

**PUBLIC MEETING**  
**July 26 2005**

Chairman Ed Tinsley called the meeting to order at 9:00 a.m. Commissioners Varone and Murray are present. Others attending all or portion of the meeting included Ron Alles, Jerry Grebenc, Lindsay Morgan, Frank Rives, Michael McHugh, Jerry Shepherd, Dean Retz, Kim Smith, Byron Stahly, John and Diana Brodston, Margaret A. Shunick, Robert D. Braico, Pat Jones, Tyler Emmert, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the pledge.

Consent Items. Ron Alles reported on the consent items.

- a. Resolution Declaring County Property Surplus Property. Two ballot tabulators from the Treasurer's office and one John Deere Mower F525 from the Forestvale Cemetery, all with individual values less than \$2,500.
- b. Request for a one-year extension of preliminary plat approval for Silver Creek Commercial Subdivision to May 27, 2006. (Applicant, Phil Wirth)
- c. Request for a one-year extension of preliminary plat approval for Mason Commercial Minor Subdivision to July 25, 2006. (Applicant, Eric Mason)
- d. Final Plat Approval for Silver City Airpark Estates II Minor Subdivision.

Commissioner Murray requested action items a and b be pulled for discussion.

Commissioner Varone moved to approve items c and d. Commissioner Murray seconded the motion and it carried unanimously.

Item a. Commissioner Murray verified that the new equipment has been received prior to the two ballot tabulators being removed for surplus and moved to approve items a and b and authorize the chair to sign. Commissioner Varone seconded the motion and it carried unanimously.

Item b. Commissioner Murray moved to table the request to Thursday July 28 to allow the applicant an opportunity to respond to the late request for an extension. Commissioner Varone seconded the motion and it carried unanimously.

Pledged Securities. Ron Alles reported the Treasurer has made a request to pledge securities from the county's reserve funds received from taxes collected and to insure the appropriate investment authorities have sufficient securities to back them. The collateral statement is from the U.S. Bank National Association in compliance with audit requirements and the Securities Act. Commissioner Varone moved to approve the pledged securities and authorize the chair to sign. Commissioner Murray seconded the motion and it carried unanimously.

Bid Award. Ron Alles reported the independent contractor contract is with Montana Refining Company, low bidder based on the price per ton of MC-3000 for 320 tons of liquid asphalt. The contract is in the amount of \$80,640 and provides asphalt for the Kenwood Addition, Gates of the Mountains, York Road, Masonic Home Road, and Collins Road. Staff recommends approval. Commissioner Murray moved to adopt staff recommendation and authorize the chair to sign. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Major Subdivision, Preliminary Plat to be known as the Amended Plat of Lot A, Guettler Minor Subdivision. (Applicant, Larry Kim Smith) (postponed from 7/12/05) The applicant proposes to create 69 lots, 68 will each be used for one single-family dwelling and 1 lot will be used as a common area for the public wastewater treatment system. The proposed development is generally located south of and adjacent to Lincoln Road West and east of and adjacent to Applegate Drive. The applicant is present and indicated his willingness to proceed.

