

## SUBDIVISION MEETING

November 13, 2003

Chair Anita Varone called the meeting to order at 9:00 a.m.

Comms M and T were present. Others Ron, Sharon, Frank, Sheriff Cheryl Liedle, Capt. Dave Clouse, Mike Henderson, Max Milton, Jason Mohr, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the pledge.

Sheriff Office. Position Description and Advertise to Hire a Public Safety Communications System Manager. Comm T moved to approve the description and hire a public safety manager. Comm M seconded the motion and it carried unan.

Sheriff Liedle recommended the county release a request for proposal for proposed 6 million dollar communication safety radio system for the county. To begin advertising tomorrow. Have until 2004 to obligate the funds for this project.

Release Radio System RFP/RFI for bid. Comm M moved to approve the release of the RFP for bid. Comm T seconded the motion and it carried unan.

Health Department Contract Renewal. Mike Henderson recommended approval of the contract with DPHHS for emergency preparedness. Contract amount is \$152,235. comm M moved to approve and authorize the chair to sign. Comm T seconded the motion and it carried unan.

Proposed Major Subdivision, Preliminary Plat to be known as the Bryant No. 3 Major Subdivision. The applicant proposes to create 56 residential lots, each for one single-family dwelling, and two commercial lots. The proposed subdivision is generally located east of and adjacent to McHugh Drive and south of Motsiff Road. The applicant, Robert Bryant was not present but was represented by Mark Liechti, Schwartz Architect & Engineering in Kalispell.

Commissioner Varone. Sir, have you had an opportunity to read the report that staff prepared as well as the planning board recommendations?

Mark Liechti. Yes, actually not the planning board recommendations, we haven't received those.

Commissioner Varone. Okay, we need to make sure that he receives a copy, Frank, if you would. Just to explain to you a little bit about how the process goes with the county commission in case you and the folks in the audience may not be totally familiar with it. What I do is make sure you have a copy of everything and then the planner will go over the report as he has prepared it as well as the recommendations from the planning board. Then we will have a public hearing but before I start the public hearing I'll give you an opportunity to make a presentation or respond or just give us additional information. Then we will hold the public hearing and at the end of the public hearing you will have an opportunity to close.

Mark Liechti. Thank you.

Frank Rives presented the staff report. This is the vicinity map of the proposed subdivision. Mottsiff Road is located to the north and there are several subdivisions here, Bryant Tracts and Bryant #1 and Mottsiff Road Minor Subdivision. To the west is McHugh, to the east is North Montana, and to the south are subdivisions that gain access from Tenneson and Phillips. This is the proposed preliminary plat for the subdivision site plan. As you can see it has its two access on McHugh and on Mottsiff. There is this area here is proposed site for the community well and this area here is designated for the proposed location for the drainfield. Portions of this are located in the 500 year floodplain basically about this area here. This area here is outside of the 500 year floodplain. About half of it is in the 500 year and half is outside give or take 5%. There are 58 total lots, 56 residential lots which are in this area and then there are two proposed commercial lots located here. The Bryant #3 Major Subdivision is in Special Zoning District 13-A which is called Bryant Tracts. There are two zoning designations in the Bryant Tracts. One is for residential use in which the residential properties are located, and then this area here is designated for commercial use and there are commercial uses to the north and to the south, as well as residential use to the south. The subject property is presently undeveloped rangeland. The vegetation is native grasses, cacti, and some small sage brush. The terrain is mostly flat, sloping gently to the northeast and there are several shallow and wide north-south drainages which are identified in the 500 year floodplain. The property bordering North Montana and Mottsiff Road has a baseball back stop and there is also a sign in the grass that advertises Christmas trees; so it is likely this portion of the property has been used in the past for seasonal sales. What the applicant is proposing is 56 residential lot subdivision each for one single-family dwelling per lot and then two commercial lots. The existing 34 acre tract would be divided into 58 lots ranging in size from ½ and acre to 0.97 acres. The residential lots are all in the area of ½ acres. The larger lots are the two commercial lots. The lots would be served by a community well and a public wastewater treatment system and utilities. Access to the residential lots and one of the commercial lots would be from the internal access road which is planned to connect on Mottsiff and the secondary is on McHugh Lane. Access to the southern commercial lot is proposed to be on North Montana Avenue. Road construction would be required to provide standard legal and physical access. The applicant has expressed preference to provide a cash payment in lieu of parkland dedication and that request has been approved by the Park Board. As I mentioned, the proposed subdivision is in Special Zoning District 13-A. The residential lots are in the CR-1 Zone which is single-family residential and the two commercial parcels are located in the CB-2 Zone which is general commercial. The proposed covenants for the CR-1 Zone require a minimum of 20-foot front yard setback; however, the proposed covenants for the subdivision would permit a minimum of 15 feet for a front yard setback because all development and construction would have to meet the requirements of the applicable zone unless the applicant had the 20-foot setback requirement for the Special Zoning District amended or was granted a zoning variance. This issue was discussed at the planning board meeting and it was the representative of the applicants that they were not going to pursue a change of the zoning and were not going to request a zoning variance and that they would comply with the requirement of Special Zoning District 13-A. There are restrictive covenants proposed for the Bryant Subdivision. The proposed covenants

