



Livingston City Commission Minutes

October 04, 2022

5:30 PM

VIA ZOOM

<https://us02web.zoom.us/j/88443268482?pwd=TGRUbXUwWIN1S1hFajZ2ZEdldjBUT09>

MEETING ID: 884 4326 8482 **PASSCODE: 583213** CALL IN: (669) 900-6833

1. Call to Order

2. Roll Call

3. Public Comment

Individuals are reminded that public comments should be limited to item over which the City Commission has supervision, control jurisdiction, or advisory power (MCA 2-3-202)

4. Consent Items

A. APPROVE MINUTES FROM SEPTEMBER 20, 2022, REGULAR CITY COMMISSION MEETING.

B. RATIFY CLAIMS PAID 09/13/2022-09/27/2022.

C. ACCEPTING LBID BOARD RECOMMENDATION TO APPOINT DALE HOPKINS TO LBID BOARD TO FILL A VACANCY.

- Nootz made motion to pull item C from consideration, motion by Schwarz and a second by Friedman to approve A & B.
- Nootz commented there was no application attached to email
- Schwarz asked if staff received the application, it shows it was attached to the email, just omitted from the packet.

5. Proclamations 5:47 p.m.

A. PROCLAMATION OF THE LIVINGSTON CITY COMMISSION, RECOGNIZING THE 100TH ANNIVERSARY OF NATIONAL FIRE PREVENTION WEEK, AND DECLARING OCTOBER 9-15, 2022, TO BE FIRE PREVENTION WEEK IN THE CITY OF LIVINGSTON.

- Kahle read proclamation

6. Scheduled Public Comment

7. Public Hearings

Individuals are reminded that testimony at a public hearing should be relevant, material, and not repetitious. (MCA 7-1-4131 and Livingston City Code Section 2-21)

8. Ordinances

9. Resolutions 5:49 p.m.

A. RESOLUTION NO. 5066: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR THE FISCAL YEAR 2021-2022, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$399,075 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$205,848 AND CALLING FOR A PUBLIC HEARING.

- Lowy introduced item
 - Motion to approve Resolution No. 5066 by Kahle, second by Schwarz
 - No clarifying questions
 - No public comment
 - No commission deliberation
- All in favor, motion passes 5-0

B. RESOLUTION NO. 5067: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON MONTANA, AUTHORIZING THE CITY MANAGER TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH TD&H FOR DESIGN SERVICES OF THE 2023 LIVINGSTON DOWNTOWN ALLEY CAPITAL IMPROVEMENTS PROJECT. 5:53 p.m.

- Lowy introduced item
- No clarifying questions
- Motion to approve Resolution No. 5067 by Kahle, second by Schwarz
- Nootz asked clarifying question regarding pages 38 & 39
- Lyons made comments
- Motion to approve Resolution No 5067 by Schwarz, second by Friedman
- No public comment
- Schwarz asked clarifying question of Holmes
- Holmes responded
- Kahle made comments
- All in favor, passes 5-0

C. RESOLUTION NO. 5068: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, TO ABANDON AN OLD RIGHT OF WAY IN THE NORTHTOWN SUBDIVISION LOT 3A AND TO CLEAR THE TITLE FOR THE PROPERTY WHICH WILL BE DESCRIBED AS NORTHTOWN SUBDIVISION PHASES 4A, 4B, AND 5. 6:03 p.m.

- Lowy introduced item
- Lyons asked clarifying questions
- Lowy answered
- Lawellin answered
- Nootz made comments
- Lyons made additional comments
- Schwarz asked clarifying questions
- Lawellin responded
- Lyons asked additional question
- Schwarz motioned to approve Resolution No. 5068, second by Friedman
- Garrett Schultz, of Headwaters Engineering gave comment
- Schwarz made comments
- Nootz made additional comments
- Lyons made comment and asked additional questions
- Lowy deferred to Lawellin for answer
- Nootz asked clarifying question of Lowy
- Schwarz made comment
- Kahle motioned to table Resolution No. 5068, until the November 1st meeting to ask the staff for information from the county regarding the sunset clause, and clarification from the county for the need for a county road north of the property line, second by Lyons.
- No additional commissioner comments
- Motion passes 3-2, Schwarz and Lyons against

D. RESOLUTION NO. 5069: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, EXTENDING THE EXISTING CONTRACT BETWEEN THE CITY OF LIVINGSTON AND MONTANA WASTE SYSTEMS, INC. FOR THE DISPOSITION OF SOLID WASTE THROUGH JUNE 30, 2023. 6:47 p.m.

- Lowy introduced item
- Kahle asked clarifying question
- Schwarz made motion to approve Resolution No. 5069, second by Friedman
- Nootz made comments
All in favor, passes 5-0.

10. Action Items 6:52 p.m.

A. DISCUSS/APPROVE/DENY: AMERICAN LUTHERAN CHURCH APPLICATION FOR SPECIAL PARKING SPACES RESERVED FOR DISABLED PERSONS ON A PUBLIC STREET.

- Lowy introduced item
- Nootz asked clarifying question
- Kahle made motion to approve action item A, second by Schwarz
- No public comment
- Kahle made comments
All in favor, passes 5-0.

B. DISCUSS/APPROVE/DENY: AUTHORIZING THE INTERIM CITY MANAGER TO SIGN A MOU WITH LIVINGSTON LIBRARY FOR HEALTH BENEFITS COVERAGE FOR HEALTH INSURANCE BENEFITS. 6:55 p.m.

- Lowy introduced item
- Nootz asked clarifying question
- Nootz disclosed that the library director is her spouse, she will abstain from voting.
- Schwarz made motion to approve action item B, second by Friedman,
- No public comment
- Kahle made comments
- All in favor, passes 4-0, Nootz abstained

10-minute recess at 7:00 p.m. back in session at 7:10 p.m.

C. DISCUSS/APPROVE/DENY: AUTHORIZING THE INTERIM CITY MANAGER TO SIGN AN AGREEMENT AND MOU WITH MRL FOR THE INSTALLATION OF CONCRETE CROSSING SURFACES AT A PUBLIC GRADE CROSSING (DOT# 0969074W) IN LIVINGSTON. 7:10 P.M.

- Lowy introduced item
- Kahle asked clarifying question of Lowy
- Lowy deferred to Holmes
- Holmes answered question
- Kahle made additional comments
- Nootz asked additional comments of Holmes
- Motion by Schwarz to approve action item C, second by Friedman
- No public comment
- No commission deliberation
- All in favor, passes 5-0

