

PUBLIC MEETING
January 27, 2004

Chairman Mike Murray called the meeting to order at 9:00 a.m.

Commissioners Tinsley and Varone were present. Others attending all or a portion of the meeting included Ron Alles, Sharon Haugen, Sheriff Cheryl Liedle, Jaci Grenfell, Michael McHugh, Frank Rives, Cheryl Green, Will Selser, Reed Scott, David Von Bergen, Sr., Kim Smith, Dean Retz, Patrick Faber, Kathy Moore, Shawn Bryant, Doug Krebs, Glen Hart, Ed Standley, Melvin Beattie, Bill & Bev Herman, Vivian Drake, Renee Crawford, Ed & Pat Brooks, Mary Kenison, Terri McLaughlin, Jason Mohr, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the pledge.

Public Hearing-Local Law Enforcement Block Grant Funding. Sheriff Liedle reported the Sheriff's Department received local law enforcement block grant funding in the amount of \$29,657. The requirements of the grant have been met. The sheriff's Department would like to use \$1,265 of this funding for a field video surveillance unit to be shared with City of Helena; \$4,845 to install two additional cameras in detention center visitation area and booking floor; \$5,000 for additional unfounded maintenance on mobile data terminals in deputy cars; \$18,547 to purchase 9 Taser units and training for deputies. These items are proposed because the Department is dealing with more violent crimes and mentally ill people in Lewis and Clark County.

Hearing no public comments, Commissioner Tinsley moved to approve the proposed use of block grant funding and authorize the chair to sign. Commissioner Varone seconded the motion and it carried unanimously.

Final Plat Approval and Subdivision Improvements Agreement for the Big Valley, Lot 17 Minor Subdivision. (Applicant, David & Valerie Blade) Frank Rives reported the applicants have fulfilled the conditions of approval and are ready to proceed with their final plat. The subdivision improvements agreement is for road costs. Staff recommends approval. Commissioner Varone moved to approve the final plat and the agreement and authorize the chair to sign. Commissioner Tinsley seconded the motion and it carried unanimously.

Final Plat Approval and Subdivision Improvements Agreement for the B&F Ranchettes, Lot 15 Minor Subdivision. (Applicant, Stanley & Christine Scott) Frank Rives reported the applicants have fulfilled the conditions of approval and are ready to proceed with their final plat. The subdivision improvements agreement is for road costs. Staff recommends approval. Commissioner Tinsley moved to approve the final plat and agreement and authorize the chair to sign. Commissioner Varone seconded the motion and it carried unanimously.

Resolutions Ordering Refunds of Taxes/Fees/Assessments Paid:

Battershell Properties Inc. Cheryl Green reported the corporation has requested a refund in the amount of \$171.09 due to an erroneous assessment. Staff recommends approval of the refund for tax year 2003. Commissioner Tinsley moved to approve the refund and authorize the chair to sign. Commissioner Varone seconded the motion and it carried unanimously.

1210 Orange Avenue LLC. Cheryl Green reported the corporation has requested a refund in the amount of \$598.99 due to an erroneous assessment. Staff recommends approval of the refund for tax year 2003. Commissioner Varone moved to table this to Thursday, January 29 for a better explanation of the refund from DOR. Commissioner Tinsley seconded the motion and it carried unanimously.

Jay and Geni Skoog. Cheryl Green reported the Skoogs have requested a refund of Scratch Gravel Solid Waste fees in the amount of \$344.00 due to an erroneous assessment. Staff recommends approval of the refund for tax years 1999-2002. Commissioner Varone moved to approve the refund and authorize the chair to sign. Commissioner Tinsley seconded the motion and it carried unanimously.

Joel W. Davis. Cheryl Green reported Mr. Davis has requested a refund in the amount of \$172.00 due to an erroneous assessment. Staff recommends approval of the refund for tax years 2001 and 2002. Commissioner Tinsley moved to approve the refund and authorize the chair to sign. Commissioner Varone seconded the motion and it carried unanimously.

David W. Von Bergen, Sr. Will Selser reported Mr. Von Bergen has requested a refund of Scratch Gravel Solid Waste fees in the amount of \$172.00 due to an erroneous assessment. There was no permit issued for 2001 and 2002 and recommends a refund. Mr. Von Bergen is present to dispute staff's denial of 2003 fees and recommends he follow proper procedure by writing a letter appealing to the Scratch Gravel Board.

