



PUBLIC MEETING

June 16, 2015

MINUTES

The Lewis and Clark County Commissioners Public Meeting was held on Tuesday, June 16, 2015, at 9:00 AM in Commission Chambers Room 330.

Roll Call

Commissioner Mike Murray called the meeting to order at 9 a.m.

Commissioner Susan Good Geise was present. Commissioner Andy Hunthausen was excused on personal business. Others attending all or a portion of the meeting included Eric Bryson, Michele Peterson-Cook, K. Paul Stahl, George Theborge, Greg McNally, Lindsay Morgan, Greg Wirth, Mike Magee, Ron Johnson, Collette Anderson, and Nichole Nisbet, Recording Secretary.

Pledge of Allegiance

Everyone recited the pledge.

Consent Action Items

- a. Public Meeting Minutes: May 26 and 28, 2015. (Nichole Nisbet)

- b. Resolution 2015-81 Declaring County Property Surplus Property. (Amy Reeves)

Eric Bryson reported on the consent action items 2 a-b and recommended approval.

No public comment was received.

A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Contract Extension Request for Amended Plat of Lot 5 - Lakeside Heights Subdivision. (Applicant: RJCJ, Inc.) (Planner: Lindsay A. Morgan)

Lindsay Morgan, Planner II, presented the applicant's request for a two-year contract extension of the subdivision approval for the Amended Plat of Lot 5-Lakeside Heights Subdivision until June 30, 2017. The property is located south of York Road, east of and adjacent to Sapphire Drive and is 25.59 acres in size. The preliminarily approved subdivision will create two lots, with a combined total of twenty-eight condominium units, each for one single-family dwelling. Proposed Lot 5A will have sixteen condominium units, while proposed Lot 5B will have twelve units. The preliminarily approved subdivision will be served by fourteen shared wells, one for every two units, two community wastewater treatment systems and utilities. Access to the lots is off of York Road via either Sapphire Drive or a proposed internal access road. According to the applicant's extension request application, the property is currently operated as a farm with a plan by the applicant to begin infrastructure development in the fall. In addition, the form states the applicant intends to begin selling property in spring of 2016; however, nothing was included on the form that mentions any conditions of approval that have been completed, other than a statement from the applicant that there is a plan to obtain all expired permits from DEQ. The Community wastewater system portion of the permits have expired and will require a full review. The shared wells were approved by DEQ and do not require any additional action. Given that the applicant has not verified the completion of any requirements listed under the preliminarily approval, staff is suggesting as an option that the Commission consider granting a one year extension of their approval from the current agreement's expiration date, which will allow the Commission to revisit this project next year to determine if the applicant is moving toward completion. The property is located in an area where there are concerns about water availability. A memo from the WQPD states

there is a risk that water resources may not be sufficient or sustainable for the development, characterizing the magnitude of the risk cannot be completed at this time. If recharge occurs from the main HVID canal and/or the Regulating Reservoir, than the relative risk would be low.

Commissioner Geise asked for clarification on the staff recommendation of one year extension rather than the two year extension.

Lindsay Morgan stated that the subdivision was granted preliminary approval in 2006 and the only condition completed to her knowledge is the shared well application from DEQ.

Ron Johnson, the applicant, stated that he believes this is the last time they will ask for the extension. They are close to entering an agreement with a developer and builder to begin the project this fall. The applicant stated that they are capable of getting the project done given their past record with the successful completion of other subdivisions.

Commissioner Geise asked the applicant if a one year extension would be too short.

Ron Johnson, the applicant, stated that he would like to have the two year extension in the event the current deal does not work out.

No public comment was received.

A motion to approve the extension request for a period of two years was made by Commissioner Geise and seconded by Commissioner Murray. the motion Passed on a 2-0 vote.

