

SUBDIVISION MEETING **September 9, 2004**

Chairman Mike Murray called the meeting to order at 9:00 a.m. Commissioner Varone was present. Commissioner Tinsley was delayed seeing off Sheriff Deputies as they leave for National Guard duty to Iraq. Others attending all or a portion of the meeting included Ron Alles, Sharon Haugen, Mark Adams, Paul Spengler, Michael McHugh, Ann Marie & Kevin McDuffie, Dick Gardiner, Stanley Hoving, Jack Spillman, Tony Prothero, Tim McGee, Mitch Rygg, Darin Kron, Carol Hanel, Greg Hampton, Joe Mueller, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the pledge.

Request for Proposals (Sheriff Radio Project). Mark Adams reported as of 5:00 p.m. yesterday, the closing date for receiving requests for proposals, no proposals had been received for the Countywide UHF Paging System. Staff recommends extending the proposal deadline for an additional two weeks. Commissioner Varone moved to extend the deadline to 5:00 p.m. September 22 and open proposals Thursday, September 23. Commissioner Murray seconded the motion and it carried 2-0.

Amendment to Emergency Operating Plan. Paul Spengler recommends the commission adopt the use of the National Incident Management System as the operating system for disasters and emergencies. Commissioner Varone moved to approve the plan as an amendment and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Public Hearing / Co-part Auto Auction. Joan Bowsher reported the application of Co-Part of Washington, Inc. is to establish a motor vehicle wrecking facility at 3333 Bozeman Avenue. The property is located at the airport land. The application is complete and no comments have been received.

Mitch Rygg, General Manager, Co-Part Facility reported state law requires having a wrecker's license permit in order to sell the wrecked vehicles.

Hearing no other comments, the public hearing is closed. Commissioner Varone moved to support the application of the wrecking yard facility and authorize the chair to sign. Commissioner Murray seconded the motion and it carried 2-0.

Public Hearing / Request for Modification for the Lone Prairie Major Subdivision, Lot 9-1. (Applicant, Tony Prothero) (original request 7/22/04) The applicant has requested a modification of condition of approval 10.d, building outside of the building envelope. The applicant is present and indicated his willingness to proceed.

Michael McHugh presented the staff report. Soils were reported to have a high level of permeation. The drainage plan was not completed at the time of final plat approval. A small area of encroachment is where the building envelope is located. The modification should include the language, "there should be no encroachment to DEQ delineated storm water area." Lot 91 is the only property affected by the building envelope, as Lot 95 has not been developed at this time.

Tony Prothero reported on the original plat there were no dimensions to the drainage easement or building envelope. Mr. Prothero spoke with DEQ who stated that the purpose of a drainage ditch is to guide storm water to the drainage pond. It was his understanding that the placement of the ditch was irrelevant. He is trying to correct the documentation so the home can be sold.

Hearing no other comments, the public hearing is closed. Staff recommends that the condition read, "no encroachment within delineated DEQ storm water plan be allowed on this specific lot."

Commissioner Varone moved to approve the modification on Lot 9-1 of condition 10.d as recommended by staff. Commissioner Murray seconded the motion and it carried 2-0.

Proposed Minor Subdivision, Preliminary Plat to be Known as the Helena School Tracts Block 22 Lot B1 Amended Minor. (Applicant, Kevin McDuffie) The applicant signified his willingness to proceed. The applicant proposes to create five lots, two for multi-family units and three for single-family residential units. The subject property is generally located east of White Drive and south of Meagher Road. The applicant is present and indicated his willingness to proceed.

Michael McHugh presented the staff report. The area, located between York and Canyon Ferry Roads, is highly developed with single-family residential areas. Currently there are no zoning or covenants on the property. The applicants have proposed covenants on the property. A triplex currently occupies the South West side of the property. Applicants are proposing a shared well for lots 1&5, and individual wells and on site wastewater treatments for lots 2,3&4. One comment received stated concern about the size of the lots and location of the proposed road. A new condition will include prohibition of raising livestock. There are constraints for on-site wastewater due to slow percolation rates and need to be reviewed by DEQ. County subdivision regulations would require that the overhead power line be buried. Applicant would be required to place road identification at the North West corner of Lot 2. An earthquake fault is approximately ¼ mile east of subject property. Property is severely infested with knapweed and thistle. There are no parkland requirements. Staff recommends approval subject to 13 conditions as outlined in the staff report.

Kevin McDuffie stated his satisfaction with the proposed conditions.

Hearing no other comments, Chair Murray closed the public hearing.

