

Planning & Zoning Commission Minutes
February 19, 2019

This is a regular meeting of the Park County Planning & Zoning Commission held at 6:00pm in the EOC Room of the County Courthouse at 1002 Sheridan Ave., Cody, WY.

Commission Members Present:

Marion Morrison, Chairman
Kimberly Brandon-Wintermote, Vice Chairman
Linda Putney
Duncan Bonine
Debora Smith

Staff Present:

Joy Hill, Planning Director
Kim Dillivan, Planner II
Patti Umphlett, Planner I
Jolene Brakke, Office Assistant III
Mary McKinney, Weed and Pest

Chairman Morrison opened the meeting at 6:00pm.

APPROVAL OF MINUTES

Chairman Morrison asked the Board for comments or changes to the January 15 and January 29, 2019 meeting minutes. Commissioner Putney asked if time was corrected on the January 15th meeting minutes and her name removed from the January 29th minutes. Staff confirmed the changes had been made. A MOTION was made by Commissioner Brandon-Wintermote to approve both sets of minutes as amended; the motion was SECONDED by Commissioner Smith to approve the minutes as corrected. Motion was carried unanimously.

REGULAR AGENDA

CONTINUED PUBLIC HEARING – Shumard Minor Subdivision - 26: Brian K. Shumard requests consideration of the sketch plan for a subdivision comprised of 3 lots: one 9.45-acres; one 7.18-acres and one 10.37-acres, to be designated for residential use. This parcel is located at 812 Road 19, Powell, WY, in Lot 12, Sec 7, T55N, R100W of the 6th P.M., Park County, Wyoming, in a General Rural Powell (GR-P) zoning district.

Chairman Morrison opened the continued public hearing at 6:02pm, reviewed the rules of a public meeting and introduced the Board and Staff.

There being no comments from the Commission, Kim Dillivan, Planner II, presented the Staff Report. Kim identified items that were possibly not included in the original staff report read on January 15, 2019 including Weed and Pest's response, septic feasibility (satisfactory), water quality report (acceptable), a letter from Garland Light and Power (they can serve the subdivision lots as proposed), a revised sketch plan with water rights distribution plan (including correspondence with the irrigation district indicating that the irrigation plan has not yet been approved).

Chairman Morrison asked if the Commission had questions for Staff. There were none.

Chairman Morrison asked if the Applicant had any questions or comments.

Planning & Zoning Commission Minutes

February 19, 2019

- 54 • Scott Lewis attended on behalf of the applicant. He said he has tried to address the
55 concerns of the last meeting. He added that the irrigation district had given a verbal
56 response at one point regarding the use of box 13 instead of box 12. Since that time, the
57 irrigation district changed their position. The issue is how to get water to the subdivision.
58 They have been working with both the district and the neighbor (Wadman). Mr. Shumard
59 has not yet approved any plan. Mr. Lewis closed by stating that nothing is final with the
60 irrigation water agreement as of yet. He said he removed the easement that went through
61 the existing shop/garage on Lot 2.
- 62 • Chairman Morrison asked if the garage was on the parcel line. Scott said the garage is
63 approximately 6 or 7 feet from the parcel boundary, but it would have been within the
64 easement originally shown. Chairman Morrison also asked about the pond near the
65 garage. Scott said the purpose of the pond is unknown to him. Chairman Morrison asked
66 about access, will it come off of Road 19 or elsewhere? Scott said all the lots have access
67 off of the County roads: Lot 3 from the south, Lot 1 from the east. He did not show the
68 access. Chairman Morrison said he should work on that with Public Works.

69
70 Chairman Morrison asked for public comment.

- 71 • Dave Wadman said they (him, applicant's surveyor and irrigation district) have been trying
72 to work through the irrigation issues. He said they have been using his gated pipe to get
73 their water. He would like the applicant off of his pipe, to put in his own pipe. Box 13 is
74 approximately 500 feet to the north of box 12. Mr. Wadman said the district calls box 12
75 an "issue box" which is when multiple people come off of a box; it requires a water master.
76 This subdivision will cause two additional users on his box. He just wants Mr. Shumard to
77 bury a line and take responsibility for his line. He is willing to give Mr. Shumard a right-of-
78 way as long as he will agree to put a line in.
- 79 • Chairman Morrison asked if the plan that was submitted to the state was for box 13 or box
80 12. Scott said he waited and is glad he did because the irrigation district changed their
81 plan.
- 82 • Chairman Putney asked what direction the irrigation water flows. Mr. Wadman said from
83 the west and pointed it out on a map.
- 84 • Commissioner Brandon-Wintermote asked why Mr. Shumard's well wasn't tested and the
85 neighbor's was instead. Scott said it was because the well on Mr. Shumard's property was
86 not permitted. The neighbor's (Wadman's) was, and he agreed to allow for the test on his
87 well.
- 88 • Commissioner Smith asked if the irrigation district plan must be approved or not at this
89 time. Kim Dillivan said it does not.