Proposed Canyon Ridge Major Subdivision. (Applicant: T&M Planning Group) (Planner: Greg McNally)

Greg McNally, Planner II, presented the proposed Canyon Ridge Major Subdivision. The proposed subdivision is located south of and adjacent to Canyon Ferry Road. The applicant proposes to divide the existing 160.01 acre tract of land into 129 lots: 123 lots for one single-family residential use; 5 lots for open space; and 1 lot for County parkland. All residential lots will be served by individual wells, individual on-site wastewater treatment systems, and utilities. Direct access to the lots will be off of Canyon Ferry Road connecting to an internal road network. The applicant is proposing a combination of cash in-lieu of dedicating all of the required parkland and dedicating 5.14 acres of parkland within the proposed subdivision. The proposed subdivision will occur in three phases. Phase I will contain 63 single family residential lots, 1 County parkland lot, 1 lot for future Phase II, and 1 lot for future Phase III. Phase II will contain 18 single-family residential lots and 4 lots for open space, which border Phase I. Phase III will contain 42 single-family residential lots and 1 lot for open space. As part of Phase I, the applicant is proposing improvements including the following roads to be constructed: Holmberg Drive to Berkshire Road, Berkshire Road, from the western boundary of Phase III to Ranger Drive, Ranger Drive to the southern boundary of the property, Saint John Road, from the western boundary of Phase III to Canyon Ridge Drive, Highfield Road, from Ranger Drive to the cul-de-sac on Lots 89, 90, and 91; and Canyon Ridge Drive, from Highfield Road to the southern boundary of the property. All of the roads would be built to a typical section II paved standard. The applicant is requesting four variances from the Lewis and Clark County Subdivision Regulations. There is no zoning on the property. There are no covenants that apply to the property. The applicant submitted draft covenants and by-laws and articles of incorporation for a Canyon Ridge Homeowners Association. A public hearing occurred on Tuesday May 19, 2015, before the Helena/Lewis & Clark County Consolidated Planning Board and the public meeting is occurring today. A legal ad was published in the Independent Record, and letters were sent to adjacent landowners and the appropriate agencies notifying them of the proposed Subdivision. Two public notice signs were also posted on the property on April 28, 2015. As of May 14, 2015, two letters of public comment have been received. There are project issues identified in the report with one being the access alignment. Two routes of legal and physical access to the proposed Subdivision are to be provided with two accesses onto Canyon Ferry Road, a State Highway. These accesses are separated by approximately 1,000 feet. The western approach will align with existing Holmberg Drive. The eastern approach will nearly align with existing Ranger Drive. A variance from the Subdivision Regulations has been requested to allow for the misalignment of the intersection of the eastern approach and Ranger