D. DISCUSS/APPROVE/DENY: MOUNTAIN VIEW SUBDIVISION PRELIMINARY PLAT APPROVAL. 7:19 p.m.

- Nootz gave overview of the process
- Lowy introduced item
- Andrew Field gave opening statements
- Bill Fanning, Attorney for PFL gave comment
- Nootz asked clarifying questions
- Lowy responded
- Kahle asked clarifying questions
- Lowy deferred to Holmes
- Nootz asked clarifying questions of Holmes
- Nootz opened to the Commission a 2nd round of clarifying questions
- Lyons asked questions of Andrew Field, of PFL
- Kahle asked additional question of Holmes
- Friedman made comments
- Lyons asked clarifying question of Chris Naumann
- Schwarz made a motion to approve action item D, second by Friedman
- Schwarz clarified his motion is to give conditional approve Mountain View Subdivision as outlined in the staff report, second by Friedman.
- Patricia Grabow gave public comment
- 5-minute recess, back in session at 8:36 p.m.
- Deborah Kimball gave public comment
- Kris King gave public comment
- James Willich gave public comment
- Frank Schroeder gave public comment
- Ann Donahue gave public comment
- Jean Keffler gave public comment
- Nick Runyon gave public comment
- Motion by Kahle to extend the meeting second by Lyons, all in favor passes 5-0
- Edwin Johnson made public comment
- Ken Cochrane gave public comment
- Nootz closed public comment
- Nootz asked clarifying question of Lowy, deferred to Lawellin
- Lawellin and Woodhull began researching
- Lyons asked clarifying question of Woodhull
- Woodhull made clarifying comments
- Lawellin made clarifying comments

- Nootz asked Commission to disclose any ex-parte communications they may have had with the developer
- Kahle made disclosure
- Schwarz made disclosure
- Nootz made disclosure
- Nootz made a disclaimer “The governing body's findings of fact must be sustained unless they are arbitrary, capricious, or unlawful.”
- Kahle made comments
- Lyons made comments
- Schwarz made comments
- Friedman made comments
- Nootz made comments
- Kahle made additional comments
- Nootz made additional comments

E. DISCUSS/APPROVE/DENY: CANCELLING THE OCTOBER 18TH, REGULAR COMMISSION MEETING. 9:52 p.m.

- Lowy gave overview and advised Commission we will need to have to take an item for Barsa Funds, before moving into Closed Executive Session on the 18th.

11. City Manager Comment 9:56 p.m.

12. City Commission Comments 9:57 p.m.

13. Adjournment 10:03 p.m.

PUBLIC IN VIRTUAL ATTENDANCE

Andrew Field
Chris Naumann
Garrett Schultz
Jecyn Bremer
Patricia Grabow
Kris King
Edwin Johnson
Stacy Jovick
Tom Bluerock

Bill Fanning
Deborah Kimball
James Willich
John Carroll
Randy Cook
Rebecca Egbert
Carol Weatherbee
Jean Keffler
Ken Cochrane

Chad Bauer
Frank Schroder
Jean Keffler
Nick Runyon
Richard Smith
Larry Stephenson
Jessica Wilcox
Wendy Weaver
Manny Goetz

LIVINGSTON CITY COMMISSION ADDENDUM #1

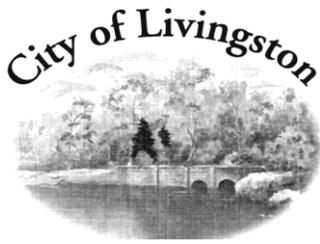
REGULAR MEETING 10.04.2022

ATTACHMENT TO ADDENDUM D.

DISCUSS/APPROVE/DENY: MOUNTAIN VIEW SUBDIVISION

PRELIMINARY PLAT APPROVAL

- **Memo from Interim City Manager, Lisa Lowy**
- **Insurance Policy section concerning Land Use Decision Coverage from MMIA**
- **Additional Memo to Planning Board Decision from Staff**
- **Legal Opinion Memo from the City Attorney on issues raised during the Planning Board Meeting.**
- **MCA Portion of Requirements for Decision Summary**



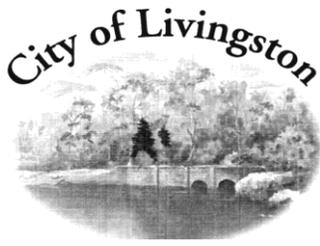
Lisa L. Lowy
Interim City Manager
citymanager@livingstonmontana.org
(406) 823-6000

Chairperson
Melissa Nootz
Vice Chairperson
Karrie Kahle
Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

TO: Livingston City Commission
FROM: Lisa L. Lowy, Interim City Manager
DATE: September 30, 2022
RE: Mountain View Subdivision

As the Interim City Manager, it is an obligation of the role to provide additional information and reminders about decisions to the commission which may present added liability to the City, as an organization, or to each of you personally. That is the intent of this memo concerning the Mountain View Subdivision which is on our agenda for 10/4/22, as well as to provide guidance about concerns raised during the Public Hearing at the Planning Board meeting last week.

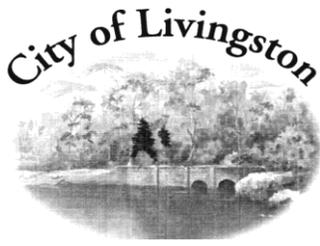
1. The deadline for a decision on this application is 10/19/2022, which is the 60th day from the date of application.
2. This subdivision request must be decided in the 10/4/2022 meeting, because of cancelling and/or closing the Commission meeting on 10/18/2022, due to the City Manager hiring process.
3. Land Use Decision liability coverage is limited to \$500,000 from MMIA. There is no coverage if it is determined that the decision is not in keeping with statute and policy guidance. (MMIA Policy guidance attached)



Lisa L. Lowy
Interim City Manager
citymanager@livingstonmontana.org
(406) 823-6000

Chairperson
Melissa Nootz
Vice Chairperson
Karrie Kahle
Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

4. Land Use Decisions are considered quasi-judicial and must follow the law as written in both MCA and City Ordinances. This includes the disclosure of ex parte communications with any stakeholder, especially if those communications are not part of the public record. Any departure from either, creates liability for you as commissioners individually because you would be considered to be acting outside the scope of your authority. Any Commissioners who met with the developer or a representative of concerning this project should simply disclose that at the beginning of the Action Item.
5. Private Property Rights take precedence in case law throughout Montana.
6. If you as the Commission deny, or provide a conditional approval of, a subdivision you are required to provide written findings of fact and conclusions for the denial, or for each condition, consistent with the MCA and Ordinance. (MCA Section Attached)
7. From a process and procedure standpoint, the Planning Board as the entity charged with the public hearing portion of the process, is expected to provide findings of fact and conclusions for a recommendation to deny or condition an approval. They did not fulfill that obligation with their denial.
 - a. We can address that moving forward with them as you are the decision makers for the approval or denial of subdivision requests. However, as a Commission with that duty, in order to be true to process, you should hereafter require written determinations directly from the Planning Board.



Lisa L. Lowy
Interim City Manager
citymanager@livingstonmontana.org
(406) 823-6000

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8. The property was annexed into the City Limits and Zoned Highway Commercial previously.
9. You do not have the authority to limit permitted uses under the property's zoning designation as a condition of approval.
10. There is no requirement to consider the Growth Policy in subdivision review. It is assumed that our subdivision regulations were written to reflect the growth policy. Even if this assumption is wrong, the current regulations control.

The following attachments are provided as documentation of the above and for your reference.

- a. Insurance Policy section concerning Land Use Decision Coverage from MMIA
- b. Additional Memo to Planning Board Decision from Staff
- c. Legal Opinion Memo from the City Attorney on issues raised during the Planning Board Meeting.
- d. MCA Portion of Requirements for Decision Summary

If any other questions come up between now and the meeting, please feel free to reach out and we will get research and answers to you which can be presented to the public during the meeting.

