

December 10, 2015

**Butte-Silver Bow Planning Board
Courthouse - 3rd Floor - Room 312
Council Chambers**

MEMBERS PRESENT: Janet Lindh, Dan Foley, Rick LaBreche, Josh O'Neill,
Mike Marcum, Marc Murphy and Jeremy Salle

ABSENT: Mike Kerns and John Taras

STAFF: Jon Sesso, Planning Director
Lori Casey, Assistant Planning Director
Roxie Larson, Secretary

M I N U T E S

- I. **Call to Order** - The meeting was called to order at 5:30 P.M.
- II. **Roll Call of Board Members** – Having a majority of the Planning Board members in attendance, a quorum was established.
- III. **Approval of the Minutes** – Dan Foley made a motion to approve the Minutes of the meeting of September 24, 2015. Josh O'Neill seconded the motion. The voice vote in favor of the motion was unanimous.
- IV. **Public Hearing/Board Action**

A. Presentation by Urban Forestry Board – Mr. Charlie O'Leary gave a brief presentation regarding the role of the Urban Forestry Board.

B. Copper Fox Estates Addition – Amending Blocks 1, 2, 3 and 4 of the Suburban Tracts

Ms. Lindh explained the public hearing process and asked if there was proof of publication.

Ms. Larson stated yes.

Ms. Casey gave a report which is made a part of these minutes. Also there should only be 12 conditions not 13.

Ms. Lindh asked the Board if there were any questions or comments, being none she called on the applicant.

Mr. Ryan Casne stated my firm is at 664 Logan Street, Helena, MT. I am the applicant's engineer. I do quite a bit of work in Butte. Columbia Gardens Estates would be the last project I worked on similar to this proposal. Mr. Casne gave a brief presentation on the history of the property. As the project sits it consists of 54 single family tracts in its current configuration. There are two roadways with four sections and we are going to be vacating these two roadways and replacing them with the U shaped roadway that you saw on your screen. I think it is appropriate also to mention that these lots were gifted to the school and we are proposing 83 lots in here, which is going to be an additional 31 and that between the two projects is still a negative 4. In my opinion it isn't like we are looking at mitigating the impacts of 83 lots, we are mitigating the impacts of an additional 29 lots.

A couple of other things I wanted to talk about is simply a house keeping item, condition of approval 5-C calls for an easement from the School District for the water main extension that cuts across their property near Jeremy Way, the surveyor, Dan Brown met with the Superintendent of Schools and she does not want us to cross that property, they have sprinkler systems in there and a walking path, etc. so we are going to go down the deeded right-of-way there in Jeremy Way. So we can scratch that condition. We would prefer that we did scratch the condition just so we have it on the final plat.

Probably the most important thing I want to talk about today is the statement in the staff report that states Butte Silver Bow Public Works Road Department is now requesting 8 foot wide parking lanes along the exterior of all the outside roadways. Each of the streets that surround our development Meadowlark, Arizona Street and Electric Street, all those streets have 60' easements and with the existing location of the asphalt on those streets, we are not physically able to add any foot length to those without encroaching on the private lots themselves. So that recommendation is simply not possible on 3 of the 4 surrounding roadways on this project. It is possible on Western Blvd., Western has a 90 foot right-of-way and you could conceivably put an additional 8' parking lane out there. I do still find that condition of approval curious, it has never been discussed in several meetings we have had with Public Works. I don't want to say we feel blindsided but it certainly surprised us. So I would like the Planning Board to consider that part of the staff report in particular. I think it begs the question if the City of Butte wants these 8' parking lanes why don't we see them

on our typical road section. The typical road section does not call for an 8' parking lane, however my client is being asked to do so in this case and I find that unfair.

One other thing I would like to talk about is I want to elaborate on the character of the neighborhood that we are looking to develop here. The covenants for this neighborhood although it is zoned R-3 and will accept up to 4 plexes the covenants preclude anything other than single family homes. Also if you look at the lot sizes, the lots are now small enough that you literally couldn't do anything more than a duplex even you were to change the covenants. I know that some of the neighbors have concerns about multi-family being built in here and with this configuration you get very very limited multi-family, a duplex at the very largest. I would be glad to answer any questions.

Ms. Lindh questioned I would like to ask staff about the local recommendation that we mentioned the 8' parking lane and the easement.

Ms. Casey stated in regard to the written easement for the School District I would recommend that you don't completely strike letter C of that condition because the other portion of that is the compliance with the extension of water main and the regulations. The applicant has testified tonight and stated that they will be going within the dedicated right-of-way, staff would not have any problem striking the language that states the applicant shall secure a written easement from the School District #1 for the water main that traverses their property, but request that the rest of part C remain as a condition. As for the 8' parking lane this did come as a request after our Road Foreman and our Road Engineer were out on site. Generally within a 60' right-of-way, which I believe all the roads are, there are sections for driving lanes, parking and enough room for sidewalk, curb and gutter. This came up at the applicant and the engineer's meeting. It did not come up at the subdivision review meeting but that is a subdivision review meeting where we are discussing a lot of different things but this is a request that after they had been out on site that they did require. With an 83 lot subdivision generally you want to supply some on street parking.

Ms. Lindh asked Mr. Casne does that satisfy your question.

Mr. Casne stated a little bit, we will continue that conversation with the Road Department probably after this meeting.

Mr. Hughs, the developer, participating by phone, stated I think everyone has done a great job representing what it is we are going to

do. I know that I just wanted to make sure everyone knew that when we resized the lots we wanted to make sure that it was accommodating for single family homes with a good three car garage. That being one of the things that a lot of people are calling for now so I want to make sure that was expressed.

Ms. Lindh asked do you have any covenants planned for this particular development.

Mr. Hughs stated yes we do. We are planning to put together a set of covenants that will cover landscape requirements within the first year. No cars that are not running that are sitting outside, those types of things. We are going to utilize a combination of some of the Columbia Gardens type of covenants as well, fence type that type of thing.

Ms. Lindh questioned is there going to be a Homeowner's Association?

Mr. Hughs stated yes we are going to set up an HOA and it is pretty typical I think with most subdivisions the homeowners will be able to oversee the covenants in their particular development and if the homeowners want to change or alter anything that will give them ample leeway to do that under the covenants.

Ms. Lindh questioned did you consider a slightly smaller sized development rather than the 84 lots?

