

# CASCADE COUNTY PLANNING BOARD

SERVING CASCADE COUNTY, MONTANA

## **Hybrid Meeting Format:**

**Courthouse Annex Room 105**

325 2<sup>nd</sup> Ave. N.

Great Falls, MT 59401

**Online Zoom Meeting ID: 852 9012 2284**

Go to <https://us2web.zoom.us/j/85290122284> to join

Toll-Free: 888-788-0099 or 877-853-5247

*Board Members: Dexter Busby, Richard Liebert, Elliot Merja, Bruce Moore, Makenzie Rummel, Beth Schoenen, and Rob Skawinski.*

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# AGENDA

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**10/17/23  
9:00 AM**

1. **Call To Order**
2. **Roll Call**
3. **Meeting Minutes**
  - 3.I. Meeting Minutes
    - a. Draft Meeting Minutes for September 19, 2023

Documents:

[DRAFT MINUTES 9-19-23.PDF](#)

4. **Old Business**
  - 4.I. None
5. **New Business**
  - 5.I. None
6. **Board Matters**
  - 6.I. None
7. **Adjournment**

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CASCADE COUNTY  
**PLANNING BOARD**

9/19/2023

09:00 AM

Hybrid Online/Zoom Online Video Meeting

**Board Members: Dexter Busby, Richard Liebert, Elliot Merja, Bruce Moore, Makenzie Rummel, Beth Schoenen and Rob Skawinski.**

**NOTICE:** PURSUANT TO MCA 2-3-212(1), THE OFFICIAL RECORD OF THE MINUTES OF THE MEETING IS IN AUDIO FORM, LOCATED AT CASCADECOUNTYMT.GOV AND THE PLANNING OFFICE. THIS IS A WRITTEN RECORD OF THIS MEETING TO REFLECT ALL THE PROCEEDINGS OF THE BOARD. MCA 7-4-2611 (2)(B). TIMESTAMPS ARE INDICATED IN RED, WITHIN EACH AGENDA ITEM BELOW, AND WILL DIRECT YOU TO THE PRECISE LOCATION SHOULD YOU WISH TO REVIEW THE AUDIO SEGMENT.

THESE MINUTES ARE PARAPHRASED AND REFLECT THE PROCEEDINGS OF THE CASCADE COUNTY PLANNING BOARD AND ARE CONSIDERED A DRAFT UNTIL FORMALLY APPROVED BY THE PLANNING BOARD.

**STAFF ATTENDEES:** Phoebe Marcinek, Alisha Osborne, Kienna Owen-Quinata, and Charity Yonker.

**PUBLIC ATTENDEES:** Ken Davis, Sandra Davis, Steve Gillespie, Sandor Hopkins, Dennis Laubach, Ron Laubach, Steve Opheim, Wayne Sterner, Ronda Wiggers .

**1. CALL TO ORDER:** Elliot Merja called the meeting to order at 09:00 AM [00:01:05].

**2. ROLL CALL:**

**BOARD MEMBERS PRESENT:** Dexter Busby (Phone); Richard Liebert (Online), Elliot Merja, Bruce Moore, Makenzie Rummel (Online), Beth Schoenen (Online).

**BOARD MEMBERS ABSENT:** Rob Skawinski.

**3. APPROVAL OF THE MINUTES :**

**A. Draft Meeting Minutes for July 18, 2023. [00:02:07]**

**1. Board Discussion & Decision**

**Elliot Merja:** Says the first order of business is to approve the minutes. He asks if there are any corrections. Hearing none, he asks for a motion.

**Bruce Moore:** Motions to approve.

**Richard Liebert:** Seconds the motion.

**Elliot Merja:** Asks if there is any further discussion. Hearing none, he calls for the vote.

*All in Favor, motion carries 6 – 0.*

**4. OLD BUSINESS:** None.

**5. NEW BUSINESS:**

**A. Minor Subdivision Preliminary Plat Application For the Amended Plat of Lot 141 of Fort Shaw Townsite, Submitted by A&E Properties , LLC [00:03:26]**

**1. Kienna Owen-Quinata presents the Staff Report.**

**Motions Presented for the Board’s Consideration:**

**A:** I move that the Cascade County Planning Board recommend, after consideration of the Staff Report and Findings of Facts, denial of the First Amendment of Lot 141 of the Plat of Fort Shaw Townsite Preliminary Plat;

**Or**

**B:** I move that the Cascade County Planning Board recommend, after consideration of the Staff Report and Findings of Facts, adoption of said Staff Report and Findings of Facts, and approve the First Amendment of Lot 141 of the Plat of Fort Shaw Townsite Preliminary Plat subject to the following conditions:

1. Include a “Notice of Agricultural Activities” on the final plat stating in effect: “This subdivision is in the vicinity of existing agricultural activities which may affect a purchaser’s use and/or enjoyment of his/her property.”
2. Cause to be recorded in conjunction with the final plat, a statement of waiver placed on the final plat requiring property owners of each lot in the subdivision to take part in any Rural Special Improvement District (RSID) for the reconstruction, improvement or perpetual maintenance of any county road in the vicinity used to access the major subdivision, or any other road that can be used to access these lots as determined by Cascade County, provided that all other property owners served by said road share equitably in such an RSID. This waiver shall expire 20 years after the date the final plat is filed with Cascade County.
3. A statement shall be included on the Final Plat stating: “Lot owner(s) shall comply with the required Noxious Weed Management Plan, approved by the County Weed Supervisor;
4. Submit a written Weed Management Plan to the Cascade County Weed Board specifying the methods for weed management procedures with regards to this development and incorporate it into the HOA CCRs or file with the Clerk & Recorder’s Office along with the Final Plat.
5. All vegetation disturbed during construction shall be reestablished with vegetation types that have been recommended by the MSU Extension Office.
6. A copy of the MDEQ General Discharge Permit for Stormwater associated with construction activity in order to subdivide shall be submitted prior to final plat approval, if the disturbed area will exceed one (1) acre.
7. For lots under 20 acres, the Montana Department of Environmental Quality (MDEQ) Certificate of Subdivision Approval (COSA) must be provided prior to final plat approval.
8. The utility easements must be shown on the plat with dashed lines.
9. The final plat must contain the following statement: “The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, wired broadband, water or sewer service to the public, the right to the joint use of an easement for the

construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."

10. Cause to be recorded on the final plat a statement concerning limited public services.

11. Correct any errors or omissions on the preliminary plat prior to final plat approval.

12. File with the final plat submittal a certificate of a title abstracter showing the names of the owners of record of the land to be subdivided and the names of lienholders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lienholders or claimants of record against the land.

## 2. Board Discussion [00:13:22]

**Elliot Merja:** Asks if there are any questions for the Staff from the Board.

**Richard Liebert:** Says he has a question.

**Elliot Merja:** Says yes sir, Mr. Liebert.

**Richard Liebert:** Says he is curious about feedback on number two (2) regarding the Homeowners Association (HOA) protocol and then he will have a question for the applicant later.

**Charity Yonker:** Says I will take the HOA question: That provision allows for either an HOA or a noxious weed plan to be filed with the plat; it is an either-or option, so for this one it will be filed with the plat.

**Richard Liebert:** Says thank you.

**Elliot Merja:** Asks if there are any other questions for staff. He says to Mr. Liebert that there are probably a few community members that will want to speak during the public comment part and that his questions may be answered during that time.

**Richard Liebert:** Says very well, thank you Mr. Chair.

**Elliot Merja:** Says if there is nothing else from the board, would the surveyor like to speak.

## 3. Board Discussion [00:14:52].

**Sandor Hopkins of 19 3<sup>rd</sup> St NE, Chouteau:** Says he is a project manager, and is here on behalf of the client to answer questions. We are in favor of this two (2) lot subdivision of 2.33 acre. He thanks the staff for their time and attention to the project. He asks if there are any questions.

**Elliot Merja:** Asks if there are any questions from the board.

**Richard Liebert:** Says yes and asks when the applicant intends to start building.

**Sandor Hopkins:** Says as soon as possible and it will likely be in the spring, as they have to schedule contractors to be out there, acquire materials and get the process started. We anticipate final plat and construction will be started by spring of 2024.

**Richard Liebert:** Says thank you.

**Elliot Merja:** Says okay and asks if there are any other questions. Hearing none, he thanks Mr. Hopkins. He asks if he is supposed to call opponents or proponents first.

**Charity Yonker:** Says it is not subject to public hearing.

**Elliot Merja:** Says oh and asks if the public can speak at all.

**Charity Yonker:** Says that statutorily, there is not a public hearing; Ms. Marcinek please chime in, and states that comments can be provided on the motion, but you would not be calling proponents or opponents.

