Missoula Consolidated Planning Board

Agenda

Date: January 7, 2020, 7:00 PM
Location: City Council Chambers
140 W. Pine Street, Missoula, MT
Members: Peter Bensen (County), Vince Caristo (City), Neva Hassanein (Mayor appointee), Josh Schroeder (Conservation District), John Newman (Mayor appointee), Helen Pent Jenkins (CC appointee), Andy Mefford (County), Stephanie Potts (County), Sean McCoy (County)

If anyone attending this meeting needs special assistance, please provide 48 hours advance notice by calling Development Services at 406-552-6630 or Missoula County Community & Planning Services at 406-258-4657.

Pages

1. Call to Order
2. Roll Call
3. Approval of Minutes
4. Public Comment
5. Staff Announcements
6. Public Hearings
   6.1 9772 Waldo Road Unzoned to C-C2; Matt Heimel, Missoula County

   Recommended motion:
   THAT the request for zoning the unzoned parcel to the C-C2 General Commercial Zoning District be approved, based on the findings of fact contained in the staff report, public testimony, and written comment, and subject to the recommended condition of approval. The property subject to this approval is legally described Lot 1 of Denbleyker Subdivision in Section 16, T14 N, R20 W, P.M.M.

7. Communications and Special Presentations
8. Committee Reports
9. Other Business
10. New Business and Referrals

10.1 Election of Officers and Committee Member Appointments

- Officer Elections - Board Chair
- Officer Elections - Vice Chair
- Committee Member Appointment to Transportation Policy Coordinating Committee (TPCC)
  - TPCC meets at 1:30 p.m. on the third Tuesday of each month, at 140 W. Pine, City Council Chambers.
- Committee Member Appointment to Urban Growth Commission (UGC)
  - UGC meets quarterly on the third Wednesday in January, April, July, and October at 3:00 p.m. at 140 W. Pine, City Council Chambers.

**Recommended motion:**
That ______ be elected as Missoula County Planning Board Chair for the 2020 term.

**Recommended motion:**
That ______ be elected as Missoula County Planning Board Vice-Chair for the 2020 term.

**Recommended motion:**
That ______ be the Missoula Consolidated Planning Board's representative to the Transportation Policy Coordinating Committee for 2020.

**Recommended motion:**
That ______ be the Missoula Consolidated Planning Board's representative to the Urban Growth Commission for 2020.

11. Comments from MCPB Members

12. Adjournment

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Missoula Consolidated Planning Board Minutes

December 17, 2019, 7:00 PM
City Council Chambers
140 W. Pine Street, Missoula, MT

Voting members present: Neva Hassanein (Mayor appointee), Dudley Improta (CC appointee), Helen Pent Jenkins (CC appointee), Michael Houlihan (BCC appointee), Andy Mefford (BCC appointee), Stephanie Potts (BCC appointee), Jason Rice (BCC appointee)

Regular member(s) absent: Peter Bensen (Co. Alt.), Vince Caristo (City Alt), John Newman (Mayor appointee)

1. **Call to Order**
Ms. Jenkins called the meeting to order at 7:00 p.m.

2. **Roll Call**
Donna McCammon called the roll.

3. **Approval of Minutes**
A motion was made by Mr. Rice, seconded by Mr. Improta, to approve the December 03, 2019 Missoula Consolidated Planning Board Minutes as submitted. With a voice vote of all ayes the minutes were approved.

4. **Public Comment**
There were no comments on items not on the agenda.

5. **Staff Announcements**
There were no staff announcements.

6. **Public Hearings**

6.1 **1475 Eaton Street - Blessed Trinity Rezone. Andrew Boughan, City of Missoula, Development Services**
Mr. Boughan stated that is a request from Nick Kaufman, of WGM Group, Inc. on behalf of the Roman Catholic Bishop of Helena to rezone the subject property located at 1475 Eaton Street in Franklin to the Fort Neighborhood Council and Ward 6, from RM2.7 (multi-dwelling) and Neighborhood at Orchard Promenade Special District to RM1-45 Residential (multi-dwelling). This rezoning will result in a standard zoning district under Title 20 which cannot be conditioned.
Mr. Boughan presented slides identifying the subject property. It has frontages on Eaton Street and McIntosh Loop. The property has a religious assembly facility and a single dwelling unit. The applicant stated that the religious assembly and community garden uses would remain, and additional residential development would be added to the site. The area surrounding the property is a mix of single, duplex, multi-dwelling residential and commercial.