MONTANA MUNICIPAL INTERLOCAL
AUTHORITY

MEMORANDUM OF LIABILITY
COVERAGE

EFFECTIVE JULY 1, 2022

SECTION 14. LAND USE PRACTICES

14.1. Land Use Practices Coverage.

The MMIA agrees to pay on behalf of a COVERED PARTY those sums as part of the Ultimate Net Loss up to the LIMITS OF LIABILITY which the COVERED PARTY shall become obligated to pay by reason of liability imposed by law because of a covered Claim for Land Use Practices, under Coverage E, to which this Coverage Section applies, caused by an Occurrence during the COVERAGE PERIOD.

Coverage E for Land Use Practices is subject to the per Occurrence LIMITS OF LIABILITY for the COVERAGE PERIOD as set forth in the DECLARATIONS.

14.2. Land Use Practices Definitions.

“Land Use Practices Liability” under Coverage E means legal liability which a COVERED PARTY shall become obligated to pay by reason of liability imposed by law because of a covered Claim, including Property Damage or diminution of property value, arising out of, or based upon, land use regulation, interim takings, takings, down-zoning, zoning, general planning regulations, easements, nuisance, or annexation, including deprivation of constitutional or civil rights related thereto, caused by an Occurrence during the COVERAGE PERIOD.

14.3. Land Use Practices EXCLUSIONS.

In addition to the EXCLUSIONS stated in Section 9 of this Memorandum, the following are not covered under Coverage E, Land Use Practices:

14.3.1. Any liability for Bodily Injury, Personal Injury, Property Damage, Automobile Liability, Public Officials Errors or Omissions, Employment Practices, or Employment Benefit Liability.

14.3.2. Any liability for a Claim arising out of or in connection with the principles of eminent domain, mandamus to compel eminent domain, pre-condemnation activities, condemnation proceedings, or inverse condemnation by whatever name regardless of whether such Claims are made directly against a COVERED PARTY or by virtue of any agreement entered into, by or on behalf of the COVERED PARTY.

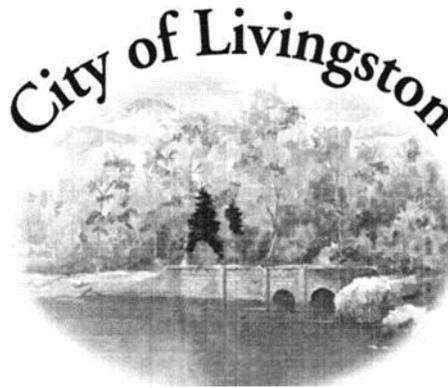
14.3.3. Any liability for a Claim as a result of subsidence. "Subsidence", with respect to Coverage E hereunder means any earth movement, including but not limited to settling, expansion, earth sinking, earth rising or shifting, slipping, falling away, tilting, caving in, eroding, mud flows and any other movement of land or earth. This EXCLUSION does not apply to Property Damage arising out of subsidence proximately caused by the negligent act or omission of a COVERED PARTY.

14.3.4. Any liability, including all Damages, directly or indirectly arising out of or related to the liability of a COVERED PARTY involved in or acting as Contractors for Residential Construction.

City Manager
Michael Kardoes

220 E Park Street
(406) 823-6000 phone

citymanager@livingstonmontana.org
www.livingstonmontana.org



Incorporated 1889

Chairperson
Melissa Nootz

Vice Chair
Karrie Kahle

Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

September 9, 2022

MEMORANDUM

TO: City Planning Board

CC: City Manager, City Attorney

FROM: Director of Building/Planning

SUBJECT: Mountain View Subdivision

All of the submitted documentation for this application is now available on the City website with the agenda. Keep in mind that the engineering reports and utility design are all preliminary and are subject to further review and refinement by the Public Works Department, in accordance with their standards, after, and if, preliminary plat approval occurs.

With regard to the presumption that this application requires two variance requests:

1. Alleys – Livingston Subdivision Regulations Sec. VI-A-8-b(vii) states “Alleys, designed in accordance with Table 1, shall be provided in all residential subdivisions. Alleys will also be the preferred method for providing utility and garbage pick-up access in non-residential subdivisions.”

This is a non-residential subdivision based on its zoning. “preferred method” is not a requirement. No variance is required.

2. Livingston Subdivision Regulations Sec. VI-A-7c states “Blocks must be wide enough to allow for two tiers of lots unless a narrower configuration is essential to provide separation of residential development from traffic arteries, or to overcome specific disadvantages of topography and orientation, or unless the governing body approves a design consisting of irregularly shaped blocks indented by cul-de-sacs.”

Because alleys are not required (alleys would generally separate the two tiers of lots) and the development is oriented on a single street with the lots either bordering the project boundary or accessed by cul-de-sacs, the applicant has the right, under our regulations, to present the current design to the governing body.

The Planning Board, at the August 17th meeting, expressed a desire to see an analysis of how this subdivision complies with or furthers the Growth Policy. They also expressed the desire to see both the final requirements from MDOT as well as information about what this development would do in terms of affordable housing. I will explain why these items did not appear in the Staff Report.

Under State law, when a property is annexed into a city's jurisdiction, the city commits to providing municipal services to the annexed parcel. If the City has zoning, it must designate a zone for the parcel. Both of these processes, annexation and zoning, provide vested property rights to the parcel and the owner. Since completed using the guidance of the growth policy at that time, the fact that a newer, or updated, growth policy exists today has a limited affect. An updated growth policy only affects the property rights vested by annexation and zoning to the extent that the zoning regulations or other regulatory documents have been altered to comply with the updated growth policy. There is no point in analyzing the proposal under the current growth policy, because the process to which it applies, annexation and zoning, has already occurred. The growth policy cannot undo what was done lawfully under a prior document.

The Montana Department of Transportation has jurisdiction over Hwy 10. They will decide what, if any, improvements will be required to their roadway as a result of this development. Their final determination has not yet been made and may take several months to be finalized. As these decisions are made, any influence that DOT offers the City, will be overseen by engineering staff or city consultants. This is why the staff report proposes to condition this subdivision based on DOT's requirements.

Effect on affordable housing. The City does not regulate the provision of "affordable housing". With this development, because of the zoning, we don't know with any certainty that housing will be built. All that can be said is that the project is zoned for and could provide additional housing. Affordability, under any definition, remains an unknown.

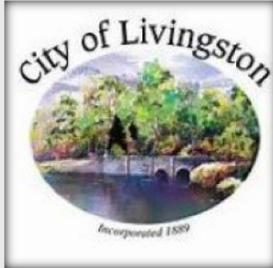
September 30, 2022

Legal Memo

From: City Attorney, Courtney Lawellin

Re: *Mountain View Subdivision*

Background and considerations for the review of the Mountain View Subdivision by the Livingston City Commission on October 4, 2022.



