If anyone attending the Public Meetings needs special assistance, please provide advance notice by calling 258-4877. Missoula County will provide auxiliary aids and services.

1. CALL TO ORDER
Commissioners Present: Commissioner (Chair) Michele Landquist, Commissioner Jean Curtiss, Commissioner Bill Carey

Staff Present: Mitch Doherty, CAPS, James McCubbin, Deputy County Attorney

2. PLEDGE OF ALLEGIANCE

3. PUBLIC ANNOUNCEMENTS
None (no recording)

4. PUBLIC COMMENT
None (no recording)

5. HEARING
Double Arrow Zoning – Seeley Lake Community Hall
Mitch Doherty gave presentation and staff report.
First suggested revision is to include a statement that clarifies the responsibilities of DARLOA with regards to their Covenants. Next is the inclusion of a height definition that is based on planning boards recommended change to the height measurement. There is also a suggestion to remove the home industries reference in the non-conforming use section. There are several suggested revisions to the defensible space language including removal of language that requires maintenance of lawns. Staff also suggests the board consider revised defensible space table that clarifies the requirements of each zone. And finally if the board of County Commissioners wishes to act on planning board’s recommendation to apply the defensible space standards to all parcels, staff suggests including language that would allow a minimum of three years for all properties to be brought to compliance. In closing and this is the shorten, condensed version; Staff recommends that the Double Arrow Rural Special Zoning District (DARSZD) be approved
Chair Landquist: You’ve heard Mitch’s report and probably have hard copies. This is the public portion of the hearing; we need to know what your thoughts, ideas and suggestions are. How many people that are here tonight would like to get up and say a couple words? By a show of hands, okay there’s not too many. We’ll give three minutes each but if more of you decide to start talking then I may have to narrow it down to two minutes each.

Jack Greenwood: Member of the Seeley Lake Community Council. I’m gonna read a letter that the council wrote and sent to you. (PDF Letter) Commissioners received the letter but I want to read it because not everyone has heard it. I’m not for or against; we just have some concerns about the process.

Teresa Lacey: I was originally for zoning. I thought that we needed protection from restrictive land use provisions that we came up against in the 2010 plan. Now I am against it as the zoning document now stands. I’d like to ask whether you guys have driven and seen some of the unique aspects of our community; to include the wildlife, the home sites and water features?

Chair Landquist: Yes.

Commissioner Curtiss: Yes, we all have.

Teresa Lacey: I would like to request that you allow no less than one month for comments from the time that a final version of the zoning plans are available. The most recent version was posted Monday of last week and considering that over half of the people that own lots up here live away from this area or out-of-State; I think that more time needs to be allotted. At the planning meeting which I attended, they said that even though this was on the letter…it said that this was a hearing, that you may very well be making your final decision tonight. I’m wondering if that is your intention to make a decision or if this would probably be a process that moves on?

Chair Landquist: That’s quite often the way we do things.

Commissioner Curtiss: Depends on what we hear. Teresa could I ask you one question?

Teresa Lacey: Yes.

Commissioner Curtiss: Are you against the zoning or you’re against the timeline?

Teresa Lacey: I’m against the zoning as it reads now. I believe that for one thing the 20 page document appears to me is linked to the much larger general county document. I’m very confused about the types of requirements that would be put on maintaining our roads and higher building codes that are in that document. I don’t believe that very many people have connected those two documents together. Most of the people that I’ve talked to, if
they've seen anything at all they've just seen that 20 pages, that is very specific to our area.

**Commissioner Curtiss:** So you know that your roads are private?

**Teresa Lacey:** Some of our roads are private and some of our roads are public. **Commissioner Curtiss:** And the building codes apply even if you don’t zone. Building codes apply county wide.

**Teresa Lacey:** There has been some discussion that even if new roads aren’t built, that just the maintenance of the roads would be a higher standard than we have now, as far as getting permits for our annual grading and filling pot holes and things along those lines. There’s a lot of questions still out there. And a lot of conflicting ways that people are reading things, such as the propane tanks. A lot of people have said that no, the propane tanks wouldn’t be effective, the ones that are already here. Some people read it that anything within a wildlife urban interface would have to be buried. There’s just a lot of places in there that one person says that they believe it goes this way and another says it goes that way.

**Chair Landquist:** Mitch are you prepared to address anything that Teresa just mentioned regarding road maintenance and the propane tanks?

**Mitch Doherty:** Sure. The propane tank standard is an ‘and/or’, it’s buried ‘or’ located 25 feet from your driveway. It's an ‘or’ situation, it’s not buried and located away from your driveway; there’s an ‘or’ in there.

**Teresa Lacey:** There’s 3 different points in that section. The first one concerns roads and driveways, the third one said anything outside of a wildlife urban interface, which we don’t have any outside wildlife...

**Mitch Doherty:** So it doesn’t apply.

**Teresa Lacey:** So anything that’s not closer than 25 feet doesn’t have to be buried no matter where it is?

**Mitch Doherty:** No, it’s an ‘and’ or an ‘or’. You have the option to either locate your propane tank greater than 25 feet away from a driveway ‘or’ bury it right next to your driveway, if that’s what you would like to do.

**Teresa Lacey:** What about how close is it to any structures?

**Mitch Doherty:** I don’t believe there are any standards in there about structures. I’d have to look again but I’m pretty sure we’re talking about roads. There’s an ‘or’ in there; so it’s buried ‘or’ located away from the driveway.

**Teresa Lacy:** It’s very confusing.

**Chair Landquist:** The structure part of it, I know the companies that serve the propane have regulations there.
Ron Schulfer: Land owner on Double Arrow Ranch. Tonight I’m going to speak as a land owner as a land owner I’m not disappointed in the DARLOA Board of Directors. I am however disappointed in the trust philosophy that seems to have been eroded. As the Board of Directors entered into this process a couple years ago it was said this would be a collaborated effort between Missoula County and the Double Arrow Ranch Landowners Association. As a land owner I heard Pat O’Herren from Rural Initiatives address our land owners on at least three occasions and say that the county wants to respect and protect our covenants and our way of life, and if things are not so we can back out at any time. As a land owner I went to all the meetings, both open and work sessions, that was my prerogative and I choose to do it. Choosing not to do it would have been (in auditable) I heard and understood the process. Any land owner could have done the same thing. It was made clear that the process would be to develop a zoning draft and then present it to the public for comment at two public meetings; i.e. the process we’re in now. I saw and heard as a land owner a lot of activities to draft a proper document for review. I felt good the collaboration was working. Then a funny thing happen on the way to the forum, the planning board issued a draft, June 18th, of the DRSZD that did not and does not meet with the land owners expectations, some outcry hasn’t sued. No good deed goes unpunished. As a land owner, tax payer and voter, I respectfully ask the Commissioners to review all the comments, including staff, those that were made by the DARLOA Board in writing, digest the words and provide us with a collaborative document as opposed to is now perceived as a bureaucratic directive.

Bruce Bourne: I personal don’t care either way because it doesn’t affect me but I do care about some of the stuff that’s in there, primarily the stuff that relates to the fire wise…how you’re going to maintain your property and what the building structural requirements are going to be. I see that as a problem. First of all, I’ve lived up here 28 years and I built my own house up here, I’m one of these do-it-yourself kinds of people because I believe a lot of people in this room have the ability to do a lot of their own work and sweat equity is one of the ways Montana’s afford better places than we can afford. It bothers me when I see restrictions being put in place that cost people money, that put timelines on things and we tend to do things on our own time around here. I honestly believe that you don’t need to babysit this particular issue because I think it’s in people’s best interest to maintain their property in a manner that’s going to protect their homes. I also believe that the insurance companies are going to get smart at some point and start offering incentives to people that construct their houses out of the appropriate materials, and maintain their properties in a manner that going to help protect their homes against wildfire. So I believe that it’s actually up to the individual home owner and it’s up to relationships that exist between them and their insurance companies to try to provide a safe environment for that house. I don’t believe it’s the Counties job to try to set something that’s a mandatory requirement and then try to setup some kind of a housing police force to come out and measure the lawn and count their trees and do those kinds of things, I just think it’s totally inappropriate for our area. I’m against the requirement that they have to do that.

Teresa Cahoon: I live on Double Arrow and I’m against the zoning. We have covenants, we have an ACC committee, we have a fire committee, and we have a road committee. I don’t think we need you. I agree totally with Bruce that we don't need you to babysit us, if we need to do more work in the fire for defensible space then we do that as a DARLOA, not with the county. So I’m completely against that and the same thing with the building?
see you come in and when you guys….I've lived here my whole life, houses aren't falling down, we don’t need all those building codes that you brought in, and they cost probably $10,000-$15,000 on top of our home. Just for you extra additions.

**Commissioner Curtiss:** It's more like $1,500 - $10,000 is exaggerating.

**Teresa Cahoon:** No, you’re dead wrong. Have you tried the contractors? They add extra money for all your things that you add, so it is about $10,000-$15,000. I build houses on the side. I’m not interested in more rules and more stuff from you and then 10 years down the road you add some more stuff and it’s already this thick if you read it, it’s very confusing. So in my mind, my suggestion is take a copy of our covenants, put it in your file and shut the drawer and leave us alone. (Outburst from crowd – cheering)

**Chair Landquist:** No, please, I’ll clear this room right now. That's the first and last outburst were gonna have. I asked you and warned you from the beginning. We’re not going to feed fuel to everybody with yah or nay whether you agree with them or not. Please let that be the last outburst whether you agree or disagree, it’s just not fair to someone that might want to speak the other way.

**Larry Anderson:** I'm a home owner on the Double Arrow. I’d just like to echo what some of the previous folks have stated and I'll let you know my position on this when I’m done with my comments. I agree with a lot of the land use planning that has gone here and I realize the staff has done a very difficult job and extensive job of this working on this project. But I also recognize this subdivision was originally platted back in the 70’s and the covenants have been updated and it’s worked well for over 40 years. It's a very active home owners association and while I may not agree with all their decisions, I think they are committed to making the Double Arrow Ranch a quality subdivision that addresses the needs of the rules and regulations and also their neighbors. In this zoning, in this particular project appears to be a solution to a problem that doesn’t exist. I would like the staff here to list examples of what specific solutions are being proposed in this zoning request that are not addressed in the home owners covenants and the way the board deals with those situations. I would like to have them do that this evening so we could all hear what specific problems are being corrected by this zoning designation tonight. I would also like to give the Home Owners Association representative a chance to respond to address those situations as well. If this is an improvement over to what the Home Owners Association is doing to the subdivision then I’m whole heartedly in support of it but if it’s just another rule and regulation and somebody checking something off their to-do list, then I’m opposed to it. And I would like the Commissioners not to make a final decision tonight; I think that’s a recommendation of the planning board and other folks that have spoken. I’ve just completed a construction project on a garage that I built; I had to comply with the Missoula County Building codes, which added to the cost of the project. When I put in my drainfield I had to comply with State and local water quality requirements. I had to comply with plumbing codes, electrical codes and all the other codes so I don’t think there’s a lot of substandard building going on in this particular area. I would much rather work neighbor to neighbor to do something they asked me to do or not do something I proposed to do because they have to live with the same situations. And with all due respect I would rather have that neighbor to neighbor exchange then have any etiquette come down from the Commissioners and just to comply with a letter of the law. I think the HOA can do that and I think that if there’s some way to designate this as a special district that would not be zoned because it's capable of handling its own affairs until there’s some overwhelming
situation developed that would require the county to step in to enforce those rules, then I think that we should be left to our own devises. I think they've done a good job, I’m proud to be a land owner here. I’m also concerned about…I’ve taken advantage of Grants to create defensible space around my property, that was in conjunction with foresters that knew what they were doing and folks from the DNRC that were in compliance and I’m afraid that new rules will come out and create more restrictions in what I’ve already placed on my own and I don’t like the idea of creating non-compliant lots.