Drive. The proposed County Road Easement for Ranger Drive appears to be wide enough to accommodate an alignment of the approach with the existing Ranger Drive; however, an existing power pole would have to be relocated to accommodate that alignment. According to comments from NorthWestern Energy it is not a quick fix as it is a junction pole and provides single phase overhead power. If this pole was moved, then the adjacent spans would have changes in angle, thus requiring another evaluation on extra guying, anchors and even possibly having to re-feed other customers in the area from different locations. There would be significant cost to remove this pole. The applicant's engineering firm, Great West Engineering, submitted an Intersection Sight Distance Exhibit for vehicles turning right and left onto Canyon Ferry Drive from proposed Ranger Drive. The Intersection Sight Distance Exhibit demonstrates a clear sight triangle in both directions of 665 feet. In addition, Great West Engineering submitted exhibits showing both left and right turn movements for an automobile and a school bus at the access points for Holmberg Drive and Ranger Drive. According to a peer review of these Exhibits by DOWL, none of the turning movements demonstrated a conflict with existing turning movements on Ranger Drive. The applicant has been in contact with the Montana Department of Transportation (MDT) to obtain approach permits for both points of access as proposed. According to comments provided by Mike Tierney with MDT on May 4, 2015, MDT has already reviewed the proposed plans and provided final comments to the applicant. If the applicant is required to make changes to the approaches, MDT will need to review any proposed changes. Another project issue is water availability for the Canyon Ridge Subdivision. The proposed subdivision is located east of the Helena Valley alluvial aquifer, at an elevation above the Helena Valley. Water for the Subdivision would be drawn from a tertiary aquifer. The applicant submitted two hydrogeology reports from Great West Engineering to demonstrate substantial and credible evidence of the availability of water for the proposed 123 individual water supply wells for the single family residential lots. The reports conclude that sufficient water is available to supply the wells based on the Department of Environmental Quality's (DEQ) suggested consumption rate of one g.p.m. per household. These reports further indicate that groundwater is more chemically similar to that found in the Helena Valley than the groundwater found at the Emerald Ridge Subdivision, where the DEQ has concerns about mining water from the aquifer. Lewis & Clark County WQPD Hydrogeologist, James Swierc submitted two memos identifying the potential risk of groundwater depletion as an issue for this subdivision based on its location in the Helena Valley East Bench area and the proposed Subdivision's density. According to these memos, fluctuating water levels in wells in the nearby Holmberg Village Estates' public water system and water withdrawals from the high volume public water system wells in the Eastgate area serve as indicators that groundwater monitoring should be considered in this Subdivision and a contingency plan developed for future depletion of the subdivision's water supply source. The memos further state that the risk of depletion of the groundwater supply is somewhat reduced by the proximity to the Helena Valley Regulating Reservoir, which recharges aquifers in the area through leakage. In addition, required groundwater testing has indicated that an adequate supply of potable water is available for the short term project needs that meet legal requirements for demonstration of substantial and credible evidence. The Lewis and Clark Conservation District commented to Great West Engineering on July 2, 2014 that it does not support individual wells or individual wastewater treatment systems with the density proposed. Soil limitations and ground water quality were raised as concerns. A letter dated November 19, 2014 from DEQ to Collette Anderson with Great West Engineering, indicates that the water availability information submitted for the proposed subdivision indicates the proposed groundwater is adequate in terms of quality, quantity and dependability for domestic and irrigation purposes for the proposed 123 lots. Another project issue is fire protection as the proposed subdivision is required to provide a water supply system of sufficient volume, pressure and water distribution of at least 750 g.p.m for two hours in accordance with the Subdivision Regulations. The proposed fire protection system includes two new fire hydrants on site, one of which will be located at the southwest corner of the intersection of Holmberg Drive and Canyon Ferry Road and the other at the southwest corner of the intersection of Holmberg Drive and Berkshire Road. A new 6-inch diameter main will connect the new hydrants in the proposed Subdivision to an existing hydrant in Holmberg Village Estates. This main will provide the required 750 g.p.m. fire flow within the boundaries of the proposed subdivision and will be installed underneath Canyon Ferry Road. According to the subdivision application, connection to the existing hydrant in Holmberg Village Estates and boring beneath Canyon Ferry Road will require a Utility Occupancy and Location Agreement from the Montana Department of Transportation. The owner of H & I Development, LLC, Dennis Iverson, has provided written notification to the applicant approving of the request to connect to the existing fire protection system in Holmberg Village Estates. According to comments provided by the Tri-Lakes Volunteer Fire Department Fire Chief, Robert Drake stated that the applicant "explored the possibility of just using the

