

PUBLIC MEETING
November 23, 2004

Chairman Mike Murray called the meeting to order at 9:00 a.m. Commissioners T and V are present. Others attending all or a portion of the meeting included Ron Alles, Sharon Haugen, K. Paul Stahl, Cheryl Green, Frank Rives, Lindsay Morgan, Dean Retz, Phil Crist, Jim Taylor, Tim & Jan Horan, Victoria Gregori, Walt Mackin, Mark Canton, Trevor Taylor, Dwayne McNeil, Duane Preshinger, Dan Marshall, Cheryl Liedle, Jack Spillman, Jacalyn Grenfell, Cheryl Hale, Conrad Hale, Shawn Bryant, Kelly Williams, Jerry Shepherd, Laura Tinsley, Phil and Rita Crist, Ron Waterman, and Carole Byrnes.

Pledge of Allegiance. Everyone recited the Pledge.

Motorola Amended Change Order for Sheriff's Radio Project. (tabled from 11/18/04) Sheriff Liedle presented the Amended Change Order for the purchase of a login recorder, a lyrics radio interface box and an additional transmitter to combine the hogback side due to interference. Commissioner Tinsley moved to approve the quote and authorize the chair to sign. Commissioner Varone seconded the motion and it carried unanimously.

Motorola Quote for Mobile and Portable Radios for the Sheriff's Office. Sheriff Cheryl Liedle reported the Motorola's quote for 96 mobile radios, 168 portable radios and 1 control station in the amount of \$799,083.00 to complete the equipment needs for all Rural Volunteer Fire apparatus and personnel in Lewis and Clark County. Installation is funded from \$924,000.00 grant. The installation of this equipment will be funded from the remaining portion of this grant. Staff recommends approval. Commissioner Varone moved to approve the quote and authorize the chair to sign. Commissioner Tinsley seconded the motion and it carried unanimously.

Resolution Ordering a Refund of Taxes/Fees/Assessments Paid. K Paul Stahl reported that Ms. Hudson's letter the tax bill was not sent to her for a couple years and now has tax bill back in her own name. She was delinquent in her taxes although it was never her intention, and feels that it was a mistake by the county. There is no legal way that the county can offer a refund. For the years the taxes were delinquent the tax statements were sent to the same address. A transfer of property and request for change of address occurred after these taxes were delinquent. There is an obligation on the person to verify and check their tax status, as the semiannual event remains consistent. There is no factual or legal way that this refund should be granted.

Based on the available evidence presented by staff Commissioner Tinsley moved to deny the request for a refund. Commissioner Murray seconded the motion and authorize chair to sign the letter of denial. Commissioner Varone opposed the motion.

Proposed Major Subdivision, Preliminary Plat to be Known as Timber Acres II. The applicant, Phil Crist, was present and indicated his willingness to proceed.

Frank Rives presented the staff report. The proposed subdivision would be to create 5 single-family lots. The creation of four additional lots is considered to be a major subdivision as it is part of a minor subdivision. Access is made by an internal access

road serving ten lots. Utilities are present on both sides of the road and would be provided. Timber Acres I was final platted and approved in June 2004. The property's vegetation includes native grasses, prickly pear and sagebrush. The southern tract has no covenants currently affecting it, however, the applicants propose adoption of the covenants created for the minor subdivision. This would set minimum square footage for homes, restrict the lots to single family use, prohibit redevelopment of the lots into lots less than 1.5 acres excluding the Crist lot, but provide for temporary dwellings while the permanent dwelling is under construction. The soil-mapping unit is of statewide importance. There are no water rights, irrigation facilities or agricultural easements of water use. There are limitations for wastewater treatment systems due to restricted permeability. Wells in the area are 135 feet deep on average with 22 gallons per minute. The applicants conducted a preliminary non-degradation analysis on the property and the estimated concentrations at the end of each mixing zone are 1.57 parts per million. The applicants have requested a variance for two ingress-egress access routes. The applicants do have a five-year weed management plan. Staff recommends approval of the proposal subject to 14 conditions as contained in the staff report.

Dean Retz, 1430 Shirley Road, stated that he is a licensed realtor. The same surveyor that surveyed Timber Acres I also worked on Timber Acres II. This is an extension of Timber Acres Minor, which he was not a part of. Covenants adopted include those of Timber Acres Minor with two exceptions. The first exception is adding language that the private landowner covenants exempt Lot 6 of 3 acres, the Crist residence. The second is to amend the property owner's covenants to have one large animal per tract. The owners are aware this property is in the North Hills Temporary Groundwater Area. This study has been extended to October 11, 2006.

The variance in regards to the existing internal road of 946 feet with the cul-de-sac is only going to be serving four new landowners. Mr. Retz then discussed the conditions. Condition #4, the Weed Plan, approved July 2004. The applicants added substantial language for weed maintenance in the covenants. Condition #7, the applicant shall provide the planning department with written confirmation from telephone, gas, and electrical utility providers stating that utilities and services are adjacent and available. A provision allowing 4-H animals was added to allow for youth to participate in the 4-H program.