**Elliot Merja:** Says we are basically at the hearing.

**Phoebe Marcinek:** Says we are at the board discussion portion, and you could take comments and that is it.

**Elliot Merja:** Says so what we could do is have the motion and then discuss the motion if there were comments.

**Phoebe Marcinek:** Says yes *[inaudible]*.

**Elliot Merja:** Says we would entertain a motion.

**Bruce Moore:** Moves to approve.

**Elliot Merja:** Asks if there is a second.

**Makenzie Rummell:** Seconds the motion.

**Elliot Merja:** Says moved and seconded and asks if there is any further discussion. Hearing none, he asks if the public has anything to say about the motion. He asks that the speaker state their name and address.

**General Public Comments Regarding [Item]:**

**Steve Opheim of 18 N Fort Shaw Rd:** Says if Two Buttes ever ran dry and he could not get water, I would be pumping out of the well. That is a concern that I would like noted, and that well has groundwater in it right now. I would hate to see it go dry. There is a house that I think is Lot 140 that is directly south of Lot 141 and did read that the vegetation is to be...

**Elliot Merja:** Says, "re-established".

**Steve Opheim:** Says re-established, thank you, and I know on this lot it has not happened. I do not know if that has a bearing on Lot 141, just know it might be the same company that is doing that. The vegetation has not been re-established. That is my concern.

**Elliot Merja:** Asks if there is anybody else.

**Wayne Sterner of 143 Thies St, Fort Shaw:** Says he has been a resident for twenty (20) years and Mr. Opheim is his neighbor. He says his well is 23 feet deep and has served him admirably during his tenure there. The Fort Shaw water system, Two Buttes, cannot support anybody else. He assumes they will be drilling a well, and if his well should go dry, they will not like him. He says if he wanted more neighbors, he would move to Great Falls. He says he does not want them and there are plenty of other places they can go to make money. He says that is his attitude and his conviction.

**Sandor Hopkins of 19 3<sup>rd</sup> St NE Chouteau:** Says we have tested some of the shallow wells in the area and are not going to be pulling water from those sources, as they are filled with *e. coli* and coliform bacteria, so we are likely going to go down to 150 to 200 feet-

**Ron Laubach:** Says mine just tested good.

**Sandor Hopkins:** Says good, glad to hear that. He says based on the tests, we do not want to be using that water in that area, and we have been monitoring that area for insulation to septic systems and we did have some concerns with the well beside Lot 141B. We monitored the well through peak runoff season and we have a design that we believe will be approved by the Department of Environmental Quality (DEQ). That is all I have, thank you.

**Elliot Merja:** Says so it will not be a shallow well, it is going to be down to the river basin.

**Sandor Hopkins:** Says correct, yes and asks if there are other questions.

**Elliot Merja:** Says thank you. He asks if there is anybody else that would like to speak.

**Ron Laubach:** Says he is not here for this and asks if when Mr. Hopkins says he is going down 130 feet [sic] will it not affect the neighbors, even though their wells are shallow. He asks if they can guarantee that.

**Elliot Merja:** Says they case the well because they do not want to capture any of the water that is up above. I have been in that area for a long time and am part of the Two Buttes water system and was part of it when it was installed. One of the reasons that they installed that Two Buttes system was because all the shallow wells did have issues especially on the south side of the highway, with the sewage seeping into the wells from the drain fields and such. They were incorporated into

Two Buttes to get them away from that because they were either going to have to do a sewer system or they were going to have to have a real water system come through. Many wells test bad depending on the time of the year. When irrigation is running, they tend to test good, during the winter not all of them test good. Generally, with a deeper well the intention is to avoid capturing water from the surface, so they case the wells to prevent that and then collect the water form down below. At about 160 feet is the riverbed of the Sun River, so they should be in some pretty good water down there.

**Ron Laubach:** Asks if it can be guaranteed the other wells will not be affected.

**Elliot Merja:** Says there is never a hundred percent on that, but knowing the structure of the soil there, they will go through a foot and a half to two feet of sandstone at about ninety (90) feet or less, because that is where it outcrops into the river basin. It will be very unlikely they are going to put a well casing down, and they need to do a well casing.

**Charity Yonker:** Asks for his name and address for the record.

**Rod Laubach of 1199 Wilson Rd, Power, MT:** Gives his name and half his address.

**Elliot Merja:** Asks if there is anything further. Hearing none, he asks the board if there are any other questions. Hearing none, he says there is a motion on the table that has been seconded. He calls for the vote.