90
91 Commissioner Brandon-Wintermote made a MOTION to close the hearing at 6:22pm;
92 SECONDED by Commissioner Putney. The motion was carried unanimously.

93
94 Chairman Morrison asked commission members if they had any discussion. Commissioner
95 Brandon-Wintermote asked for two conditions to be added: One for means of access to be shown
96 on the final plat and one asking that the irrigation issue with neighbor (Wadman) be resolved
97 before final plat. Chairman Morrison said the water issue extends to the irrigation district and Mr.
98 Wadman. She would like to see the irrigation district added to that line for resolving the issue.

99 Commissioner Brandon-Wintermote made a MOTION to approve Resolution 2019-4 with the
100 following conditions:

- 101 1. The applicant shall provide all easements as requested by applicable utilities and special
102 districts, irrigation districts or public agencies providing services. The width of any utility

Planning & Zoning Commission Minutes

February 19, 2019

- 103 easement shall be sufficient to allow adequate maintenance of the system, but in no case
104 shall such utility easement be less than 20 feet in width. Easements must be identified on
105 the final plat;
- 106 2. A long-term noxious weed control plan must be approved by Weed and Pest prior to final
107 plat;
 - 108 3. The applicant shall otherwise comply with standards in the Park County Development
109 Regulations and the minimum subdivision requirements as set forth in Wyoming Statute
110 18-5-306;
 - 111 4. The irrigation issue with Heart Mountain Irrigation District and the neighbor, Mr. Wadman,
112 shall be resolved before final plat; and
 - 113 5. Access must be shown to each lot on the final plat.
- 114

115 Motion was SECONDED by Commissioner Putney. The motion carried. See Resolution 2019-4
116 attached hereto and incorporated herein.

117
118 **PUBLIC HEARING – Mandie Mae Major Subdivision:** Robert O. Taylor requests review of the
119 Preliminary Plat for the Mandie Mae Major Subdivision. The proposed subdivision is comprised
120 of one 2.55-acre lot and one 7.45-acre lot, each for residential use. This parcel is located at 940
121 Lane 11, Powell, WY in Lot 4 of Lot 51 Subdivision, within Lot 51-B, Resurvey T55N, R99W of
122 the 6th P.M., Park County, WY, in a GR-P (General Rural Powell) zoning district.

123
124 Chairman Morrison opened the public hearing at 6:28pm.

125
126 There being no comments from the Commission, Kim Dillivan, Planner II, presented the Staff
127 Report, a copy of which was provided to the Commission, the applicant and the applicant's
128 representative prior to the meeting. Kim identified items that may have changed or are new
129 following the presentation of the Staff Report for the Sketch Plan Review at the November 20,
130 2019 meeting. The lot sizes have changed slightly. The plan to detach water rights ~~wasere~~ sent
131 to the irrigation district and approved. Also, the Powell-Clarks Fork Conservation District provided
132 a soil report. There have been no new public comments since the last meeting. A letter of no
133 adverse recommendation was received from DEQ regarding wastewater systems and domestic
134 water to serve the subdivision lots. Authorization to detach water rights was submitted to the state,
135 along with the water distribution plan. Once accepted by the Board of Control, the plan to detach
136 will be forwarded on to the State Engineer.

137
138 The Planning Director added that Staff met with Mr. Herrmann, neighbor to the Taylors, on
139 January 18, 2019 to discuss his continued concerns about development on the Taylors' property.
140 At that time, he identified that at the November meeting he felt that we did not address his
141 concerns, which were provided to staff and commission members for review. Mr. Taylor had
142 reviewed the items of concern in depth at the November meeting. The Planning Director pointed
143 out that Mr. Herrmann is present and will likely voice his concerns, but she wanted the commission
144 to know that she had discussed his concerns with him. At this time, the subdivision is a part of his
145 concerns, but he has concerns about the future development of the parcel, which is not the subject
146 of this meeting.