Lindsay Morgan presented the staff report. Access to the site is Applegate Drive via Griffin Road and a series of internal access roads that will reconnect with Applegate. Road construction will be required. The applicant proposes cash in lieu of parkland. The Helena Valley Irrigation Districts main canal runs along the eastern property boundary. Fences must be added at the irrigation canal easement and a 50-foot setback is required for all buildings. The proposed subdivision lies in the North Hills Temporary Controlled Groundwater Study Area. DEQ has determined adequate water is available for this site. A Rural Maintenance District will be required for the proposed subdivision to maintain the roads within the subdivision. All internal roads shall be hard surfaced. Applegate Drive shall be rebuilt to the intersection with Lincoln Road West. Approach permits will be required for the approaches onto Applegate Drive. The extension of Hope Road and all proposed internal access roads shall be constructed to county road standards Typical Section #2. The applicant shall dedicate an adequately sized easement to access lot 69 on the final plat. Staff recommends the applicant conduct a traffic impact study regarding a left turn deceleration lane prior to final plat approval of phase 2 to determine if lane is warranted. Staff also recommends a public access underground utility easement be dedicated between proposed lot 62 and 68 to facilitate an inter-connective road network. Due to the location of the drain/culvert along the canal and the slopes associated with it, staff recommends detailed road plans be submitted to the County Planning office and County Public Works Department prior to review and approval of the final plat, to insure the cul-de-sac is in the proper location. Staff further recommends the applicant install a chain link fence along the eastern property boundary with the homeowners association providing the necessary maintenance of the fence. The applicant has requested a variance for proposed lots 1, 27, and 45 with an average depth greater than 3 times the average width. Staff has concluded this hardship was not created by the applicant so the variance would not be required. The Park Board recommends a trail easement be dedicated from the junction of Lincoln Road West southward along the east side of Applegate Drive to the southern boundary of the proposed development. The trail will not have to be constructed as a part of this development, the land under which the easement is dedicated will be used towards parkland dedication and will reduce the cash payment provided by the applicant. When the trail is to be constructed, the Park Board will use the funds to construct the trail. Staff recommends approval of the proposed development subject to 28 conditions. The Planning Board also recommends approval with amendments to condition 14, which should read lots 34 and 37-not 35, and conditions 16 and 19.m.

Byron Stahly, Stahly Engineering. The applicant requests the road remain 24-foot wide instead of 28-foot. Safety would not be compromised and feels the 24-foot width is adequate for traffic. The applicant has agreed to pave Griffin Road.

Kim Smith, 3734 McHugh. His goal is to sell mid-range lots and construct quality homes. Pump tests have been done on the water and the state has granted him interim water rights on a well across the street. The WQPD has no issues with water quantity. He likes the road network for this property and it is down gradient from the canal. He would prefer to install a 36" woven wire fence to hinder access to the canal. He is apprehensive about improving Applegate because the lots will become part of the Applegate RID already in place, but agrees to put on an overlay

and he has no problem with a bike path easement.

Hearing no other comments, the public hearing is closed. Commissioner Murray moved to render a final decision Tuesday, August 2. Commissioner Varone seconded the motion and it carried unanimously.

The Commission recessed for ten minutes.

Proposed Minor Subdivision, Preliminary Plat /Site Plan to be known as Helena School Tracts, Lot 29 Amended 2. (Applicant, John and Diana Brodston) The applicants propose to develop the existing 3-acre tract with two existing single-family dwellings, two existing mobile homes and a space for one additional mobile home. The proposed subdivision is generally located north of and adjacent to Toole Drive. The applicants are present and indicated their willingness to proceed.

Frank Rives reported the Brodstons submitted a letter requesting the review period be extended to July 29. Commissioner Murray moved to approve the request to extend the review period to July 29. Commissioner Varone seconded the motion and it carried unanimously.

Mr. Rives presented the staff report. The applicants are requesting additional space for rent, lease or other conveyance. A sewer line will be installed to a new proposed site for a drainfield. Access to the lot is via East Custer Avenue. Road construction may be required to permit standard physical access. The applicants are requesting two variances: (1) fire regulations - \$500 fire service fee instead of the current \$1,000 fee and (2) county road standards - the applicants improved the road in their last subdivision and would like a variance from the new standards. Staff recommends approval of the proposed preliminary plat subject to 9 conditions as outlined in the staff report.

Diana Brodston, 6135 Timber Trail, stated the homes are rental property and requested the variances because the road was constructed to county standards last year and also paid the fire department fee last year.

Commissioner Murray moved to render a final decision Thursday, July 28. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Major Subdivision, Preliminary Plat to be Known as Hoff Lot 3 Amended. (Applicant, John Herrin) The applicant proposes a re-subdivision of Lot 3 into 12 single-family lots through 2 phases. Phase I would create 7 lots; Phase II would create 5 lots. The proposed subdivision is generally located 1.2 miles north of York Road, east of Lake Helena Drive off Emerald Ridge Loop Road.

Jerry Grebenc reported the applicant is not present due to personal reasons and recommends the Commission table this proposal to Thursday, July 28. The applicant has also requested an extension of the review period to July 29.