*All in Favor, motion carries 6 – 0. [Beth Schoenen excused at 09:27 AM , after vote].*

**B. Zone Change Application #2023-003 To Rezone Parcels From Suburban Residential District To Urban Residential District. Submitted By Little Shell Tribe Of Chippewa Indians Of Montana.**

**[00:27:41].**

**1. Kienna Owen-Quinata presents the Staff Report.**

**Motions Presented for the Board’s Consideration:**

**A:** I move the Cascade County Planning Board, after consideration of public comments, testimony, and informational materials, recommend the Board of County Commissioners approve the rezone of the Subject Properties described in the Staff Report from the Suburban Residential 1 District to the Urban Residential District based on the conclusion that it meets the criteria and guidelines set forth in MCA § 76-2-203;

**Or**

**B:** I move the Cascade County Planning Board, after consideration of public comments, testimony, and informational materials, recommend the Board of County Commissioners deny the rezone of the Subject Properties described in the Staff Report from the Suburban Residential 1 District to the Urban Residential District based on the conclusion that it fails to meet the criteria and guidelines set forth in MCA § 76-2-203 for the following reasons:

**2. Board Discussion [01:06:11]**

**Elliot Merja:** Asks if there are any questions for the Staff.

**Richard Liebert:** Says yes, Mr. Chairman. He asks if the questions should be for proponents and opponents and if it is time to ask now.

**Elliot Merja:** Says it will be the Board comments first and then public comments.

**Richard Liebert:** Says this is in reference to goal five (5) criterion four (4) for sections five (5) seven (7) and eight (8) regarding close proximity to the City of Great Falls and says it is interesting that

the notice was sent to the city manager, so I just want to ask the staff whether it is feasible that the property could eventually be annexed into the city.

**Charity Yonker:** Says yes, there is a good possibility that at least portions over the next fifty years will get annexed into the city. It makes sense since infrastructure is so close already and properties have begun to annex. Having met with city planning, this is an area that we are looking at as an area for future expansion. So, the answer to that is definitely that this area is a good prospect for annexation, and I do believe the Applicant had considered that as a possibility prior to submitting the application for a rezone.

**Richard Liebert:** Says thank you Mr. Chair and I also have a question for the Applicant later.

**Elliot Merja:** Says okay. He asks if the parcel [number] 2591700 is the closest to city services.

**Charity Yonker:** Says "correct".

**Elliot Merja:** Says it actually borders it on the east side.

**Charity Yonker:** Affirms.

**Elliot Merja:** Says on the west side, that is all developed into housing. He asks if that is what the map shows. He asks if this is so they can do a boundary adjustment, too, to parcel number 2591200.

**Kienna Owen-Quinata:** Says they do not own parcel number 2591200. That property is owned by the Cowboys' Association.

**Elliot Merja:** Asks if they are doing the boundary adjustment, where they are doing the adjustment to.

**Charity Yonker:** Says they are doing it with the Cowboys' Association. Right now, they cannot do it because it is a split zoning district, so after this rezone, they will be able to move that boundary line with a survey.

**Elliot Merja:** Says so basically, they are trying to get the boundary line adjusted so they can do a purchase. He asks if this is correct.

**Charity Yonker:** Says that is probably good to verify with the applicant. It is this line here [she indicates the line on the map] that is looking to be adjusted.

**Elliot Merja:** Asks about the other line going north and south.

**Kienna Owen-Quinata:** Says *[inaudible]*.

**Elliot Merja:** Asks if the Eagles Nest subdivision will affect this.

**Charity Yonker:** Says it should not affect this.

**Elliot Merja:** Asks if there are any more questions. Hearing none, he asks if the developer is here.

### 3. Public Hearing opens at 10:10 AM, [01:10:56].

**Justin Stefanik of 2969 Airport Rd Ste 1B,59601:** Says the driving force behind the rezone is the Boundary Line Adjustment with the Cowboys' Association to provide access to the landlocked forty (40) acre parcel. The boundary would be moved north into the Cowboys' Association to have access off of 6<sup>th</sup> Street. Also in parcel 3, they would do a boundary line adjustment there to provide the Cowboy's Association to Vinyard Road.

**Elliot Merja:** Asks how far the boundary line will be adjusted on 6<sup>th</sup> Street North.

**Justin Stefanik:** Says if we can pull up that map, I can point it out. He asks if the Board minds if he moves over to the screen.

**Elliot Merja:** Says sure.

**Justin Stefanik:** Says this boundary line would move north [he indicates the boundary line of parcel number 2591700], and this forty-foot corridor that would go up to fifth street to provide access to this parcel. In the very north corner, they would do a boundary line relocation to allow the

Cowboys' Association to Vineyard Road, so they have two points of access to their property. Essentially, they are doing a land swap between the Cowboy's Association and the Little Shell Tribe. AT this time, there is no plan to have a residential or subdivision or anything of that nature. The tribe has acquired multiple pieces of property around in this area over the last few years, and because of that parcel one (1) not having access, they are trying to provide access because it is currently landlocked.