147
148 Chairman Morrison asked if the Applicant had any questions or comments.

- 149 • Mr. Taylor asked if the commission could hear from Mr. Herrmann first to allow him the
150 opportunity to respond, if necessary.

151
152 Chairman Morrison asked if any commission members had questions for the applicant. There
153 were none.

Planning & Zoning Commission Minutes

February 19, 2019

154
155 Chairman Morrison asked for public comment. Mr. Herrmann approached the commission. He
156 provided new documentation to all members of the commission and staff entitled "Request for
157 Stay of Taylor Subdivision Application Process until resolution of Complaint of Violation previously
158 filed on July 25, 2018." Chairman Morrison explained that the commission did not receive the
159 information in advance of the meeting and would not have time to review the materials during the
160 meeting. He said he knows his [previous] comments were forwarded to the commission. He had
161 asked for a continuance of the November meeting, but he was unable to attend that meeting.
162 Tonight, he is asking for a stay of the subdivision application. He feels that the trailer on the
163 property is currently not allowed on the property and it should be addressed. He said a court
164 decision very clearly stated that the accessory housing should not be allowed. He added that Mr.
165 Taylor's intent is to place an accessory housing unit on the subdivision. He said if the housing unit
166 could not be permitted now, it would not be allowable to permit the accessory housing unit after
167 the subdivision occurs.

168
169 Mr. Taylor addressed the size of the parcel. His father got two acres on an FHA loan which left
170 eight remaining. For years, taxes were paid on two separate parcels. However, it was recently
171 determined that there is a single parcel. There were two housing units because it was understood
172 that there were two parcels. Now that there is a single parcel, he is subdividing to allow for two
173 homes. He also addressed the allowance for a rental housing unit on his property.

174
175 Commissioner Putney asked Mr. Taylor to clarify the square footage of his [log] home. Mr. Taylor
176 explained his home is 1100 +/- sq. ft. on the ground level and he has a finished basement that is
177 1100 +/- sq. ft.; the total is just over 2200 +/- sq. ft. When asked about the square footage of the
178 existing mobile home, he verified it to be 1200 sq. ft.

179
180 Chairman Morrison asked for staff to comment. The Planning Director explained the history of the
181 parcel having been recognized as two parcels. The current existing deed lists it as one parcel, as
182 platted in the Lot 51 Subdivision. Without seeing the previous deeds, there would be no indication
183 that there were two parcels. This is open to interpretation, however, we referred to attorneys and
184 others throughout the State and have come to an agreement that it should be recognized as a
185 single parcel because the deed expressly refers to the original plat of the subdivision. Since the
186 County recognized it as two parcels in the past for permitting purposes, the existing log cabin is
187 a classified as a single family residence. The existing mobile home was also classified as a single
188 family residence because it was presumed to be on a separate parcel. By combining the two
189 parcels, you cannot have two single family residences. Mr. Taylor is working through the process
190 of subdividing the land so the mobile home may be acknowledged as a single family residence.
191 He is not currently considered being out of compliance because he is working towards making
192 that designation correction. The Planning Director read the accessory housing unit definition and
193 the rental accessory housing unit definition from the County Regulations, explaining the criteria
194 allowing rental of an accessory housing unit on the property. If Mr. Taylor's intent is to bring
195 another mobile home onto the parcel with his cabin, it would be classified as a rental accessory
196 housing unit and he would be allowed to do so. Based upon review of the regulations, if the
197 interpretation that is stated in the court order were true, no one would be allowed to have a rental
198 accessory housing unit on their parcel. That is not the intent of the regulations. Staff's
199 interpretation of what Mr. Taylor is trying to do by splitting his parcel is to bring him into compliance
200 so that he can have the structures that always existed on his parcel.

201
202 Mr. Herrmann said the court spent pages explaining their position. He would like the commission
203 to review the court opinion.