Mr. Von Bergen requests the commission to consider a refund for three years. There is no water, electricity, and/or sewer system to the property. The yard light was knocked out by lightning in 1991 and has never been repaired.

Commissioner Varone moved to refer the refund back to the Scratch Gravel Solid Waste Board as a whole. Commissioner Tinsley seconded the motion and it carried unanimously. [The Scratch Gravel Board will meet February 3 at noon.]

Proposed Major Subdivision, Preliminary Plat to be known as Frontier Major. (Applicant, Kim Smith) The applicant proposes to create 36 lots on two existing parcels equaling 40.07 acres. The subject property is generally located north or and adjacent to Lincoln Road West and west of Applegate Drive. The applicant was present and indicated his willingness to proceed.

Michael McHugh presented the staff report. A sand and gravel operation is located immediately adjacent to Applegate Drive and Lincoln Road. There is no zoning in this area, however, a special zoning district is located immediately to the west of the subject property. The applicant proposes to establish covenants. Covenants would prohibit raising and keeping of livestock or manufacturing activity on the property and address maintenance of the proposed internal road network and the operation of the community systems. The subject property is located within the North Hills Temporary Ground Control Area and all wells will be required to demonstrate adequate water availability prior to the issuance of a water right. Two access points are proposed on the eastern boundary and on the western boundary. The applicant proposed an asphalt mat surface for all of the internal road networks, however, he has requested that two short extensions of the easement only be required to be constructed to a gravel standard. Staff recommends a minimum 50-foot no build zone along Lincoln Road to accommodate future expansion of the right of way in this area and construction of a 24-foot wide road standard. Because of the commercial activity in this area, staff recommends the road be developed to a 32 foot improved surface width. The West Valley Fire District is requiring the installation of water supply capable of delivering 500 gallons per minute at 20 psi for 120 minutes. The applicant and the fire department have reached an agreement that sprinkling would only be required in daycare centers or any facilities with overnight sleeping. The applicant would be required to submit an erosion and sediment control plan to the Soil Conservation District and a five-year weed management plan. No floodplains are identified on the property. The Scratch Gravel Fault is located approximately ½ mile west and the Northwest Valley Fault is located approximately 1.5 miles north of the subject property. The applicant proposes to construct a stormwater retention basin in the southeast corner of the property. The applicant would also be required to submit a Traffic Impact Study prior to obtaining approach permits onto Lincoln Road. The applicant wishes to make a cash payment in-lieu of parkland and the cash payment would be placed into the North Valley Parkland account. Staff recommends approval subject to 20 conditions.

The planning board had concerns with the alignment of the proposed accesses to the south. Staff indicated the approaches to the south were individual driveway easements. Water quality and the 24-hour pump test were also discussed. The applicant asked that condition 9 be modified to allow two access easements to the north be constructed to a gravel standard. The public had concerns about water and traffic in this area. The Planning Board approved the subdivision with the 20 conditions with the following amendments to staff's recommendations: (1) to require all multi-family units greater than duplexes and all commercial units greater than 6,000 square feet in size or more than one story or containing daycare or motel uses be required to have a sprinkler system; (2) amend condition 16.j to add notice about radon, seismic activity, water quantity and availability of fire service and lawsuits regarding school attendance areas; (3) to require fencing along the eastern boundary of the subject property; (4) to require the applicant to construct a gravel pedestrian bicycle path within the 50-foot no build zone along the southern property boundary. The Planning Board vote ended in a tie so there is no recommendation to the BoCC.

The commission recessed ten minutes.

Dean Retz, 1430 Shirley Road. This application includes a 50-foot no build setback. Condition 9 for the roadway between lots 2 and 3 and 5 and 6 is an easement for future development. Mr. Smith concurs with amending condition 9 to construct road to a gravel base and further subdividing north would convert to Peccia #2 standards. A preliminary storm drainage plan has been prepared.

Kim Smith, 3734 McHugh Drive. Helena has sustained growth and affordable housing is important. There is a need in the valley for commercial lots and Lincoln Road is convenient. This proposal is a good concept. The entire area is permitted as a gravel pit and he would have no problem fencing it. He agrees to pave all interior roads.

Pat Faber, 25 S. Ewing Street, Hydrogeologist, Aqua Bona Consulting. Mr. Faber spoke on water availability, nitrates and groundwater septic systems. The aquifer is good and will meet DEQ's requirements. Both DNRC and DEQ have a process in place to decide these issues.