John Strimford: I live on Double Arrow; I’ve lived there for 12 years now. I the statements I have are based on what Mitch Doherty had to say. Fire mitigation and defensible space, I looked into that myself this year, had a local logger come and review it, and gave me a bid. The Clearwater Resources Council, they would basically cover ½ - half for me was $2,500. I’m unfortunately now on disability and that’s my monthly payment. My wife and I have been working hard on our property to make it defensible as best we can. The cost of underground propane tanks, not sure if anybody’s looked into that have they? I used to work for two propane companies here locally and then I had my own heating and repair business until my health wouldn’t let me do it. The rule of thumb was 10 feet from any structure with a propane tank, above ground. Underground tanks, you can’t just take that same tank and stick it in the ground, it takes an entirely different tank with different filling apparatuses. It also has to be coated with a tar material to be put in the ground it has to have anecdote on it. I’d like to know how many of those tanks get checked each year, guarantee you none of them do. That’s something to consider. I’m against the zoning because first of all when it first came about, it sent my head spinning because I couldn’t understand it all. Put it in plain English so I can understand it. We’ve all gotten along quite well over the years, taking care of our properties, taking care of our homes properly according to our land owners association. Why do we need to change all this now? One last thing – understanding of the zoning and why do we really need it.

Chair Landquist: I might add that Missoula County didn’t initiate the zoning process, they were asked by the board of your HOA. We are just acting on the request.

William Cruce and my wife Roberta: I’m sure that name rings a bell to 99% of the people in here because we have written letters to every board involved, put letters, editorials into the pathfinder as well. Let me just start out by saying; we are in total disagreement to this proposal…we want it killed. We appreciate the position that you Commissioners are in and that you only did what our Board asked you to do. We feel that the board has error, even to the point of breaking Montana State Law by not giving adequate notice to the land owners of what all this would involve. Now let me speak to you in terms of how this is going to affect us and why we are in such disagreemen against this thing. We bought in late July of last year and we’re from Missoula so we are very aware of all the neighborhoods and the communities like the back of our hand. We looked at hundreds of homes. I lived in the upper Rattlesnake for years; this is not the upper Rattlesnake. The Double Arrow Ranch is a heavily, let me emphasize, a heavily wooded forest. The land owners do not realize what the present draft in this present form right now is going to do to your timber – you’re going to lose half of it! Do I know what I’m talking about? Yes, I talked to a board member who said absolutely Mr. Cruce you’re reading it right. Half of the trees on the Double Arrow Ranch mature, healthy, green trees would have to be cut in order to come into compliance with this ridiculous draft in its present form. In addition to that; wild grasses, wild flowers are gonna have to be mowed down to the
extent to where they won’t be able to reseed, is that what you people want? If that isn’t bad enough, this propane tank stuff we’ve been talking about – we have another home in Mesa, Arizona we leave in the winter time. Think about that for a moment, here’s our tank buried in the ground, 5 feet of snow on the ground and here comes our gas supplier, he doesn’t even know what a tank is, let alone where the fuel thing is. So our house is going to freeze up while we’re in Mesa because he can’t keep propane in it to keep our boiler going.

Commissioner Curtiss: Now you realize we just said they don’t have to be buried?

William Cruce: Yes but that’s now. Here’s something else you people aren’t considering; once this thing gets out of the HOA and gets into an outside commission that has control over our 3,000 acres, they can change the rules any time they want to.

Commissioner Curtiss: No, that’s not true.

Chair Landquist: No without a major process. You already said you’re totally against it.

William Cruce: Let me say one last thing; this is after speaking to lawyers that are also owners on the Double Arrow Ranch, if this thing goes through, I assure you law suits are going to be filed.

Larry Krueger: I live on the Double Arrow Ranch. The first time I heard about this change to the zoning is when I received a letter from the County, which I really appreciate. Otherwise, I didn’t hear anything about it; it was totally a void to me. A lot of us aren’t public speakers and I’m one of them, I get a little nervous. I would like to see the people that don’t have computers or able to come up here and speak, to have a vote at the door when we leave to show exactly how many people want it and don’t want it. I don’t want it, I want it thrown out because it’s just nonsense. I bought my land to live in the country, not in the city. To be mowing 2 acres of property is an awful lot of property to be mowing. I’ve said what I wanted to say so I’d like to see a proper vote taken so that people can…or the board can really see what is going on and how many people really want it.

John Meyer: My wife and I are absolutely totally against this. My wife and I purchased our home at the end of 2010 and although not perfect, had all the potential to become the dream retirement home with creek frontage, golf course nearby, lodge and restaurant within walking distance and yes lots of beautiful established shade trees; trees that shade our home in the summer and protect it in the winter. We have worked nonstop fixing those things that needed fixing and preparing the home for the day we retire full-time in Seeley. When we purchased our home, we spent a great deal of time reviewing the covenants and asking questions that would specifically would affect our plans for the future. We felt satisfied that not only were the covenants fair but we had the protection of the voting rights of other Double Arrow land owners and that any issue that may affect our future plans would be in the common sense hands of many. We are very disillusioned by the fact that this appears to not be the case and that we really don’t have a vote on an issue that drastically changes our plans and literally ruins the character of our home and takes the shine off our dream. We have gone from being in love with our community here in Seeley to wondering if we made a huge mistake in choosing Missoula County as a place we retire. We anticipate a drastic reduction in the value of our home if these restrictions pass and
know that trying to sell is going to be tough, if not impossible. As prospective buyers looking for a semi-rural property like ours are not going to choose one that has more restricted requirements that are found in many Montana cities. We feel the proposed zoning requirements are not only unreasonable but are ultimately damaging to the area. We respectfully request that a final decision be delayed and that those residents affected would be allowed to participate in the process and decisions of these rules and regulations that will immediately affect their homes, lives and financial well-being.

Joyce Stocking: Homeowner and lot owner on Double Arrow Ranch, I bought the first lot in 1995 and I purchased a home in 2011. I purchased both pieces of property because I was very happy with the covenants and the rules of building, fire protection and I felt even more-so in 2012. Then all of a sudden on the telephone pole appears zoning – my ears go up and I to tried to wade through the website; the Commissioners website and the County website. I think I'm fairly intelligent but I got nowhere. As it stands now, I'm absolutely against this zoning and I'm very comfortable with the regulations of the Double Arrow Landowners Association as we stand, we've had no problems with them.

Gene Schade: I'm a land owner and I live on Double Arrow. I'm against the zoning as it is written and presented. Originally we were told that the land owners would be able to vote on it - that changed. Now it's presented to three people to vote on our future. We never received me personally and my wife never received the May 17th letter. What I'd like to know, if this zoning goes through, who will enforce this zoning? And how will that enforcement be paid for? Does this mean you're going to raise our taxes to enforce the zoning you're presenting to us? The land owners need more time so I ask you not to approve the zoning tonight.

David Richardson: I'm a land owner at Double Arrow. I've never been informed of any of this, I live out of State. The first I've heard of this was just yesterday when my family and I flew in for a few days. I'm a little bit lost and behind with what's been going on. I've been presented with some documents showing some of the anticipated costs for following through on this, especially what concerns me is with...as I'm reading this some of the larger lot owners that my cost could be upwards to $75,000 to go through this permitting process. I understand the predicament you folks are in and I greatly appreciate you coming here tonight for us. I ask first and foremost, I bought this property because of the Double Arrow Ranch Landowners Association and that being the land owners setting our own rules and regulations that concerns us. I respectively submit to the committee tonight that you give us time to re-evaluate our current chair people of the DARLOA and give us opportunity to vote them out or make changes and make agreements of how we want to go forward with this. I'm seeing this today, I'm being railroaded into spending a great deal of money and it certainly will affect my decision whether I wish to continue on and build on this property. If this follows through and as I see this coming forward with these high costs, I want to sell and move outside of this area. Second question I had; there was a brief discussion earlier about anticipated costs; I believe you had stated a number what you thought all this permitting would cost us?

Commissioner Curtiss: I guess I need to know what permit you're talking about; to build a house?
David Richardson: Everything that's involved within these rules and regulations that we're fixing to set forth here.

Commissioner Curtiss: I was only referring to the average cost to build a house. That would be building code fees.

David Richardson: So to meet all these requirements you’re anticipating….

Commissioner Curtiss: So you’re talking about if you have a larger piece of property and if you did the fuel mitigation, is that what you’re talking about?

David Richardson: Everything that I've seen written in here as far as drainage compliance, fire retardant, fire retardant plants.

Commissioner Curtiss: I'd be interested to see what you have because we have the same letter you have.

David Richardson: This was submitted to you already by Scott Kennedy. I ask that you grant us time because so many of us have not even heard of this yet. I was just aware of this yesterday when I flew in. I ask that you give us time to revisit our landowners association, give us opportunity to make our decisions how we wish to go forward and not burden you with this process. Let us take care of this, give us a year’s time or so be it to rectify this.

JoAnne Wallenburn: My husband and I are full-time residents in Double Arrow, we also own a second lot. I'd like to say that we're here tonight because following the land use plan of 2010 enough people were afraid of what you three or your successors could do to us in the next land use plan and that they decided it was better to deal with the devil you know, which is zoning rather than the one you don’t know which is what happens in the land use plan 10 years from now. Based on that the DARLOA Board, I will acknowledge, did request the zoning. However, I believe they exceeded their scope of authority as a board of a non-profit corporation. They neither informed nor consulted the land owners when they did so and evidence of this from the time the land use plan was approved until the spring of 2013 not a single word about the zoning appeared in our primary means of communications, which is a newsletter that goes from the association to the members. In reading the rules about the zoning process, everybody knows me, I'm all about the rules. You're supposed to consider the special characteristics of the Double Arrow and what I haven't heard much of tonight is the lands that exceed 25%. Primarily and these are not my lands down low, these are the ones that are up high, they're the ones that the only reason people would buy them and want to build them and endure a 30 minutes on unfinished roads is to have the view. So I really have a problem with the restrictions in there about building on slopes greater than 25%. I asked Mitch to prepare for you a blow up of the map of steep slopes so that you can see that nearly all of Double Arrow is greater than 25% slope. I am on the Fire Safety Committee; I'm also the local Grant Administration for fire fuel mitigation grants. I can tell you the fire plan was recently completely and while it shows that there's still over 50% of lands that need fire fuel mitigation in the Double Arrow we have completed mitigation on over 2/3, of the 1/3 that's left we have about 1/3 of those in the quad with waiting applications and we have grant money to do them. We don't need anybody to tell us to do fire fuel mitigation but I will
agree with the gentleman that spoke earlier, the standards that are being followed for the
fire fuel mitigation grants are not as restrictive as the ones that are in place. So all the lots
that have already been done were done to a lessor standard then what’s in place in this
zoning thing. My other concern is enforcement; I asked about getting some language in
this plan about the common areas and their permitted use. I was told that that really
belongs in the subdivision regulations, so I asked who’s responsible for enforcing those?
Well, the County. Well when we went to the County with problems with the use of the
common areas, we were told we had to sue ourselves, we had to sue DARLOA. I don’t
see where adding another layer of legal rules on top is gonna stop us. Last, we have an
ongoing election, ballots are mailing in the next two weeks. Three of the seven are gonna
be turning over, I would wait until we have a new board and have a chance to regroup as
an association.

Kevin Wetherell: Land Owner and Real Estate Broker. I sold property in the Double
Arrow for nearly 20 years. I’m against the zoning. I’m not in favor of it, even as amended.
I became aware of this process, I live here, I sell real estate here and I became aware of
this on May 17th. DARLOA is functioning well currently to maintain positive qualities, the
visual qualities and the esthetics. And the quality of life has been well preserve by the
DARLOA Association. In the process of showing properties through Double Arrow over
the years, everyone…and many of you had this same response as we looked through that
it’s a very nice subdivision, it’s well kept, the esthetics, the quality, the wildlife, the trees,
the water, that’s what everybody’s here for. A lot of them purchased here to live in the
forest, not in a landing strip, or not in a wheat field. I’m concerned because there’s…I
believe there’s a substantial negative impact on valuations and desirability’s of these
properties, if this goes through. Cost of construction will increase dramatically by the new
requirements. You would need a vegetation management plan, can you image? You’ll
also need a Missoula County building permit, a well permit, a zoning compliance permit.

Chair Landquist: You need those anyway right now.

Kevin Wetherell: No you don’t.

Chair Landquist: Yes you do.

Kevin Wetherell: You need a zoning compliance permit? And a vegetation management
plan?

Commissioner Curtiss: If it’s not zoned, it’s a land use permit.

Kevin Wetherell: You don’t need a vegetation management plan.