Mr. Hughs stated one of things when we looked at the subdivision one of the primary problems that we have is that the infrastructure costs are so extreme that if we bring in those utilities there are such long distances. This has a real major impact on the overall cost. So what we are trying to do is we want to be able to provide a good quality lot size. Not a little postage stamp lot but a nice quality lot size that will be affordable for the incomes in Butte. We would like to see families just like, Les has been building in Butte there for the last couple of years and we are trying to maintain affordability. The other thing is when the lot gets too large people wind up not maintaining all of that lot. So we feel the lot sizes that have been created are going to accommodate great single family homes, good square footages with 3 car garages, nice sized yards and I think what we have planned there is really going to be a very positive project from that standpoint. I do know when you look at one acre or larger lots you wind up with no landscape, weed control issues, etc.

Ms. Lindh asked if there were any other questions at this time. Being none she explained the public hearing process.

Ms. Lindh opened the public hearing and made the first call for proponents.

Ms. Pam Haxby-Cote stated I am the Executive Director of the Butte Local Development Corporation. I stand up here in support of this new subdivision. I want to also let you know that we are pretty doggone lucky to have this amazing staff over here. They have been really great to work with in my new position. The other night I was at a meeting for the Restoration Council and a young woman in the audience said I need somebody to tell me the difference between Community Development and Economic Development. We sat there because Economic Development is something really hard to describe. So is Community Development. Then I got thinking you can't have one without the other. I can't do my job very well if we don't have good Community Development. In Community Development one of those things is housing. One of the great things we have here in Butte Silver Bow is we are an affordable community. One of my missions as Economic Development Director here in Butte is to try to recruit and retain some of our best young talent and those are our young professionals. So having this new development opens up some of those first time homebuyer homes. That is a stock in this town that there is not a lot of. So having this quality development will open up some of that to help some those first time home buyers afford a home. They are getting out of school with lots of debt. Now what they can do is stay here and afford a nice home. So I am here to support this development. It will bring some great tax revenue. It will get some people working. It opens up some housing stock and helps me do my job. Thank you.

Mr. Ray Rogers stated I live at 827 Stagecoach Road. I am speaking as a proponent of the Copper Fox Estates Subdivision. As a private business owner here in Butte and current President of Board of Directors of Butte Local Development Corporation I would like to speak about the positive impact this new subdivision could have on Butte. For the past several years I have been working actively with the BLDC and Butte's other economic development organizations on numerous efforts to better market and promote our community. To develop strategies to support and retain our existing companies. To encourage and support our growing community of entrepreneurs and to develop strategies to aggressively compete with other communities to attract new companies and jobs to Butte. Through the work of the Butte Economic Development Coordinating Council we are making good progress with innovative marketing techniques for our community and we are moving forward with a unified marketing plan for Butte. With Pam Haxby-Cote that you just heard as our new Executive Director the BLDC is already opening new doors and I am exciting about what the

BLDC and our other Economic Development organizations will do in the coming months and years here in Butte. A key to our success will be our ability as a community to offer quality affordable single family housing options for those looking to move to Butte. The Copper Fox Estates Subdivision is a well-planned subdivision that will be a true asset to this community and will be essential to our ability to promote Butte. The Copper Fox Estates is also a perfect location for a new subdivision, it is located in very close proximity with easy access to our Harrison Avenue business corridor, public elementary school, parks, recreation and the airport. I am confident this will be an attractive location for new home buyers. I have worked closely over the past year with Mike Hughs, Les Thomas and Ryan Casne and I have been immensely impressed with their commitment to this project and to Butte. They have been willing to come to the table to give and take, to negotiate in good faith and they have not waivered on their desire to make this project happen here in Butte. I commend them for their efforts and their commitment to our community. The subdivision will be a great asset to Butte. It will improve an undeveloped area of the community. It will generate significant tax revenue for the City/County and it will have a significant economic impact with the addition of 18 million dollars plus in new home construction over the next several years. I wholeheartedly support the development of the Copper Fox Estates Subdivision and encourage you to do the same. Thank you.

Ms. Jana Richards stated I reside at 5 Latigo Lane in Butte, Montana. I am a Real Estate Broker at Markovich Real Estate. I represent Copper Fox Development and Les Thomas Construction as a Real Broker. I have been a Real Estate Broker in Butte for the past 29 years. I am very excited to be here tonight to speak in favor of this project and to provide you with some details about Copper Fox Estates. This new subdivision will provide quality affordable, attractive, well designed and constructed single family homes that can be marketed to a wider audience of home buyers including single professionals, retirees and families. This will be a very attractive subdivision for a number of reasons. The plan for the subdivision offers a variety of very nice sized lots from approximately 9,900 to 14,000 square feet. The space in between the houses allow large setbacks and the lots are large enough to accommodate homes with three car garages. We offer four (4) different floor plans but can be included both with finished or unfinished basement. The home sizes will range from 3,000 to 3,600 square feet. The price point for these houses is very affordable with the starting price of \$235,000 which also includes the lot. The subdivision will have a great walkability with the addition of a walking/biking path around the perimeter of the subdivision. The subdivision is in very close proximity to the Margaret Leary School and Jeremy Bullock Soccer Complex. The central

location of the subdivision will make it very attractive. This is located with easy access to Montana Street, Harrison Avenue, shopping the airport, Stodden Park and the Interstate. This is a prime centrally located subdivision. Having already sold out and built 26 homes in two other subdivisions with Les Thomas Construction and Mike Hughs here in Butte we know there is a demand in this market for these homes at this price point. We continue to work with individuals and couples in Butte looking at building a new home and we work regularly with out of town and out of state residents looking to move to Butte or looking for newly constructed homes. In my opinion this will be a highly marketable subdivision that helps meet a growing demand for new houses in this price range. We believe this will be good for the economy of Butte given the significant construction value of these homes in addition to these homes on the Butte-Silver Bow tax base. Thank you for the opportunity to provide you with my professional prospective on Copper Fox Estates. I would be glad to answer any questions.

Ms. Lindh made the 2nd call for proponents being none she then made the 3rd call for proponents.

Ms. Lindh made the 1st call for opponents.