off-site water from Holmberg and we told them we could not agree to depending on fire protection water on the opposite side of a major road like Canyon Ferry Road. It would simply be too dangerous for our water tender operations." The proposed fire protection will be located on-site; however, it will connect to the existing Holmberg Village Estates public water supply system which is located off-site. Because the Holmberg Village Estates public water supply system is privately owned and operated, a rural improvement district (RID) cannot be formed to maintain its connections. Therefore the applicant has requested a variance from Chapter XI.S, Appendix K: 18-4.6.2. which would require that an RID for the maintenance of the offsite water supply system that includes the proposed Subdivision be established prior to final plat approval. The next project issue is in regards to the requirement to fulfill the parkland requirement; the applicant is proposing to dedicate a park to the County that is 5.14 acres in size and to provide cash in-lieu of dedicating the remaining 2.36 acres. The park will be dedicated under Phase I of the proposed subdivision. The applicant proposes to use the remaining cash to install an irrigation well and controls, an irrigation system, and topsoil and grass. The park will be accessed from either the internal road network or through a series of trail easements dedicated throughout the proposed subdivision. On Wednesday, May 6, 2015, the City-County Parks Board reviewed the applicant's parkland proposal, and then made a unanimous recommendation to both the Planning Board and County Commission to accept the applicant's request, including the use of remaining cash in-lieu to install an irrigation well and controls, an irrigation system, and topsoil and grass. The Parks Board recommended that a Rural Improvement District be established to maintain the dedicated parkland and improvements. Another project issue is road interconnectivity as the applicant plans to provide three County Road Easement extensions to the south and one County Road Easement extension to the west. These extensions could facilitate future interconnectivity of roads with adjacent property if they are ever further subdivided and will provide alternatives to additional direct accesses onto Canyon ferry Road, a State Highway. An extension of at least one County Road Easement to the eastern boundary of the proposed Subdivision could facilitate the future interconnectivity of roads with adjacent property to the east, while also providing alternatives to additional direct accesses onto the State Highway. These County Road Easement extensions shall be constructed in accordance with the County Road Standards in Appendix J. Another project issue is the Traffic Impact study. The Traffic Impact Study (TIS) and the summary of the TIS and addendums indicates that the Canyon Ridge Subdivision will have little impact on the surrounding road system and all nearby intersections will continue to function at acceptable levels of service. A percentage of impact analysis indicates that the traffic generated will not require improvements or the payment of a percentage of impact to adjacent or off-site roads. Another project issue is in regards to Wildlife and Wildlife Habitat. According to the Environmental Assessment submitted with the Subdivision Application, wildlife species that may inhabit the proposed project area include those that are adapted for life in low and foothill type shrublands, such as antelope, deer, meadowlarks, and mountain bluebird. The Montana Natural Heritage Program (MTNHP) identified three species of concern for this area: Great Blue Heron, Spotted Bat, and Veery. MTNHP did not identify plant species of concern for this area. Montana Fish, Wildlife, and Parks (MT FWP) responded to the Applicant's request for comments by stating that they have no comments. MT FWP and the Montana Natural Heritage Program did not respond to the Community Development and Planning Department's request for comments. During a site visit on April 28, 2015, Community Development and Planning Staff identified antelope, heron, and meadowlarks on-site. The applicant is requesting four variances from the County Subdivision Regulations. The first Variance No. 1, Chapter XI.F.7 Lots, as no lot shall have an average length greater than three times its average width. There are five proposed lots that will exceed this requirement and the proposed parkland lot. Variance No. 2, Chapter XI.G.2 Blocks, as block length shall not be designed, unless otherwise impractical, to be more than 1,600 feet. Variance No. 3 Chapter XI.H.14, Streets and Road Intersections, as the proposed intersection of Canyon Ferry Road and Ranger Drive is not aligned with existing Ranger Drive. Therefore the applicant has requested a variance from the following requirements. Variance No. 4: Chapter XI. S. Fire Protection, as all subdivisions shall be planned, designed, constructed, and maintained in compliance with the fire protection standards described in Appendix K to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property, and forested areas and a rural improvement district (RID) for the maintenance of the off-site water supply system that includes the subdivision is established prior to final plat approval. The proposed fire protection system will be located on-site; however, it will connect to the existing Holmberg Village Estates public water supply system which is located offsite. As this public water supply system is privately owned and operated, a rural improvement district cannot be formed to maintain it and its connections. The Planning Board had their hearing on May 19th and made a recommendation on May 26th to approve the proposed subdivision with amended findings of fact and

subject to the draft conditions of approval in the staff report. Amended findings of fact touch on impacts on agriculture, impacts on local service, impacts on natural environment and the impacts on wildlife. The Planning Board did recommend approval of all four variance applications.