Commissioner Curtiss: Unless you subdivide

Kevin Wetherell: We’re not subdividing. You need a DARLOA Application. And the
possibility is there for the need to require sloping engineering. There’s a letter on the
record I believe that discusses that. Those numbers get big really quick and we all know
from experience with county agencies, they’re not accommodating. Everybody says; “oh
you’re grandfather, it’s all alright.” It’s all alright until you need to apply for it and then it’s a
problem. I think the Double Arrow landowners are in a better position to understand their
lands and be respectful of their lands as it stands. Everyone knows, everyone understands, everyone’s respectful – you can see that when you drive through Double Arrow. Everyone says; boy this is a nice place and they tour around other towns, check out other subdivisions and they come back here and buy because you guys have something of value, it desirable. My understanding is part of this was to do away with non-conforming lots and non-conforming uses. This process actually creates a lot of non-conformance. There are a lot of homes right now that are desirable looking homes that exceed the height limitation. There are homes that are within the setbacks of the riparian and so forth. I urge you to do away with the zoning. Let’s do away with this thought and let’s let the Double Arrow Landowners run this process and continue to run the ranches they have.

Scott Kennedy: I have several properties on Double Arrow Ranch. I am against the zoning as it stands, I am not for it. You have my letters of record, I’ve got two letters so I won’t address those but I’d like to address the membership here. Some of the items of expenses that will be required on your new lots; Typographical mapping and I want staff to take these into consideration and correct me if I’m wrong so that we can get clarity. Grading and drainage plans on the steeper lots and those longer driveway roads - driveway road engineering, on slopes that are greater than 25%. The vegetation management plan, I think that was discussed. You’ll have to have a fire approval plan from the county, a lot of the lots that have been cleared already do not comply with what is gonna be enforced. You’ll have additional specific permits, variances, non-conforming issues; you’ll have to deal with all that with the county engineers and staff. I’m not sure what you’ll have to do with DEQ for compliance on non-conforming lots. A lot of these setbacks are gonna effect where you put septic tanks. Wells – I have one lot in particular that it will effect. The houses on the rivers and streams, 100 foot setbacks, this is taking away your value – this is why they bought these lots. I’m also a real estate broker; I’ve been selling it for 25 years. The construction – that’s just the construction cost prior and I’m estimating between 20,000 & 70,000; 20,000 on a simple lot. You’re still gonna have to have a topo as I read it, those are 3,000-5,000, on the steeper lots they’re 10,000 and there’s a letter from PCI that addresses that issue. And whatever other compliances and where your house is located, where you well is located, everything is gonna have to be mapped out. That’s why I oppose it right now, not just for myself but for the home owners.

Larry Thompson: My wife Sandy and I have been associated with the Double Arrow since 1977 and we’re both opposed to the zoning plan. Our current status is retired and are full-time ranch resident. We have selected the Double Arrow for our permanent home so that we can live in the forest; obviously we are aware in except the risks that are associated with such a location. The issue of zoning has caused a great deal of concern, as you’ve seen tonight, by not only me but many, many of the current land owners. Some aspects of your proposal may have merit but the extreme and mandatory fire mitigation requirements are completely out of line and must be removed from the proposal. And as much as the DARLOA board has elected to proceed with the zoning concept for little or no timely communication with the land owners, that they are supposed to be representing. I feel at a minimum any final decision should be delayed until the board has a good understanding of what the owners want. A voting process is the obvious way to go.

Jim Normark: I’m on the terrible DARLOA Board of Directors; I was also Chair of the Fire Safety Committee until last week. I’m going to speak as a land owner this evening. I’m
gonna reference some of the things from the Board. First, I’m gonna say that the Board initiated the zoning effort in an effort to adopt the land use plan for the three rural zoning district designation to ensure that we don’t have to go through this land use plan and risk having even more of our lots non-conforming when the next some-what arbitrary process goes through. That was the primary reason that we approached the County and we’ve had a very good working relations with Rural Initiatives, now Community and Planning Services and I’d like to thank them for their help. Second, I’d like to address the notification. I think the record pretty well speaks for itself; you have nine pages of excerpts from various DARLOA minutes, newsletters and other types of communication that go out to our land owners. Since 2010 we can’t make people read what’s going on but it seems to me that common sense would say that if you own a piece of property, you’d want to take care of it and understand what’s going on with the board that you elected to represent you. We certainly would of welcomed any input; we had 23 people at our last board meeting, I think if we added up all the board meetings in the last three years we wouldn’t of had that many people in total in all of those. That said, the board did provide you a letter dated July 11, 2013. As the zoning document stands now, the board does not recommend adoption of it as written now. We did send some recommendations for you to consider, to make changes that we believe would be acceptable. We also ask that you delay your vote from this evening to give some time for you to take home the public comment, think about it a bit and allow for even more folks to write in or whatever they want to do. We need to do this right. We know from the land use planning process, we had to fight tooth and nail to get where we are today and we would like to certainly keep that because I do believe that part protects the land owners. The parts that we recommended to take out primarily are the things that we’ve heard objections to tonight. The board asks these to be taken out. A lot of the stuff under the WUI regulations and particularly let the existing Missoula County building standards and codes be the driving force that we already have. Health and sanitation already takes care of the septic piece. There are other agencies that are already doing some of this; in addition, I’d like to make the comment too that even if this zoning goes through it does not affect our ability to enforce our covenants. It will not allow anybody to subdivide their lots into smaller portions because that’s prohibited by our covenants and those still stand. In summary, I thank you for the effort, I thank you for coming here tonight. I hope that we can get some constructive comments other than we don’t like it, let’s get a solution rather than just throw the baby out with the bath water.

Mike Haley: I’m opposed to the zoning. I’m a year-long resident up there as well. I’m not well informed; I guess I’m one of the complacent ones by choice haven’t been that informed, I commute and work in Missoula and come and do what I do. I clean my lot and stuff like that, I thought at first this whole zoning the big issue was about fire reduction, which I’m for, I think that makes sense obviously with the fires and do that some myself. With the beetle kill and stuff like that there’s enough trees that die all time, so I just cut down the dead ones and leave the ones that are living and it still thins it out quite a bit so definitely some of the restrictions I was looking at would, like we said earlier, take out far too many of the timber. I burn wood, I’m not opposed to wood but even like the firewood stacks that I have, they would be too close under the restrictions. My house is made out of wood; I keep wood in my house I burn with wood. People that live by the oceans with typhoons, they have inherent risks with water, same like what’s been said here tonight with fires. It’s not gonna….ashes were falling from the Jocko fire over here, the forest goes up and it wants to burn whatever it’s gonna burn. It’s not going to make a difference with the 25 or whatever the distance of footage is, I don’t think. Also I was a little confused as to… it appears to me that most everyone is opposed to it, voicing it, unless we take a vote
to know for sure. It seems like a select few are imposing their expectations of how they want something to look on everyone else and if you...I read just recently some editorials and that's about all the information I have that I gathered. It said that Missoula doesn't come and impose the zoning on anybody unless they are invited so if so many of us seem to be against it, then we're trying to talk you out of doing something we don't want in the first place. That must mean there's just a handful of people, I don't even know who they are or where the board members are and what their stance is, I should know who they are and I don't, I've been here long enough to know but I know who's on the Road Committee and a few of those folks. Also I was going to say that I did come home one evening and Clearwater Resource was up there and they walked up my lot with me and they said it looked good, and that they would pay half if I didn't my own work. That sounded like a win/win for me anyhow. The amount they're offering me – I got twice as much from neighbor to do half as much work. I did less work and got more then what they were...it wasn't a lot of money but it's not a problem because I was planning on doing it anyway. Whether it or not it meets their...when they come back and look at it I don't know but cutting down the dead, like everyone has said that's the sensible thing to do.

Tim Hoag: I have lived on the Double Arrow since 1989, when I bought my property I was okay with the covenants but I'm not okay with anymore rules or restrictions. The Double Arrow has an ACC Committee and a roads committee and a fire safety committee. I think we have a nice place to live and are doing a good job all by ourselves. I don't think we have a zoning problem. My idea of zoning always was either residential or commercial, that was what zoning was where I grew up. You didn't want a mechanic shop next to your house, which nobody on the Double Arrow can do as it is now. We are platted residential subdivision, to go ahead and put these WUI rules in with zoning is not a good idea. We do not have any county maintained roads on the Double Arrow that I'm aware of. We pay our own way on that and many other things, if it's not broke, don't fix it. I'm against the zoning.

Gary Miller: I'm President of First Valley Bank. I'm up here more talking about the financial part of it. There's got to be a feeling of trust and the trust that I'm hearing and that I also witness and saw is not there. The first time...I built my house in Missoula County on Sunlight Lane in Missoula outside in the County; I went through $3,200.00 of fees and had 8 inspections because I built it myself, from top to bottom. When the county came in here and was talking about the building permits and stuff and bringing that in, the dollar amount the individual said was $750.00 and I sat there and stared at him. I've gone through these things, I've been in financing for 35 years, I'm gonna go back to that. Whenever bureaucrats get a hold of something they're gonna simplify it and it turns into this. This is what you have to do now in the banking industry when you do a mortgage loan and it's “simplified” and it adds cost.

Chair Landquist: That's some sort of checklist I take it?

Gary Miller: Oh yeah! Oh yeah! It's a checklist. And it gets very expensive, Title companies raise their costs, banks raise their costs, builders have to raise their costs, everybody builds rates are cost. Now your plan in here, I can see those are called soft costs, you can't add that to a property value. You are looking at anywhere between a minimum of 5, which I doubt to about 25%, depending on the size of the lot and the house. You take 10 people, do the math, how many of those people are going to be out of this picture because they don't have that cash, that soft cash to come up and pay for this stuff
up front? You have FHA, which requires 3% down; a lot of people struggle to make that, well that’s okay. You have the first time home buyer, where you can step in and you get 100%, you have to go to some classes and you might have to put a little money in but you might get a grant. Where are they going to come up with the soft cost because you’re gonna have an appraisal on the house and these soft costs do not increase the value of the property as you heard here. So how many people of that 10 are not going to qualify? Now you look at people that come here and do have the money and they’re looking at plains, where they don’t have to go through that high of a soft cost charge vs. here where you have a very high soft cost charge. Where are they going to go? The thing that confuses me as you as bureaucrats of Missoula County is, I went to a seminar in Big Sky, we don’t have any industry growing in this town, administrative we do, this came from Mr. Burke. We’re not growing here; one place you can grow is in taxation, where do you get the taxation? (Property taxes) Where do you get property tax? People build houses but if you’re going to stop 3 to 4 of those people out of that, I don’t know where Missoula County’s gonna go.

Kurt Glidewinn: My wife and I are here tonight, we live up in the Double Arrow, we bought property 10 years ago up there. When we signed up to buy the property, there was some regulations, we had no problems, we understood them and we love our home. I am against the zoning but I have a question, I’m curious. How many people in here tonight are against the zoning?

Chair Landquist: Are you going to take away my thunder? I have a bunch of questions I want to ask everybody. Put your hands down, I don’t want to see yet.

Kurt Glidewinn: Here’s my question; if you decide to rezone the Double Arrow are you doing that because you want to? Or are you doing it because the majority of the land owners want you to?

Commissioner Curtiss: Well the majority isn’t here. If you have 700 lots, they’re not all here.

Chair Landquist: That’s a good question but I would have to agree with Jean. I went and asked staff a question earlier, did we have a sign in sheet and he said yes. So hopefully everybody that’s here signed in, if not please pass the sheet around and sign in.