Mr. Les Taylor stated I reside at 4109 Western Blvd. directly across the road from the proposed subdivision to the west. Currently I am the second largest land owner that borders this proposed subdivision and I believe with the exception of the Clark's who are here tonight I have the most history of any land owner adjacent to the subdivision. My folks moved out there in 1964 when we were relocated. We lived there when there wasn't a school, when there was no development in the area at all. We had four houses on Western Blvd. at that time so I have seen a lot of change in the neighborhood. I have seen a lot of good change in the neighborhood and I have seen a lot bad change in the neighborhood.

I come before you here tonight to tell you I am not the guy that comes here simply to say not in my backyard. I have been in the real estate appraisal profession for 27 years. I know a little bit about property values and property development. I have been in the neighborhood because of the quality of life, because of the open space that is why I reside in that neighborhood. If I wanted to live in town I would have lived in town. I would move into an urban area in town. Everyone knew and has known for a number of years that that parcel of land was divided into 52 residential home sites. Everyone knew in the neighborhood that potentially someday that would be developed into 52 residential home sites. Mr. Casne presented to you and said to you

imagine my surprise when I saw the 8 foot parking lane. Imagine the neighborhood's surprise when we discovered that this proposed 52 lot addition was now changed in 85 lots.

I will try to keep this brief but I have a lot of concerns. My biggest concern is that everyone that has spoken as a proponent of this subdivision tonight has some stake in this subdivision. They stand at nothing but a gain by approval of this subdivision. Our neighborhood stands to lose. As I left my home tonight to come down here there was 17 deer in my front yard and they were on their way migrating down to this 25 acre tract. The staff report indicates that there is no wildlife in the area. I can assure you that that deer herd will disappear. Currently there are two active fox dens on that property. Those two fox deliver a litter of pups every year. The neighborhood loves them. There is not one person there that doesn't love the wildlife. They live out there because of the open space and the open air, the wildlife.

So when they proposed a 60% increase in the subdivision I started to do a little bit of research and imagine my surprise when I discovered that this developer unlike other subdivisions in our community has not been required to do a traffic study to measure the impact of what the county deems to be 8 trips per lot per day equates to 664 trips per day in and out of this subdivision. Like I said I have lived out there since that was a two car dirt road. This subdivision right now has two main arteries that are going to serve it with ingress and egress. One is Meadowlark Lane and one is Western Blvd. that is the only access to the city. These folks are going to have to either use Meadowlark or Western Blvd. As you leave this subdivision on either one of those routes you cross two, one non-signalized railroad crossing on each one of those routes. One of those non-signalized railroad crossings is very dangerous, it is on Meadowlark Lane as you are heading west on Meadowlark Lane you cannot see a train coming from the south because of the screening fence that was required at the A&S Metals recycling plant. I have nearly been hit by a train at that intersection, I know. The trains that travel through there are not on a schedules basis. You can't anticipate seeing a train there at 9 in the morning and 3 in the afternoon. You never know when a train is coming through. It may be days before a train comes through. The other main collector route Western Blvd. connects to Holmes Avenue for a short distance and crosses another non-signalized road crossing that is in absolute disrepair. It then connects with Holmes Avenue and I have attempted to exit both of those streets in the morning. If you go down Meadowlark and try to get onto Harrison Avenue, you are not getting on Harrison Avenue and going north. It is just not going to happen. You can't get out because of the traffic. If you go down Western Blvd. to Holmes Ave. you can't get onto Holmes Ave. because of the traffic

with people commuting uptown to go to work. You can sit at either one of those intersections for 15 or 20 minutes. That is with the existing traffic that is out there now. You put another 664 trips per day on those roads and I suggest to you that infrastructure won't happen.

I would like to impress upon you and ask you please add an additional requirement to this subdivision that the developer be required to hire a professional traffic engineer and do a traffic study and the developer also participate in the funding for any service transportation upgrades that are required to accommodate this subdivision. Without that traffic study and without the developer's participation all the costs are going to fall back on the other taxpayers in the area that aren't benefiting financially from this subdivision.

I spoke with Superintendent of Schools, Judy Jonart this week and I asked her about the capacity of the Margaret Leary School. Their realtor spoke about families moving into the area and I am certain that they will. When I spoke to Judy Jonart I asked her what is the status of Margaret Leary School. She told me that Margaret Leary School today it is at 100% capacity. They cannot take in one more student. A few years back Margaret Leary School had several empty seats and they redrew the school district boundaries and brought some students from Kennedy. Kennedy was overly populated and they are now busing those students out to Margaret Leary School and it is today at 100% of capacity.

The BLDC representatives have talked about what an economic benefit this is going to be to the community through tax increases and it absolutely. I am a real estate appraiser, I have been a real estate appraiser for 27 years. The point where we are in that neighborhood right now, I am this close to being taxed out of my property. I moved out there because I wanted to retire out there in a nice quiet neighborhood and as this subdivision is developed and the Dept. of Revenue goes through their reappraisal cycles and we all know what happens, your property value based on comparable sales in the neighborhood. I don't have city water and I don't have city sewer like these folks are going to have in these lots. I don't benefit at all financially from these lots but I can darn well guarantee you that my property taxes will increase when that neighborhood is approved.

I spoke to several of my neighbors down there and they had some very very serious concerns about the storm water plan. I have lived on Timber Butte like I said since 1964. I have been a resident out in that area with some brief time that I spent living in the city. In the spring time when the snow thaws all of the water that comes off of Timber Butte drains into that 25 acre parcel. When Electric St., Western Blvd.

and Meadowlark were developed and paved they were not constructed, there is no subgrade under any one of those roads. The county came out and bladed it and laid some asphalt down on it. They were never engineered, there is no subgrade to those roads. If you drive out there today you will see the cracking and the roads are falling apart, there is no subgrade under them. So as that water runs off of Timber Butte it cheats off the top of Western Blvd. and travels down into this 25 acre parcel and is absorbed into the soil. Curb, gutter and sidewalk that is going on Western Blvd., I don't know if they plan on putting in drop-inlets to catch the storm water that is coming off that mountain, it is going to go into Western Blvd. which is essentially going to create a river with curb and gutter along Western Blvd. and that water is going to travel northerly down Western Blvd. and then potentially east down Meadowlark Lane and it is not going to get captured in that storm water retention ditch and that pond that they are proposing on the other side of the railroad tracks.