The applicable regional plan is "Our Missoula: City Growth Policy 2035" which recommends a land use designation of "Residential High", with a density greater than 24 dwelling units per acre. This request supports the "focus inward" approach of the city's Growth Policy as it promotes development in the urban core where infrastructure already exists, has good proximity to services, and has a central location. Mr. Boughan stated that the City Growth Policy indicates that the following districts are most closely aligned with this residential density: RM1-35 Residential (multi-dwelling), RM1-45 Residential (multi-dwelling), RM1.5 Residential (multi-dwelling), and RM0.5 Residential (multi-dwelling). These zoning districts permit residential density up to 43 dwelling units per acre.

Zoning comparisons were made between RM2.7 and RM1-45.

RM2.7 zoning:
- 3,000 square feet parcel size
- 2,700 square feet parcel area per unit
- 20-foot front setback
- 5-foot side (interior) setback
- 10-foot side (street) setback
- 20-foot rear setback
- 30/35-foot maximum height, depending on roof pitch
- 75 units is the maximum number that could be permitted

RM1-45 zoning:
- 3,000 square feet parcel size
- 1,000 square feet parcel area per unit
- 20-foot front setback
- 5-foot side (interior) setback
- 10-foot side (street) setback
- 20-foot rear setback
- 45-foot maximum height
- 205 units is the maximum number that could be permitted, based on the square footage of the site
Mr. Boughan stated that there are no sidewalks on Eaton Street, adjacent to the property. The sidewalk network in this area is intermittent. At the time of development, half-street improvements to Eaton Street adjacent to the subject property meeting collector road standards will be required; this includes paving, curb, gutter, sidewalk, landscaped boulevard and bike lane. The property is currently zoned RM2.7 Residential (multi-dwelling) and Neighborhood at Orchard Promenade Special Zoning District. The property to the north is zoned 1421 Eaton Planned Unit Development and Neighborhood at Orchard Promenade Special District. The property to the west is zoned Neighborhood at Orchard Promenade Special District and Maclay Commons Special District. RM2.7 Residential (multi-dwelling) zoning covers the properties to the east and south. The property is currently split zoned, which would be corrected when rezoned to RM1-45. Mr. Boughan provided street views from Eaton Street and from McIntosh Loop. The applicant has stated that no changes are proposed to the existing structures.

Zoning Amendment review criteria were presented and supported:

1. Growth Policy
2. Public Services/Transportation
3. Compatible Urban Growth
4. Promotes Public Health and Safety
5. District Character & Suitability of Uses

Mr. Nick Kaufman, WGM Group, Land Use Planner and representative of the Roman Catholic Bishop of Helena, stated that Blessed Trinity Parish was formerly known as John the 23rd Parish. Carl Posewitz, Architect, Paradigm Architects, is also working on this project. Mr. Kaufman reviewed the surrounding area and history of development. North of the site is a condominium project along Eaton Street; north of that is an existing development with a street and homes. WGM was the engineer for the Roman Catholic Bishop of Helena when they owned the entirety of the property, and assisted with the location of the church building. Over time the Roman Catholic Bishop sold surplus land for the development of West Central Square and Cottage Court, and common areas and connectivity to the church was created with those developments.

The Missoula County Engineer designed the connection between Mount Street and 14th Street. This connection is now signalized and has become one of the east-west through streets, comparable to South Avenue or Third Street. The Human Resource Council, along with Jamie Hoffman, designed 1421 Eaton. Each one of those four condominium buildings has four units. They were designed to be affordable condominiums and provide workforce housing. Orchard Promenade was designed for 55 and older residents and has a club house. The 5-acre Orchard Tracts have developed over time to the pattern that exists today. Mr. Kaufman stated that the Missoula City Growth Policy was adopted in 2016; the city zoning update changed special district 2 on Reserves Street last year to C1-2; the rezoning on 9th Street from RM145 for 38 units; there is a design excellence overlay on Reserve Street; and there are new elementary school district boundaries.