**Elliot Merja:** Says in doing that, then, their access basically would be coming from the development there, by the Taco John's area.

**Charity Yonker:** Says it is Valley View.

**Elliot Merja:** Asks is that Valley View.

**Kienna Owen-Quinata:** Says it is Valley View off of 6<sup>th</sup> [Street].

**Multiple People:** Say *[inaudible]*.

**Elliot Merja:** Says so that is basically the way to get access to that division there by ProBuild.

**Charity Yonker:** Says that is about 6<sup>th</sup> Street. I think you are talking about the street going to Valley View.

**Elliot Merja:** Says there is not any other access than that.

**Charity Yonker:** Says I do not believe there is...Smelter Avenue comes through.

**Justin Stefanik:** Says Smelter Avenue comes in through here [he indicates the area on the map], but it does not provide access to that forty acre piece and all of this [he indicates the location on the map] undeveloped and it is on a hillside, so you probably could not even build roads on the existing roads that were plotted out back in 1896 or whenever they placed them, you would have a heck of a time building a road because it just goes up on that Hill 57. It is interesting how they platted that out and did not realize you cannot build it [the roads].

**Elliot Merja:** Says okay and asks if there are any other questions from the Board for the engineer here.

**Richard Liebert:** Says yes, Mr. Chairman.

**Elliot Merja:** Say yes, Mr. Liebert.

**Richard Liebert:** Says he wants to congratulate the tribe on their acquisition and says that eventually they may want to develop family and multi-residential opportunities and more affordable housing for their members, possibly, especially considering the issues with affordable housing these days. Thank you.

**Justin Stefanik:** Says the tribe is working with the city on a project along Stuckey Road, and they have recently annexed that into the city and are doing a tiny homes project there to provide housing for tribal members. If it was to be developed into residential, based on drilling wells and putting septic systems, and in proximity to the City of Great Falls, it may at some point be annexed into the city.

**Richard Liebert:** Says whether it is individual or collective infrastructure, you will go so far until it is municipal.

**Elliot Merja:** Asks if there are any other questions from the board. Hearing none, he says we will move onto public comment. He asks if proponents or opponents are first.

**Charity Yonker:** Says proponents.

**Phoebe Marcinek:** Says you can do proponents, opponents and informational.

**Elliot Merja:** Asks what informational is.

**Charity Yonker:** Says it is neither for or against, but someone who has additional information.

**Elliot Merja:** Asks if there are any proponents that would like to speak.

**Ron Laubach:** Asks if it has to be proponents.

**Elliot Merja:** Says we could do it informational and you can tell us.



**Ron Laubach:** Says he owns land next to Stuckey Road and in that vicinity and has some questions he would like to ask and would rather the board not make a decision on the rezone yet. He asks if the property would be available to anyone in the public if it is rezoned. He asks if anyone can come in and buy a piece of land or if it would just be for the tribe.

**Elliot Merja:** Says he thinks it is all up to the tribe to decide because it is their property, and they can decide to sell or not.

**Ron Laubach:** Says so it could just be to a select group. He asks if the county has any control of [sic] what is going to go in there such as buildings. He asks if there are any restrictions on what is going to be built.

**Charity Yonker:** Says we have county-wide zoning through our zoning ordinance, and that is part of what these districts are, and it allows us to have some control over what kind of uses are permitted on a property and that will be based off of your zoning district designation, and the ordinance sets out what is allowed and what is not. If it is not in that list, then it is not allowed.

**Ron Laubach:** Asks if the landowners around will be allowed input to that.

**Charity Yonker:** Says the ordinance itself was adopted through a public process, and the citizens have input at that level. It also depends on the use that somebody is proposing. We have a number of uses that we call permitted principal uses, of which require a zoning permit. It is going to come through our department and we are going to review it for zoning compliance. A few uses require another public process, which means it goes in front of the Zoning Board of Adjustment for review and action.

**Ron Laubach:** Asks if landowners a quarter mile away whose properties are not connected to the applicant's property will be made aware of what is happening. He states his property is not connected but he never got a certified letter. He says he does not ever read the Tribune either. He suggests any landowner within a five-mile radius be made aware of what is going on. He says maybe it was said during this process, but he does not listen or hear very good [sic] and asks how the traffic will be addressed on Stuckey Road. He asks if that was addressed in this proposal.