When Mr. Rogers testified that the subdivision has easy access to Harrison Ave., I disagree with him. I live in the neighborhood, I don't know where Mr. Rogers lives but I don't think he has ever tried to get out on Meadowlark Lane onto Harrison Ave. during any of those rush hours or off of Western Blvd. it is just nearly impossible folks. So what you are going to end up with is those people traveling through a very narrow street from that subdivision, the only access they have got is on Meadowlark and they are going to travel across Wynne Ave. in front of the Highway Department and I don't know if any of you people have ever traveled that route but it is a very narrow street right now. They are going to travel across Wynne Ave. and connect with Elizabeth Warren and probably hit that intersection light at Elizabeth Warren and Harrison and as that exists today I can tell you that is a very dangerous intersection. The lane layout on that intersection is A typical. It is not what drivers expect. The turn lane is not in the same location that drivers expect and it is a very accident prone intersection. I have seen traffic backed up at that light in the mornings and the evenings from Harrison Ave. back to Wynne Ave. right now with traffic trying to get out onto Harrison Ave. So I strongly disagree that this subdivision has easy access to Harrison Ave. and our business corridor because it just simply does not. Thank you.

Mary Storey stated I live 4025 Western Blvd., we have lived at that location close to 30 years. When we moved in there the neighbors the Ugetti's next door gifted us a burn barrel. Things have changed a lot. Dirt roads, couldn't use Meadowlark when it was muddy. The speed limit was 25 and it was going to go up to 35 until my husband was rear-ended by a mother dropping her kids off at school. It stayed at 25 for a long time and all of a sudden 5 or 6 years ago the speed limit sign

went up to 35 right in front of our house. We didn't hear about that from anybody but I am sure they didn't want me to know about it at the time or I would have paid heck over it. I just want to make a few comments. I want to express my surprise of having even learned about the subdivision yesterday when one of our neighbors gave us the information. I haven't been contacted by the developer. I haven't been contacted by my commissioner. I read the Montana Standard every day and I haven't seen it in the Standard. Obviously I missed it or somebody chose not to inform the locals. I am not sure where that was I would have been happy to give comments a long time ago. In addition to deer, we have moose, we have fox, we have seen badgers, we have a mom and twin doe that have just grown up around there this year. So that statement I take very critically but the wildlife won't be affected, bologna. Traffic everything Mr. Taylor said. I am wondering if the county is going to put in our truck route finally. It has been designated for how years, 3 or 4 years. Along the railroad track we have a designated truck route. We have had trucks drive past our house and just most recently Western Blvd. and I think down Meadowlark has been designated the truck route. Add in how many trips. I make maybe 10 trips a day down Meadowlark for work, going to the store. You can't get out on Harrison. A lot of times I will turn right and come around. Then to come back north you can't do it. Will Copper Fox be funding expansion of Margaret Leary School? That hasn't even been touched on here. I don't know what it meant about gifting 31 lots but is that going to put more classrooms in. We have had grandchildren attend there and sometimes it is tough to get your own kids in there that live three blocks away because they bus other kids there. Yes he is right it is full. The speed along there, since we moved in there we have had a tough time keeping the traffic speed less than 40. Butorovich and I were great friends over this because he believed he couldn't do anything about it, who is going to control this, again there is a lot of traffic. My final comment is when you have a subdivision that put this many in there you are obviously going to have a lot of kids, don't limit them to two little walking tracks on one side by the school. Lots of kids from the neighborhood walk to school through that area. It scared me when they raised the speed limit to 35. This housing development is cutting off their path. Yes we believe that they probably shouldn't be walking there but the kids of that development we don't have parks close. Yes they can go to the Jeremy Bullock park and run around down there or go to the school and run around over there. They need some of their own area. A little playground in their area. Don't let them pay you off with 19,000 so they don't have to put in a lot with some slides and swings for those kids. Their proposal 81 homes now which I totally agree with Mr. Taylor, no way it shouldn't go to that. How many kids are going to be there? 2 a household you

are looking at a couple hundred kids who aren't going to have their own little park. Thank you.

Mr. Marvin Laird stated I live at 4003-4005 Utah and my deck of my house is about 1,000 square feet. Some of these lots are what 8 or 10 thousand square feet. You can hardly put a house on there unless you are looking at your neighbor through the window at 10' away. There is just no room for that. I propose that you leave Utah in there and go straight on through, drain all that traffic to Utah because you are going there anyway and then the access going towards the school is a lot easier for the kids and everything. There is still going to go out there where Mr. Taylor was talking about and you are going to have to deal with the traffic out there. You talk about that lane is 60' wide I have news for you if I owned a house in there and I have my little camp trailer and I want to go camping on the weekend I am going to pull up there in front of my 60' wide deal and the neighbor across the way is going to do the same thing you don't have enough room to pass cars on each other in there. So then we are talking about having the additional 8' now they are crying because it is too small of a lot. Well exactly that. Make the lots what they were. Leave it alone, put in what you can. They said it we are trying to get some of our money back because of the expense of putting it in there. That is not my problem, my problem is what are you going to do when all of these people are so crowded in there. If you go out to the 4 ½ mile trailer court area you can see exactly what I am talking about. There is no room to breathe. People are standing on top of each other. I know for a fact that there are 30 plus deer on that hill. I know that they are there I watch them all of the time. They aren't even afraid of you they come right to you. They have been hit by cars down there because they just walk out like they own the place. They should they were there first. Thank you.

Mr. Jim Fisher stated I live at 2902 Hill Avenue in Butte. I am on the Council of Commissioners for District #6. I am not here in any way to oppose local development of any kind. I am here to concur with the people that have spoken. They have brought up some good points. I think the biggest point is that 83 sites might be too many. 52 might be right. I think these people have covered their concerns and I am just here to concur with what they are saying. My personal concern is a single family building for \$235,000 in an economy like we have now, some people have to realize that we just don't have that kind of income in Butte and if you take an equation factor and down payment on a 30-year contract that is a pretty steep payment for a single family dwelling. A development like this I am all for it but it concerns me that 83 lots, even 50 is a little much alone 83. I am here to concur with the constituents. Thank you.

Mr. Ray Clark stated I reside at 400 Electric Blvd. I have lived there my whole life over 60 some years. Most everything here has been said. My main concern is traffic, the size of the lots which I like the old plat better. I am retired now and like Les says taxes keep going up and I might be taxed out myself. I just want to concur with my other neighbors. Thank you.

Mr. Francis Scherman stated I live at 3860 S. Arizona. I want to say that I concur with what these guys all said.