Mr. Kaufman provided the vision for the property:

- Provide housing for 55 and up
• Provide workforce housing
• About 40 units of condominium and apartments
• Tuck under parking; the first floor would be parking with residential units above
• Retain community gardens
• Improve neighborhood connectivity
• Located one-half block from 14th and Mount

The church has requested the change as they own more property than is needed for church facilities. The entire acreage was included in Mr. Boughan's presentation; but only the western portion of the site would be available for development. The church would retain the eastern portion; so, the numbers presented earlier should be cut in half for the available square footage. Mr. Kaufman provided project steps:

• Winter 2018: Began planning and alternative analysis
• Summer 2019: Began discussions with the City
• October 2019: Rezoning request
• November 21, 2019: City of Missoula Neighborhood Forum
• December 3, 2019: Neighborhood Meeting
• December 17, 2019: Planning Board Public Hearing
• January 8, 2020: Land Use & Planning Committee
• January 13, 2020: City Council Public Hearing

The neighborhood meeting was not a requirement for rezoning, but WGM Group chose to do these to better understand and address the issues.

Mr. Kaufman stated that the differences in zoning are the building heights; 45 feet of building height is needed in order to accommodate a level of parking underneath 3-stories of residential units. A conceptual rendering with the community gardens was displayed, the Missoula County Park location was pointed out, and pedestrian connectivity was explained.

PUBLIC HEARING OPEN [7:16 p.m.]

Christina Ragsdale, lives on Cottage Court. She and her husband have lived in a home adjacent to the current community garden for five years. Although they are not necessarily opposed to the zoning change, they are concerned about transportation and traffic. There are heavy traffic volumes and backups during peak times, and she feels it would be prudent to have a traffic study done. She attended the meeting at the church and was told that there were not any plans for an intersection improvement. Mount and 14th is a heavy east-west commuter route and Mountain Line has a stop there, and there are school bus stops, some even in the parking lot of the church. There are children of all grade levels walking in the immediate vicinity. She is concerned that it may not be possible to make improvements to the intersection due to the irrigation ditch; or if it is
possible, it would be extremely expensive. The current 4-way stop increases commuting time and may need to be signalized for better traffic flow. 40 new residences would equate to approximately 80 additional vehicles during peak hours. Vehicle noise and exhaust would negatively impact their quality of life. Ms. Ragsdale's second concern was the increase in building height. There are few fences in the neighborhood, and the potential to have a multi-story building towering over the homes is disconcerting. She is concerned about privacy and would like to see a suitable setback along with buffering.

**PUBLIC HEARING CLOSED [7:20 p.m.]**

**PLANNING BOARD COMMENTS**

Ms. Potts asked Mr. Boughan to clarify traffic and road improvement requirements. Mr. Boughan stated that when a development of any scale happens adjacent to a right-of-way that has not been truly developed; i.e. sidewalks, curbs and gutters; they are required to install that only on their portion adjacent to their property. That would mean a collector street would be built half-way, and when enough pieces exist the city would come in and fill in the network of streets. Ms. Potts asked if that requirement would remain on Eaton Street, with the development on the back half of the property. Mr. Boughan stated that it would.

Ms. Hassanein asked about rezoning implications for the entire property, regardless of the current gardens and church. Mr. Boughan stated that they would be using a multi-dwelling building style which is addressed in a specific code section in Title 20. There is a buffering requirement between residential properties with three available options. There are screening requirements which include fencing and evergreen trees. Ms. Hassanein asked if they were to vote to change the zoning, could the concept drawing and description be modified before construction. Mr. Boughan stated that the presentation was a representation only. Ms. Hassanein asked about the number of persons potentially using the park. Mr. Boughan stated that part of the building style states that an activity area is required after 10 units, which would be approved by the City's Park and Rec Department. Depending on the situation, it could become public, otherwise it would be specifically for the residents. It would generally range from 20-feet by 20-feet on up, based on the number of units and number of buildings. There would not necessarily be impacts to the County Park; however, as a private development they could reach out to the County and help in enhancing that park.

Mr. Improta asked about a cash-in-lieu option for a park. Mr. Boughan stated that this was not an option for an activity area; the latest addition to Title 20 is under the TED ordinance.

Ms. Potts was concerned about the reduction of green space. She lives close to this area and stated that there are insufficient sidewalks in the Franklin Park neighborhood.