**Elliot Merja:** Says this procedure right here has absolutely nothing to do with the development of the property, it has to do with a boundary change more than anything. When they come back and say they are going to start building, then there is another process it goes through that they have to actually section it off into the lots and everything, so that is way further down the process because there is no development asked for in this proposal. What they are trying to do is get access to this property by doing a boundary change, and they are either exchanging land with the Cowboys' Association so the Cowboys Association, which is landlocked from the west, can access their property from Vineyard Road, and they are landlocked from the residential area to the east of them. This has nothing to do with actual development of the property, it is only to get access.

**Ron Laubach:** Says this is just to do with the access, so if it gets cleared to do this urban thing, he asks if it puts them in some kind of driver seat to move forward. He asks if access is dependent on rezoning. He asks if it means the tribe will not give them access to the land if they do not get what they want.

**Elliot Merja:** Says I cannot say that. I understand why you question it, but the boundary change is done all the time through the same process with a neighbor so if they want to sell a piece of land, they do not have to have it completely surveyed. There is always the possibility that someday down the road they want to develop this and put housing in it. We do not control that with what we are trying to do here. He reiterates that what they are trying to do here is to allow the Cowboys Association access to their property off of Vineyard Road, through the tribe's land, and also trying to get access to their property that has currently not got good access, as you would have to trespass in order to access their property as it is. They are trying to get that cleaned up. There will be a hearing later on if they want to develop it into a subdivision. In order to make this work, you must

have like property, meaning the properties must be zoned the same. It would have to either go to Rural Residential or Urban Residential.

**Ron Laubach:** Asks if this here [he points to the map] is the tribe's property.

**Elliot Merja:** Says yes.

**Ron Laubach:** Asks again if they need access to their property or if they have access through there.

**Kienna Owen-Quinata:** Says *[inaudible]*.

**Elliot Merja:** Says currently, they have to trespass.

**Ron Laubach:** Asks why one part has to do with the other part.

**Elliot Merja:** Says because the tribe owns both pieces. He reiterates that both parties need access to their properties and this way would ensure they get that.

**Ron Laubach:** Says that it looks like they can access it through here.

**Kienna Owen-Quinata:** Says the Cowboy Association owns this piece here [she points to it on the map].

**Ron Laubach:** Says the Cowboy Association owns this [she explains again that they want access off of Vineyard Road].

**Ron Laubach:** Asks again if they have access through here [he points to an adjacent property].

**Kienna Owen-Quinata:** Reiterates that they are wanting a second point of access here, which would allow the Little Shell Tribe access through here.

**Ron Laubach:** Says so they can get out here, and they are just trading.

**Kienna Owen-Quinata:** Says this is a different zone, and they are doing this to match the zoning so they can adjust the boundary. She reiterates that currently they cannot adjust the boundary because they are in different zoning districts.

**Ron Laubach:** Says he would still like more time to study this because he has a lot of questions.

**Elliot Merja:** Says this is only an advisory board, and what will happen is this will go in front of the County Commissioners and that is when you can bring back any issues that you have. The Commission makes the final decision. He asks if there is any other comment.

**Phoebe Marcinek:** Asks if he is calling proponents or opponents.

**Unk:** Asks if it matters.

**Phoebe Marcinek:** Says we have a system.

**Elliot Merja:** Says maybe he misunderstood but thought that informational could be either.

**Phoebe Marcinek:** Says that is it just a more neutral comment.

**Multiple Members:** Says *[Inaudible]*.

**Elliot Merja:** Asks if the next commenter is a proponent or opponent.

**Unk:** Says against.

**Phoebe Marcinek:** Says for Mr. Merja to call twice more for informational and then call three (3) times for proponents and then call three (3) times for opponents.

**Elliot Merja:** Says okay and asks if there are any more informational comments.

**Ron Laubach:** Says I do not know yet, it may get answered in the proponents or opponents section.

**Elliot Merja:** Says he has to ask a third time for informational. Hearing none, he calls for opponents.

**Public Opponents:**

**Sandra Davis of 62 Vineyard Road:** Says they are not very far away from it. She says a couple things mentioned in the reading of it and in two (2) number b it says it does not contain wildlife, and that is totally incorrect and says there are deer, coyotes, birds all kinds of things. She says any disruption to the property would be a disruption to them because the gas line to the backside of our property and the animals disappeared during the process and are now starting to come back. We do have a stream in the area that floods our property in winter. She says the fire district is actually Vaughn because that is who came out to our property when they put the gas line in. She insists it should be corrected in that. She says more people create more chances for fire and that she does not

agree with the statement. She says the fire department asked them to move their fire break further back. She explains the reasons she doubts the emergency services provide all of the services in the area and says she has never seen some of them come through. She says she moved to the rural area to enjoy it as they do, and she is fully against the rezone because if you give them the right to do a rezone now then it would be easier for them to get another rezoning later. She says she does not understand why it needs to be rezoned just to get a boundary adjustment. She says she thinks you could get a boundary adjustment and not rezone it.