Ms. Carol Laird stated I live at 4003 Utah and I 100% agree with everything that Les said. We have been discussing a little bit since this first came up. The density is the big issue and the safety. We live on that curve that comes up Utah onto Electric and onto Western and I can't even count the number of times a car has come whipping through there and ended up right on the lots they want to build on. They hit our fence, they have ended up on our property before we ever built the fence. They have hit the rocks that the neighbors put in next door. They have slide through Western Blvd. and tipped upside down and almost slide right into our garage one time. So that is the reason we went ahead and got the fence built. They go the other direction they come down Western Blvd. and go down Electric and miss the curve that way and end up in Galetti's yard or Skinner's and hit the fence. Like Les said we live out there because we like the openness of the area. We are on just short of 3 acres. Looking around there at some of the stuff I have looked at it looks like most of the surrounding 16 homes are on approximately an acre to about 13 acres out there. Mary had brought up about the truck route, we have seemed to be the truck route for a long time. For some reason they come off Harrison down 4 Mile and Utah and come around Electric, well they can't make that curve very easy to get onto Western because it is so sharp. Sometimes they are going to be trying to come up Electric when it is icy and get stuck. I see a ton of safety issues for the people that are going to own the houses on Electric trying to get out. These guys are coming up and they are missing the curve, I just see a lot of safety issues there. They brought up about the deer of course they all like their animals out there. The school issue and not having enough room for the kids. So pretty much I agree with what everybody else has said. I did talk to one of the other neighbors on Arizona Street that lives close to Mr. Scherman and she couldn't come tonight because she had to work. She wanted me to give this letter to you. The letter is made a part of these minutes.

Mr. Gary Galletti stated I live at 3949 S. Arizona and I just want to go on the record as opposing this along with the same reasons most everyone has said. I also want you to look at that plat, all of that

property around that plat, I am probably the smallest at .9 of an acre, The traffic problem is understated. I currently do not have a fence because they keep taking it out. Thank you.

Mr. Jack Skinner stated I live at 3901 S. Arizona St. and I agree with everything that was said here. I have deer down in my yard also. Thank you.

Ms. Lindh closed the public hearing.

Mr. Sesso stated it is our policy that the applicant get to rebut the testimony.

Mr. Dan Brown stated I am the surveyor on this development. I want to bring everybody back, the people that weren't here in 2009 and 2010 when we did Columbia Gardens Estates. The price of the houses were are \$196,000 starting out and we sold out in 4 years. Now houses are reselling for \$275,000. So it is a reasonable price. I am a Real Estate Broker and have been since 1985. One of the problems that we face in the market here is the old housing. You can buy a \$180,000 house and have to spend another \$35,000 to \$50,000 on it to bring it into the real world. \$225,000 is realistic for a price of a new home. Traffic was also a problem in the Columbia Gardens. We did a traffic study but what was really happening at the time was people were causing problems to delay it and delay it so they would throw in the towel. But the developers didn't. We don't have any traffic problems in Columbia Gardens Estates. From the School District point of view Hillcrest from what I understand there has been no noticeable impact with the 50 houses that we put there, none. I met with Jed Hoopes and Judy Jonart of the School District about the routing of the water and the impact on Margaret Leary School and we need to change our route because somethings won't work and the way with the watering location. There are 328 kids at Margaret Leary School and it is at capacity but from what I have been told it is the best place if you are going change students around and move things around that is the best place to have it be done. The School District will have to take care of those kinds of things. There is no place to move new housing. Critical things about housing is sewer and water. We have public sewer and water which is going to cost 2 million dollars to run through this subdivision and these people are willing to spend 2 million dollars in Butte to develop this area. It hasn't been developed because of the sewer and water problem and it has remained undeveloped since 1954. Nobody wanted to put in the sewer and water but we are at a point in Butte where there are out of residential places where sewer and water are available. Houses like Habitat houses are going up in

Centerville because there is sewer and water there. That is the choices we have. Where do we go with new housing?

Mr. Casne stated I would like to go over storm water that was a concern of a couple of folks in the audience tonight. I think once you see what is proposed here for storm water it is going to be clearer that we are fixing the situation right now. As it was stated storm water does come off of a fairly large watershed up here on Timber Butte. There is a 24" culvert currently under Western Blvd. right here. Water comes through this culvert, comes through the field and there is actually a defined channel that you can see coming through here. It doesn't get absorbed in this field as was stated in public comment, it is a very clear storm water channel. It makes it down Arizona here and then it overtops Arizona right in this area and makes its way down into this swale and across the road. So what we have going on right now is storm events the folks that own these houses east of the development are dealing with storm water inundating their wells and septic systems and inundating their homes themselves. We will provide a dedicated storm water channel that will function as a fire swale to remove minerals and sediment. We will also provide herb inlets in numerous locations. I think there are 24 of them proposed. There is an enormous amount of money going into storm water infrastructure here. Butte-Silver Bow has a very tough set of storm water regulations and we are going to comply with those regulations in their current state. Storm water should be the least of the concern of these neighbors in my opinion. Going on to some other things it would be real easy to get caught in the weeds and start talking about traffic that happens as Dan Brown said on every subdivision we do. It is one of the easy targets when you are an opponent of a subdivision. What I do think we have to go back to is the fact that we are not proposing 83 new lots, this is an amended plat. This isn't a brand new subdivision application. We don't have impacts here from 83 new lots we have impacts here from 21 new lots. So people can ask for a traffic study and they can say if you did a traffic study I think you would see these outrageous impacts on these neighboring roads. The fact of the matter is we would be accounting for less than 200 trips per day from these additional lots. So it really is easy to get stuck in the weeds and if this was a brand new subdivision application we would have had to do a traffic study. The advantage to this property and the reason our clients purchased it is it is not a brand new subdivision. This is a previously approved, previously platted and recorded subdivision. I don't think that has been stated enough today and that is really really important to realize that. The other thing and I always feel for folks who have nice open space in front of their homes like this. Would I be pleased if something like this came in front of me and I was used to seeing this open field, no. It has to be noted though that this property has been pre-zoned for this use.