Mike Magee, the applicant, stated that Canyon Ridge is less than 2.5 miles from East Helena and is close to services and on off a well maintained road. The country style neighborhood includes walking paths, large lots and parks. The applicant also expressed the time, thought and planning that went into this subdivision.

Collette Anderson, Great West Engineering, stated that they have gone through a process to ensure an adequate water supply is available to serve this subdivision. A letter was received from DEQ and stated that the proposed groundwater source is adequate in terms of quality, quantity and dependability for domestic and irrigation for the proposed subdivision. A chemical analysis was done of the groundwater in this subdivision and they feel that the water quality and quantity is adequate to serve this subdivision.

Commissioner Murray asked the applicant if they have received the report and if they have any questions.

Mike Magee, the applicant, stated that they have reviewed the report and it looks straightforward to them.

No public comment was received.

A motion to table the item until the regularly scheduled meeting to be held on June 30, 2015 was made by Commissioner Geise and seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Proposed Hayfield Estates III Major Subdivision. (tabled 6/9/15) (Applicant: Doug Sparrow)
(Planner: Greg McNally)

Greg McNally, Planner II, presented the proposed Hayfield Estates III Major Subdivision. The Planning Board did make a recommendation to approve this subdivision with amended findings of fact and amended conditions of approval.

Commissioner Murray stated that they have reviewed the staff report, the presentations by staff and the applicant, and the draft findings of fact and conclusions of law and approval conditions and asked if anyone is prepared to make a motion to approve, conditionally approve, or deny the request for subdivision approval.

A motion was made by Commissioner Geise that after reviewing the staff report, the presentations by staff and the applicant, and the draft findings of fact and conclusions of law and approval conditions, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the subdivision request with conditions of approval needed to mitigate adverse impacts or bring the project into compliance with regulations. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Murray stated that the Commission has a motion on the floor for action on the subdivision application. We will first consider whether or not to approve the draft findings of fact for each of the subdivision review criteria.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Agricultural Lands and Agricultural Operations. Those draft findings touch on the following information: The soil mapping for the property, Whether those soils are prime farmland soils, Cropland limitations or hazards, The proximity of agricultural activities, The presence of an Irrigation District ditch and easement on the north boundary, Requirements of the Irrigation District, The presence of an active irrigation ditch along the south boundary, Required setbacks along ditches and canals and that Staff has identified potential adverse impacts on Agriculture that can be mitigated. No issues raised by the public.

A motion was made by Commission Geise that after reviewing the draft findings of fact on Impacts on Agricultural Lands and Agricultural Operations and after considering testimony at the Planning Board

public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commission Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on Agricultural Lands and Agricultural Operations. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the adverse impacts of the proposed subdivision on Agricultural Lands and Agricultural Operations can be mitigated through the proposed conditions of approval.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Local Services related to Water and Wastewater. Those draft findings touch on the following information: The proposed means of wastewater disposal, The soil mapping of the site, All lots are proposed to have individual wells, The need for lot owners to obtain water rights , Wells in the area draw from bedrock aquifers, average well depth is 61 feet , The average well yield is approximately 52 gallons per minute, Well logs indicate an adequate supply of water for the residential lots , Water and wastewater are subject to review by DEQ and no issues raised by the public.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on Water and Wastewater and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Solid Waste and Mail Delivery. Those draft findings touch on the following information: The project will have solid waste services, There are neighborhood mailboxes in the vicinity, Prior to final plat approval mailbox installation is required, The following was public testimony, a question was asked whether the new development would add mailboxes to the existing Hayfield Estates installation.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on Solid Waste and Mail Delivery and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Utilities. Those draft findings touch on the following information: Utilities are adjacent and available to the subdivision, All additional utilities must be placed underground, Comments on the need for transformer easements were submitted by Northwestern Energy, Major power transmission lines located in SE corner of property, The Regulations require provision of utility easements and no issues raised by the public.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on Utilities and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Schools and Parkland. Those draft findings touch on the following information:

The subdivision will be in the Helena School District, The applicant is proposing cash in-lieu of parkland, The cash value of parkland is about \$13,600, A market appraisal for this value will be required for final plat, The closest parkland is 2 miles or more, The Parks Board has recommended cash in-lieu of parkland, The Parks Board has concerns about the lack of parkland in the area and no issues raised by the public.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on Schools and Parkland and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Traffic. Those draft findings touch on the following information: The project will need to meet street addressing and signage requirements, The applicant must obtain all necessary permits, The lots will be accessed off of Valley Drive via internal road network, Valley Drive is a minor collector, The project will produce 315 daily trips, The project will generate 25 am peak hour trips and 33 pm peak hour trips, Traffic on Valley Drive is less than a minor collector carries, Minor collectors carry between 1500 and 3500 trips, After full build -out traffic on Valley Drive will exceed 1500 trips between Howard and Canyon Ferry Roads, Existing traffic on one section of Valley Drive is about 520 daily trips, Existing traffic on another section of Valley Drive is about 1430 daily trips, An engineer certified parts of Valley Drive as meeting County road standards in 2008, The applicant will be required to pay a proportional share of costs to improve off-site access roads if they don't meet County standards, The Regulations require a traffic impact assessment of internal and off-site roads, The traffic distribution was not included in the traffic analysis and will be needed for final plat, The traffic impact corridor for the project has been identified, The subject property is located within the boundaries of the Hayfield Estates Rural Improvement District which maintains all public improvements in Hayfield Estates, All lots in this subdivision will be included in that RID and public testimony received was in regards to a question was asked whether the new lots will be included in the existing Hayfield Estates RID.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on Traffic and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on Emergency Services. Those draft findings touch on the following information: Emergency response times from St. Peter's Hospital are moderate to long, Sherriff's response times are moderate, The property is in the East Helena Valley Fire District, The property is about 3 miles from a fire station and a major collector road must be crossed to get there, The project will be served by an off-site hydrant in Hayfield Estates, The existing hydrant is in the fire district, The fire hydrant has been tested by an engineer and no issues were raised by the public.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on Emergency Services and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Geise stated that she has reviewed the draft finding of fact for possible Mitigation of the Impacts of the proposed subdivision on all local services. That draft finding touches on the following information: Staff has identified negative impacts on local services that can be mitigated with approval conditions.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on Mitigation of Impacts and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings on mitigation of impacts as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Murray stated that the Commission has reviewed and adopted findings of fact for impacts on all local services. The Commission must again make conclusions on whether there will be adverse impacts on local services and whether those impacts can be mitigated through approval conditions and asked if anyone is prepared to make a motion on the conclusions on adverse impacts to local services.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on Local Services. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact, and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the adverse impacts of the proposed subdivision on Local Services can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on the Natural Environment. Those draft findings touch on the following information: General flood mapping exists on the property without base flood elevations, There is an ephemeral drainage on the eastern portion, No detailed flood mapping is required for this project, A no disturbance easement was imposed during prior project phases, Flood permits will be required for any construction in the floodplain, A stormwater retention pond will be located in the floodplain, That pond will also located in the no disturbance easement, No new structures can be located in the floodplain, The Water Quality Protection District has indicated adequate water availability but has recommended guidelines for protecting wells from contamination, A weed management plan will be required, A state erosion control permit will be required, Minor visual impacts can be mitigated through lighting restrictions, The property is located in the air quality protection district, Staff has identified potential adverse impacts on the Natural Environment that can be mitigated, public comment received included the existing stormwater pond on Kase Road was pointed out.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on the Natural Environment and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact on Impacts on the Natural Environment and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will have adverse impacts on the Natural Environment. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact on Impacts on the Natural Environment and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the adverse impacts of the proposed subdivision on the Natural Environment can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on the Wildlife and Wildlife Habitat. Those draft findings touch on the following information: The Montana Natural Heritage Program has identified sightings of species of concern in the vicinity, Fish Wildlife & Parks has identified general species habitat for mammals and birds, Staff has identified no potential adverse impacts on the Wildlife and Wildlife Habitat that require mitigation and no issues were raised by the public.