OFFICE OF THE CITY ATTORNEY

Courtney Jo Lawellin

CONTACT

PHONE:
406-823-6009

WEBSITE:
Livingstonmontana.org

Address:
220 East Park Street
Livingston, MT 59047

EMAIL:
cityattorney@livingstonmontana.org

- ❖ The Property was Annexed in 2004, and zoned thereafter, then rezoned in 2018 to highway commercial. Livingston has had a growth plan since 2004, updated most recently in 2017 and 2021. A planning board and two zoning commissions recommended the annexation, zoning, and rezoning. Only subdivision remains to be reviewed.
- ❖ Limitations on authorized uses are zoning considerations and cannot be conditions of subdivision approval. Conditioning subdivision on excluding permitted uses is illegal, violates state law and COL regulations. 76-2-302 If suggested, a rezoning would require a 4/5^{ths} vote of the Commission.76-2-305 GP pg 11/6
- ❖ Subdivision review is limited to the review of a complete subdivision application 76-3-604. Completeness is determined by the statute, subdivision regulations, overseen by the planning department and is complied with by the developer applying. Id. & 76-3-504(subdivision reg contents) and COL subdivision regs.
- ❖ The planning board failed to make any findings related to their recommendation to deny the proposed subdivision. Regardless of any action the commission makes in relation to a planning board's recommendation, the commission must, as required by law, make findings of fact and have conclusions that identify the regulations and statutes used and how they apply to the basis of the decisions.620 & 608(4)(5) Conditions for approval must identify a specific, documentable, and clearly defined purpose or objective related to the primary criteria set forth in 76-3-608(3) that forms the basis for the condition.76-3-620
- ❖ The criteria for commission review, and denial, approval, or conditional approval, are the specific,

documentable, and clearly defined impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety, excluding any consideration of whether the proposed subdivision will result in a loss of agricultural soils.

- ❖ The “full discretion” of the governing body, related to the growth policy, is the discretion employed to detail how the essential elements required under 76-1-601(3), are defined during its creation. The Growth Policy is non-regulatory in nature which includes being non-regulatory in land use planning, including subdivision approval.
- ❖ In conditioning approval, a governing body may not unreasonably restrict a landowner's ability to develop land. If requiring mitigation (conditions of approval in 608(3)), and consistent with 76-3-620, a governing body shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider if mitigation can be accomplished. The proposed conditions for Mountain View Subdivision are found in the staff report. Conditions of approval were not determined by the planning board.
- ❖ A growth policy's influence on subdivision is limited to subdivision regulations, which are drafted and amended to conform to a growth policy. This is how a growth policy influences subdivision. A new growth policy does not amend subdivision regulations, but amendment to subdivision regulation must be guided by the general policy and pattern of development laid out in the new growth policy. A developer is required to conform a subdivision to current subdivision regulations. A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter. 76-1-605

Courtney Jo Lawellin
Livingston City Attorney

Montana Code Annotated 2021

TITLE 76. LAND RESOURCES AND USE

CHAPTER 3. LOCAL REGULATION OF SUBDIVISIONS

Part 6. Local Review Procedure

Review Requirements -- Written Statement

76-3-620. Review requirements -- written statement. (1) In addition to the requirements of **76-3-604** and **76-3-609**, following any decision by the governing body to deny or conditionally approve a proposed subdivision, the governing body shall, in accordance with the time limit established in **76-3-504**(1)(r), prepare a written statement that:

- (a) must be provided to the applicant;
- (b) must be made available to the public;
- (c) includes information regarding the appeal process for the denial or imposition of conditions;
- (d) identifies the regulations and statutes that are used in reaching the decision and explains how they apply to the basis of the decision;
- (e) provides the facts and conclusions that the governing body relied upon in making the decision and references documents, testimony, or other materials that form the basis of the decision; and
- (f) identifies the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved.

(2) If the governing body conditionally approves the proposed subdivision, each condition required for subdivision approval must identify a specific, documentable, and clearly defined purpose or objective related to the primary criteria set forth in **76-3-608**(3) that forms the basis for the condition.

History: En. Sec. 2, Ch. 224, L. 1995; amd. Sec. 13, Ch. 298, L. 2005; amd. Sec. 20, Ch. 446, L. 2009; amd. Sec. 5, Ch. 319, L. 2021.

10. 04. 2022

Addendum to Action Item D.

Public comments received regarding Mountain View Subdivision

- Wendy Weaver- in support
- Suzie Laich- in support
- Edward Johnson- in support
- Ann Hallowell- in support
- Nancy Adkins- opposed
- Friends of Park Co.- opposed

From: [Wendy Weaver](#)
To: [Faith Kinnick](#)
Subject: Public Comment to Oppose Meadow View Subdivision
Date: Tuesday, October 4, 2022 5:07:04 PM

Dear Commission-

I am writing to provide public comment to oppose the Meadow View Subdivision. My concerns are many including lack of specifics regarding the plans and intent of the development. I would also like to understand why this parcel is excluded from the HC zone while all the land around it is within this zone. I am also very concerned that we will allow development to occur in our entrance corridors that takes away from the character of our community and we become, quite literally “anywhere, USA” with strip malls, gas stations, chain restaurants, chain hotels. I would like to also know how this development is helping address our affordable housing crisis. I would like to know how this development will complement, preserve and add to the character of our community and as is lined out in our recently adopted growth policy.

Sincerely,
Wendy Weaver
203 South I Street
Livingston, MT 59047

Faith Kinnick

From: Suzie Lalich <suzie@pfl.com>
Sent: Monday, October 3, 2022 8:39 AM
To: Faith Kinnick
Subject: Public comment for item on 10/4 Commission Agenda

City Commission,

I am unable to attend the City Commission hearing tomorrow however wanted to provide public testimony. I support the Mountain View Subdivision. With the housing shortage in Livingston, we need more buildable lots for sale with the possibility of residential housing. As an HR professional for one of the largest employers in Park County, trying to hire and retain employees is becoming a huge constraint and impacting our ability to serve our customers. We've seen numerous employees resign and leave the area due to the lack of housing. Thank you.

Suzanne Lalich
14 Elk Horn Lane Livingston, MT

Suzie Lalich
VP of Employee Success
406-823-7097



PFL is committed to fostering a workplace that connects and honors people for the many aspects that make them unique.

Faith Kinnick

From: Faith Kinnick
Sent: Tuesday, October 4, 2022 5:42 PM
To: Lisa Lowy ; Courtney Lawellin; Jim Woodhull; Karrie Kahle; Mel Friedman ; Melissa Nootz; Quentin Schwarz ; Torrey Lyons
Subject: FW: Unable to Join the Meeting Virtually-Wanted to Make a Comment

[Here is another public comment.](#)

Faith

From: Edward Johnson [mailto:iamedwardjohnson@gmail.com]
Sent: Tuesday, October 4, 2022 5:37 PM
To: Faith Kinnick <fkinnick@livingstonmontana.org>
Subject: Unable to Join the Meeting Virtually-Wanted to Make a Comment

Hi,

My name is Edward Johnson and I'm a property owner in Park County. I'd like to make a brief comment in support of the proposed MountainView Subdivision. I believe the county needs affordable housing and one of the major ways to do this is by increasing housing inventory. Therefore, I'm in support of this proposed subdivision. Thank you.

Best,

-Edward Johnson

Faith Kinnick

From: Ann Hallowell <ann@hallowellco.com>
Sent: Monday, October 3, 2022 4:24 PM
To: Faith Kinnick; Jim Woodhull
Subject: 10-4-22 city commission meeting -Action item D.-Mountain View Subdivision-public comment
Attachments: 10-4-22 city commission meeting-Mountain view subdivision--public comment.pdf

Dear Ms. Kinnick & Mr. Woodhull,

Attached please find my public comment for the record for the 10-4-22 City Commission Meeting. Action Item D. Mountain View subdivision.

