

PUBLIC MEETING
February 24, 2004

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

Commissioners Tinsley and Varone were present. Others attending all or a portion of the meeting included Ron Alles, Sharon Haugen, Janet Pallister, Lindsay Morgan, Michael McHugh, Marni Bentley, Skee Tenneson, Jerry Shepherd, Ron Adams, Sandra Adams, Mary Brewer, Theresa Nugent, Brian Barkemeyer, Patricia and David Nickols, Jeff Zimmerman, Edward McCurdy, Sandy Smith, Dave Smith, Kevin Tucker, Kelly Williams, Cheryl Vick, Jeanne Traynor, Ed Caske, Jason Mohr, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the pledge.

Fairgrounds Historic Buildings Mitigation Plan. Paul Putz reported on the mitigation plan and letter to the State Historic Preservation office to comply with the Montana Antiquities Act, which is a condition of the transfer of the fairgrounds to Lewis and Clark County seven years ago. The mitigation plan outlines concepts and ideas to examine alternatives of possible removal of historic items at the fairgrounds. Recommendations include retention of the Paddock and the track, which was built in 1870; removal of the north barn, which is one of two barns in the set called the West Barns and possibly the setting aside of the southernmost barn for private investment. This information will be delivered to the State Historic Preservation Office for their review and approval. Commissioner Tinsley moved to approve the mitigation plan and report and authorize the chair to sign the letter. Commissioner Varone seconded the motion and it carried unanimously.

Request for Approval to Submit a Community Emergency Response Team Program Extension and Grant for Citizen Corp Council. Paul Spengler reported the grant is 100% Department of Homeland Security money (\$6,000) to provide for additional training for Community Emergency Response Teams in November and train 46 people. The purpose of the training is to prepare citizens for any disaster, terrorist attack, or emergency. The money would be used to provide training kits such as hard hats, flashlights, goggles, vests, and filter masks. **Training has been scheduled for March 16, 18, 30.**

Commissioner Varone moved to approve submittal of the grant and authorize chair to sign. Commissioner Tinsley seconded the motion and it carried unanimously.

Right of Way Agreements for the Construction of the CTEP Sierra Road Trail. **Brian Holling reported on** five separate right of way agreements for the construction of the Sierra Road Bike Path in the vicinity of Rossiter School. The total cost of all five agreements is \$15,445. The costs were determined by a professional appraisal and the cost of each parcel was agreed to by each property owner. Construction of the bike path will begin this spring once the right of way is acquired. Commissioner Varone Moved to approve the right of way agreements and authorize the chair to sign. Commissioner Tinsley seconded the motion and it carried unanimously.

TSEP Grant Contract #MT-TSEP-EG-04-271 and Budget Authority Resolution. Janet Pallister reported the emergency grant contract with the Department of Commerce not to exceed \$15,000 will replace the undersized culvert on Spokane Creek at Keir Lane. This culvert washed out last March during a severe flood event and it has rendered the road impassible to local residents and emergency services. The estimated cost of the project is \$69,000. Staff also wishes to delay replacement of the Upper Elk Creek Bridge because of the urgency of the culvert replacement. The county will provide the labor and all of the equipment costs associated with the project and some materials. Staff recommends approval. Commissioner Varone moved to approve the grant contract and budget authority resolution and authorize the chair to sign. Commissioner Tinsley seconded the motion and it carried unanimously.

Proposed Wolf Creek/Craig Fire Service Area Annexation. Marni Bentley reported a petition was received requesting certain adjacent lands become part of the Wolf Creek/Craig Fire Service Area. The majority of the taxpayers signed the petition-- 52.94%. This land is north of the existing Wolf Creek/Craig Fire Service Area. Today's action will start the public hearing process by passing the resolution of intention. Fire protection services would be provided by Wolf Creek/Craig Fire Service Area. The assessments for the new annexed area will be similar to the existing fire service area. Staff recommends approval of the resolution. Commissioner Tinsley moved to approve the resolution and authorize the chair to sign. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Minor Subdivision, Preliminary Plat to be known as the Fields Minor Subdivision. (Applicant, William & Katy Fields) The applicants propose to create four single-family residential lots. The proposed subdivision is located in the NE1/4 of the NE1/4 of Section 10, T11N, R3W; generally located immediately south of Tea Road and immediately west of Ferry Drive.