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

Mr. Retz closed by stating the variance is largely due in part to the request of Right-Of-Way Bureau of the Montana Department of Transportation.

Commissioner Tinsley moved to render a decision Tuesday, November 30, 2004. Commissioner Varone seconded the motion and it carried unanimously.

The Commission recessed for five minutes.

Proposed Major Subdivision, Preliminary Plat to be Known as Polaris Major Subdivision.

Jim Taylor, representing the applicant, indicated his willingness to proceed.

Lindsay Morgan presented the staff report. Fourteen proposed lots will be used for one single-family dwelling and two lots will be used for commercial purposes. Four existing

residences and one storage garage presently exist on the property. Two wells exist on site one currently. One well is shared between three residences. Each residence also has an approved septic system, with one being shared between two residences. All proposed lots will be served by individual wells, wastewater treatment systems and utilities. Access will be off of Hunter Road and North Montana Ave and Bartmess Drive. The applicant wishes to provide cash in lieu of parkland. Does not lye within a zoning district. Road construction will be required to provide standard physical access. The proposed subdivision does not lie within an existing zoning district, and does not currently have any covenants. The applicant does propose restrictions to govern the development and use of the planned parcels. The planning department has received to public comments stating concern with the proposed development. Frank Prescar with the Environmental Health Department stated that water availability is of concern. Impacts to north Montana Avenue will have to be mitigated, and a section of bike path will need to be repaved after construction of the internal access road. The applicant will be required to reconstruct Bartmess Drive to county standards Peccia #3. The planning board chose not to include this in the conditions. Staff recommended a no access restriction be placed along N. Montana Ave. and on Bartmess Drive with the exception of Hunter road. Jerry Shepherd the fire chief for the West Helena Valley Fire Department requested a fee of \$500 for fire suppression per lot, and all permanent structures be setback 15 feet from the property lines. Kathy Moore suggested the source of information of Environmental Assessment should be disregarded. On-site aquifer tests should be conducted. High levels of nitrate on the site have been developed due to manure handling practices. The debris shall be removed prior to final plat approval. The retention facility must be located outside of the right of way. Additional traffic generated will be between 128-160 trips per day. Staff would recommend clarifying condition number 8 to say 'applicant shall pay to the fire district \$500 per additional lot.' Planning board recommends that staff report condition number 11 be amended to say 'require that a sixty foot public access and utility easement be dedicated on the face of the final plat for the internal access road and for Bartmess Drive from the south side of the Subdivision plat, north to the intersection of Valley Veiv Drive.' Staff has only recommended that it be north to the intersection of Yuri Rd, and there are issues in obtaining a 60-foot public access utility easement from Yuri Rd. North to Valley View Dr. A sixty-foot public access easement does exist from the southern most portion of the proposed Polaris Major subdivision to the North side of Yuri Rd. Staff also would like the commission to consider the upgrading of Bartmess Dr. Staff recommends approval of the proposal subject to 21 conditions as contained in the staff report. Planning board recommends approval of the subject proposal.

Jim Taylor, 8422 Diamond Springs Drive, asked for 2 issues to be resolved. The first issue Mr. Taylor would like resolved is the storm drain issue. The engineer has submitted the storm drainage plan and a single drainage pond will accommodate all lots. Mr. Taylor prefers a single large retention area be maintained instead of on each individual lot.

The second issue is the 60-foot easement on Bartmess Road. There is a 60-foot easement adjoining Polaris Subdivision and Lone Wolf Subdivision. A restriction of about 40 feet occurs as you proceed north to Valley View Dr. Mr. Taylor would request that the requirement be eliminated or the portion going north. He also stated that the pump test will be with both Department of Environmental Quality

and the Department of Natural Resources and Conservation. Initial tests indicate that the wells were producing 40-50 gallons per minute through air testing. He also would like to see the redundancy in condition 14.r. and condition number 6 restricting access to North Montana and Bartmess Road and would like the commission to consider combining these two.

Commissioner Varone stated that she had met with Mr. Taylor and no ex parte communications took place. There was no discussion about the Polaris Major proposal.

Jerry Shepherd, West Helena Valley Fire Chief, clarified that new commercial property, not existing commercial property, should be required to install sprinkler systems. He also wanted to make sure that any commercial building over two stories high be required to have sprinkler systems, not residential structures.

Hearing no other comments, the public hearing is closed. Commissioner Varone moved to render a final decision Tuesday, November 30, 2004 at 9:00 a.m. Commissioner Tinsley seconded the motion and it carried unanimously.

Proposed Road Abandonment for Portion of Highland Street.