Kurt Glidewinn: You spoke earlier that tonight you might make a decision. How can you make a decision when the majority of the land owners DO NOT want this zoning? They do not! And until there is a sheet with every land owners name on it and their check alongside of the yes or no, I don’t believe you can make a good decision. And here’s the problem; if you do decide and the majority is against and I’m saying out of 680 land owners I bet there’s 500 against or more, you’re going to have a tuff time with a lot of people that are gonna be fighting you tooth and nail every step of the way. Real quickly I want to tell you one quick story. This seems to be rushed; I don’t know what the rush is. I will tell you, four years ago I wanted to build a garage and you know, the garage was right up against the property line of my neighbor. I went to the neighbor and I said, you know what, hey guys you know I don’t want to buy anymore real estate and I don’t want to sell any but let’s just take the line and rotate it along its center; I’ll give you 50 feet of mine and I’ll take 50 feet of yours. Well they were in agreement, it was great, no problems. Should have been
a week long session, call a couple people from Missoula, let them come out and do the work that needs to be done, do the math and have the job done - 3 ½ years later and $9,000,000. Up until just recently I had to actually pump both of my neighbors’ septic tanks to get the county of Missoula to finally sign off, and they were still not going to do it. This is Kellogg at PCI. 3 ½ years and $9,000.00 to rotate the property line 50 feet that was it – it was unbelievable. So I gotta tell you what, if that’s what we’re looking at here every time we want to do something, my God this is ridiculous! I’d rather be dealing with my neighbors then the people...do you live here? Do you have our homes here? Probably not, my point exactly! I’ll deal with my neighbors; I really don’t want to deal…with all due respect with you in Missoula. Opposed.

**Chair Landquist:** I think we have one more person or so that what to talk but then I do want to ask some questions of people and do some show of hands type things. I also want to give Mitch the opportunity; I know he’s taken really good notes to address some of the things that he’s heard. Did we get the sign in sheet figured out? Okay so everyone make sure you’re signed in, I want everybody to be accounted for at this meeting.

**Douglas Richards:** Thank you very much for having us here and for you taking your time to come up here. I understand there are a lot of things at stake here. 10 years ago my wife and I decided we wanted to move to Montana and we came to Montana and did a lot of looking around; we went up through the Lolo area and through the Bitterroot, Condon to wherever. We happen to come up here and took one look at this community and said this is where we want to spend the end of our lives. It’s beautiful here; we’ve got a neighborhood of people that stick together, that’s pretty obvious at this point of time. They stick together for good reason, they’re all here for the same reason, they’re here because they live here, they like this place, they want to be here and they got here because it is beautiful and nobody was placing a lot of restrictions on us. The beetles came, we couldn’t fight them, but by God we can fight from here on in, and we will. My point is and I’m not trying to show disrespect to you folks. On the 17th of May you folks sent us out a document and I photo copied it to do a mail out, mail back in. There’s one thing in it that really bothers me and I think that probably most of you have read this and it’s probably put a little chill up your backsides also. It says the zoning regulations must be – you’re aware of this document I’m sure – made in accordance with the growth policy and design to. Okay, a growth policy, secure safety from fire and other dangers, I don’t know what the other dangers are – the bears or whatever. We are and have been and will be dealing with these things, one on one. Everybody in here, I know Kurt right there, he hired the wind to come down and blow all the damn trees away from his property, he lives on a prairie, he used to live in the jungle. The public health, public safety and general welfare and this is the hook; facilitate the adequate provisions of transportation, water, sewage, school, parks and other public requirements, my God can’t we take care of own? I thought we were doing a pretty good job. I see a lot of faces here I see at every ball game, at every football, basketball, baseball, whatever sport is going on and whatever community problems are, these people are part of it. They live here, they fight for it and we love it. We thank you for listening to us and we hope you take our feelings as a whole body into regards when you make your decision. We thank you very much for being here.

**Brian Paige:** Opposed to zoning that you’re proposing. I have put in several comments that hopefully you read already. I did attend the June planning board meeting, made my objections known there that the planning staff and the board did at least adjust some of the
things, some of my objections were slope requirements and those things. So I appreciated 
the board actions to adjust some of those. I wanted to highlight at least two areas in the 
existing comments that I had in the suggested revisions that the staff has put out for you to 
adopt. One of them is in the stacking of firewood, I understand what the desire there is, 
you’re trying to reduce the risk and I do understand as the fire crews come up and they’re 
trying to defend your house, one of the first things they have to do is pitch all that wood out 
as far as they can get it and it takes time to do that. I think something along the lines of 
the dates that were recommended make sense to me, I’m not sure that or any other time a 
fire restriction is in place and my comments went down the line of...if you stack your 
firewood on the 1st of October, closer to your home, and then another fire restriction is put 
in place are you supposed to restack it outside, whatever appropriate distance it has to 
be? And then when the first of the snow start flying you got to bring it back in? It doesn’t 
make sense to me to do that, you’re trying to mitigate risk not eliminate risk, at least I 
would hope that would be the goal of the Commission. So that’s the first part of what I 
wanted to highlight. The second part is Zone D. I have a 10 acre lot, you want me to 
mitigate that entire lot? We’re talking thousands of trees in that area that I’m in. You don’t 
do that, you build a defensible space, a reasonable one, somewhere in around 60-100 feet 
and then you work your way through that over time to thin the rest of your property. 
Otherwise you’re going to have pretty good blow down and as I think a lot of people in the 
first part of June here or in the middle of June can testify, we’re still gonna have blow-down 
here. You need to have those root systems, give them time to develop on what you thin. 
So having us to thin our entire property within 3-5 years, I know Mitch’s recommendation 
or the board’s recommendation is 5 years and the planning staff was 3; if you continue the 
way you’re going down with what you have written. The other thing I wanted to was put 
the Attorney on the stand here to give us an answer. From what I understand with State 
law, if you folks go ahead and approve the zoning tonight or whatever the appropriate 
language is, you put out an intent to adopt these. My understanding is you have to publicly 
post that and as soon as you publicly post that, like in a newspaper, the land owners have 
30 days to respond to that and in that response if they say we don’t want this, if you get 
40% of the land owners. We have 740 some odd land owners, I believe, 40% of those say 
we don’t want this in writing to you whether email or in a letter, you guys have to quit doing 
what you’re doing for a period of one year. So that’s our only, as far as I know, our main 
way of stopping this, if 40% of the land owners don’t want to do this. Is that true?

Chair Landquist: I think that’s correct, isn’t it James?

James McCubbin: That’s basically an accurate summary of the law. I’m trying to pull up 
the right section.

Brian Paige: So all I’m trying to point out is there is a process for the community, the land 
owners to say, we appreciate all the work you’ve done on this and I appreciate all the work 
that the planning staff has done, Mitch and others. I think some of this is a little too far, 
especially for most of the land owners here. I would agree and echo most of the things 
that have been said tonight. I recently heard a six word statement that a lot of Montana’s 
use when they’re native here. Six words - Don’t tell me what to do. So I’m not saying 
that…I understand what you’re trying to do and you’re trying to mitigate risks for us. 
Chair Landquist: My daddy taught me the five P’s, although he used six P’s but I’ll just 
use the five; Prior Planning Prevents Poor Performance.
James McCubbin: For people’s reference, the code section where that provision of law appears is Montana Code Section 76-2-205 and it’s Subsection 6. That is available online on the Montana Legislature website if you go to MT.gov you can search for Montana Code.

Brian Paige: And I did it so I do know it’s possible.

Nancy Braun: Landowner on the Double Arrow Ranch, I love it here. I respectfully thank you for being here and with all due respect for you and all the work that’s gone into this project, I really feel that the Double Arrow has done a wonderful job with the covenants, etc, etc. It seems to me that this zoning was asked for by the board without our approval or knowledge. Again, I know how much work went into this process but is there just a possibility that we could respectively thank you for the work and...

Chair Landquist: Send us on our way?

Nancy Braun: Well you know. I know how much work has gone into this and well intentioned, I think that would be a nice option.

Joe Moore: Land owner and home owner since 2003. I just want to say that I’m opposed totally to the zoning. I think it’s important that we have continuing education and I think the board…I was at that 210 meeting when I was invited to seek some information and get some assistance from Missoula County but I also think continuing education is something we need to do. I don’t think we need to have Missoula County involved in this particular incident here. Giving over that control is just beyond what I moved here for, and what I think most of us are here for, so just voicing my opinion to say I’m against it. I appreciate all your work, I do appreciate that. Obviously we’re all Missoula County residents but enough is enough so thank you.

Chair Landquist: I swear some of you can tell us in the nicest way to go away.

John Richards: I’ve been here since 1971, I was one of the original land owners, I was the project manager that built the Double Arrow Ranch. I’m totally against the zoning and the timeline. I would request the County Commissioners take a vote of the land owners of the Double Arrow Ranch as the board represented they would do when they brought this zoning proposal forward. The Board of Directors doesn’t want it now so there’s something wrong with it. I would like to know who made the recommendations in the draft and who came up with the standards. How many non-conforming houses and lots; these are questions that I would like answered. How many non-conforming houses and lots is this zoning proposal gonna make on the Double Arrow? In the presentation it said that the zoning effects gravel pits. My understanding is that the zoning is for residential, my gravel pit is adjacent to this, I purchased in 1986 at substantial costs and I’ve got much more invested now. The permit for the gravel pit expires in 2060, if I don’t renew it.

Commissioner Curtiss: But your gravel pit is not drawn in that line, right?

John Richards: It’s not drawn in the line but the presentation said it will affect gravel pits and I want to know...

Commissioner Curtiss: No gravel pits within the line.
John Richards: Okay but it said it would affect gravel pits. I want to know how this zoning is going to affect my gravel pit, I'm adjacent.

Commissioner Curtiss: It won't.

John Richards: Then I want that in writing.

Commissioner Curtiss: Gravel pits are only affected in Montana law if they’re within a residentially zoned area. So you’re outside.

John Richards: Okay. Does the County Commissioners have any real cost estimates for the cost to the existing dwelling owners and future dwellings to be built. These cost estimates need to be real so that you guys can base your decision. I believe those costs to implement this zoning to the existing dwelling is going to be in excess of $10,000 per dwelling. And I believe the future dwellings are going to be in excess of $50,000 because of all the regulations that are in there now and I think there’s other that have testified to that too. But I want the County to take some real cost numbers and put them out there.

Chair Landquist: In looking at the cost numbers, John are you talking about the County’s fees? Or other fees?

John Richards: No I’m talking about the cost to these people...the cost of you zoning this to these people - real dollars. A vote of the land owners is what you need to make a decision.

Chair Landquist: Okay.

John Richards: The other thing is how many lots – you have the sign-in sheets, you can determine how many lots are represented by these people here tonight. I would say this is probably the largest gathering of land owners since 1973.

Caroline Humphries: I’m a land owner with my husband Rich and I’m opposed to the zoning. I do have a couple of questions. The first time we really dug into the issues, my question was; how did we get from the DARLOA Board asking for our CC&R’s to be put into some sort of zoning plan to the plan we have today which appears to include significantly more than those CC&R’s currently include? That’s one of my questions. Secondly, I thought that I heard from Mitch that the recommendations to the Commission are in your documents but some of things I thought I heard him say based on the slide presentation, I didn’t actually find in the document that we all had access to this evening. Is there another document with additional changes that you’re recommending?

Mitch Doherty: Sure. So the way the process worked was we started with a May 3rd draft that was included in the link that was sent to the property owners, that was the first draft. We took that to planning board, planning board made recommendations based on that draft. After planning boards meeting the June 18th draft was released and that included an underlined strike-out with planning board’s recommendations.

Caroline Humphries: Is that what we have on the back table?
Mitch Doherty: I can't see from here, looks like it probably is. If you look at the footer there, does it say 6/18?

Caroline Humphries: It says 6/18 planning board recommendation.

Mitch Doherty: Okay, so that's the planning board’s recommendation to the County Commissioners. Since that time staff has looked at those recommendations, looked at public comments that we received, had many conversations with folks on the phone and via email and come out with further staffs suggested revisions to that document. That is Attachment E which was also located back there this evening and is included in the Request for Commission Action that's on our website.

Caroline Humphries: Okay and that's the one dated July 8th?

Mitch Doherty: Yes.

Caroline Humphries: And that's the latest one?

Mitch Doherty: Yes.

Caroline Humphries: Okay but I thought I saw on a slide that you eliminated Zone D?

Mitch Doherty: That was a slide that I was presenting what we were hearing for comments from the public. We were receiving comments that folks wanted to see Zone D removed. So it wasn't a suggestion from staff to the Commissioners that was what I was presenting the Commissioners of what we have been hearing from the public.

Caroline Doherty: It was just a little confusing because you had a lot of really great information but it went by so fast it was like...I’m sure a lot of other people might of misunderstood some of the great information that you did provide. But thank you and thanks a lot for coming up here.