At the request of the applicant, the public hearing has been postponed to March 9. Because this proposal was legally advertised the Commission will accept public testimony this morning and carry it forward until March 9 or on March 9 the public will have the opportunity to testify.

Theresa Nugent is concerned about water availability in the subdivision.

Hearing no other comments the public hearing and the testimony of Ms. Nugent will be moved forward to March 9.

Proposed Major Subdivision, Preliminary Plat to be Known as Fox Crossing Major. (Applicant, Skee Tenneson) (Michael McHugh) (cont. from 2/10/04) The applicant proposes to subdivide an existing twenty (20) acre parcel to create 61 lots. The subject property is generally located 0.5 mile north of Canyon Ferry Road east of and adjacent to Lake Helena Drive.

Commissioner Tinsley moved to approve the proposal subject to 22 conditions as

recommended by the Planning Board and authorize the chair to sign. Commissioner Varone seconded the motion.

Michael McHugh reported on a meeting last Friday with planning staff, county road department staff, representatives from School District #1, representatives from the Montana Department of Transportation, and the City-County Transportation Coordinator to discuss the movement of the school buses in this area.

Commissioner Varone moved to delete condition of approval #10 until we have more information and could work something into the conditions of approval. Commissioner Murray seconded the motion.

After further discussion on condition #10, the Commission agreed to amend this condition to read, "The applicant shall provide a designated ~~safe~~ off road area for children to use while waiting for school bus and designate said easement on final plat" as recommended by staff. This would also require modification of condition 16 which addresses requirements for the final plat. **The payment of fire service fees will be made at the time of final plat.**

The motion to approve the subdivision proposal subject to 22 conditions as amended carried unanimously.

Reconsideration of Contract and Encroachment Agreement. (Petitioner, Ron Adams) Ron Adams has petitioned the Commission to reverse its January 27th decision to deny the encroachment agreement to install and maintain two three-inch septic lines for a community waste water system located on the north side of Little Wolf Creek Road and designed to service the approved subdivision located on the south side of Little Wolf Creek Road. The septic lines cross Little Wolf Creek Road and have already been installed at the time of inspection by the County Public Works Department.

Ron Adams and his representative Ed Casne are present.

Sharon Haugen reported Mr. Adams installed the improvements prior to getting an encroachment agreement and the commission voted to deny the encroachment. The applicant was not present at the meeting and Mr. Casne on behalf of the applicant wrote a letter requesting the Commission reconsider their decision.

Ed Casne, 733 3rd Street, reported there is no subdivision issue at this time. **The 5 existing RV sites have been removed** because there was not adequate room to service the RV park and the applicant intends on **relocating the RV park to another site.** His client did not intentionally disobey the laws and may have been an oversight on his part. He was not aware that an encroachment permit was necessary when he crossed the road. There are no health and safety issues installing the lines. He encouraged the commission to reconsider the denial.

Ron Adams stated it was his understanding that all the necessary permits and fees had been taken care of.

Commissioners Tinsley and Varone questioned Mr. Adams about whether he knew he needed an encroachment permit at the time of construction, a weed management plan, and cash in lieu of parkland.

Mr. Adams stated he realized additional work needed to be done upon receipt of a letter from the County Health Department.

Hearing no other comments, the public hearing is closed.

Commissioner Tinsley moved to reconsider the Commission's January 27 encroachment decision on the 7R Guest Ranch on March 9. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Minor Subdivision, Preliminary Plat to be known as the Amended Plat of Lot 2, Anderson Minor Subdivision. (Applicants, David & Patricia Nickol) The applicants proposed to create five single-family residential lots. The proposed subdivision is generally located immediately east of Green Meadow Drive, south of Ten Mile Creek. Patricia Nickol was present and indicated willingness to proceed.