would permit only single-family residential use on all but two lots as commercial lots. It would prohibit further subdivision of lot 158 which is the area of the drainfield. It would permit modular or doublewide homes on a permanent foundation. This was also addressed at the planning board meeting and the applicant's representative said it was the intention of the developer to build stick-built homes only and that there would be no doublewide mobile homes on the property. The covenants would also establish a minimum 1,000 square-foot ground floor area for residences and would establish minimum building setbacks and prohibit service and commercial activities on the residential lots. Proposed Covenant L states that the property states that the property is unzoned; however, the property is located in Special Zoning District 13-A. The proposed covenants permit a side-yard setback of 10 feet; however, the West Valley Fire Department in their comments requests that a minimum building setback of 15 feet. A copy of the proposed covenants are attached. I should mention that the issue of the side-yard setbacks was discussed at the planning board meeting and the representatives of the applicant had no problem with the minimum setback of 15 feet.

Addressing agricultural impacts, the soil mapping unit identified on the property is Nipped \_\_\_\_\_ Complex. It's not a soil of prime statewide or local importance. It has severe limitations that make it generally unsuited for cultivation. The subject property is surrounded by primarily developed and undeveloped residential lots; however, west of McHugh Lane there are several large parcels where horses are pastured. Additional residential development in an increasing suburban area would have minimum impact on nearby pasture lands and there are no irrigation facilities, no agricultural water users or easements identified on the subject property. There is Helena Valley Irrigation ditch is located approximately 2/3 of a mile west of the subject property. As I mentioned, each of the lots would be served by a public sewer system. Plans for the public system would be submitted to DEQ for their review and approval. The soil-mapping unit identified on the subject property has severe limitations for the placement of onsite wastewater treatment systems due to its poor filtering capacities. Groundwater would be drawn from Helena Valley aquifer. Wells in the vicinity have a depth of 15 to 122 feet and an average yield of 27.44 gallons per minute. Wells in the immediate vicinity are generally 40-60 feet in depth—some folks have encountered reduced flows from their wells that have gone deeper—but generally the wells are between 40 and 60 feet in depth. There appears to be adequate supplies for domestic purposes which are based on the well logs in the vicinity; however, long term withdrawals from an aquifer cannot be adequately estimated without significant geological and hydrological study. The proposed subdivision would have legal and physical access. Motsiff Road, North Montana, and McHugh Lane are county or state roads and are built to the minimum of the county standard. A response from the City-County Transportation Coordinator stated that the intersections spacing was non-standard; that is less than the minimum of 400 feet; however, these standards have not yet been adopted by the county as a part of the draft regulations which we are currently reviewing. So currently there are no applicable intersection spacing limitations. Due to the limitations regarding configuration of the property is the north-south depth of the property. The intersections for the internal access roads and McHugh Lane and Montana Avenue are located most appropriately.