Chair Landquist: If you're standing there to speak – you already spoke and I’m not giving people a second chance. If I give you 10 seconds, I have to give everybody else 10 seconds. No.

David Wallenburn: I live on the Double Arrow, I have two lots adjacent to each other and I have a house on one of those lots. We all know that the Montana Legislature has directed that the Counties develop a land use plan, that’s in that 76-2 that the Deputy Attorney mentioned earlier. It doesn’t really say anything in there that that needs to be followed on by zoning requirements, so there’s nothing that really says that specifically has to be done, at least that I can find in that statute. DARLOA was setup in the 1970’s, as we’ve heard earlier. It is a very active HOA for the people that live here you know that, for the people that just come in the summer time and have property here, you know that. For an example, contrasting example, I would invite you to drive down to George Town Lake Estates and see what kind of mess that place is in, that's the other extreme if you don’t have an active HOA. I forgot to say at the beginning I am opposed to this, it may not sound like it at times but I am opposed to the zoning. So we have an active HOA,
contained within that we have covenants that have been around for a long, long time. No chickens, no signs, no doorbells, I'm making that last one up okay. You can have a doorbell. County and State Codes, we all have to comply with. There's the county subdivision rules that are on top of that and DARLOA has very active committees, I've served on some of them. We've got the Fire Safety Committee, we've heard about the Roads Committee. The ACC Committee, which are the chicken people, they're the ones that are responsible for making sure that you don't have chickens. So my point is, we have a very active organization and we've got committees that are involved in that. And I'll get to my offering of a solution here in just a moment but I would like to point out to some of the people that may not necessarily live in DARLOA that that same Montana Code 76-2, where they had to send out the notice of a 300 foot boundary, that area can be encroached upon and continue to expand. So I would just ask you, if you don't live in DARLOA but you live adjacent to it, seriously consider what's going to happen here if zoning comes in to one place into Seeley Lake here. It's inevitable that taxes are gonna rise, license fees are gonna rise, all that, we all live with that. If it's gonna come to this that someday zoning is gonna be setup in here, what I would ask first is that work with the HOA and the committees to let them strengthen what we're working with right now so we're self-monitoring our self and we're not relying on outside entities and information. Then to follow on to that is that we don't need to be in a hurry for this, I would just recommend that we wait or that you wait, allow the proper time for the input and everything. Again, we know taxes are going to rise, license fees are gonna rise, but we're not going to vote for that today, we just know what's going to happen in the future. I'm not exactly sure what's driving this but I would just ask that we kind of throttle back here just a little bit and give it some more time so that we get input from all of the citizens, both on the ranch and in the surrounding community.

Commissioner Curtiss: Just to clarify, one of the reasons we decided to try and have a meeting this time of year is because many of your folks are only here in the summer.

David Wallenburn: That's good, I appreciate that.

Mike Barcee: I live on the ranch, we bought in 1985, my wife JoAnn and I. We are very much opposed to this zoning. In that time we have had our lot thinned twice. We're in between 38 and 42 truckloads off of our place. We're not in compliance with your regulations and we will never be in compliance. I thin as trees die. If you keep your thinning process the way you are, I personally have had five blow-downs this year. And I've taken close to 42 truckloads off. I only have 7 1/2 acres; a lot of people have more. Therefore, I think you should take that into consideration. I also went through the forest stewardship program, my lot is a tree farm, I finished that course, they approve my lot and I've taken more trees out since then…10 truckloads. In my way of thinking, this is just...we didn't move here until 2003 but I had it thinned twice, professionally. This is something that's going a little overboard. There's a lot of people that own here that don't live here. I have a friend that owns here and is in Chattanooga Tennessee, he doesn't know what the heck is going on, he didn't hear about it at all, I emailed him and he said; what's up?

Chair Landquist: Did he really say “what’s up?”

Mike Barcee: Yes. He's quite a Christian boy.
Chair Landquist: How is he managing, how is he...just one example of an out-of-state landowner, how is he managing his property? Are you doing it for him?

Mike Barcee: No, he's got a property management group. Now one of the other things that I wanted to say was since these people are...a lot of them are out-of-state that aren't getting information, I don't care what the Board says. I've tried to get information and it's not there. You get on the website and things are deleted and everything's missing all of a sudden or whatever. But as far as I'm concerned this is part of the Crown Jewel of the Continent and you're trying to take the jewels out of the crown.

Chair Landquist: That's not our intent Mike, but we're listening to you guys.

Don Dunagan: My wife and I moved up from Washington State a couple years ago and bought in Double Arrow. This is a community we were looking for; a quiet, small laid back community where everybody was friendly with everybody and it's been working out great. We've been putting a lot of improvements on our property and trying to make it as nice as we could. This kind of took me by surprise I gotta say and I'm just wondering a couple of things. Looking around at everybody and listening, it sounds like everybody is here not because they want this; it's more because they don't want it. Now what I'm wondering about, if we have a vote and everybody says they don't want it, can we still get railroaded into this? And if we do, won't there be a big can of worms open and maybe a lot of lawsuits filed?

Commissioner Curtiss: If the Commission voted to pass the Resolution of Intent to zone as Mr. McCubbin just stated, you all...everyone who owns a lot would have a right to protest. If you protested that would be – if 40% protest that's the end of it.

Don Dunagan: Thank you.

Commissioner Curtiss: We don't come back because people...if we hear that people don't want zoning, we don't come back in a year, believe me. We're here because we were told you wanted it.

Virginia Reilly: My husband and I have lived on Double Arrow since 2000. We own a second lot also so that makes us two votes, if we get to actually vote on this. I'm totally against this; I don't want to see more restrictions. It's almost like it's not broken, why should we have to fix it? We've got the best roads I've seen in the 13 years we've been here. Every one of our neighbors, with one exception who lives in California and won't talk to me, has done mitigation as far as fires. We've even offered to buy their lot; they won't sell it to us so we've got a disaster of a lot. What would you do with that? If you get the zoning through is someone going to come out and say okay, this has to be cleared up? We've tried for 13 years to get it cleared up; I don't think you're going to have any better luck than that.

Commissioner Curtiss: Mr. McCubbin could address what our authority would be if it was zoned and someone didn't comply.

Chair Landquist: And you tried through the HOA?
Virginia Reilly: The HOA, when we got a grant to clear our lot the first time, we tried with them. When we cleared our lot the second time we did it and then the beetles helped us really well the third time. And I think it should be noted that there are more of us in here that own more than one lot. So there are probably a lot more homeowners that are represented here.

Chair Landquist: Thank you that’s a good point. So out of curiosity, everybody that’s here owns at least one lot in Double Arrow, right? Raise your hand.

Audience: No, there are a lot of community members here.

Chair Landquist: Okay so raise your hands if you’re actually a lot owner, just a single lot owner. Okay, raise your hands if you own more than one lot. Now, those of you that own lots – lot or lots and are against zoning, would you be against zoning no matter where you lived? Is that one of the big pieces of the puzzle that you bought, was no zoning? Okay, so it’s not like you’re against “zoning”, you’re against this particular zoning, at this particular time. Does the WUI thing have a big part to do with it? I heard that really loud and clear tonight. So if WUI was a big, big piece of this, the wild land urban interfacing, the fire code.

Commissioner Curtiss: Fire mitigation stuff.

Chair Landquist: Fire mitigation stuff – raise your hands if that was a big piece that went against your… Is it because of the cost that you heard the information about…cost? Is it because you feel like you weren’t informed enough along the way? Okay, all of the above so far.

Commissioner Curtiss: I wanted to know – how many of you were involved in the land use plan in 2010? 2006-2010. Because what we heard loud and strong in that conversation was; the Double Arrow Land Owners Association (DARLOA) was very concerned about how do you continue…not have us impose something that didn’t match your covenants because there was one point and time where there was some land use that would have been a little more dense, so we did follow your covenants for density and this does too.

Chair Landquist: I’m also curious, there are some folks here that aren’t part of the Double Arrow but are here as local citizens, can you give me some idea why you’re here? Are you just fearful? You’ll have to come to the mic.

Nathan Bourne: I’m a land owner in Missoula County. One of my concerns is what does the County intend to zone? Do you guys see the County coming along and zoning land in the valley?

Chair Landquist: The whole county?
Nathan Bourne: The whole county. There’s two ways this zoning comes about, correct? County initiated and land owner initiated.

Commissioner Curtiss: There’s actually three – there’s also another piece that’s called citizen initiated which is what’s happen like around Lake Inez, Lake Placid.

Nathan Bourne: Isn’t that land owner?

Commissioner Curtiss: But this one is land owner initiated from DARLOA.

Nathan Bourne: Okay, so part of the land owner initiated zoning is that the land owners vote on this. What my concern is; this went from a land owner and you can read in the meeting minutes that the DARLOA posted on comments, this went from a land owner, land owner, land owner, land owner, we’re gonna get to vote on this, we’re gonna get to vote on this, we’re gonna get to vote on this to a County initiated and that’s when you started involving the County and the County is putting money into this. All of these concerns should be taken care of if you would follow the citizens initiated zoning. The citizens get together and come up with what they want, they come to you and they say we’ve got a petition signed with 60% of our land owners; we would like to be zoned. That’s basically a rubber stamp meeting for you guys because if you’ve got the support of the land owners, then it doesn’t become this people saying they weren’t informed. So as a solution for you guys; I would recommend that you take this out of county initiated and put it back to land owner initiated. I don’t care if Double Arrow wants to zone, that doesn’t bother me at all, if they want to have it up there. Where it starts to concern me is where the county starts incurring costs; there’s enforcement cost, there’s cost to the county. That’s my tax dollars, so that’s when it becomes a public issue. The land owners should have this put together and your consideration should be; what is the cost to county? What is the cost to the rest of us tax payers for this? And work that out with the land owners. So again, I would suggest you put this back as a land owners, charge them the fee that’s associate with that and have them go through the process of getting their land owners to sign petitions and come back to you with something that you guys can’t possibly be able to go through all the details in one meeting and line things out and correct things and vote on this and say yes, this is how we’re going to do it. That’s something that should have been done and the land owners should have been involved in that. So that’s from a community members stand point, that’s where I’m coming from.

Chair Landquist: That’s nice, you’re on the outside looking in, so to speak. I appreciate that Nathan.

Commissioner Curtiss: Just to be clear though. The zoning still has to meet the Missoula County Zoning Resolutions, which say that you have to address certain things, it can’t just be; we don’t want any bears on the street on Tuesdays. It has to address the public health and safety, the fire issues, overcrowding of land, providing for roads. That is required when you do zoning; it has to address those issues.

Chair Landquist: I think what she’s trying to say is even citizen initiated zoning isn’t just that black & white, there’s certain criteria have to be met.

Nathan Bourne: But that is met by the land owner, that’s not met by the county. They should have that worked out when they bring it to the county and present it and say this is
what we’re intending to do. That should already be addressed and they should already have 60% of their land owners behind that plan so that you guys don’t have to sit up here and listen to people arguing about line items in the plan. It should simply be we support it because we do or not, not a do we want to bury propane tanks. That’s not really…that should all be settled better.

Chair Landquist: I really want to get to James to answer a question and I want to get to staff.

Klaus von Stutterheim: I’m here part of the community and a member of the Community Council – you asked why the rest of us were here. The reason why I’m here is because when I first heard about this, I heard one person saying well we weren’t really consulted and I thought well there’s always one who doesn’t pay attention but it became obvious to me as I heard this over and over again that there’s a very large section of the people that live in DARLOA who feel that they have not been consulted. Now the board’s protestation, not to the contrary, maybe they’ve done everything they could but it’s clear that a lot of their constituents feel eliminated or excluded from the process. Whether they should have been paying more attention I think is irrelevant because this is not some trivial thing about a color of a street sign, this is a very profound change in perhaps the value of their property, the way their property looks and it seems to me that given the fact that many of them feel disenfranchised, I don’t see how you could, with due respect etc. and a member of the council who’s supposed to advise you on stuff, I don’t see how you could possible approve the zoning plan tonight, that’s the reason I’m here.

Chair Landquist: How many of you are here tonight that live here full-time? Residents of DARLOA, sorry. How many of you live here seasonally, or come visit seasonally? Could you come up to the mic then, I want to ask a couple questions. I don’t want to put you on the spot but I want to know how you’re getting your communications and how we’re missing people. Do you get your tax bills?