Would you so kind as to acknowledge receipt of this email so I know you have received it in time for the meeting. Thank you so much.

Sincerely,

Ann Hallowell

10-4-2022 City of Livingston Commission Meeting

Action Item D. Discuss/approve/deny: Mountain view Subdivision preliminary plat approval.

Livingston currently has only two very large buildable parcels zoned Light Industrial. Out of town developers can afford them. But no opportunities exist within reach for our local entrepreneurs.

Mountain View subdivision, a division of one of these large, Light Industrial lands, will be the first such opportunity for the community of Livingston. Finally, there will be smaller, more economically accessible lots zoned Light Industrial for local entrepreneurs to fulfill their dreams to expand their business out of their garages and basements.

Printing For Less was just such a business bursting at the seams on East Geyser Street many years ago. The city planning board and commissioners listened and annexed land on the west side for their current location.

They have been growing ever since, giving the people of Livingston the security of year-round jobs close to home in this attractive complex. Printing For less was the first local company to offer child care for employees onsite.

As they prospered, they did not walk away from our community. Instead, they expanded by building thoughtfully into the landscape, yet again, offering more year-round jobs for our community.

Printing For Less has always been a shining star of entrepreneurial tenacity and endurance---a good example for those who would dare similar paths. They have employed our community through good times and bad.

It is most fitting that with their success they are now able to pass on similar opportunities to others. With these lots, others will follow the path of entrepreneurial prosperity for Livingston.

Our shortage of both housing and business lots can be fulfilled with the single action of approval of Mountain View.

I wholeheartedly support approval for the Mountain View subdivision plat and hope you will too.

Sincerely,

Ann Hallowell
Fleshman Creek
406-222-4770
Ann@hallowellco.com
ETJ

Faith Kinnick

From: Faith Kinnick
Sent: Tuesday, October 4, 2022 11:43 AM
To: Lisa Lowy ; Courtney Lawellin; Jim Woodhull; Karrie Kahle; Mel Friedman ; Melissa Nootz; Quentin Schwarz ; Torrey Lyons
Subject: FW: Form submission from: Contact Us

Commissioners,

Here is another email in regards to the subdivision at PFL.

Sincerely,

Faith

From: Livingston Montana [mailto:livingston-mt@municodeweb.com]
Sent: Monday, October 3, 2022 7:42 PM
To: webmaster <webmaster@livingstonmontana.org>
Subject: Form submission from: Contact Us

Submitted on Monday, October 3, 2022 - 7:42pm

Submitted by anonymous user: 172.221.108.2

Submitted values are:

First Name Nancy

Last Name Adkins

Email desmoinesnancy@yahoo.com

Question/Comment

I am oppose to the development around Print For Less. They are valuable wet lands and flooding issues. I will be having an infusion tomorrow so may not be able to take part in the zoom meeting.

Phone Number 406333 0470

The results of this submission may be viewed at:

<https://www.livingstonmontana.org/node/7/submission/1202>

Friends of Park County

P.O. Box 23, Pray, Montana 59065

Promoting thoughtfully planned growth in order to protect and enhance Park County's vibrant communities, sustainable working lands, and healthy natural resources.

Testimony on Mountain View Subdivision Preliminary Plat Application Livingston Planning Board September 21, 2022

Summary

The Planning Board is required by law to consider the Growth Policy.

The Planning Board must consider the Growth Policy in making its recommendation to the City Commission, under the clear wording of Montana statutes and your subdivision ordinance.

The Planning Board should recommend denial based on incomplete application, failure to satisfy the subdivision ordinance criteria and for contradictions with the Growth Policy.

The Planning Board should recommend denial of the application based on: (a) the failure of the applicant to provide a complete application as required by the subdivision ordinance; (b) evidence which shows the application does not satisfy the criteria in the subdivision statute and ordinance; and (c) substantial conflicts with your Growth Policy.

As a safeguard, the Planning Board should propose conditions of approval should the City Commission decide to approve the subdivision.

As a safeguard in the event the City Commission decides to approve the application, the Planning Board should propose conditions of approval to mitigate adverse impacts on agriculture, wildlife, public services and to address conflicts with the Growth Policy, including:

1. Limit the authorized future uses of the lots to the “light manufacturing” “transportation terminals” and “warehouse“ uses authorized in the Highway Commercial zone.
2. Pro-actively prevent the extension of the new internal road to the east, outside the city limits, to prevent it from being used to help justify and facilitate additional annexations and commercial development and include a continuous open space designation and buffer to the east.
3. Require landscaping and design standards.

This proceeding should prompt the Planning Board to commit to upgrading staff reports and an immediate revision of land use designations, zoning, annexation and infrastructure plans that are inconsistent with the core principles of the Growth Policy.

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Montana's subdivision statutes clearly require the Planning Board to consider the proposed subdivision's consistency with the 2021 Growth Policy.

Montana Code Annotated 76-1-605 describes the use of an adopted growth policy.

*(1) Subject to subsection (2), after adoption of a growth policy, the governing body within the area covered by the growth policy pursuant to 76-1-601 **must be guided by and give consideration to the general policy and pattern of development set out in the growth policy** in the:*

(a) authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities;

(b) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities;

(Emphasis added.)

The Mountain View Subdivision application describes the new roads, sidewalks, water and sewer lines and stormwater facilities that will be built, so these subsections of the Montana subdivision require the Planning Board to consider and be guided by its 2021 Growth Policy.

It is correct that the growth policy is not a “regulatory document”:

*MCA 76-1-605 (2)(a) A growth policy is not a regulatory document and does not confer any authority to regulate **that is not otherwise specifically authorized by law or regulations** adopted pursuant to the law.*

However, as noted in the next section, the City's subdivision ordinance, does give you the authority to consider the Growth Policy.

In addition, the statute makes it clear that noncompliance with the Growth Policy can be a part of the grounds for denying or conditioning a subdivision application, as long as there are other grounds based on the city's regulations:

*MCA 76-1-605 (2)(b) A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based **solely** on compliance with a growth policy adopted pursuant to this chapter.*

In other words, as long as there are other grounds for withholding, denying or imposing conditions, then the Growth Policy can provide additional grounds for your action. Friends of Park County will present those alternative grounds for denial below.

The City's Subdivision Ordinance allows you consider the Growth Policy, "without limitation" in making recommendations to the City Commission on whether to deny, approve with conditions or approve the subdivision.

The City's subdivision ordinance provides:

III-B-4 Planning Board Hearing, Consideration and Evidence

c Consideration-Evidence

*In making its decision to approve, conditionally approve, or deny a proposed subdivision, the governing body may consider, **without limitation**, the following, as applicable:*

- (i) an officially adopted growth policy;*

Under the previously cited Montana statutes, the Growth Policy is not only "applicable" it is directly relevant and essential to making a sound decision.

The "Highway Commercial Zone" allows virtually anything - gas stations, Starbucks, convenience stores, offices, banks, apartments, motels, big box stores, even mortuaries. The future development of the subdivision with those uses contradicts the goals, objectives and strategies of the Growth Policy that call for focusing development downtown and against sprawling at the edge of the city. There is no future opportunity for the Planning Board or the public to review subsequent development applications.