**Elliot Merja:** Says you cannot do boundary adjustments on non-like properties; the properties must have the same zoning and therefore one party must rezone to do that. He says that one is Suburban Residential 1 and one is Urban Residential which has a minimum lot size of five acres.

**Phoebe Marcinek:** Says one (1) acre lots.

**Elliot Merja:** Says one (1) acre lots, okay. Urban residential can be smaller.

**Sandra Davis:** Says what about rezoning the cowboy property to Suburban Residential-1 (SR-1).

**Elliot Merja:** Says the Cowboy property runs into property that is Urban Residential to their east, so it is harder to rezone theirs to Suburban Residential-1 due to proximity of the properties.

**Sandra Davis:** Says but if they want to get it done, they will do that. That is why people live out there, because they want larger lots. They do not want their neighbor five (5) feet from them and do not want to be able to shake their hand. We do not want a bunch of houses built out there and there is no water. We are all on wells, septs, and cisterns. I am firmly against it.

**Elliot Merja:** Asks if there are any other opponents.

**Dennis Laubach:** Says he has concerns over the rezone because he believes that the report is inaccurate because it mentions having little to no impact on existing industries. He says he believes there needs to be a final plan submitted to the public or local neighbors prior to the zone change going through. He says he does not want to be forced into changing our agricultural way of life with our land and what is not to say this is only the beginning of the rezoning. He says he thinks it would potentially result in a loss of the agricultural way of life where our land is forced into a new zone. He says he thinks the boundary adjustment is straightforward and positive for both parties but opens the door for future development impacting local neighbors. He asks if there is any chance of rezoning in the future and forcing his land into a new zoning district.

**Elliot Merja:** Asks if Mr. Laubach is Suburban Residential-1 (SR-1) to the west.

**Dennis Laubach:** Says yes.

**Elliot Merja:** Says on Stuckey Road. That is your property.

**Dennis Laubach:** Affirms. Says he does not want to be forced to give up his way of life as the property has been in his family for many years. He says he does not know if that can be answered or if there would be any circumstance where we could be forcibly rezoned.

**Elliot Merja:** Asks Ms. Yonker if she can answer that.

**Charity Yonker:** Says yes. There are two (2) ways to be rezoned. The first way is a county initiated, where we can initiate that change. It has to go through a public process that is similar to this process, which is very much a public process. The other way is how they are doing it, which is with a petition-led rezone. For example, if your neighbors across the way wanted to be rezoned, they could with a petition include your property, but it has to go through Planning Board, Commission.

**Dennis Laubach:** Asks if farming is allowed under Urban Residential.

**Charity Yonker:** Says it is pretty much no different than Suburban Residential-1. It is limited agricultural uses in both districts.

**Dennis Laubach:** Says okay.

**Steve Gillespie of 9 12<sup>th</sup> St N:** Says historically the Wilcox Addition at one time had legal access and there were roads that were abandoned on 6<sup>th</sup> Street. Today there are hundreds of different lots, and that subdivision is kind of an isolated tract of land.

**Elliot Merja:** Says would this be the Wilcox Addition.

**Steve Gillespie:** Says yes, that was done in the late 1800s and there are lots of lots. He says you can see the roads and they are not abandoned. He says they can go through the Wilcox Addition to access their land. He says he has one lot in Wilcox Addition, and he used to have more lots but only kept one for posterity. He says he looked at the taxes the other day and they gave him four lots for comparison, which have legal access. He says he can assume they know what they are doing, and the Wilcox Addition must have legal access. He says he thinks they do not need to trade land to have legal access because some of the roads which were abandoned on 6<sup>th</sup> Street lost their access to the Wilcox lots and should get re-established through this process. He says he doubts they created all those lots with the intention of it being landlocked. He wants to know if there is a right of way into the Wilcox Additions or not.

**Ron Laubach:** Asks if he can ask the two questions he thought of while Mr. Gillespie was speaking.

**Elliot Merja:** Says yes.

**Ron Laubach:** He asks if the rezone goes through whether people can build on the one (1) acre lots.

**Sandra Davis:** Says it is 7200 square feet.

**Ron Laubach:** Says so they could have a lot of people.

**Sandra Davis:** Says a whole neighborhood.

**Ron Laubach:** Asks how big of an area they can build in right now.

**Elliot Merja:** Says on one (1) acre lots.

**Ron Laubach:** Says so if goes to urban they can build on a half-acre.

**Elliot Merja:** Says actually, it is quite a bit smaller than a half an acre. 43,560 is an acre. It is really similar to the Wilcox Addition in size [Urban Residential].