Commissioner Curtiss: Sometimes the tax bills go to the financial institutions rather than your home.

Tammy Gladwinn: My husband Kirk was up here speaking. Our main residency is in Florida, right outside Tampa and we never heard anything. We bought our property in 2003, built in 2004 and we’ve been coming up every summer, we come up in the wintertime at Christmas. They used to send out a newsletter, someone had decided to stop the newsletters and to just go with a website. I just found out about the website. We had a little Fourth of July party and I was informed of the website, so we had no idea. I went to go and actually register…well actually Kim Long had told me that she would sign me up and then I was told that we had to register. So then they told me that I had to put out all my public information and so forth, which I refused to do that, I wasn’t going to do that.

Chair Landquist: Just to get on their website?

Tammy Gladwinn: To get on the website I had to put all that on there, which I didn’t do.
Chair Landquist: Okay so there’s some problems going on there.

Tammy Gladwinn: Then we found out about all of this, actually I would have to say it was through the newspaper that we…with the articles in the newspaper and the pathfinder that we started finding out about this. Then from there, on the Fourth of July party we started asking. We’re totally opposed to this. We could have purchased our property anywhere and we drove all over Montana, we choose this area for the beauty, the land, the animals. It’s ridiculous. Honestly I have to tell you we have home owners in Florida, in Tampa, and we’ve had less problems and we don’t have issues like this going on then what we do when we come up for vacation, it’s the last thing we wanted.

Commissioner Curtiss: So you didn’t get the letter mailed by the county?

Tammy Gladwinn: No and we get the mail.

Chair Landquist: How many more people? There were a few other people that said they were from out of town and come visit here to their properties and never heard anything about it. I want to try to figure out a way of identifying you and getting you to sign so that we can have some correct information, the county. We don’t sell or do anything weird with our information that we get but it’s important that we know how to reach you. Because I yet do not know the conclusion of this meeting so on the sign-in sheet did we ask for people to print legibly and ask for their address?

Tammy Gladwinn: We bought our property like I said in 2003, we built in 2004 and with DARLOA they had all of our information. They had our address, our phone numbers our address in Florida, our email, everything. When I was told that I had to register upon their website I was actually told that I had to register and put my information in there so that they knew for sure that we were a land owner. Now they already had all the information because we were getting the newsletter in the past. I shouldn’t have had to be told to go on and register if I want to find out information on this. Do you see what I’m saying? They already had that, they already knew that we were a land owner, so it’s one more step. For the elderly people that maybe don’t have internet access or didn’t even know that there was a website – come on, what happen to the newsletters to inform everyone?

Chair Landquist: What I’m going to do is put a piece of paper over there and I want before you leave, I want the out-of-town people, I want your name, your Double Arrow address – lot # or whatever you go by and your current contact info because this has got to stop.

Tammy Gladwinn: If you legally were able to come in here because you were invited, if you are uninvited are you able to leave, legally?

Chair Landquist: We could if we wanted to make a quorum out of it, but we had to take a vote now because it’s a public hearing and we made a public thing out of it. So yes, we could.

Tammy Gladwinn: You could leave if we asked you?

Commissioner Curtiss: We rented the building for the night. (Audience laughing)
Ann Kimble: We purchased three lots up here in 1998. My husband John and I currently own a lot with a house on it, actually several buildings and an undeveloped lot. No, I do not get my notices through the mail because the post office doesn’t forward them. We have lived here full-time until the 5 years and then we’ve been spending our winters in Arizona. The post office does not forward our tax slips and I presume they did not forward the communication that you sent. I saw a notice posted on a tree on Double Arrow Road; I didn’t know what it was. I drove by it for about 3 days, so I stopped my car, I got out of my car, it was posted higher than I am and so I was unable to see what it said – that’s how I found out about this and also through the newspaper, so mail does not get forwarded.

Commissioner Curtiss: So you’re correct we don’t forward tax bills but if you let us know you have a winter address then we’ll mail it directly to your winter address. Just so you know.

Ann Kimble: I can get my tax things through the internet, so I don’t have to worry about that. This I did not receive.

Chair Landquist: Frank, I have a few questions for you. Based on ironically enough the Commissioners had a presentation from the Bitterroot National Forest on Monday and they were sharing with us some of the policies that are going to be in place now with forested areas and who takes care of what, and who does what calls where and that residential structures would not…oh you’re smiling, you heard this, huh?

Frank Maradeo: Yes I did.

Chair Landquist: …would not be a priority. I would like someone in your profession, you being it because you’re here and now, to please in ‘fireman’s terms’ tell us all what that means, especially for the Seeley area. Because the last time I was in Seeley was just like a month ago, I came to one of the council meetings and there were some folks very upset about; Seeley’s going to burn, we are going to burn and what are you going to do about it? Since one of the sticky-wickets here of the WUI part of things being put into this zoning thing, I’d like to hear what you have to say and give you an opportunity to talk to folks.

Frank Maradeo: During 2007, Chief Waldron the Chief at Frenchtown at the town, we knew we were going to have a bad couple of days. So what we did was we called the Seeley Lake Fire Department is part of the Missoula County fire protection association and also we’re covered under the state wide mutual aid agreement. I made a phone call to Scott because I was gonna be really busy and within an hour we had 12 fire engines and 45 fire fighters in route to Seeley from Florence, Missoula Rural, Missoula City. Their purpose in life was to protect structures and that is their whole purpose in life so we could focus on evacuations and life safety. Our bottom line is life safety. I hate to say it this way but the purpose for fuel mitigation and all of that is to save your lives and keep our people safe. Our firefighters are not disposable tools in a tool shed, they have families also. Yes it’s true that the forest service and this came and I heard this from the Bitterroot actually through the MCFPA, is just saying that you know what, we’re wild land firefighters and we will not protect structure, that’s what the local agencies are for. Well I don’t know if you’ve been to our station but how many homes are on Double Arrow? That’s kind of stretching our resources a little thin. So the best thing we can do is ask for you to evacuate, ask for you to mitigate your property as best you can and let us try to do what we can to save your property. It’s really going to be hard and it was hard in 2007 and I said this to a lot of
groups that the only thing that saved this town was the weather died down, it was no magic that we did or no heroic efforts on our part – the wind died down and that’s the only thing that saved this community. Plus, I have to say that I have to give you guys credit that when we said evacuate, I’d say about 85%-90% of you did. Some of you didn’t come back until the Spring of 2008, which amazed me, I was stunned by that! When you pull the plug to evacuate people, the next thought in your minds is, when can we bring them back? Our primary concern is life safety, of course your property. A lot of this is going to fall on local agencies. Now does that mean the Seeley Lake Fire Department is gonna have to protect all of Double Arrow? No it doesn’t mean that, it means that Frank is gonna have to make a few more phone calls then just the one like he did in the past. In fact that’s what I just had to go to is our big water tender is in Superior helping out those people because they came and helped us. Hopefully in the next couple weeks we won’t have a fire where we need that water tender, but we’ll get it from somebody else, it’s just a domino effect. There are resources out there. Like in 2007 we had Jacko and there were a lot of Frenchtown engines here and within 3 days they had the Black Cat, so we had to cut them all loose because that’s where they belong. To make a short answer to a long question, Michele, we have to be better prepared for that. Again, I don’t want to preach this too far because I know it’s a touchy subject; a lot of it is up to the homeowner. Ask the people at Lake Inez who had their structures…and Placid Lake who had their structures triaged. One sheet of paper and the first two questions – if you answer no to either one, we’re driving on, we ain’t got time.

Commissioner Curtiss: Could you state the three questions, please?

Frank Maradeo: Trees to close to the driveway? One-way road? If you answered trees too close to the driveway, you just move on to the next house because you have to do 140 homes in an hour, you ain’t got time to walk around and locate your eaves and all that stuff.

Commissioner Curtiss: And we’re not putting our fireman in danger.

Frank Maradeo: Absolutely. I’ll pass one story on…In San Diego California a few years back they were interviewing a home owner who lost his house because the firefighters wouldn’t go in his driveway because he had down trees and all that stuff. He said, “Then what’s the point of having firefighters if they’re not going to risk their lives to save my property?” I heard that and I looked at the TV and the next morning it was on one of the fire department websites, the same video. If you people are going to be like that, I’m really going to be mad at you. They’re all volunteers so let’s not forget that and they all have families to go home to. Another thing is that when we evacuated you people, we evacuated our volunteers, they got their families safe and they all came back to our station. Some of them were sleeping at the Clearwater Junction weight station, think about that, that’s dedication right there.

Chair Landquist: I believe we had asked a legal question of you, do you remember what it is?

James McCubbin: Okay so I’ve got kind of three categories of legal issues that I picked up, I don’t know if you want me to comment on all these but I’ll tell you the three categories that I’ve got. 1) What’s county enforcement entail? 2) I don’t know if this is a question
from the Commission or not but there does seem to be a little bit of confusion on citizen initiated zoning vs. county initiated zoning. 3) Notice for these proceedings and mailings and that kind of thing. Would the commission like me to address each of those?

Chair Landquist: Yes.

James McCubbin: Okay, so I’ll just do them in turn as they came up. In terms of enforcement Montana Code does provide pretty broadly for enforcement of zoning. Now I’m talking mostly about, what I call part two zoning – county initiated zoning but I think this essentially applies to citizens initiated zoning as well. Violation of zoning is a misdemeanor; technically it’s punishable by a fine up to $500 or imprisonment up to six months, although I’m not aware of anybody ever doing jail time for a zoning violation. More commonly zoning is enforced through civil actions to abate the zoning violation, require the property owner to come into compliance with zoning, whatever that entails and it depends on the violation. So that would be a civil court case with injunctive relief typically from a judge. So those are the two ultimate ways that legal enforcement occurs is it can be criminal or civil or if there was a really bad case it could actually be both. Before any of that happens, before any zoning violation or any other regulatory violation in the county gets to the County Attorney’s office, it gets vetted by county staff. Most of the time if we have a zoning violation, we also have some other violation. A lot of violations, regulatory type violations that we have cross between different departments. For example, a building permit violation is usually also going to be a sanitary violation, things like that. A zoning violation is usually gonna be a building permit violation, if you’re talking about a building that was constructed in violation of zoning, it means they didn’t get the zoning compliance permit, which means they’re gonna be in violation of building codes also. So there’s a lot of cross-over in terms of when you have one type of violation, it usually means there’s other kinds of violations. So County staff works together on those things, communicate with each other among the departments, whatever regulations are implicated those the county staff responsible for implementing and enforcing those regulations then reach out to the property owner and try to do their best to communicate with the property owner. A lot of times violations that we have…I don’t know 80-90% are just out of people just not knowing that there were the regulations there that they had to comply with and so then communication will usually resolve the vast majority of violations that we have and the property owner brings the property to compliance and that compliance issue goes away. Minority where people either knowingly violated or just refused to come into compliance, staff will engage in further efforts to try and communicate with people and get them into compliance. Basically it only gets referred to the County Attorney’s office if county staff gets to the point where they just aren’t getting anywhere with the property owner and have nothing else that they can do, then they talk to me or my Supervisor, Marnie. Then we evaluate the case, see what the evidence is and if the evidence supports the fact that there’s a violation, then we file a lawsuit, basically. Occasionally we’ll pursue if criminal. So that’s enforcement, does that cover it for the Commissioners?