Authorized uses in the "Highway Commercial" zone are classified either as "acceptable" or as requiring a "special exception permit."

The following uses are listed in [Table 30.40](#) as "acceptable."

- Single family dwellings
- Two family dwellings
- Multifamily dwellings
- Town Houses
- Accessory Buildings
- Modular Homes
- Churches
- Trade Schools
- Clinics
- Personal Care Center
- Child Care Center
- Veterinarian [sic] Clinics
- Kennels and Catterys
- Self Service Laundry

Bed and Breakfasts
Motels/Hotels
Travel Trailer Parks
Business and Professional Offices
Retail (Large scale Retail requires a Special Exception Permit)
Barber Shop and Beauty Parlors
Restaurants
Bars
Drive-in Restaurants
Banks
Mortuary
Wholesale Businesses
Commercial Greenhouses
Gasoline Service Stations
Auto Repair Garage
Automobile Dealerships
Warehouse and Enclosed Storage
Machine Shop
Light Manufacturing
Lumberyards
Transportation Terminals
Radio Stations
Government Offices
Health and Exercise Establishment

Additional uses that are authorized but require a “special exception permit” include “Large-scale Retail” “where the total area utilized by a single tenant occupies twenty thousand (20,000) square feet or more of gross floor area or outdoor space, exclusive of parking.”

In other words, despite its name and stated purpose the “Highway Commercial” zone allows virtually everything allowed downtown.

The City’s code allows the planning staff to approve any those uses on the subdivision lots without any oversight by the Planning Board or Zoning Commission or a public hearing. In other words, this proceeding is the only chance to consider the implications of allowing any or all of those uses at the western edge of the city.

The Growth Policy describes what residents believe is important to them about Livingston’s community character (page 14):

Through the community’s definition of community character, three overarching themes rose to the top, a friendly, laidback welcoming atmosphere, our surrounding natural environment, and the look and feel of our downtown Between 60 and 70 percent of respondents stated that unique businesses, the charming downtown, and the small-town atmosphere were very important to their definition of community character. The Growth Policy reflects and translates these definitions of community character into land use recommendations, with the understanding that the

community desires to maintain this character as the City grows and changes through time.

Here are some of the goals, objectives and strategies in the Growth Policy that development of the Mountain View Subdivision will contradict:

Objective 2.2.3: Support traditional neighborhood design and active transportation.

Goal 3.1: Prioritize infill over expansion by taking advantage of existing and planned infrastructure, such as transportation, energy, water, and sewer facilities.

Strategy 3.1.1.4: Promote any growth that maintains the compact, historic development patterns found in the historic city center.

Goal 3.4: Encourage the responsible growth of Livingston by evaluating proposed developments against the ten principles of Smart Growth.

Strategy 3.4.3.2: Encourage development near transit routes and active transportation infrastructure to promote development that produces minimal strain on the environment and existing transportation infrastructure.

Strategy 4.1.3.3: Reduce climate disruption through compact growth and increased transportation choices that reduce the need for driving.

Objective 4.3.2: Protect the riparian corridors to preserve unique wildlife, promote water quality, and provide for public trails and open space.

Objective 4.3.3: Preserve the night skies as well as the natural scenic vistas.

Objective 6.1.1: Support existing local businesses.

Objective 6.1.5: Plan for and attract new investment into the downtown district to support local businesses.

Objective 6.2.3: Make a good first impression to [sic] visitors.

Objective 8.2.7: Prioritize existing roadways and utility infrastructure to ensure connectivity and avoid leapfrog development.

Strategy 8.2.7.1: Prioritize roadway construction or improvements in areas that have been dedicated as mixed use or higher density in the Growth Policy.

As explained previously, as long as there are other grounds in the statute or subdivision ordinance for denying or conditioning the application, the Planning Board and City Commission can rely on conflicts with the Growth Policy as additional reasons to deny or condition the application.

The evidence in the record does not demonstrate compliance with the state subdivision criteria and therefore the Planning Board must recommend that the City Commission deny the application.

Montana state law and the City's subdivision regulations require the staff to prepare and the reviewing bodies to make "findings of fact" in support of their decisions to approve or deny an application.

A finding of fact requires the consideration and evaluation of relevant evidence and information. For many critical criteria the August staff report does not reference any facts but just offers an unsupported assertion.

Here are some examples from the August staff report:

1. Effect on Agriculture [Questions from Subdivision Ordinance III-B-6 (b)(iv)(A)].

*1) Would the subdivision remove agricultural or timberlands with significant existing or potential production capacity? **No.***

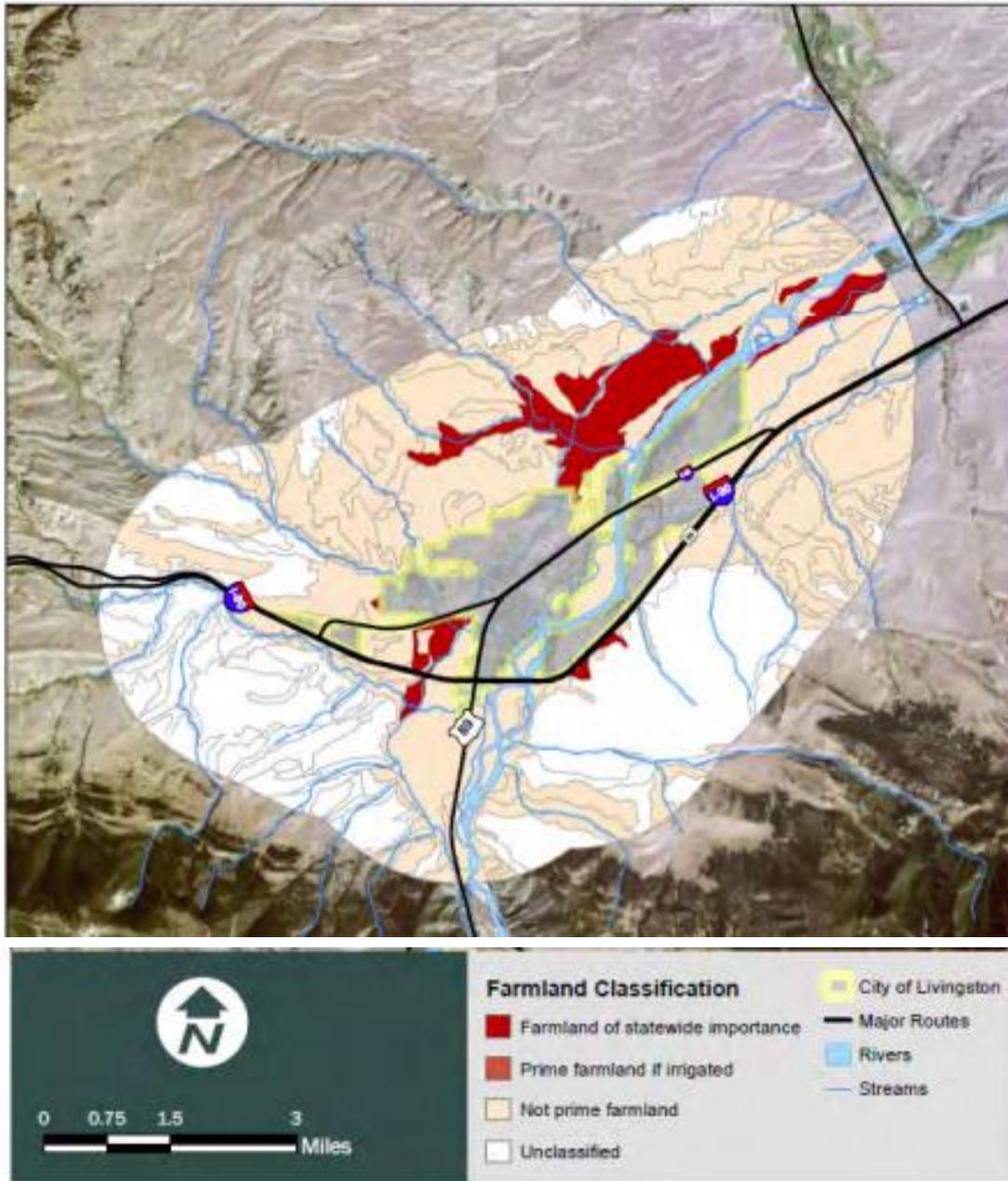
*2) Would the subdivision remove from production agricultural lands that are critical to the area's agricultural operations? **No.***