Lindsay Morgan presented the staff report. Highland Street is approximately 300 feet long and 70 feet wide, and has never been constructed to county road standards. One member of the Planning Staff, the Public Works Director, and a Commissioner have inspected the site. As of November 12, 2004 the Planning and Development office received no public comments. If the proposed closure is granted, access will be through an alley with a 20-foot right of way, but is not wide enough to accommodate county subdivision regulations. County Subdivision Regulation 10.a.6.c states that each lot shall have access to a public/private street/road and that alleys may not be used to provide a primary means of access to a lot. If the road is abandoned the alley will be the sole means of access to that property. County Road and Bridge has provided comments against this proposal. No utilities were observed within the right-of-way. The City-County Transportation Coordinator commented that impacts are unknown at this time, as future developments may need this road. Staff recommends denial of this request.

Walt Mackin, 3210 Terrace Ave., stated that this was never a road, but a field. He would like to keep Highland Street as a private road. He owns lots 1,2,3,10,11 and 12 and has access to Terrace Ave. His daughter owns lots 4,5, and 6. Mr. Mackin would like the road to be closed, as he does not want future developers driving through his and his neighbor's front yards.

Chairman Mike Murray opened the Public Hearing to allow comments from the community.

Vicky Gregori, 3110 Terrace Avenue, has access to Terrace Ave, but currently uses the proposed closure road. She would like road abandoned because they do not want a line of traffic driving through their neighborhood.

Hearing no other comments, the public hearing is closed. Commissioner Tinsley, the inspecting commissioner, stated the county's need to retain the ability to be able to determine how future roads are planned. Commissioner Varone the county is

responsible for good planning and stated the importance for the county to retain this easement. Commissioner Tinsley moved to approve staff recommendation for denial. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Abandonment of an Alley in Block 189 of the Bradford Addition.

Frank Rives presented the staff report. The applicants requesting a the abandonment of a portion of an alley way. The alley is adjacent to lots 1, 2, 15, and 16 of block 189 of the Bradford addition running east and west between University and Itasca Streets. The right of way is approximately 75 feet in length and 15 feet in width. This area is an area where the City-County line jumps from parcel to parcel. The applicants do own the lots on both sides of the alleyway. The alleyway has never been developed and is currently integrated into lot owner's yards. Staff recommends a 10-foot wide utility easement be provided. Currently there are no utilities in the right of way. Emergency services will not be affected. Staff recommends approval of the proposal abandonment subject to 4 conditions as contained in the staff report.

Tim Horan, 1775 University Street, stated his wish to proceed with this closure proposal. He stated that the road added to the west of his property has created flood problems because of the grade of the road. He is concerned about the drainage due to the slope of his property. He has added a drainage ditch behind his home and the homes extending to the east.

Dan Marshall, 1709 University, said that he had developed the lots and the area in 1994. Mr. Marshall is against the proposal to abandon this alley. The alley will be important to access the back of his house. He requests the county to develop the alley. He also stated that when future development occurs, there would be no emergency service access. The other end of the alley is blocked as the owners built when there were no restrictions of location. He will retain legal counsel if this proposal is passed. His lots are 11 and 12.

Duane Preshinger, 1711 University, lot 13, stated his access is off of Itasca through the vacant lots. When the lots are developed, he would have no access to the back of his house. He concurs with Mr. Marshall's comments against this proposal to abandon this alley.

Hearing no other comments, the public hearing is closed.

Commissioner Varone, the inspecting Commissioner, stated the lack of any compelling reason to not deny the applicant's request. There is access from Laurel and Itasca. Emergency services would never use it because it would be a dead alley. Support the 10-foot utility easement. Commissioner Tinsley opposed staff's recommendation as he stated the county's need for retention for future development. Commissioner Murray stated that he will vote against the proposal.

Commissioner Varone moved to approve the abandonment. The motion died due to lack of a second.

Commissioner Tinsley moved to deny the abandonment. Commissioner Murray seconded the motion and it carried 2-0.

Request to Modify the Approval of Lakeside Village on Hauser Major Subdivision.

The applicant's representative, Shawn Bryant, from Stahly Engineering, 2687 Airport Rd, has received the staff report and indicated his willingness to proceed.

Frank Rives presented the staff report. Preliminary plat approval was received on August 12, 2004. The preliminary was approved for one lot for condominium use, one lot for the existing bar, restaurant and marina operation and the third lot for a recreation area for the condominium owners. The applicant is requesting a boundary line relocation to allow the marina and the bar to be separated into 2 lots, and consolidate the proposed the common recreational lot and condominium lot. There would be three lots, two commercial and one residential. There would be no change to the conditions of approval. The access will remain the same. If approved the 8.8 tract would be separated into commercial lot of 2.24 acres and 1 acre commercial lot for the marina and 5.23 acre multi-family and commercial lot. Staff recommends approval of the modification.

Sean Bryant, representing the applicants, stated the future owners wish to insure potential ownership of the peninsula area to ensure that nothing will be added to the front of their lots. Mr. Bryant agrees with findings of fact.

Hearing no other comments, the public hearing is closed.

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

Public comments on matters not mentioned above. None.

There was no other business, and the meeting adjourned at 11:04 a.m.