Lindsay Morgan presented the staff report. There is no parkland dedication. The proposed subdivision does not lie within an existing zoning district and there are no zoning regulations. Covenants affect the use of the subject property. The applicants have proposed implementation of a homeowners association for the purposes of road maintenance. Staff has recommended that the applicants be required to dedicate a 38-foot easement for the possible future extension northward of North Benton Ave. DEQ requires that this public water supply be treated for nitrates. There are no floodplains on site. Staff recommends approval subject to 19 conditions as outlined in the staff report.

Commissioner Murray stated for the record that he purchases home insurance from the applicants and does not feel there is a conflict of interest.

Patricia Nickol questioned the requirement to allow Benton Avenue come through the eastern edge of the property because it is a city street. Lindsay Morgan stated annexing the southern portion of the road into the City was required to dedicate an easement on the eastern edge of the property.

Hearing no other comments, the public hearing is closed.

The applicant requested an extension of the statutory review deadline from March 9 to March 12. Commissioner Tinsley moved that the commission render a final decision March 11 and continue the review period to March 12. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Minor Subdivision, Preliminary Plat to be Known as Amended Plat of Lot 2, Gilleran Minor Subdivision. (Applicant, Steve & Cheryl Vick) The applicants propose to

create two (2) single-family residential lots. The subject property is generally located at 2082 Orofino Gulch. The applicant Cheryl Vick was present and indicated her willingness to proceed.

Lindsay Morgan presented the staff report. The applicant has requested a variance to allow proposed Lot 1 to be bisected by the existing internal access road. No parkland dedication is required. The proposed subdivision does not lie within an existing zoning district and there are no zoning regulations. Covenants currently affect the subject property. Access will be Oro Fino Gulch via the existing internal access road. A portion of the existing access road encroaches on Government Lot 18, located southwest of the proposed development site. The applicants are required to provide proof that the newly created lot has legal access across Government Lot 18 in order to access the new lots. There needs to be adequate sight distance for the proposed driveway, and a cul-de-sac will need to be installed at the northern end of the subject parcel. Staff recommends the internal access road be upgraded to 24 feet in width. The Lewis and Clark County Volunteer Fire Department recommends a water source be provided on site for fire suppression. No floodplain has been identified on the property. Staff further recommends an adequate building envelope be indicated on the final plat to protect the public health and safety of future property owners and that no development can occur within the garbage dumpsite which is located on proposed lot 2. During construction, the applicant shall minimize disturbance of any natural drainage on the property and reduce sedimentation and erosion due to the impermeable surface area. Staff recommends approval of the proposed subdivision subject to 16 conditions as outlined in the staff report.

Cheryl Vick asked for clarification on condition 8.k regarding pruning of trees to a height of 10 feet. Commissioner Murray stated this condition is from the ground up for fire mitigation purposes and includes the entire 5 acres. She also stated the road no longer crosses government property. Lindsay Morgan stated the map shows the right of way portion is located on Government Lot 18.

Written comments have been received from Dr. Traynor, Sandy Speedlove, and two separate letters from David and Sandra Smith.

Bill McCurray, 2078 Oro Fino Gulch Drive, Unionville. The Vicks presented their proposal and believes if it is done according to the law the applicants should be able to do what they want with their land.

Dave Smith 2084 Oro Fino Gulch Drive, Unionville. He is opposed to the proposal because it is too close to the drainage area for the septic system.

Sandra Smith is opposed to the proposal. Major concerns include road width and surface, curve of the road and blind corner; garbage area includes petroleum products which may affect groundwater, septic system leakage, weeds; there is no area for a safe bus stop on the south side of the county road. She and her husband have provided the road maintenance and would like the other property owners to absorb

some of the costs.

Jeanne Traynor encouraged the commissioners to preserve the quality of the area. Concerns include the dump area on the property; the blind curve is a hazard for children waiting at the bus stop; and dust and weeds is a problem.

Sandra Smith further stated she is in opposition to the variance.

Cheryl Vick commented that the variance is to leave the road as is because the Vick's and the Smith's use the driveway.

Hearing no other comments on the variance and/or the proposal, the public hearing is closed.

Commissioner Tinsley moved to render a final decision March 16 at 9:00 a.m. Commissioner Varone seconded the motion and it carried unanimously.

Public Comments. None.

There was no other business and the meeting adjourned at 11:43 a.m.