommendation. Thank you. Yeah, yeah. Thanks, Mr.. Right.