*4) How would the subdivision affect the value of nearby agricultural lands? **Not applicable.***

An unsupported statement of the conclusion without reference to any facts is not a finding of fact at all.

Readily available information does not support these conclusions. For example, Exhibit 2.7 "Farmland in the Extraterritorial Jurisdiction" in the 2021 Growth Policy shows there are agricultural lands on, and near, the subject property:

Exhibit 2.7: Farmland in the Extra-Territorial Jurisdiction



This is just one source of information on this subject.

The following findings in the August staff report are also unsupported conclusions (possibly in reliance on assertions made by the applicant) that are not based on any facts in the staff report and therefore cannot be a basis for a decision by the Planning Board:

3. Impact on Local Services [Subdivision Ordinance III-B-6 (b)(iv)(C)].

- 1) (a) No information about additional costs imposed by the development is provided.
(b) Answer does not respond to the question about “who will bear the costs.”
(c) No facts related to capacity to fund additional costs provided.
- 2) Unsupported conclusion about additional efficiency of service provision.
- 4) No evidence provided for the estimate of \$300,000 in additional revenues; what are the assumptions about the types of future development and their assessed value?

4. Effect on Natural Environment [Subdivision Ordinance III-B-6 (b)(iv)(D)].

The questions about possible effects on the natural environment in subsections 1) a), b), c), and f) are answered with conclusions without any supporting evidence, without any analysis of those facts that support the conclusion. It is also interesting that the staff report found that there was no known hazard in the form of “high winds.”

5. Effect on Wildlife and Wildlife Habitat [Subdivision Ordinance III-B-6 (b)(iv)(E)].

The responses in the August Staff Report to the questions in 1) and 2) are conclusions unsupported by evidence. Also see discussion about wildlife in the next section of this testimony.

6. Effect on Public Health on Safety [Subdivision Ordinance III-B-6 (b)(iv)(F)].

The responses in the August Staff Report to the first question about hazards resulting from highways and other conditions is a conclusion unsupported by evidence. The response to the third question relating to possible hazards from fire or traffic is “None have been identified.”

It is the responsibility of the staff and the Planning Board to affirmatively review available information and analyze it rather than treat the absence of information from third parties as grounds for a conclusion about facts.

The Planning Board’s recommendations and the City Commission’s decision must address the standards in the regulations as they are written, not the modifications or re-interpretations of them proposed by your staff.

In at least three cases, the August staff report modifies or reinterprets the question posed by the subdivision ordinance and responds to that modified or reinterpreted version that is not in the city code (while also neglecting to provide any factual support.)

Here are the problematic reinterpretations:

1. Effect on Agriculture

3) *Would the subdivision create significant conflict with nearby agricultural operations (e.g. creating problems for moving livestock, operating farm machinery, maintaining water supplies, controlling weeds, applying pesticides or would the subdivision generate nuisance complaints due to nearby agricultural operations)?* **No. There are no intensive agricultural activities in the immediate area.**

The actual words in the subdivision ordinance refer to “agricultural operations, not “intensive agricultural activities.” The area to be considered is “nearby” not “in the immediate area.” O

Here is how the August staff report addresses the criteria related to agricultural water facilities.

2. Effect on Agricultural Water User Facilities

1) *Would the subdivision create a significant conflict with “ water user facilities (e.g. creating problems for operating and maintaining irrigation systems or creating nuisance complaints due to safety concerns, noise, etc.)?”* **No ag water user facilities exist on the subject property.**

The actual question in the ordinance is about the potential for significant conflict with agricultural water user facilities that could be nearby; it does not limit the consideration to water facilities on the subject property.

The Cadastral Survey indicates there are agricultural operations nearby, grazing and alfalfa production and the latter relies on irrigation:

Property Record Card

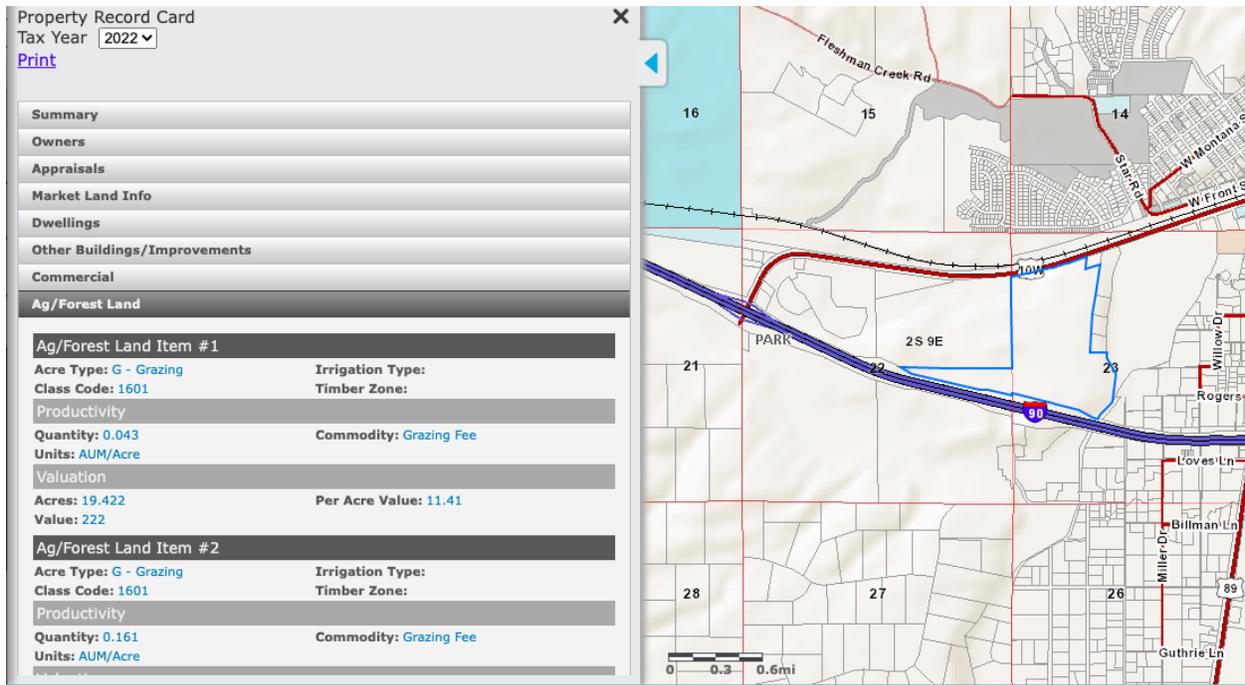
Tax Year

[Print](#)