**Ron Laubach:** Asks again why they have to go through the zoning and why they do not just switch property. He says the Cowboy Association is not getting anything out of it by switching to Urban [Residential].

**Elliot Merja:** Says they are already Urban [Residential].

**Ron Laubach:** Says oh, they are already.

**Elliot Merja:** Says the Cowboy Association is urban already.

**Ron Laubach:** Says so they could actually sell the property to housing already.

**Elliot Merja:** Says they could. He explains again why it needs rezoned to do a boundary line adjustment.

**Ron Laubach:** Says so they cannot trade non-urban access to [it].

**Elliot Merja:** Says to a Suburban Residential-1 or any other, yes. He reiterates that it has to be a like property to be able to do the boundary change. Whatever the Cowboy Association is getting monetarily to do this is whatever they get. He says they are probably not just trading to give them access to the north, but involves a financial trade on the rest of it to get access from the Tribe.

**Ron Laubach:** Asks if the Davises are in that urban zoning.

**Sandra Davis:** Says we are going to find out.

**Ron Laubach:** Says that is why I have so many questions. Hopefully it can buy more time before decisions are made.

**Elliot Merja:** Asks if this goes by the Zoning Board of Adjustment, as well.

**Charity Yonker:** Says no. It goes to Commission.

**Ron Laubach:** Says well thanks a lot for the information.

**Elliot Merja:** Asks if there are any other opponents. Hearing none, he calls for proponents.

**Public Proponents:** None.

**General Public Comments Regarding [Item]:**

**Public Hearing closes at 10:55 AM.**

4. **Board Discussion & Action: [01:54:25]**

**Elliot Merja:** Asks if there are any questions. Hearing none, he says he will entertain a motion.

**Richard Liebert:** Motions to approve.

**Elliot Merja:** Asks if there is a second.

**Dexter Busby:** Seconds the motion.

**Elliot Merja:** Says it is moved and seconded and asks if there is anything further. Hearing none, he calls for the vote.

*Motion carries 4-1: For—Dexter Busby, Richard Liebert, Elliot Merja, Bruce Moore;  
Against—Makenzie Rummel.*

6. **BOARD MATTERS [01:56:14]**

**Elliot Merja:** Asks if we have seen the Revised Floodplain Regulations.

**Charity Yonker:** Says you have not, and I just wanted to give an update that the first draft has been finalized and have a meeting with the Department of Natural Resources and Conservation and Legal on Thursday to discuss revisions. This is a regulation that has to be approved by the Federal Emergency Management Agency (FEMA) and Department of Natural Resources and Conservation (DNRC) before it goes to the Planning Board, so just know that it is coming.

**Elliot Merja:** Says okay.

**Phoebe Marcinek:** Says she wants to get clarification on the first motion and asks if there were abstentions or if everyone voted.

**Elliot Merja:** Says he voted.

**Phoebe Marcinek:** Says she does not know if Ms. Schoenen voted in favor or abstained.

**Elliot Merja:** Says he did not hear Ms. Schoenen. He does not know if she was still on.

**Phoebe Marcinek:** Says she thinks for the very first one she was, and that might be something we want to clarify moving forward is for, against and abstain.

**Elliot Merja:** Says right.

**Phoebe Marcinek:** Says that would then change the quorum status.

**Elliot Merja:** Says sometimes you have to wait a long time because they have to unmute and stuff.

**Phoebe Marcinek:** Says she just wanted to make the record clear for that. We want to ensure the availability of the abstention. It does not happen often, but we want that option available.

**Elliot Merja:** Says okay. He opines that we did have enough votes. He asks if there is any other business.

**Charity Yonker:** Says we are also working on subdivision revisions.

**Elliot Merja:** Says awesome, sounds like fun. He asks if there is any public now. Hearing none, he asks if any of the board members have any other comment.

7. **PUBLIC COMMENTS REGARDING MATTERS WITHIN THE BOARD 'S JURISDICTION [01:58:46]:** None.

8. **Adjournment at 10:58 AM [01:59:03]**

**Elliot Merja:** Says hearing none, he would entertain a motion to adjourn.

**Dexter Busby:** Says "so moved".

**Elliot Merja:** Asks if there is a second.

**Bruce Moore:** Seconds the motion.

**Elliot Merja:** Calls for the vote.

*All in Favor, motion carries 5 – 0.*