In fact it has been pre-zoned R-3 which means that we could do a much higher density than what we are proposing here. This is not the highest and best use if you are thinking of a population base per acre. This certainly isn't the highest and best use for this property. It is a point. These are big lots even when compared with Columbia Gardens Estates. Many of these lots are over 12,000 square feet. Columbia Gardens Estates are averaging around 7,500 to 8,000 square feet of lot and that development turned out beautiful, these are not small lots. Please take those things into consideration when you go with your recommendation to Council. I appreciate your time.

Ms. Lindh asked if there were any questions from Board members at this time.

Mr. Murphy questioned I don't think I have ever seen a preliminary plat replacing a plat that is already in existence, what would any owner be required to do to start to develop the land with the plat that exists because the developer made a very good point that this is not the highest and best use of this piece of property and if they could put by my count 260 dwellings if they put a 4-plex or 3-plex on each of the existing lots. Would they have to come before this body before they started development?

Ms. Casey stated no if the owner wanted to develop the platted lots they would not have to come to this Board. They are before this Board because they are amending the plat and when you amend six or more lots you fall under a major subdivision under our subdivision regulations. That is why they are here tonight. They would have to as you have seen from some of the pictures some of the roads were never developed that were on the plat, they would have to do some things like that. They would have to account for storm water as it does have a storm water channel that does flow through the property. Some of the other regulations would not have been required.

Mr. Salle questioned because this is an amended plat are they required to do a traffic study as part of the amendment and if not I assume Public Works and the Planning Department have the option to request that or maybe that is a request of the Board?

Ms. Casey stated in each subdivision the Public Works Department has the right to request a traffic study whether it is an amended plat or not because it is following the same process that we go through for a major subdivision. In this particular case the Public Works Department did not believe that it was necessary and did not request that.

Ms. Lindh asked would it be possible for us to adjust the conditions and add a condition dealing with a traffic study?

Ms. Casey stated yes you have the authority to add any conditions that you feel are necessary to mitigate the impacts of the subdivision.

Ms. Lindh asked Mr. Casne could you pull up the diagram of the 54 lots. My concern in particular is thinking of all these additional driveways that are going to be on the outer parts of the loop. They are not going to be going into the center. So I was just curious have you planned or do you know how the original applicant planned to wrap traffic if you know that.

Mr. Casne stated if I understand your question you are asking what the new impact of driveways onto the exterior roadways will be is that correct.

Ms. Lindh stated yes.

Mr. Casne stated I have not counted the ones we have on the exterior. I don't know if we are considerable more than we were before or not. I would have to look at the plat and get back with you.

Ms. Lindh stated looking at that you would have had more exterior access to some of the home sites.

Mr. Casne stated we would not have had as many lots with interior roadway frontage. They have more driveways accessing this exterior road. I would really have to look at full plans. The idea this old plan had the majority of the lots access the exterior roadways and now we have the majority of the lots accessing that loop on the interior. As far as the percentage I would say more lots now access the interior roads than they would in the previous approved plan.

Ms. Lindh stated the other thing that I would appreciate you further explaining is how you get to that number of 31 lots. The difference between the lots that were in the northern part versus the southern part near Margaret Leary School. The 31.

Mr. Casne stated the 31 is just the difference between the 52 lots that are currently platted and able to be developed versus our plan of 83 so it is a net. So increase the lots by 31 there. The lots that were gifted to the school prior to my client's involvement. This has nothing to do with this it is just important to know that there were an additional 35 development rights that were given up and given to the school. So I wanted to show this to basically show what was approved as the

character of this area in 1954. The character of this area was always supposed to be a fairly high density residential area. This isn't something new that we are proposing and that the reason I am wanting to show that.

Mr. Hughes stated I wanted to also stress that we are really looking at even though the zoning allows for multi-family we are looking at doing single family homes. So instead of one of those lots accommodating 4 families or 6 families in a multi-family setting we are looking at the single family home aspect of it. I think that will have a considerable reduction effect in the overall picture. The other thing is as we were going through and redesigning the lot widths I think we are around a 90 to 95 foot wide versus the 100 foot before. So I don't think that we much of a different impact on the number of driveways in there. So those are two aspects to take into consideration here.

Ms. Lindh asked it was mentioned about in particular park space, playground space for children who might live in this development, do you have besides the lot widths do you have any other designated area that would be kind of a local park for the residents?

Mr. Hughes stated one of the things that we looked at on the park plan is that the parkland dedication requirement that the Planning staff was looking at was much more interested in cash-in-lieu of actual space and another thing I might add that the suburban tract area has given a considerable contribution with the soccer fields and all those other things. So we are trying to follow what staff is actually wanting us to do. That is one of the things we really wanted to do is to get their input before we moved ahead. So that is why I think we are here with the recommendation to approve is because we really relied on the Planning Department's input.

Ms. Lindh stated I drove around there a couple times to get a better feel for it and the Jeremy Bullock fields are lovely but if you have a home site up on Meadowlark that is a considerable distance for a child to travel to get to a park. So it would seem to me that in the interest of making people happy and enjoying where they live that there should be something in the northern section of that development too.

Mr. Sesso stated I have to interject here that the subdivision law provides for the subdivider to create space and dedicate land to public parks that are then dedicated to the public. They become public property that has to then be maintained by the public entity, in this case the Parks Department of Public Works and becomes a Butte-Silver Bow maintenance obligation. So when the proposal was made for this subdivision the subdivider asked what would you prefer and at

this point tentatively again as you read the condition the parks plan has to be presented to the Parks and Recs Board and they have to approve it and that is another part of the process. Right now the people who run all of our parks have made the recommendation that they would rather have cash-in-lieu and these pathways to Jeremy Bullock Park better access which ultimately might include crosswalks across Electric to get to the Jeremy Bullock fields. There are very few neighborhoods that have parks. You may consider it a long way from the north end of the subdivision on Meadowlark to the south end on Electric but really it is a ¼ mile and there are limits to how close we can get a park to every family and every residence. If you measure the distance using Clarks Park as a focal point for the neighborhoods the various parks we have you have to go some distance. So this is a recommendation that the Parks Department is bringing to the Parks and Recs Board. We haven't settled on the proposal there is a difference here, you know the value of the two paths. These are being engineered as sidewalk paths from the Avon Circle to Electric and then some quality crosswalks so people can get across Electric. There is a differential there we are still in the discussion phase with the developer on the best way to provide cash-in-lieu or a proposal in-lieu of additional parkland that would need to be maintained.