Bev Herman, 160 Lincoln Road West. Mr. and Mrs. Herman object to this proposal stating their major concerns are decrease in water supply, increased traffic, and over-capacity and logistics of school children getting to Jim Darcy School.

Vivian Drake, 75 Lincoln Road West. Submitted an additional letter objecting to the proposed subdivision as well as stating the objection of Pat Fairchild who lives adjacent to this proposal, 39 Lincoln Road West, based on the water and the wastewater issues in this area. Ms. Drake stated the applicant is currently in violation of DEQ water supply rules. She discussed in detail well log and pump test information and the non-degradation analysis.

Kathy Kaiser, 140 Guthry Road, stated her concern regarding overcrowding of Jim Darcy School, traffic congestion and increased taxes that might be incurred to take care of the highways, adequate and safe water in this area

Melvin Beattie, 7570 Long Acre Drive stated his concern regarding the cluster mailbox system and water quantity and quality.

Renee Crawford stated she recently inherited 225 Lincoln Road West and is concerned about the covenants regarding the structure of intended homes, the 50 foot no building zone may not be enough, busing students to another school, and why a neighbor did not receive notification of today's hearing.

Michael McHugh discussed the statute regarding the notification process.

Jerry Shepherd, West Valley Fire Department Fire Chief, stated the fire department and the applicant agreed to change the fire department requirement to read, "any commercial lot building that exceeds 6,000 square feet in size or any commercial

building more than one story, or any building containing daycare or motel be sprinklered.”

Ed Stanley, 7250 Gunn Road, concerns are water and nitrates.

Kathy Moore stated if the county continues to build in the north hills perhaps we need to start looking at a source of water that is not so dependent on precipitation. It is staff’s hope that at the end of the temporary groundwater control area study more information will be available. The state DNRC requires a license be issued prior to drilling and the department receive 5 days notice prior to the well being drilled in the temporary controlled groundwater area

Hearing no other comments, the public hearing is closed. Sharon Haugen responded to Commissioner Murray’s question on the county definition of affordable housing. In the growth policy the county has adopted the HUD definition of affordable housing. The HUD definition of affordable housing is housing that costs no more than 30% of the total income of the household.

Commissioner Varone asked Terri McLaughlin to come forward to address the requirement to obtain a permit for drilling wells and if she is aware of any additional information.

Terri McLaughlin, DNRC Region Manager, Helena Water Resource Office. Kim Smith has filed 3 water permit applications for three wells, two of the applications were submitted prior to the drilling of those two wells, he was issued a license to drill and test on two. The third application came in after the third was drilled. A license to drill was not issued, however, there are conditions of those licenses and based on the department’s order designating the controlled area, the applicant is still subject to those conditions. By statute, a violation of DNRC orders could be subject to \$1,000 a day fine enforced by DNRC.

Dean Retz. The mailbox cluster would mirror Greenfield Estates and Gable Estates. The developer is responsible for clearing the site, putting in a concrete pad, and the post office will do the rest. No modular homes are permitted. The applicant requests an extension of the review period to February 17 to have all three commissioners present.

Commissioner Varone moved to extend the statutory deadline through February 17 at the request of the applicant. Commissioner Tinsley seconded the motion and it carried unanimously.

Pat Faber stated the applicant can legally drill a test well first and then get the permit if deciding to install a public water system.

Kim Smith stated DEQ and DNRC can be requested to oversee the water system design.

Sean Bryant stated a public water system is proposed and the public will have an opportunity to testify and object to water rights through the DNRC review process and the water rights process.

Commissioner Tinsley moved to render a final decision February 17 at 9:00 a.m. Commissioner Varone seconded the motion and it carried unanimously.

Contract and Encroachment Agreement. (Owner, Ronald Adams) Sharon Haugen reported Ron Adams proposes to install and maintain two three-inch septic lines for a community waste water system located on the north side of Little Wolf Creek Road and designed to service the approved subdivision located on the south side of Little Wolf Creek Road. The septic lines cross Little Wolf Creek Road and have already been installed at the time of inspection by the County Public Works Department. The Public Works Department has reviewed the agreement. Commissioner Tinsley stated Mr. Adams has continuously gone against regulations and moved to deny this request. Commissioner Varone echoed Commissioner Tinsley's comments and seconded the motion and it carried unanimously.

Public Comments. None.

There was no other business and the meeting adjourned at 12:10 p.m.