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on Wildlife and Wildlife Habitat and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact on Impacts on Wildlife and Wildlife Habitat and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not have adverse impacts on Wildlife and Wildlife Habitat. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact on Impacts on Wildlife and Wildlife Habitat and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the adverse impacts of the proposed subdivision on Wildlife and Wildlife Habitat can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on the Public Health and Safety. Those draft findings touch on the following information: There is some potential for groundwater contamination that can be addressed through proper septic system installation and maintenance, There is an earthquake fault in the vicinity, There are also radon risks, The area has a low to medium fuel hazard rating for wildfires, Staff has identified potential adverse impacts on the Public Health and Safety that can be mitigated and no issues raised by the public.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on Public Health and Safety and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact on Impacts on Public Health and Safety and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, moved to adopt a conclusion of law that the adverse impacts of the proposed subdivision on Public Health and Safety can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Geise stated that she has reviewed the draft findings of fact for the impacts of the proposed subdivision on the Cultural Resources. Those draft findings touch on the following information: No historical or cultural resources have been identified, the potential for cultural resources at the site is limited, Staff has identified no potential adverse impacts on Cultural Resources that require mitigation and no issues raised by the public.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Impacts on Cultural Resources and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact on Impacts on Cultural Resources and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not have adverse impacts on Cultural Resources. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Geise stated that she has reviewed the draft findings of fact for Compliance with Subdivision Regulations and Survey Requirements. Those draft findings touch on the following information: The proposed conditions of approval will bring the project into compliance with subdivision regulations, The proposal does not meet all survey requirements, Staff has identified survey requirements that can be met with approval conditions and no issues raised by the public.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Compliance with Subdivision and Survey Requirements and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact on Compliance with Subdivision and Survey Requirements and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not be in full Compliance with Subdivision Regulations and Survey Requirements. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact on Compliance with Subdivision and Survey Requirements and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that Compliance with Subdivision Regulations and Survey Requirements can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Geise stated that she has reviewed the draft findings of fact for Adequate Provision of Utilities. Those draft findings touch on the following information: The proposal doesn't include all required utility easements, Utilities are available, Northwestern Energy has asked for transformer easements, Staff has indicated that utility requirements can be addressed with approval conditions and no issues raised by the public.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Adequate Provision of Utilities and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact on Adequate Provision of Utilities and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not have adequate Provision of Utilities. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact on Adequate Provision of Utilities and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the need for Adequate Provision of Utilities can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Geise stated that she has reviewed the draft findings of fact for Adequate Provision of Access. Those draft findings touch on the following information: Access will be off Valley Drive and existing Hayfield Estates roads, The project will extend those roads, use existing roads, and construct new roads to access lots, Approach permits will be required for the new access points, Staff has indicated that legal & physical access can be addressed with approval conditions and no issues raised by the public.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Adequate Provision of Access and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact on Adequate Provision of Access and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not have adequate Provision of Access. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact on Adequate Provision of Access and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the need for Adequate Provision of Access can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Geise stated that she has reviewed the draft findings of fact for Compliance with Zoning and Other Regulations. Those draft findings touch on the following information: The property isn't zoned, Restrictions placed on two previous subdivisions will apply to this property, Property owners need to check for future zoning before building, Staff has identified points of potential non-compliance to be mitigated with approval conditions and no issues raised by the public.