Effects on Local Services. The proposed subdivision is located within two miles of an elementary school so transportation would not have to be provided by the district if classroom spaces are available. In the case of some class sizes that are limited, then

the elementary students would have to be bused to a farther school and all secondary and high school students residing in the proposed would have to be bussed at the general taxpayers' expense. The subject property is located in the West Valley Fire Department and West Valley Fire Department will require a fire protection plan, and, of course, the subdivision is also located within the Scratch Gravel Landfill District.

In addressing the West Valley Fire Department's responses, in their response, the applicant and the West Valley Fire Department did meet and agree to the following conditions: (1) the applicant install a water supply system capable of delivering 500 gallons per minute at a rate of 20 gallons per minute for 120 minutes. The applicant would also be required to install a fire hydrant in a location which was approved by the West Valley Fire Department and that this hydrant would have to be approved for use in the state of Montana; and they also requested a minimum building setback of 15 feet. The proposed covenants for the Bryant Subdivision as I mentioned, would have permitted a 10 foot side yard set back. There are no surface waters which are identified on or adjacent to the property; however, as I mentioned, the property has several areas of the 500 year floodplain located on it as I mentioned, the soil mapping unit Nip-Atwan \_\_\_\_\_ Complex. It has moderately low runoff potential, moderate infiltration rates when thoroughly wetted, moderately rapid permeability and moderate rates of water transmission. There is some potential for groundwater contamination because of the poor filtration capacities of the soils on the subject property. The property does not provide significant wildlife habitat primarily due to the medium density residential uses which are common in the vicinity.

Effects on Public Health and Safety. The 100 year floodplain is not identified on the subject property, but the 500 year floodplain is identified on the subject property and maybe susceptible to sheet flooding during periods of stormwater runoff. Lewis and Clark County does not currently regulate development in the 500 year floodplain. These regulations were repealed. The floodplain administrator, however, was contacted and it was his suggestion that homes in the 500 year floodplain be constructed without basements and be raised 2-1/2 feet above the main? flood level. There are no steep or unstable slopes on the subject property. There is a potential for exposure to elevated levels of radon gas and so we have included a condition notifying potential landowners of that possibility. Liquefaction potential is moderate due to the relatively shallow depth to groundwater and the concealed bedrock which is identified on the property. The Scratch Gravel Hills fault is located approximately 1.5 miles northeast of the property.

Traffic Analysis Information. The traffic analysis done by the applicant's engineers indicated that they estimated an increase of 327 trips per weekday for McHugh Lane and 500 additional vehicle trips per day for Mottsiff Road and North Montana. Included in this calculation was estimated vehicle trips from the northern commercial lot that is 226 vehicle trips mostly accessing Montana Avenue. The southern commercial lot was estimated to have 500 vehicle trips per weekday all generated onto North Montana. There is an estimated 834 additional vehicle trips which could adversely affect McHugh and Montana Avenue. The applicant's engineer, in their submittal, had recommended improvements which included a traffic analysis to help mitigate the impacts on Montana Avenue. Based on the traffic analysis performed, the intersection at McHugh Lane would be expected to continue to operate at a level of service A following full build out of the subdivision. An analysis at the intersection of Mottsiff and Montana Avenue indicates that a third approach with a right-turn lane only lane and a two-car stacking

depth would be necessary at the intersection to maintain the current level of service C and that these improvements should be part of the design plans for the subdivision. Prior to implementing these improvements, the traffic impact analysis and designs would have to be submitted to the Montana Department of Transportation and the Planning Department for review and approval.