Commissioner Varone moved to render a final decision Tuesday, September 14. Commissioner Tinsley seconded the motion and it carried unanimously.

Public Hearing / Revocation of Agricultural Covenant. (Applicant, Greg Hampton) The applicant has requested the commission to revoke the agricultural covenant on a 12.318-acre tract generally located south of the city of Helena on the north side of Sweetgrass Road. Greg Hampton is present and indicated his willingness to proceed.

Sharon Haugen stated the staff report is based on the commission policy. The agricultural covenant was created in 1993 and the applicant has previously applied for

revocation. Currently, the applicant cannot build any structures requiring water and sewer. All taxes on the property have been paid. This property would require a development permit from the city. The agricultural covenant was placed on the property to expedite the use of the property. The property has not been used for agriculture purposes in recent history. The Supreme Court found the process used by staff and the covenant was properly placed on the property at that time. Staff recommends two conditions upon the approval of the revocation of agricultural covenant, the applicant obtain a development permit from the city and that there be no further divisions of the property.

Greg Hampton stated he regrets trying to put the agricultural covenant on the property after he repurchased the property from the Turners. He would like to build a home on the property. He is willing to go through the subdivision process as a condition of revocation of the process.

Dick Gardiner submitted a letter stating 4 concerns. The Supreme Court has upheld the Commission's decision. He asked for protection for the pipe that runs from his septic tank to his property. He is also concerned that the property will be developed if the agricultural covenant gets lifted.

Tim McGee, property owner at property located at 2001 Gold Rush. His concerns: (1) access for emergency services; (2) if the storm drainage is diverted properties could have significant problems; and (3) creating lots within the 12 acres.

Joe Mueller, property owner at property located at 2002 Sweetgrass. Mr. Hampton acknowledges what has happened. If the covenant is lifted it should be for the development of only one home.

Darin Kron, property owner at property located at 2007 Gold Rush is concerned for storm water with future development. He currently lives down slope of the property in question.

Continue the public hearing to hear from legal counsel regarding conditioning the revocation of the agricultural covenant.

Deputy County Attorney, K. Paul Stahl. The commission may condition the lifting of the covenant if they deem fit. There are no statutory guidelines or cases bound by the county's policy. The policy does not preclude the imposition of conditions. The commission would view the parcel, upon lifting of the agricultural covenant, as it was when it was originally created by process of subdivision and would then place conditions on the 12 acre parcel.

Joe Mueller stated 'lifting this covenant is a green light for development'. The benefit should be for one house. His decision to purchase his house was also based partly on the agricultural covenant of the property.

Dick Gardiner inquired upon the conditions that follow the covenant of the property. Paul Stahl explained the position of the legal officer provided to enforce county law. Darin Kron made the decision to purchase his home, in part, because of the agricultural covenant surrounding the home. He is concerned about the property values

surrounding the land if the covenant is lifted.

Greg Hampton had no further comments.

Commissioner Varone moved to render a final decision Thursday, September 23. Commissioner Tinsley seconded the motion and it carried unanimously.

Gable Estates RID Project Change Order No. 1. Carol Hanel reported the change order with Stahly Engineering to Gable Estates RID created April 2004. A hard surface has been applied to all roads included in the RID. They are requesting surfacing 32 total additional approaches and including one existing approach is not included in the original contract. The new total increase amount is \$20,905.92. Staff recommends approval of the change order. This amount remains under engineer's original estimate. Commissioner Tinsley moved to approve the change order and authorize the chair to sign. Commissioner Varone seconded the motion and it carried unanimously.

Board Appointment. Commissioner Tinsley moved to appoint Pete Donovan to the Consolidated Planning Board to expire September 2007 to replace Dave Cole. Commissioners Murray seconded the motion and it carried 2-1. Commissioner Varone voted against the motion wishing to appoint an applicant who is currently not on a county volunteer board. Currently Mr. Donovan sits on the County Health Board.

Commissioner Varone moved to appointed Steve Mandeville to a second term on the Consolidated Planning Board to expire September 2007. Commissioner Tinsley seconded the motion, and it passed unanimously.

Resolution Setting the Number of Mills to be Levied for FY 2004-2005. Commissioner Varone motioned to postpone the presentation until September 14 due to technical difficulties. Commissioner Tinsley seconded the motion. Motion carried unanimously.

Other business. Sharon Haugen introduced Beverly D'Amato who has been hired as Lewis and Clark County's new Associate Planner.

Public comments on items not mentioned above. None.

There was no other business and the meeting adjourned at 11:00 a.m.