Commissioner Varone moved to grant an extension to July 29 as requested by the applicant. Commissioner Murray seconded the motion and it carried unanimously.

Commissioner Varone moved to table the public hearing to Thursday, July 28 as recommended by staff. Commissioner Murray seconded the motion and it carried unanimously.

Proposed Revocation of an Agricultural Covenant, Certificate of Survey No. 3035072, Tract 5-A-2). (Applicant, V. L. Jones) The applicant has requested the revocation of the agricultural covenant. The subject property is generally located south of Lincoln Road, east of and adjacent to Birdseye Road. The applicant is present and indicated his willingness to proceed.

Lindsay Morgan presented the staff report. If the covenants are removed, the 28-acre tract can be used to develop a single family dwelling with an individual well, individual wastewater treatment system and utilities. The parcel was created by agricultural exemption February 13, 2003 and the site is currently undeveloped. Agricultural land uses in this vicinity are limited. Within a few months of the parcel being created in 2003, the property owner at the time, Wesley Pool, requested the agricultural covenant be removed. The Commissioners denied the request as they believed there was a clear intent to evade the requirements of the Subdivision and Platting Act. According to the history of the subject property, the original covenant should only be removed if the applicant goes through the subdivision review process. If the covenant is removed, the property would be exempt from review by the DEQ for water and wastewater treatment systems; however, future developers of the property would be required to obtain a septic permit from the City-County Health Department at such time any structure requiring sewer or water is erected. Staff recommends approval of the request subject to three conditions as outlined in the staff report.

Commissioner Murray asked if the county requires any proof that water exists in the 20-acre parcel? Jerry Grebenc stated it is the county's policy to follow the DEQ rules that are currently enforced and 20-acre tracts are exempt for substantial and credible evidence. If the 20 acres were sold for future subdivision, the developer would fall under DEQ regulations.

Commissioner Murray asked if the tax status would be moved from agricultural land to undeveloped land? Jerry Grebenc stated that is correct.

Commissioner Varone asked when Mr. Pool sold this property to the applicant?

V. L. (Pat) Jones, 903 Hialeah, purchased the land to pasture his horses and did not realize removing the covenant was complicated. He would like to get all of his financial matters in order and would like to be able to do something with the land. He agreed to the three conditions and to follow the normal subdivision process if he decides to subdivide the property.

Hearing no other comments, the public hearing is closed. Commissioner Varone moved to approve the revocation of an agricultural covenant subject to three conditions and authorize the chair to sign. Commissioner Murray seconded the motion and it carried unanimously.

Proposed Modification of Approval for Lots 5-1 and 5-2, Holmberg Village Estates. (Applicant, Ron Thompson/Jeff Douglass) (Planner, Michael McHugh) The applicant proposes a modification request to change approval from four multi-family residential units to four condominium units. The applicants are not present but staff stated they are willing to proceed.

Michael McHugh presented the staff report. The original subdivision was given preliminary approval in October 1999 and was approved for 44 single-family lots, 4 multi-family lots and one remaining lot that was approximately 38 acres. The subdivision already has a community water supply, individual wastewater treatment systems, on-site fire protection water source, and the roads are paved. There are no additional impacts; the only difference is the Board of County Commissioners would need to change approval from multi-family designation to condominium. The applicant is required to provide documentation that they have complied with the Unit

Ownership Act which is administered by the Montana Secretary of State prior to occupancy. The applicant can begin construction of the units immediately without any amendment to the conditions of approval. Staff recommends approval of the modification.

Commissioner Murray moved to approve the modification request. Commissioner Varone seconded the motion and it carried unanimously.

The Helena Inn, LLC Tax Abatement. Ron Alles reported on July 12 the Commission approved a tax abatement for the Helena Inn. After further review, this type of construction is not allowable for tax abatement--it must be either remodel or refurbish of an existing building. Staff recommends the Commission rescind its July 12, 2005 motion to approve the tax abatement. Commissioner Murray moved to rescind the tax abatement. Commissioner Varone seconded the motion and it carried unanimously.

Public comments on matters not mentioned above. The Stampede and Fair begin Wednesday, July 27 through July 31.

There is no other business, the meeting adjourned at 10:44 a.m.