204

Planning & Zoning Commission Minutes

February 19, 2019

205 Mr. Colin Simpson, who represents Mr. Taylor, addressed the commission. He said that reading
206 the court order and understanding it would be difficult to do. He advised the commission to
207 continue the process and allow for the situation on the accessory housing unit. If Mr. Herrmann
208 chooses to take the matter back to District Court, then they will address the situation accordingly
209 at that time and allow the court to make a decision at that time.

210
211 Commissioner Brandon-Wintermote asked Mr. Taylor to identify the location of wells on the
212 property. Mr. Taylor identified each of the three wells existing on the property. Commission
213 members asked for the wells to be more clearly marked on the plat. Commissioner Brandon-
214 Wintermote asked which wells were tested. Commissioner Putney asked to see the location of
215 septic systems. The Planning Director reminded the Commission that DEQ provided a letter of no
216 adverse recommendations on water and sewer.

217
218 Commissioner Brandon-Wintermote made a MOTION to close the hearing at 7:02pm;
219 SECONDED by Commissioner Smith. The motion was carried unanimously.

220
221 Chairman Morrison asked commission members if they had any discussion. Commissioner
222 Putney had a question about item "i" on the resolution. She would like to see the language "water
223 quality testing was conducted..." removed. Chairman Morrison asked if item "p" should be
224 expanded to include that the report was in regard to wastewater and domestic water.

225 Commissioner Putney made a MOTION to approve Resolution 2019-5 with the following changes:

226 1. Item "i", strike language "Water quality testing was conducted on one of the wells
227 recently":

228 2. Item "p", add language about the report being in regard to wastewater and domestic
229 water; and the following conditions:

230
231 1. The applicant shall provide all easements as requested by applicable utilities and special
232 districts, irrigation districts or public agencies providing services. The width of any utility
233 easement shall be sufficient to allow adequate maintenance of the system, but in no case
234 shall such utility easement be less than 20 feet in width. Easements must be identified
235 on the final plat;

236 2. The Irrigation distribution plan must be approved by State Engineer's Office prior to final
237 plat approval by County Commissioners;

238 3. The applicant shall otherwise comply with standards in the Park County
239 Development Regulations and the minimum subdivision requirements as set forth in
240 Wyoming Statute 18-5-306.

241
242 Motion was SECONDED by Commissioner Bonine. The motion carried. See Resolution 2019-5
243 attached hereto and incorporated herein.

244
245 Chairman Morrison presented her report.
246 - She asked about the policy review by the commissioners.
247 - She addressed some of the items being considered by the legislature.
248 - She asked if the County Attorney will be present for the work session on February 21st.
249 His presence was not requested nor is it expected.

250
251 The Planning Director presented her report.

Planning & Zoning Commission Minutes

February 19, 2019

- 252 - Summary of office activities (upcoming SUPs, appeals, etc.)
253 - She has reviewed the proposed policy for short term rentals to be discussed at the work
254 session February 21st.
255

256 There being no other business, a MOTION was made by Commissioner Smith to adjourn the
257 meeting at 7:36pm. The motion was seconded by Commissioner Brandon-Wintermote. All in
258 favor.

259
260 Respectfully submitted,



Jolene Brakke, Secretary

261
262
263

**RESOLUTION 2019 - 04
PARK COUNTY PLANNING & ZONING COMMISSION**

**TITLE: RECOMMENDATION TO APPROVE SHUMARD MINOR SUBDIVISION - 26
SKETCH PLAN**

WHEREAS, Brian K. Shumard proposes to create a three-lot minor subdivision containing one approximately 9.45-acre lot, one approximately 7.18-acre lot and one approximately 10.37-acre lot. The use intended for all lots is residential and possibly agricultural. The subdivision will divide a portion of Lot 12, Sec. 7, T55N, R100W, 6th P.M., Park County, Wyoming;

WHEREAS, the application and supporting documents are in substantial compliance with Park County Development Standards and Regulations pertaining to major subdivision sketch plans;

WHEREAS, the Planning & Zoning Commission held a duly noticed public hearing on January 15, 2019 to consider the sketch plan application and unanimously recommended continuing the public hearing until February 19, 2019;

WHEREAS, the Planning & Zoning Commission held a duly noticed public hearing on February 19, 2019 to consider the sketch plan application and made findings as follows:

- a. The lots as configured conform to the GR-P zoning district where they are located;
- b. All notice requirements have been met;
- c. There are no official wetlands, identified wildlife habitats or corridors on the property;
- d. Easements are shown on the sketch plan;
- e. There are no apparent or identified hazardous conditions on the lots;
- f. Cellular phone service is adequate in the area;
- g. Electricity, natural gas and telephone facilities are adjacent to each lot;
- h. Fire protection is available via Fire District No. 1;
- i. Subsurface evaluation shows a perc rate of 10 mpi;
- j. Subsurface evaluation shows depth-to-groundwater at 7 feet, therefore enhanced septic systems may be required;
- k. Legal access to proposed lot 2 is from County Road 19;
- l. NRWD has no facilities in the area and does not currently serve the proposed subdivision;
- m. Powell-Clarks Fork Conservation District submitted a soils summary report indicating that soil conditions may limit the use of septic adsorption fields and dwellings with basements;
- n. Heart Mountain Irrigation District has been notified of the proposed subdivision;
- o. An irrigation distribution plan has been submitted to the Heart Mountain Irrigation District;
- p. A well water analysis report has been submitted to the Planning Department;
- q. An initial weed inspection noted the presence of noxious weeds; therefore, a long term noxious weed control plan is required;
- r. Municipal review is not required;
- s. The property has two existing permitted septic systems on proposed Lot 2;

WHEREAS the Planning & Zoning Commission concludes the proposed subdivision is generally consistent with the goals and policies of the Park County Land Use Plan and is consistent with the standards and procedures of the 2015 Park County Development Standards and Regulations;

NOW, THEREFORE, BE IT RESOLVED based on the foregoing, the Planning & Zoning Commission hereby recommends approval of the sketch plan for the Shumard Minor Subdivision-26, subject to the following conditions:

1. The applicant shall provide all easements as requested by applicable utilities and special districts, irrigation districts or public agencies providing services. The width of any utility easement shall be sufficient to allow adequate maintenance of the system, but in no case shall such utility easement be less than 20 feet in width. Easements must be identified on the final plat;
2. A long term noxious weed control plan must be approved by Weed & Pest prior to final plat review by Park County Commissioners;
3. Means of delivery of irrigation water to Shumard property must be resolved by Mr. Wadman, Mr. Shumard, and the Heart Mountain Irrigation District prior to final plat review by Park County Commissioners;
4. Access to each lot must be shown on final plat;
5. The applicant shall otherwise comply with standards in the Park County Development Regulations and the minimum subdivision requirements as set forth in Wyoming Statute 18-5-306.

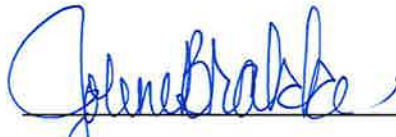
ADOPTED by the Park County Planning & Zoning Commission this 19th day of February, 2019.

**PLANNING AND ZONING COMMISSION
PARK COUNTY, WYOMING**



Marion Morrison, Chair

ATTEST:



Jolene Brakke, Secretary

**RESOLUTION 2019 - 05
PARK COUNTY PLANNING & ZONING COMMISSION**

**TITLE: RECOMMENDATION TO APPROVE MANDIE MAE
MAJOR SUBDIVISION PRELIMINARY PLAT**

WHEREAS, Robert Taylor proposes to create a two-lot major subdivision on 10 acres in Lot 51-4, Lot 51 Subdivision, located in Book "E" of plats, Page 50, in the records of the Clerk and Recorder of Park County, State of Wyoming.

WHEREAS, a variance has been approved by the Park County Commissioners allowing domestic water from existing wells be used for this subdivision in lieu of connecting to Northwest Rural Water;

WHEREAS, the application and supporting documents are in substantial compliance with Park County Development Standards and Regulations pertaining to major subdivision preliminary plats;

WHEREAS, the Planning & Zoning Commission held a duly noticed public hearing on November 20, 2018 to consider the sketch plan application, and unanimously recommended approval with conditions;

WHEREAS, the Planning & Zoning Commission held a duly noticed public hearing on February 19, 2019 to consider the preliminary plat application, and made findings as follows:

- a. The lots as configured conform to the GR-P zoning district, where they are located;
- b. All notice requirements have been met;
- c. There are no official wetlands, identified wildlife habitats or corridors on the property;
- d. Access, irrigation and utility easements are shown on the preliminary plat;
- e. There are no apparent or identified hazardous conditions on the lots;
- f. Cellular phone service is adequate in the area;
- g. Electricity and natural gas serve each lot;
- h. Fire protection is available via Fire District No. 1;
- i. Two domestic water wells of similar depths exist on the property and have served up to three residences for several decades;
- j. NRWD has a water line running parallel to, and north of, Lane 11, however a variance has been granted exempting the requirements to install water distribution lines adjacent to each subdivision lot;
- k. Weed & Pest initial inspection noted the presence of noxious weeds, however, a long term noxious weed control plan is not required. Weed & Pest does

recommend that applicant follow Best Management Practices for the control of noxious weeds;

- l. Shoshone Irrigation District has approved the irrigation distribution plan and has approved the authorization to detach water rights;
- m. Authorization to detach water has been sent to Board of Control for approval at their February meeting;
- n. An irrigation distribution plan has been sent to state Engineer's Office for their approval;
- o. Municipal review is not required;
- p. DEQ has provided a letter of No Adverse Recommendations pertaining to waste water and domestic water systems;
- q. The property has two permitted septic systems which have served up to three residences on the property for several years.

WHEREAS the Planning & Zoning Commission concludes the proposed subdivision is generally consistent with the goals and policies of the Park County Land Use Plan and is consistent with the standards and procedures of the 2015 Park County Development Standards and Regulations;

NOW, THEREFORE, BE IT RESOLVED based on the foregoing, the Planning & Zoning Commission hereby recommends approval of the preliminary plat for the Mandie Mae Major Subdivision, subject to the following conditions:

1. The applicant shall provide all easements as requested by applicable utilities and special districts, irrigation districts or public agencies providing services. The width of any utility easement shall be sufficient to allow adequate maintenance of the system, but in no case shall such utility easement be less than 20 feet in width. Easements must be identified on the final plat;
2. The Irrigation distribution plan must be approved by the State Engineer's Office prior to final plat approval by County Commissioners;
3. The applicant shall otherwise comply with standards in the Park County Development Regulations and the minimum subdivision requirements as set forth in Wyoming Statute 18-5-306.

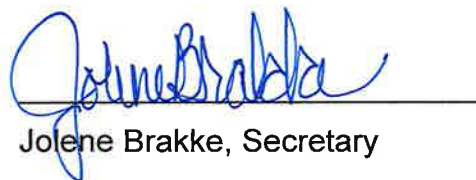
ADOPTED by the Park County Planning & Zoning Commission this 19th day of February, 2019.

**PLANNING AND ZONING COMMISSION
PARK COUNTY, WYOMING**

ATTEST:



Marion Morrison, Chair



Jolene Brakke, Secretary



Park County Planning & Zoning Department

1002 Sheridan Avenue, Suite #109

Cody, Wyoming

(307) 527-8540

PARK COUNTY PLANNING & ZONING COMMISSION

Meeting **6:00 P.M.**, Tuesday, February 19, 2019 in the Alternate Emergency Operating Center (EOC Room), basement of the Courthouse Addition
1002 Sheridan Ave. Cody, WY.

This is a regular meeting of the Park County Planning & Zoning Commission open to the public. For more information please contact the Park County Planning & Zoning Department at 527-8540, 754-8540, or 1-800-786-2844.

APPROVAL OF MINUTES

Approve minutes from January 15 & January 29, 2019 meetings.

REGULAR AGENDA

[PUBLIC HEARING, CONT. – Shumard MS-26 Sketch Plan](#)

[PUBLIC HEARING – Mandie Mae Major Subdivision Preliminary Plat](#)

OTHER BUSINESS

1. Chair's Report
2. Planning Director's Report

ADJOURN

PLEASE SIGN IN
PLANNING and ZONING COMMISSION
REGULAR MEETING
February 19, 2019

		Shumard MS-26 Sketch Plan	
		Mandie Mae Major Subdivision Preliminary Plat	
	Please PRINT your name	Name of the HEARING OF INTEREST	DO YOU WISH TO SPEAK
1	Robert Taylor	Mandie Mae Subdivision	
2	Dave Wadman	Shumar Subdivision	
3	S Herrmann	Taylor Subdivision	yes
4	Celia Thompson	Mandie Mae	possibly
5	LYLE CASCIATO	MANDIE MAE	
6	Mary McKinney	all	✓
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			