One of the concerns for development of this property is the fact that the portions of the property are located in the 500 year floodplain and has been subject to recorded sheet flooding in the last 20 or more years. The highest elevation on the property is located in the southwest and the lowest is in the northeast in the form of sheet flooding commonly travels through across McHugh Lane up through the Tenneson Subdivision and then moves in a northeasterly direction across the subject property and exits in the northeast quarter of the property and crosses on Motsiff Road. It would be the recommendation of staff that the location of the 500 year floodplain be identified on the final plat for the subdivision due to the medium density housing which is proposed and increased impermeable services related to development not only footprints but additionally the roadwork. It would be the requirement of the county that a stormwater drainage plan be prepared that would insure that runoff that in excess of historic volumes of stormwater be retained on site.

Parkland Requirements. The applicant is required to provide approximately 3 acres of parkland or cash in lieu. The applicant requested a cash in lieu payment and that estimated cash in lieu payment was approximately \$6,018 which the Park Board thought was a little low. The Park Board did recommend that the applicant pay the cash in lieu payment which would be based on an appraisal done by a land appraiser acceptable to the Board of County Commissioners. This would be in order to assist the county in determining the amount of cash payment to be made in lieu of parkland dedication. Staff is recommending approval of the preliminary plat for the Bryant Major Subdivision. The preliminary approval would be to create 56 residential lots each for single-family dwelling and two commercial lots. The proposed property is located in the northeast quarter of section 7, Township 10 North, Range 3 West of Lewis and Clark County and it is staff's recommendation that this approval be subject to the findings and 18 conditions which are contained in the staff report. That concludes my presentation.

Commissioner Varone. Thank you Frank. Commissioners, do you have any questions of Frank?

Commissioner Tinsley. Under solid waste disposal and Ron correct me if I'm wrong here. Fee assessment for each lot governing the cost of disposal for two tons per year per resident I believe it's 1.5 tons now? Is that correct? So we need to correct that on page 3 under solid waste disposal. Frank, if you wouldn't mind would you explain to me again I found the setbacks for the side yards in the covenants but I couldn't find the front yard setbacks and you explained that the proposed and I'm sure they're in there but I may have just read over them, but the proposed covenants call for 15 feet, the zoning area calls for 20 feet minimum, correct? And it may be in here, I just don't see it.

Frank Rives. The zoning for special zoning district 13-A, zone CR-1 which is the residential zone requires a minimum 20 foot front yard setback. The proposed covenants would have permitted a minimum of 15 foot wide setback. Does that address your question or did I miss it?

Commissioner Tinsley. So is it 15 or 20 in our packet?

Frank Rives. The applicant's proposed covenants are 15 feet. The Special Zoning District's zoning requirements are 20 foot setbacks.

Commissioner Tinsley. Then I guess my question is in our covenants that have been recommended to us in our conditions of approval, I guess, does it say 15 or 20? Because I don't see it in here and it could very well be here.

Frank Rives. They wouldn't be in the...

Commissioner Tinsley. Because the standard is 20 feet then it's 20 feet unless we change it?

Frank Rives. It's 20 feet unless they change it by coming before the Commission. The county generated covenants don't include those setbacks. Those are the setbacks set by the applicant and the development and they would have to meet the zoning, or change the zoning and it is the representatives of the developers said they would comply with the existing zoning requirement.

Commissioner Tinsley. Okay. On page 4 of the staff report, under Streets and Access, to the bottom of it where it says "Other" you go into the explanation of the City-County Transportation Coordinator stating that the intersection spacing is non-standard the minimum is 400 feet, however these standards are from a draft that we have not yet adopted. Currently there are no applicable intersection spacing regulations in the county subdivision regulations due to limitations regarding the configuration of the subject property. The intersections of the internal access roads and McHugh Lane are located most appropriately. How is that determination made? How is that determination made I guess by you in this transmittal report or staff report—what did you base your determination on by stating that the internal access roads and the intersections are located most appropriately?

Frank Rives. Well, primarily, that's addressing the approach onto McHugh. The best location is approximately where they are proposing to place it because it keeps—the road is far enough away from Motsiff that it's not so much a problem and at the same time it is not too close to Tenneson. You could possibly locate slightly more to the south to---since Tenneson is a little bit farther away, but that's a pretty good estimation particularly since you're trying get some lots in there too. That seems like about the best location, give or take.