Mr. Foley stated just to make a few comments. First off I appreciate all of the residents coming tonight because I know it is very difficult to come to this Board or Council of Commissioners on a regular basis and to voice opposition for a plan. As a Commissioner I do hear you. It is very difficult for me because I know some of you personally. I also know what you are saying here is truthful and the fact that your quality of life if this is approved and moves forward will change. I have been sitting on this Board for quite a few years and the comments that were made about Columbia Gardens Estates are very accurate. The very same things the very same arguments on traffic. All the studies were done and you are correct that there has been very little if any complaints about traffic after total build out. In fact I know several people who live there personally and it has never been an issue. As far as schools I can appreciate the desire for people to be concerned if this subdivision is approved that they would not be able to go to Margaret Leary but the fact of the matter is if you talk to the Superintendent as well as the School Board you know that the overall enrollment of the Butte School system is not growing. It is declining. There is a real issue here that we talked about in this community in terms of growth. There is also a transfer plan that has been in place at the School District it simply has not been put forward because of opposition. Will that come to use someday, it probably will and I hate to say it but that would be a nice position for this community to be in. We actually have schools that are exploding at the seams rather than

being closed down. So having said all that and I know that my decision here tonight won't be popular but that is one of the things I have to do as a Commissioner and as a person sitting on this Board. We look at the recommendations that the staff has done and they have met the requirements and it is zoned where it is supposed to be and with that being said I will make the recommendation for a motion to approve the preliminary plat of the Copper Fox Estates Subdivision subject to 12 conditions with 5C being amended with the clause that the applicants shall secure a written from School District #1 for the water main that traverses their property to be taken out.

Mr. Murphy seconded the motion.

Ms. Lindh questioned Mr. Foley do you have any thoughts about a traffic study, we could add a condition for that. The condition of some of those roads is rather poor.

Mr. Foley stated what I will say to you is that the condition and the status of a lot of roads in this community are very poor. It is an issue that this Council has been looking at for years. Every single year we seem to hit a road block because of funding and we have had slight increases over the years but the ground rule plans in the community have increased. We are going to have to expect the taxpayers and I know it is not popular and it is just simply needed. We know there are problems and I can tell you they are in my district and every single district in this community whether it be on the hill or the flats. This is an issue that these constituents out here as well as the rest of the community needs to put pressure on this town and be willing to pay more money in taxes. So as far as an overall traffic study I am going to go with the expertise of our Public Works Department and their engineers. As I said to you before the very same arguments and the very same points were made with Columbia Gardens Estates and they went through all the studies and it very clearly showed that they are good. Is there danger issue out there? I am sure there is there is danger in every area. I guess I would say to Commissioner Fisher we are limited sometimes on what we can and can't do and when it comes to speeding that is a law enforcement issue and a manpower issue. I am not making excuses but I am saying there are a lot of issues on the table and I don't want to see this strong positive economic thing in the community and know that the neighbors may not fully support it at this point in time but it is a positive thing for this community. I don't want see this destroyed or damaged or thrown away because we are trying to search for some reason why we should vote this down.

Mr. Labreche questioned Columbia Gardens road as it sits now is that the original path the road was supposed to take or was there some discussion that they had to change routes and things like that?

Ms. Casey stated when the Columbia Gardens first came before this Board they had a presentation that didn't include the extension of Ottawa Street that comes down that was denied and one of the reasons they didn't include that was that they didn't own the property. They subsequently went back and purchased that property and created that second access loop if you will out of the subdivision at that time.

Mr. Labreche stated for some reason it seemed to me they were going to go straight up Ridgeway originally.

Ms. Casey stated they were going to go up St. Ann Street and they if you recall when they came back the second time with their extension of Ottawa they had purchased more land so the lots were doubled from 20 some to the 40 plus lots that they have today.

Mr. Labreche stated so there was never any intention of going up Ridgeway.

Mr. Sesso stated you are recalling correctly in the original plan the developer had proposed using St. Ann as the primary access and then in the SE corner of the current Hillcrest Subdivision there is parkland there and there was a proposal to convert the parkland to a public right-of-way to provide a second access that would have then connected to that internal street called Ridgeway. Like Ms. Casey said that proposal was denied and they went back to the drawing board and they came back with the acquisition of property from the hospital that gave them the chance to loop the road from St. Ann around the eastern part of the subdivision to Ottawa as it connects with Ottawa on the west side of Continental and then they added lots on both sides of Ottawa and went from the mid 20's to the high 40's in the number of lots that were created. So there was a ying/yang effect. They created a second access and then in order to afford the public infrastructure of the street, the sidewalks and the curbs and the extension of the water they made a second proposal that doubled the number of lots which is similar to what you heard tonight on this subdivision. The original 52 lots at roughly 15,000 to 20,000 square feet. Once you go to the expense of extending the water and sewer and filling all of the current regulations particularly for storm water and curbs, gutters, sidewalks, public access and alike it is a pretty big nut to crack. So the developer has proposed the additional lots. From a Planning perspective I might add the original Suburban Tracts did include all those lots that were

depicted on the original tracts and it is a forever change that the 35 lots that were deeded to the School District or gifted from the owner to the School District means that none of that property will ever be used for a residential development in the future. From a Planning perspective on the original Suburban Tracts subdivision and the density proposed basically it is to an extent in the rules that are available it is a cluster development of clustering the residential lots on this NW end of the original Suburban Tracts and keeping all the rest of the space open for no development. So we took that into consideration when evaluating whether this increase in density was reasonable relative to the carrying capacity of the land in this particular area. There is a going to be a significant change in Western Blvd. once you set curb and gutter and once you have to deal with this storm water piece coming across off of Timber Butte. There are going to be some significant improvements to these roadways. A typical example was Hansen Road if we recall 20 years ago or so when Hansen Road was in a similar condition of Western, kind of skinny, pretty dark and no real public services and then when the Timber Butte subdivisions were reviewed and approved and the requirements for curb, gutter and sidewalk at least on the western side of Hansen came into play it really improved the overall lot for everybody in the area. It then lead to long-term transportation improvements that we see today. So things will have to change by the time we have full build out of this subdivision. The rest of the community is going to say we have to improve these streets and we have to do a better job. They will then be put out on priority lists that will address the issues up to and including, which was already a problem which we heard quite a bit tonight about the current Meadowlark trying to get onto Harrison Avenue and going north after they have gone to the Driver's License station and/or the Highway Patrol there. You go back to Harrison and you want to go uptown it is nearly impossible to get on there. So something has got to give there. There is in the long-term plan transportation improvements for the rest of Hansen Road and its intersection with Holmes that will then be done in a way that accommodates the extra traffic that this subdivision might develop. From an overall perspective I just wanted you to know that we considered this higher density but we considered it in the perspective of what was already platted and what has already been eliminated from that plat.