- Summary
- Owners
- Appraisals
- Market Land Info
- Dwellings
- Other Buildings/Improvements
- Commercial
- Ag/Forest Land**

Ag/Forest Land Item #1	
Acre Type: I - Irrigated	Irrigation Type:
Class Code: 1101	Timber Zone:
Productivity	
Quantity: 1.193	Commodity: Alfalfa
Units: Tons/Acre	
Valuation	
Acres: 6.399	Per Acre Value: 552.99
Value: 3539	

Ag/Forest Land Item #2	
Acre Type: I - Irrigated	Irrigation Type:
Class Code: 1101	Timber Zone:
Productivity	
Quantity: 3.74	Commodity: Alfalfa
Units: Tons/Acre	



There is also agricultural land south of I-90 and elsewhere nearby.

The August staff report addresses wildlife and wildlife habitat impacts this way:

5. Effect on Wildlife and Wildlife Habitat

1) How would the subdivision affect critical wildlife areas such as big game wintering range, migration routes, nesting areas, wetlands or other important habitat? This subdivision is not located within critical wildlife habitat.

The response substitutes what seems to be a technical term “critical wildlife habitat” for “critical wildlife areas” “such as big game wintering range, migration routes, nesting areas, wetland or other important habitat.”

The letter from Montana Fish and Wildlife states: “The area is used by big game, especially pronghorn, along with a variety nongame species. Black bears or mountain lions are known to use the area occasionally.” The letter also references design approaches that would provide “safe passage wildlife corridors.”

The staff report must address the actual standards in the city’s ordinance not the revised, weaker and narrower revisions to those standards as reinterpreted by the staff.

The application may not be exempt from the environmental assessment required by Montana subdivision statutes and the City's subdivision ordinance. If it is not exempt, then the application is incomplete and must be denied.

- 76-3-603. Contents of environmental assessment. (1) When required, the environmental assessment must accompany the subdivision application and must include:
- (a) for a major subdivision:
 - (i) a description of every body or stream of surface water that may be affected by the proposed subdivision, together with available ground water information, and a description of the topography, vegetation, and wildlife use within the area of the proposed subdivision;
 - (ii) a summary of the probable impacts of the proposed subdivision based on the criteria described in [76-3-608](#);
 - (iii) a community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and busing; roads and maintenance; water, sewage, and solid waste facilities; and fire and police protection; and
 - (iv) additional relevant and reasonable information related to the applicable regulatory criteria adopted under [76-3-501](#) as may be required by the governing body;

Environmental assessments are not required if an application qualifies for the following statutory exemption in MCA 76-3-616 (2) [emphasis added]:

- (2) To qualify for the exemptions in subsection (1), a subdivision must meet the following criteria:
- (a) the proposed subdivision is entirely within an area inside or adjacent to an incorporated city or town where the governing body has adopted a growth policy that includes the provisions of [76-1-601](#)(4)(c);
 - (b) the proposed subdivision is entirely within an area subject to zoning adopted pursuant to [76-2-203](#) or [76-2-304](#) that avoids, significantly reduces, or mitigates adverse impacts identified in a growth policy that includes the provisions of [76-1-601](#)(4)(c); and
 - (c) the subdivision proposal includes a description of future public facilities and services, using maps and text, that are necessary to efficiently serve the projected development.

In this case, the application fails to satisfy subsection (b) because the zoning does not “significantly reduce or mitigate adverse impacts identified” in the new Growth Policy but in fact aggravates them.

The staff contends that the 2021 Growth Policy does not apply to this property because it was annexed and zoned before the Growth Policy.

Friends of Park County does not agree with this analysis but assuming, for the sake of argument that it is true, then the Growth Policy in effect at the time of the annexation, if any, is applicable. If no Growth Policy was in effect, then the exemption does not apply at all.

If an environmental assessment is required, then this application is incomplete and the Planning Board must recommend denial of the application by the City Commission.

As a safeguard, the Planning Board should propose conditions of approval to mitigate adverse impacts and to reduce conflicts with the Growth Policy should the City Commission decide to approve the subdivision.

In the event the City Commission decides to approve the application, the Planning Board should propose conditions of approval to mitigate adverse impacts related to the criteria in the Montana subdivision statute (MCA 76-3-608(3)(a)), the parallel criteria in the subdivision ordinance and conflicts with the Growth Policy.

Conditions of approval relating to the criteria in the subdivision ordinance and the Montana subdivision statute would mitigate the:

- Impacts on agriculture activities on the Voyich and other properties
- Impacts on nearby agricultural water user facilities on the Voyich property.
- Potential impacts on local services, including impacts on taxpayers who will bear part of the burden of building and maintain the new roads, water and sewer lines and other infrastructure.
- Impacts on the natural environment, including to the wetlands caused by runoff from streets and roads,
- Impacts on wildlife and wildlife habitat, including interruption of migration paths and loss of habitat needed for food or refuge and night illumination impacts on nocturnal wildlife.
- Impacts on public health and safety including impacts resulting from increased highway oriented traffic and increased greenhouse gasses accelerating climate change.

Because these conditions are appropriate then additional conditions that would help achieve greater consistency with the Growth Policy could also recommended to the City Commission, including:

1. Limit the authorized future uses of the lots to the “light manufacturing,” “transportation terminals” and “warehouse“ uses which are permitted in the Highway Commercial zone.

This limitation would be consistent with the current uses on the property – a printing facility and the FedEx shipping facility. These uses are not the kinds of uses that would be located downtown.

2. Pro-actively prevent the extension of the new internal road to the east, beyond the city limits, to prevent it from being used to help justify and facilitate additional annexations and commercial development and require a continuous open space designation and buffer to the east. Friends of Park County will provide an illustration of how this condition could be met.
3. Specify landscaping and design standards, which are not required because this property is not just to the Gateway Overlay District.

This application should spur the Planning Board to formally commit to improving staff reports, to identifying and removing the various contradictions to the Growth Policy in current zoning, infrastructure plans and annexation policy and to address the internal contradictions in the Growth Policy.

The application raises three fundamental issues we hope the Planning Board will formally commit to addressing:

1. Requiring adequate factual information and legal analyses from your staff to enable the Planning Board and the City Commission to discuss the merits of a proposal objectively and make the required findings of fact and conclusions of law, not just in this case, but in all cases.
2. The urgent need to translate the Growth Policy into internally consistent, effective zoning, annexation policy and infrastructure plans. Until and unless this is done, all of your, your staff's and the community's work on the Growth Policy will be rendered meaningless as development proceeds without regard to the Growth Policy's admirable goals and objectives.
3. Addressing the contradictions and unaddressed issues within the Growth Policy that create confusion about what it means and how it should be implemented. These include the extensive amount of commercial development assumed by land use designations both within the city limits and the extraterritorial jurisdiction. These are detailed in our May 2021 testimony to the City Commission.