Commissioner Tinsley. Mr. Rives in that paragraph I just read, where it states that currently there are no applicable intersection spacing regulations in the county subdivision regulations—keep that in mind as I read this next part. The comments that we received from Mr. Holling, our transportation coordinator here at the county and city, he says "intersection spacing is non-standard minimum of 400 feet intersection of un-named alignment and Motsiff appears to be too close to the intersection of Motsiff and Montana. The intersection of the un-named alignments near McHugh Drive is also too close to McHugh. This three-way intersection is unusual and may have operational problems. A more standard intersection design is preferred." Now getting back to that

thing that I asked you to keep in mind, currently there are no applicable intersection spacing regulations in our subdivision regs. Does that mean we can't or we shouldn't at least stay to the minimum that we have in our draft that we probably—I can't probably—that we may be adopting soon? Wouldn't that make more sense? In your mind as a planner?

Frank Rives. If we apply the 400 foot intersection spacing, you wouldn't be able to get a road onto the property into any place. You wouldn't be able to put it directly on to North Montana because it is 319---if you put a road in say at the most southeast side of the property and you put in your standard 60 foot right-of-way it would then be 319 feet from the northern edge of the right of way to Mottsiff Road. If you have the road where it is proposed to access Mottsiff Road, it's not 400 feet there and on McHugh Lane the property is not 400 feet wide there would no place—you wouldn't be able to get accesses to that area.

Commissioner Tinsley. I understand what you're saying. I guess I should have asked my question in a different way. The last statement that Mr. Holling's makes in his comment sheet is "a more standard intersection design is preferred." Since we can't meet the minimum that we may be approving at some point in the near future with regards to intersections and approaches, with a minimum of 400 feet given the constraints of space, is there a more standard intersection design that we could as a county request from the applicant? Can it be more preferential than what we have now?

Frank Rives. I can only address that in the most general sense since I'm not a transportation director; however, I believe that the location of the road onto McHugh is about as good as it's going to get—that's probably the best location. As far as the eastern access, you can either go onto Mottsiff or you could go directly onto North Montana by running the road along the southeast border there. That will still give you 319 feet by my estimation between the right of way and for the internal access road and Mottsiff Road the line of sight is good there as it is on McHugh so you know, North Montana would be a direct approach onto North Montana would be good, but then also an approach onto Mottsiff is good because of – you sort of want to limit the number of accesses onto an arterial and it's safer to put more cars on one road rather than having fewer cars on two roads that are located fairly common, because there is going to be a lot of traffic coming off Mottsiff if the road is on there and if you put the road on North Montana there is still a lot of traffic on Mottsiff.

Commissioner Tinsley. I may have a few more minutes, Madam Chair but go ahead.

Commissioner Murray. Mr. Rives, in dealing with education within the two mile limit, what provisions have you proposed for youngsters that are going to walk to school? I realize that is kind of an out dated concept, but youngsters that would access school are going to be walking down Montana? Are there walking trails? Have you provided for the establishment of safety of trails to access the school?

Frank Rives. No we haven't and the applicant has not addressed it either.

Commissioner Murray. In condition #8, one of your proposed conditions you mentioned "in addition to paving, asphalt road with curbs." Does curbs include gutters?

Frank Rives. It is the plan of the applicant and his engineers to design the road to Typical Section #1 which would be curb and gutter.

Commissioner Murray. So the gutters are implied there? Just not stated.

Frank Rives. Full curb.

Commissioner Murray. Thank you. Mr. Rives, some of the initial response letters you received from neighborhood people ask questions, has planning responded to their questions? I'm referring to a letter from Mr. Brondt. He wants to know if his rear alley will remain as a result of this subdivision. Has that question been answered?

Frank Rives. There are no alleys; there is a utility setback. When these subdivisions along Motsiff were created they reserved a 5 foot utility easement and yes it would be maintained and in fact the applicant would also have a 10 foot wide utility easement on their property so there would actually be a 15 foot utility easement along that northern portion of the property.