Mr. LaBreche stated this kind of affects me personally because I live in that same area. I see the deer in my backyard every day and I drive those roads a lot. I can't show my support if, believe me we need community development, I am all about that. We need to develop new things but until I see a traffic study I can't put my support behind it.

Ms. Lindh asked if there were any additional comments.

Mr. O'Neill asked overall to improve the property and what is going to happen out there either way a subdivision is going is that a correct statement?

Mr. Sesso stated if that is a question that is a question for the developer. He owns the property now and he has development rights to 52 lots. Much of the conditions would probably be pretty similar because these are improvements that have to be made in this day and age. It is likely that the number of units per lot would probably go up in order to pay for the cost of the infrastructure to make the thing pencil out. That is an economic question that you really need to ask the developer. Yes to a certain extent he has bought the property now and he is going to put a development there it is just a matter of how it gets done.

I have to also mention that you have the right to amend if it means enough to enough of you, you have a right to amend the motion that has been made. The motion on the table is to make a recommendation to Council to approve it. You are an Advisory body. There will be another public hearing there. To the extent that the majority of the Board believes that a little more work on the traffic situation is necessary you should discuss amongst yourselves on whether or not that is an amendment to the motion that is viable.

Mr. Salle stated being a Professional Engineer myself and actually working on traffic studies I am a little skeptical because I think that the major problems in this area are existing. I think they are going to be further compounded to a certain extent by this development. I don't think that you can hold a developer responsible to fix some of those other issues. With that being said a couple of items. 60' is more than enough width to put in a 8' parking lane and these folks coming out of these houses are going to need that in order to have safe travel in getting out on places like Western Blvd. and Arizona Street. Also with the proximity of Margaret Leary School I think that a traffic study is warranted and the reason why is if nothing else to look at that intersection for the possibility of crosswalks, potential flashing lights, whatever. The same things that we are seeing that were actually a result if I remember correctly of the Columbia Gardens Estates with the crosswalk there. It wasn't that but it was in that area because they knew there was going to be more traffic. With those items and listening to public talk about this and the one item I kept hearing about was the traffic. One that I think is an unfortunate issue here, speed and that is not for our Board to decide on or talk about. I would make a motion to amend our previous motion to add the requirement of a traffic study to our approval of this plat.

Mr. Sesso stated technically it would be a subsequent motion to say what Mr. Foley said with the addition of a traffic study that would analyze and evaluate the impacts of the new subdivision on the current traffic flow and make recommendations for improvements.

Mr. Salle stated I make a substitute motion to approve the Preliminary Plat of the Copper Fox Estates Subdivision with the previously mentioned item of striking the easement requirement across the School District's property in addition to adding the requirement for a traffic study to analyze the impacts of this subdivision on the existing traffic.

Mr. LaBreche questioned who would pay for this traffic study?

Ms. Casey stated the developer.

Mr. LaBreche stated I will second the motion.

Ms. Lindh asked if there was any further discussion.

Mr. Foley questioned if the study comes back and says this, this and this should be done are we approving that contingent upon what the study says or are we just having them do the study.

Mr. Sesso stated in the past when we have required a traffic study we ask that the applicant complete a traffic study prepared by a qualified professional traffic engineer to specify any required improvements to support the increased traffic created by the proposed subdivision. Then we usually list at a minimum this study shall address and then we put in the pinch points. The intersection at Electric and Utah. The amount of traffic on Meadowlark. We do not have a situation where we would ask that the applicant's traffic study would go all the way to the problem at Meadowlark and Harrison. That is a problem today and that is going to continue to get worse but it is a problem we have to deal regardless of this subdivision or its size. We think that there has been enough discussion on the record of the traffic concerns that have been raised that will provide a reasonable scope of work for the traffic study to be conducted. As long as it is a condition then the recommendations of the traffic study will have to be incorporated into the infrastructure improvements that are warranted. We can take a moment and be more precise with the specific language of the traffic study condition but I think you could leave it to us to write it in the way that captures the concerns that have been raised so that they be studied and a qualified independent traffic engineer comes to the recommendations that the do warrants, they figure out how much traffic is on the roadway now. They figure out the after situation after

the improvements are made, they check widths, they check carrying capacity and they make recommendations on widths particular a traffic signalization is what usually comes out of a traffic study on where different types of traffic features should be added to the various plan. I am not a traffic engineer so until you really do the math and the carrying capacity of the roads in their current right-of-way. Then the developer will have to negotiate with the Governing Body on how much of those are going to be mandated and paid for by the developer or how much are part of the going concerns out there that need to be improved.

Ms. Lindh questioned that would be information we would have prior to filing the final plat?

Mr. Sesso stated absolutely. It would be a condition of filing the final plat and we would draft it with the motion as we understand it. Remember now you made this recommendation and then the report, the amended report and the amended motion is forwarded to the Council and then there is another Public Hearing and the applicant has the opportunity to address the concerns in the interim and we take it one step at a time. Once the amended plat is approved, if approved, then they have to fulfill all of the conditions or sign a Development Agreement to put all the improvements in before they can file the final plat. So they are 60 days away from doing anything. So they have time to even perform the traffic study in the interim.

Ms. Lindh stated I am a little concerned about Electric Street with those walkways and heading toward Margaret Leary School.

Mr. Sesso stated we heard everybody's concerns so what we would recommend and ask the applicant to address is the concerns that have been raised. Then it is the Professional Traffic Engineer who then evaluates it nor quite frankly the opinion of all the Traffic Engineers who are in the audience tonight.

Ms. Lindh asked if there was any further discussion. At this point we will move forward with the amended motion with 13 conditions.

The voice vote in favor of the motion was unanimous.

V. **Other Business:** None

VI. **Adjournment** – The meeting adjourned at 8:10 P.M.

BY:

Janet Lindh, Chairman
Butte-Silver Bow Planning Board

ATTEST:

Jon Sesso, Secretary
Butte-Silver Bow Planning Board