A motion was made by Commissioner Geise that after reviewing the draft findings of fact on Compliance with Zoning & Other Regulations and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the findings as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact on Compliance with Zoning & Other Regulations and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that the proposed subdivision will not be in full Compliance with Zoning and Other Regulations. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact on Compliance with Zoning & Other Regulations and after considering testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to adopt a conclusion of law that Compliance with Zoning and Other Regulations can be mitigated through the proposed conditions of approval. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Murray stated that the Commission has now adopted findings of fact and conclusions of law for the proposed subdivision. Has anyone had opportunity to review the draft conditions of approval and is anyone prepared to act on them?

Commissioner Geise stated that she has reviewed the draft conditions of approval that are intended to mitigate adverse impacts of the subdivision, to ensure compliance with subdivision regulations and other requirements and regulations, and to provide adequate utilities and access. Those draft approval conditions are as follows: DEQ & County Health review and approval of the wastewater and water systems, DEQ & County Planning review and approval storm drainage systems, Revisions to address the retention pond in the floodplain and no disturbance easement, DEQ review and approval of an erosion control plan, Approval of a weed management plan, An approach permit for the access onto Kase Road, An approach permit for the access onto Ayden Road, Public Works and Planning approval of road plans and construction of internal roads, Engineering analysis of off site roads, Approval of

proposed road names by the Address Coordinator, Public Works and Planning approval of road signage plans, Approval of a vegetation management plan and water source for fire protection, Formation of an RID to maintain the fire protection water source, Installation of mailboxes meeting Post Office standards, Payment of the parkland fee based on an appraisal, Preparation of a final plat meeting all survey and regulation requirements, Filing of restrictive covenants, Installation or guarantee of all public improvements, Approval of address assignments for all lots, Proof of title and payment of all taxes, Preliminary approval term of 3 years and public testimony received included a question was asked as to whether the new lots would join the existing Hayfield Estates Homeowners Association. Public testimony included a question was also asked whether the covenants could impose building restrictions.

A motion was made by Commissioner Geise that after reviewing the draft conditions of approval, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and public comment at our meeting, to approve the conditions of approval as submitted. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Commissioner Murray stated that the Commission has now acted on the adopted findings of fact and conclusions of law for the proposed subdivision. The Commission has also adopted conditions of approval that must be met prior to final plat. Is anyone prepared to act on the subdivision application as a whole?

A motion was made by Commissioner Geise that after reviewing the adopted findings of fact and conclusions of law and the adopted conditions of approval, and after considering public testimony at the Planning Board public hearing, the Planning Board recommendation, and accepting their recommendation and public comment at our meeting, to grant approval of the subdivision request subject to the adopted conditions of approval. The motion was seconded by Commissioner Murray, the motion result was Passed with a vote of 2-0.

Board Appointment

Commissioner Murray read the request appointment of Marc Boutilier to the West Helena Valley Fire District.

No public comment was received.

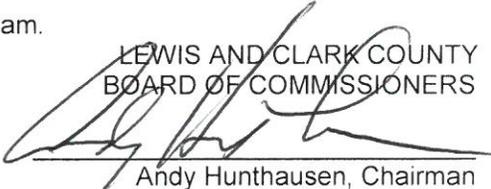
A motion to Approve was made by Commissioner Good Geise and seconded by Commissioner Murray. The motion Passed on a 2-0 vote.

Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above.

Adjourn

There being no further business, the meeting adjourned at 10:37am.

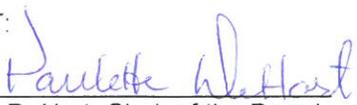
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Andy Hunthausen, Chairman


Michael Murray, Vice Chair


Susan Good Geise, Member

ATTEST:


Paulette DeHart, Clerk of the Board