So citizen initiated zoning and county initiated zoning and if I slip – citizen initiated zoning is referred to by planners and land use attorneys a lot of times as part-one zoning because it’s in part one of this chapter and county zoning is part two zoning. Citizen initiated zoning is a little different than the gentleman, I forgot who it was now, sorry, who described it. Mr. Bourne, right? I think you got it mostly correct but citizen initiated zoning does start with a petition process. So there’s a petition that’s signed by a percentage of property owners, I can look it up if we need to know the percentage. So there’s a formal petition that goes around that property owners then bring to the county and say, we want to form a zoning
district and that is what the petition is for, it’s to form a zoning district. Usually people that petition to form a zoning district that way will also have proposed regulations that accompany that. But the petition process does not actually enact regulations; it merely establishes a zoning district. Once that zoning district is formed regulations are then adopted by the planning and zoning commission. So in citizen initiated zoning the citizens don’t actually vote on or petition on what the actual contents of the regulations will be, they merely establishes the district, then the planning and zoning commission establishes the regulations. Historically, it might be 100% of the time in Missoula County that regulations are what came in with the petition in terms of what people want but that’s legally required. The planning and zoning commission has the power to adopt regulations and to change regulations and there is no protest provision on part one, citizen initiated zoning, in terms of the regulations. County initiated zoning is what it says; it’s initiated by the county technically. As a matter of political reality, I’m not aware of Missoula County or any other county pursuing county initiated zoning without first hearing from property owners; hey county, we want you to do zoning here. That doesn’t make it citizen initiated zoning formally, it is still technically county initiated zoning and that is my understanding of what has occurred here. As far as I’m aware there was never a part-one citizen initiated zoning petition for the zoning that’s under consideration tonight. My understanding again, and I wasn’t there and I’m sure Mitch will jump in if I’m getting this wrong but is that there was a request or some communication from DARLOA saying there’s interest in zoning, would the county be interested in moving forward. Then there was a period of informal communication and then finally it went to planning board.

That sort of leads me into the final thing and that is notice of proceedings, mailing issues and so forth. As far as I’m aware and I just re-reviewed the code to try and make sure, there is no legal requirement for there to be any mailing in terms of zoning procedures. The planning board has to have a meeting, not even necessarily a formally published hearing, just a meeting to form recommendations for the County Commission. The County Commission has to have a hearing, which this is. The only real difference between a public meeting and a public hearing under Montana Law is the notice given and that’s just legal notice in the newspaper two weeks ahead of time. All those legal requirements were complied with, in addition to that, the county through CAPS, mostly Mitch, did send out the mailing. That’s a pretty significant cost that the county took on that is not legally required. I think it’s very unfortunate if the mailing didn’t get to everybody but we use the owner’s address of record that we’ve got in county records so I’m not sure what happen, what went astray. Could be any number of things but my understanding is that Mitch used the best information that we’ve got in our databases and sent out a mailing to everybody he could think of, which is basically all the property owners and people within...basically the adjacent owners. I hope people do appreciate – that’s an extra step that staff took with the County Commissioners approval to spend that money, that’s tax payer money that went out to try and do our best to get notices out. Doesn’t mean everybody got notice, doesn’t mean it’s a perfect process but it’s a heck of a lot more than just sticking it in the newspaper and two weeks’ notice and we have a hearing, and boom you got zoned.

**Chair Landquist:** Because generally that’s all that’s required, right?

**James McCubbin:** Yes. I think that covers the issues that I noted. I’m available if the Commission has any more questions.

The adoption of zoning is essentially two-step process; if there would be an adoption of zoning, the Commissioners would first adopt a resolution of intent to adopt zoning. Attached to that would be all the zoning regulations that they intent to adopt. Once that is
passed, the property owners have an opportunity to submit a protest pursuant to the current statute. That protest provision – I hate to summarize things so I'm gonna read it: For 30 days after first publication of this notice, of the resolution of intent, the Board of County Commissioners will receive written protest to the creation of the zoning district or to the zoning regulations from person owning real property within the district who’s names appear on the last completed assessment role of the county. Within 30 days after the expiration of the protest period (after we've received any protests, if we get any), the Board of County Commissioners may in its discretion adopt the resolution creating a zoning district or establishing the zoning regulations for the district.

What that means; (me talking not the statute) is that after the protest period the Commissioners have 30 days in which to finalize the zoning, if they're going to do so. After that period of time, the process is over if they don't act, the zoning proposal is dead. That's actually been affirmed by the Montana Supreme Court, that happened in Gallatin County a few years ago, they didn’t act within that period of time so it went away.

The protest period is a period of 30 days after the County Commissioners send out notice that they have passed a resolution of intent.

Chair Landquist: So if we say yes to this tonight, then we have to do that resolution of intent – that goes out and then 30 days from that.

James McCubbin: So if the vote tonight by the board were to adopt the zoning – pass a resolution of intent to adopt the zoning. You would have 30 days to protest from the date that the notice goes out, so it would be 30 days plus a couple days before we get the notice out.

Statute goes on to say: However, if 40% of the real property owners within the district who’s names appear on the last completed assessment role....

Commissioner Curtiss: What that means thought if there are two people’s names on the tax list or if there are six people’s names on the property – they all have to sign or it’s not a valid protest.

James McCubbin: Yes, it has to be all of the owners of a given parcel. So if 40% of the parcel ownership protests then the County Commissioners cannot finalize the zoning. That is what the statute currently provides, that if 40% protest within that 30 day period, then it kills the zoning.

If there are two people that own one parcel, both people have to sign the protest.

Commissioner Curtiss: For those of you that didn’t hear the question from this gentleman up here – if you own more than one lot, you get more than one vote.

James McCubbin: When we get protests on zoning, I have to go and look at case law resource interpreting this, it can actually become fairly complicated when we have multiple owners with one lot, owners with multiple lots and then further complications when you get family trusts, incorporations and things like that. Tallying the protests can sometimes be challenging and I can’t give you a real final answer on that until we know how many protests we have and then evaluate it. It’s pretty rare to have a protest that comes in where it’s a close enough call that those issues really matter, so there’s not a lot of case law interpreting it because it tends to be, either you clearly don’t have enough protest to
make a difference. If you count them all up and some of them look invalid but there’s only 20%, it’s kind of who cares.

I’m just looking at the statue, I’m not looking at cases, I’m not looking at Attorney General opinions. What I can tell you is that if protests came in and it was anywhere close to 40%, we would scrutinize it very carefully and I would do thorough research to make sure we’re counting them properly. That’s the best I can tell you right now.

**Commissioner Curtiss:** James, there’s one question to clarify. Are there special forms that have to be sent in? And do we accept email?

**James Mccubbin:** There is no special form. I think we would accept but we have to be able to verify that it actually came from the right person. That can get into questions of is it a valid protest of not. If you want to be sure that your protest is a valid protest – if there’s going to be a protest, the best way to do that is to send in a written letter with signatures, notarized is going over the top but it wouldn’t hurt. Identify your property descriptions, the owners names and with signature and date. And stating I protest to the proposed zoning.

**Chair Landquist:** I’d like to move on from here for a little bit because I’m looking at the time. I want to give Mitch the opportunity to address some of the things that you all had to say. Maybe he could lead off with some questions I have, I want to know the number of mailings that the county reached out to, and of that number how many were returned? Some folks said that this creates nonconforming lots and nonconforming houses so I want to know what those numbers are and how this zoning addresses them.

**Mitch Doherty:** The number of mailings – with multiple land owners when we took our original list...sorry, with owners that own multiple lots that basically reduces our number of mailings down from the base of lots that are in Double Arrow. In my presentation I said there’s 746 lots in the Double Arrow, we mailed out 694 letters and of that, I don’t have an exact count but I would say approximately 60-70 were returned. Mostly within the first week or two, all sorts of issues; unreadable address, temporarily away, unable to forward, everything you could think of that the post office could put on there, probably. So, a majority of those were readdressed with the same address or if they were returned to us with a forwarded address, we would include that forwarded address and forward those back out. So when I’m saying 60-70 returned, we sent out probably about 50 more letters, if we were able to find a new address and of those, even some of those came back. That’s what we’re looking at for numbers there. I didn’t bring the stack but I kept the stack of envelopes to see who didn’t receive one, I have everyone’s address, if it’s incorrect give me a call and I’ll check it. If you didn’t get a letter I’d love to hear from you and I would love to check your address in our files and see if it truly didn’t get to you or if it got to your neighbor of something like that. It’s important that we notice people.

**Chair Landquist:** The mailings were my first questions, then followed by how many nonconforming lots or nonconforming houses does this create and how are we dealing with that?

**Mitch Doherty:** The number of nonconforming lots was included in the presentation. If adopted as is based on the density shown on this map here, the 1 per 1, 1 per 2 and 1 per 5 – 1 dwelling unit per 5 acres. That would create 10 nonconforming lots out of 746. That’s the number of nonconforming lots.
Nonconforming structures, buildings, things like that; I don’t have a number for the number of nonconforming houses or structures that would be created. One thing I would like to note though is that these…if this was adopted as is, these would become legal nonconforming structures, lots, buildings, what have you. If the zoning was enacted as is, there’s no sort of requirement that would require folks to come into compliance with these standards. The buildings would be able to remain as is, the county would not come to your house and say; you do not meet the 30 foot setback, you need to move your house. That would not happen – we need to make that very clear. There’s a grandfather clause for nonconforming structures. When we’re at planning board June 18, a dozen folks from the Double Arrow were there, the planning board recommended to the County Commissioners at that time that the WUI standards, the defensible space standards in particular, should be applied to all partials, even if there’s an existing structure, they would need to comply with those defensive space standards. Now that’s just a recommendation that was not included in the original document that was not the intent DARLOA. When we were working back and forth with the standards, the intent was to apply the zoning standards to new construction or any sort of relocation of a structure, alteration, things like that. So to clarify; if you own a home and it doesn’t meet some of these standards here in the proposal the county would not come knocking on your door to make you meet those requirements. The one exception being, that if the Commissioners acted on planning board’s recommendation to include the defensible space requirements for all parcels with existing structures.

Commissioner Curtiss: So if they sell you wouldn’t be able to add on and make it less conforming and if you did lose 50% of the house in a fire, you’d have to replace it to meet the new standard.

Mitch Doherty: Correct. And if you sold the house, that’s not going to require coming into compliance on these standards. They’re grandfathered in.

Chair Landquist: Commissioner Curtiss do you have some questions that stood out from you that you want clarified during this hearing?

Commissioner Curtiss: No, just make one statement; about three weeks ago I had the opportunity to fly over this valley and when you take off from the airport here, you fly over the Double Arrow. I just hope that you guys do take the fire wise stuff; I know that it sounds like a big imposition but fire wise is serious and I would hope you have good insurance because I hope Frank never puts anyone in danger to save you…

Teresa: I have a question – I opposed it twice on the website and once at the Commissioners about the legality of the insurance, whether insurance policies would pay off if you put this into zoning law – may I speak that?

Commissioner Curtiss: Zoning doesn’t apply to insurance companies.

Teresa: They said that our…I called the agents here and they said that if you put this WUI as a requirement it is then part of law and that it is possible that insurance companies would not have to pay off on your homeowners policy if this is actually part of the law. I opposed that to the planning commission, they said they couldn’t answer it and I put it in both of my letters in writing and I haven’t heard it addressed yet.
Chair Landquist: James, any guesses on that?

James McCubbin: Let me go back a moment in discussion on replacement of homes if they're burnt down, otherwise accidentally destroyed. The gentleman in the audience was correct, it's not a 50% rule as written in the proposed zoning regulations that you have. Provides any nonconforming use that is unintentionally destroyed for example by fire, may be rebuilt but only to the same manner and extent that it existed before its destruction. That's on attached B2, page 20 this is the June 18 planning board recommendation draft but there was no amendments from before, and I don't think that's changed over time. Thank you for pointing that out sir. It is a common thing in other zoning districts to have what we call the 50% rule, so I think that's an understandable confusion.

In terms of insurance, it depends on the insurance policy. Insurance is a contract between the homeowner and the insurance company so it depends on what the terms of your insurance policy are. So I cannot give you a blanket answer opinion as to what that would be. What I can tell you is I am familiar with a number of general insurance forms that include disclaimers, if you will, if the cause of a casualty – casualty being the lost that's subject to insurance – is caused by an illegal act of the property owner then the insurance can deny coverage. That's a fairly common provision but it's not in every policy and those provisions even among policies are different.

Chair Landquist: Okay, we've taken a lot of public comment and now I want Mitch to have the opportunity to hit on some of the things that he thinks might need to be corrected for the record that he heard here today.

Mitch Doherty: I have a long list but I'm going to hit a few highlights from the public comment we heard tonight. The first thing I'd to talk about is the process that the county's been involved with, with DARLOA up until this point. That process and it was in my presentation, it was initiated in December of 2010 after the adoption of the Seeley Lake regional plan. That letter came to the county requesting to initiate zoning on the Double Arrow Ranch. We take requests like that to the Commissioners, get it on our work plan with their approval and we begin to then work with DARLOA back and forth, multiple drafts are passed between our office and DARLOA between 2001 in January and up until April/March 2013. So that's that part of the process.