Commissioner Murray. Excuse me, I lost you in the detail of my question. People that took the time to write and give us comments on a proposed subdivision and ask questions, have we responded to their questions?

Frank Rives. That was addressed at the Planning Board meeting.

Commissioner Murray. Thank you. Madame Chair and Commissioner Tinsley, in one of the recent comment letters one of the individuals expressed concern that the proposed septic system is within the 500 year floodplain and expressed concerns that sheet flooding occurs—this will take out the septic system, will you talk about that a little bit? Has Health commented on that?

Frank Rives. There is no DEQ prohibition against placing an onsite wastewater treatment system or a drainfield in a 500 year floodplain. Yesterday I had a discussion with the sanitarian and asked were there methods that could be used to mitigate the concerns—I spoke to Laura Mullen and she said that she new of at least two occasions where a berm was placed around the drainfield to raise the level there so that it was 2-1/2 feet above the mean flood level. So that is one option that a berm can be placed around the property to prevent it from being flooded and she said she didn't see any problem with placing it in the 500 year floodplain provided the applicant was diligent in making sure that once the drainfield was installed that it was quickly seeded and that a good head of grass was growing on it—of course, once the drainfield is in use, it's going to keep a good crop of grass growing. As you know, the grass is always greener over the drainfield, and it was her opinion that the velocity that which would be seen in the sheet flooding, which is common, in the 500 year floodplain, it wouldn't have the scouring capacity that you see in the 100 year floodplain because it is not contained, it's not in a channel, and its flowing in a lower velocity than it would in a 100 year floodplain which is why they prohibit you from doing it in the 100 year floodplain—one of the reasons why because sustained standing water on top of a drainfield is not good for it.

Commissioner Murray. Thank you. Mr. Rives I want to compliment you for your working knowledge of the proposal on this particular subdivision—you seem to have it

all together.

Commissioner Varone. Frank, a request first of all. I'm interested in taking a look at the Water Quality Protection District's comments from Kathy Moore if you would be so kind as to supply a copy of that to the Commission before they make a determination, I'd appreciate it. Then, also some questions. One is on one of the letters we received if I may, I appreciate that those who took the time to write such concise and thoughtful recommendations and concerns to us, and know that all three commissioners are extremely good about reading everything and responding when we can. In particular there was a letter that was received by Joel Overton and Kathy Steil and one of the questions was "the Department of Environmental Quality will be responsible to insure safety of existing groundwater. We are very concerned about the safety of our groundwater due to contamination because of poor filtration capabilities of the soils on the property." Will the corral and stockyard directly to the west of this new development be considered when DEQ works up the location of the new wells for this subdivision?" I thought that was a real thoughtful question, do you have any idea?

Frank Rives. No I do not what DEQ policy is for review and I don't know if they are going to review properties to the west.

Commissioner Varone. Would it be possible before we make out determination if you would just make a phone call and make them aware that that property is to the west and ask them if this is approved if they would make sure that they do take that into consideration, because it does flow downstream?

Frank Rives. Certainly.

Commissioner Varone. And the second question I had with the same letter writers had to do with the worth of the property and I did read that Mr. Michael Larum with Landmark estimated that the per acre was approximately \$2,000 and because this is a question that has arisen in almost every letter that we've gotten and at the planning board, would it be possible to get a second opinion on that cost?

Frank Rives. I can make that request to Mr. Larum.

Commissioner Varone. Okay, I'd appreciate it. Then we have a couple a few questions from the planning board recommendations relative to whether we have a legal right to do some of these things, not that I agree or disagree with them, but for example on page 10, condition of approval #6, the planning board modified the \_\_\_\_\_ traffic impact analysis and design plans shall be submitted to the Montana Department of Transportation for review and approval. The applicant shall install such improvements on Motsiff Road. My question is MDT—Motsiff is not an MDT road as the roads on Montana Avenue. Can we do that? Or is that something outside the purview of MDT?

Frank Rives.