The second part is the notification that went out on the 17th to all the landowners that initiated the public process that got you all here tonight. We took that draft that we worked with DARLOA to create to the planning board. The planning board is an advisory board to the County Commissioners, their decisions...they hold a hearing but what they do is they make recommendations to the County Commissioners. So the Commissioners don't always agree with all of their decisions and their recommendations and they make their own decisions and it's the final decision. We were at planning board on the 18th of June, we're here tonight it's July 16th. Back it up, my letter went out on May 17th, that's two months that we've been involved in the public process and I think State law requires us 15 days to put that notice out in the paper. I feel pretty confident we've gone out above and beyond State law to get folks here tonight and get folks involved.

One thing I've been asking for since the beginning of this public process is to get comments with substance to them. And I appreciate people's opinions on opposition or people being in favor of zoning but when we're working through these types of processes, it's important to have comments with substance to them. I don't like zoning and these are
the parts of this document I don’t like. I’m in favor of everything, those are important things. I’ve had some really great folks I’ve been working with back and forth and those are incorporated in the staff’s suggestions tonight and staffs suggestions to the planning board. I’d encourage folks that I’ve looked at this document to submit comments to our office with substance to them. Pull out points of the document that you don’t like. Point to specific sections of the documents that you think need work. We always are willing to accept and consider the comments that say I’m opposed to zoning and that’s absolutely fine but when we’re working through these processes it’s important to have comments with substance to them. That’s kind of the process part I wanted to talk about a little bit and clear the air.

We’ve already talked about the notice. Mr. Anderson asked the question of me; what's the problem that's being solved here? Well there isn’t a problem, we’re acting on behalf of a request for DARLOA, I’m not certain there always has to be a problem but that’s why we’re here tonight, we’re acting on a request from DARLOA. In the zoning document the intent was too full to codify existing covenants that residences of the Double Arrow live under and the second part was to enact portions of the Seeley Lake regional plan from 2010 that apply to the Double Arrow Ranch. So that’s the problem that doesn’t exist.

**James McCubbin:** An additional point there, zoning is not design or intended to address problems. It’s intended to prevent problems. Seriously, because zoning is required to recognize existing nonconforming uses. So if you have a problem, if you have a bunch of neighbors that put up stuff that you don’t like and you want to zone it to make that stuff go away, you can’t do it. Zoning can never make a problem go away. Zoning is a proactive planning effort to decide what a community is going to look like in the future. It does not address existing problems and it really can’t. The most you can do is have something like the 50% rule; we started talking about it a little while ago, which very, very gradually could bring things into conformance with new laws. Basically because there’s a requirement in law that you have...that you recognize existing uses as being able to continue, which is an important protection of the law. So you don’t just pass zoning and enforce people to tear down their houses and build something new with a white picket fence when they don’t want to or something. I think that’s an important clarification. That doesn’t necessarily mean that you want zoning or don’t want zoning, I just saying zoning will never address and active problem. It can’t legally.

**Chair Landquist:** Okay Mitch continue. We’re not taking questions and stuff; we’re letting staff address some of the things that need to be addressed.

**Mitch Doherty:** Okay, another point that sticks out to me and I agreed to bring a map and I have it somewhere electronically, I don’t have the mindset right now to find it and I’m thinking it’s easier to find a hard copy. It revolves around the slopes on the Double Arrow Ranch for Ms. Wallenburn. Ms. Wallenburn thinks that a large portion of the ranch has slopes over 25%. I’d just like to let everyone know that our most recent map that we made, on behalf of your request, shows that 17% of the east side of this district has slopes over 25%. Throw in the west side that number is probably gonna go down. So just to clear the air, its 90-whatever %, it’s 17% of the east side of this district has slopes over 25%. I would also add that looking at steep slopes and some of the regulations that are in there, we had some really great comments from some really active residents in the ranch and so we’ve been able to tweak regulations at planning board. They made recommendations to the Commissioners and some of those issues were addressed. It’s
one more example that I was getting at earlier of having good comments from folks where we can make changes to documents that improve the regulations. The two other notes I had was citizens Vs. County initiated zoning, I think that was well covered. The part about the grandfathering clause and the built vs. unbuilt parcels, I think folks need to recognize both absentee land owners and land owners that live there full time, folks that don’t have structures and folks that do. The majority of these standards apply to people that don’t have any structures on their property yet. I think it’s really important that if you have a house on the Double Arrow or a garage and things like that, everything’s grandfathered if it doesn’t meet the regulations. I want to make that very clear to folks. Those were the highlights I had from my notes. I have other things in here I’d be happy to address to folks if they ever want to give me a call and chat about things.

Commissioner Curtiss: I just want to make one point since we have so many of you here tonight that you need to understand that why you have covenants in place, there are some larger lots on this property, in this association that are 10 acre lots, 20 acre lots, right now with you covenants in place, if someone with one of those lots came to the county with a proposal to subdivide, and they could meet our regulations for septic and wells and roads and all of those things, we would likely approve it. Because the covenants don’t apply to us and they are between you – they only apply if you sue each other. We would have to make findings of fact and conclusions of law to say that they didn’t meet our regulations. It’s the only authority that we have, covenants aren’t our authority, they’re yours. So that is the reason why in 2010 and I saw there weren’t very many of you that were real involved in that discussion when we did the Seeley Lake Plan, that is the reason that DARLOA came to us immediately after we adopted and said, we need to zone to implement our regulations and the things that were adopted in the Seeley Lake Plan. That’s why we’re here tonight. So just you know, your covenants aren’t going to protect you from those kinds of things.

(Comments from the audience)

Chair Landquist: Your Homeowners Association didn’t give you the opportunity to vote about the zoning, is that what you’re referring to? One of the problems I’m having and looking ahead at our calendar, we wanted to get through this process during the summertime when some of the absentee landowners were here for the summer visiting at least and could participate in the public process. As we look into this is July, we look into August and September and we’ve got meetings all over across the board scheduled out months in advance. Jean and bill have a thing up the Crown of the Continent to go to and various other things. What I guess I’m is if we decide to delay and looks like we will, we may not get to this until the late fall. Some of you all will be gone so it’s real important for those land owners that aren’t here tonight; you guys need to help make sure that we have a way of getting notices to everybody that didn’t get notices. You all said over and over how you stick together and take care of one another, I’m gonna hold you to that. What do my fellow Commissioners want to do? Do you want to make a decision tonight or do you think we need to wait and let people wrap their heads around this a little bit more? Commissioner Carey please say something.

Commissioner Carey: For the last three hours or so I’ve that there isn’t any way it would make any sense to try and adopt this tonight. Clearly the community is opposed to it, clearly if you want something done, you’re going to have to learn to work together and
decide what you have in common that you want to seek from the county. I don’t think the irony is lost on everybody here as we’re responding to a request from the community. (Audience disagrees) That’s part of the community, they’re supposed to be speaking on behalf of the larger community okay so there’s a certain irony that we get a drubbing coming here because folks have asked us to engage in the process. I’m fine with saying – go meet together amongst yourselves, work something out if you can. If you can’t, I’m sure most of you feel you can live without it. I don’t see any point in doing anything but recessing this hearing, if that’s the proper legal thing to do. What I’m asking our Attorney to comment about is the technicality of this is a public hearing; do we want to recess it? Do we want to just say that’s it, it’s closed and it’s done?

James McCubbin: You have a few options obviously you could vote to either just kill this tonight, you could vote to pass a resolution of intent to do something and that doesn’t have to be the same as what the planning board recommended. If you want to wait on making a decision, what I’d recommend you do is close the formal hearing because we can’t really continue it unless we have a date certain that we can continue it to. Like I said earlier, the only real difference between a public hearing and a public meeting under Montana Law is the notice that’s given. So if you have a public meeting later, which you would have to do, you would have to have a notice meeting to reopen your deliberations. People would still have an opportunity to comment on that, you can say; we don’t want to hear your comment and say the same thing you said before. It’s still part of the same process but you would have to accept any new written comments, any new verbal comments if people attend that meeting. Our normal notice for a meeting is probably a lot less than what we would do for this, I presuming because we have people not directly in Missoula and so forth. So what I would recommend if you’re going to defer and decide on this later, is to close the hearing at this time but with the understanding that you will have to have a public meeting and that public comment would need to be accepted at that meeting.

Commissioner Carey: And at that public meeting we could just say that’s it, we’re done we haven’t heard anything, the community is still divided. **For purposes of moving ahead here, I would make a motion to close the hearing and not take any action on this tonight.** It’s my personal view that the next time we see each other, the folks here in this community would be coming to us with something they agree upon or we wouldn’t be seeing you at least in this kind of format.

Chair Landquist: Closing the public portion of this.

Commissioner Curtiss: **I second the motion to close the hearing.**

Chair Landquist: I guess before I allow us to vote on the motion; yea I’ve had a little fun here tonight, a few jokes and stuff but this is serious stuff. This is your property values and I get that and of you all worked hard to achieve what you bought into here and retired here, living here full-time, all these wonderful things. I get it and I also… I don’t want to be on a soapbox but I feel obligated to share with you the heart burn that I have about property ownership and zoning. As a County Commissioner I’m sorry to bore my fellow Commissioners because I know they’ve heard this little soap box decision before. As a citizen before I was a Commissioner I was never a fan of zoning, I live a mile up Hwy 12
out of Lolo on some acreage and I like my space and my land and I’m conscientious and I take good care of it and I don’t want government telling me what to do or how to live. And I didn’t feel like I needed zoning, yeah there’s some covenants on the property but no Homeowners Association, the covenants have been broke a zillion times up and down the creek, in the area that I live. But predominantly nobodies harming one another and stuff but I know that I’m conscientious enough to not do anything on my property that would detrimentally effect somebody else’s property. That’s why I could honestly with all confidence and everything say I don’t want zoning, don’t tell me what to do, I don’t need zoning. But I saw it happen to friends that live in the --- Gulch area and since I’ve been a Commissioner I’ve seen it happen over and over and it’s really painful and there’s very few Homeowners Associations that really do function well and really get it. You can’t tell me, please don’t take real personal offense to this, that DARLOAs working beautifully and I heard so many of you say; we like our covenants that’s what we bought and you did, but your Board of Directors is not acting the way you wanted to if they’re not attending to making sure that they’re being transparent with you just like we’re trying to be transparent with you and sending out the proper notices and your newsletters, etc. I don’t wish this on you but sooner or later your HOA may fail you like some of the others that have happened across the county, or never got formed even on some of these subdivisions. It’s really painful for me as a Commissioner when I get the phone calls and I can’t help somebody protect their property values and their major investment because they’re living off a covenants and a little bit of zoning would go a long way. That’s what we’re trying to achieve here and that’s what made me a believer of zoning. We’re trying the light brush touch of zoning, if we missed the point on this, give us another chance, let us come back, we’ll see what we can….I get what you were saying about the WUI stuff and the kind of trees that you grow here and what they are susceptible to. Maybe we need to go back to the drawing board on some of this but please allow us to help you and your HOA protect your property values. There’s nothing more frustrating for me or us as elected officials, or for the people we serve when we say, we can’t help you, you have to sue your neighbor because that’s what covenants to. It pits neighbor against neighbor and quite frankly on and off the record, that sucks, that makes for lousy neighbor relations.

Okay so there’s a motion and a second on the floor that we’re going to close this hearing and have no action tonight. The motion carried a vote of 3-0.

Now we have to figure out where we go from here. I think the community needs time to wrap their heads around some of what they’ve heard. I think you can feel free to continue to give us some comments but please like Mitch said and like some of the people did do here tonight, tell us how you feel and tell us how to make it right. Give us some hard suggestions and we’re gonna have to look at the calendar and figure out when we can even schedule another meeting because things for us get scheduled for us several months in advance and then the weather turns lousy. We did want to really try to reach as many people as possible. When’s your election again for the DARLOA Board?

Audience: The end of August. But the nominations have already been finalized.

6. OTHER BUSINESS

None
7. **RECESS**

Being no further business to come before the Board the Commissioners are in recess at 9:21 p.m.