Mr. Rice asked how the density would be counted with the church on the site. Mr. Boughan stated that there is no reduction for structures present. He stated it would be very difficult to get 205 units and still meet the parking and activity area requirements. Mr. Rice asked about the activity area of 11% of the entire parcel, and if decks and patios count towards this number. Mr. Boughan did not have the specifics on activity areas, but it is less than 15% that is triggered, based on the overall square footage of the site. Options include a plot of land that is 40-feet by 40-feet as a minimum,
or 8-foot by 6-foot porches on each individual unit, and, depending on the building, a rooftop if the building could accommodate it. Each option proposed by the developer would have to be approved by the City's Park and Rec Department.

Ms. Jenkins asked Mr. Kaufman about neighborhood access to the community gardens, given the new development. Mr. Kaufman provided a visual rendering and explained pedestrian patterns. The park was designed with West Central Village, to abut the church property, which is an activity center. Mr. Rice asked about an existing common area in the northwest corner. Mr. Kaufman stated that this was a common area in Orchard Promenade.

Ms. Jenkins asked Mr. Boughan about the greater master plan for this neighborhood and if the neighborhood council commented on it. Mr. Boughan stated that the notice was sent to the neighborhood council, and two different comments were received. There isn't always just one delegate who responds within a neighborhood council. He stated that there is a push for a comprehensive plan for infrastructure within Franklin to the Fort and it would be a couple of years in the making.

Mr. Improta asked about housing for a 55-year and older population, along with workforce housing, and how the two would mesh. Mr. Kaufman stated that developers try to identify the market. "I want it" is not a market, "I want it, and I can afford it" is a market. An aging population lives in this neighborhood which allows an opportunity for people to stay in the area, it is not high-end condominiums but is workforce housing.

Ms. Potts asked about the community gardens in the conceptual rendering. Mr. Kaufman stated that this was conceptual only. Ms. Potts identified that the current gardens are a community resource as agricultural land with excellent river-bed soils. When the housing units go in these resources will be permanently lost, but it is not a consideration in zoning.

Ms. Hassanein added that when developments occur on agricultural (ag) land, the soil would be sold. How the soils are removed and stored can be done competently. She would like to see a requirement for the proper care and handling of agriculture soils when they need to be removed/relocated. Mr. Kaufman stated that as a community, Missoula, this neighborhood, and Garden City Harvest, which runs the gardens with the permission of the church, all find this a valuable resource. Ms. Hassanein noted that she did not feel this should be responsibility of Garden City Harvest, which is a non-profit organization. Mr. Kaufman replied that he sees Missoula as a community, and Garden City Harvest is part of the community, as is the church, and the residents. If the persons utilizing the garden find it of value, people will work together to preserve the resource. Ms. Hassanein voiced that she would like to see requirements in place. Ms. Jenkins stated that Missoula adopted a responsible deconstruction plan for demolition, and this has a similar framework of ethics. This would be valuable to bring up during subdivision review, when deconstruction aspects are addressed. It would also go to the Land Use Planning Committee. Mr. Boughan asked board members to keep in mind how the code is set up, and this topic is best suited to the codes within Parks and Rec which has the landscaping guide, planting rules, and the City defers to them as they have the experts and the arborists.

Ms. Jenkins asked if this was standard zoning code that could not be conditioned. Mr. Boughan stated that was correct. Mr. Rice respects the traffic concerns of the residents
but also recognizes the thought processes that went into the growth policy. He supports
the rezoning request. Mr. Improta agreed with Mr. Rice and supported the request. Ms.
Jenkins was supportive of the request but strongly urged the city to tackle the
transportation challenges along Eaton Street. Ms. Jenkins agreed with Ms. Potts’
comment on connectivity of sidewalks. Mr. Rice stated that even at 100 units, it would
trigger a traffic analysis by the development code.

Moved by: Jason Rice
Seconded by: Michael Houlihan

APPROVE the adoption of an ordinance to rezone 1475 Eaton Street from RM2.7
Residential (multi-dwelling) and Neighborhood at Orchard Promenade Special Zoning
District to RM1-45 Residential (multi-dwelling).

AYES: (5): Dudley Improta, Helen Pent Jenkins, Michael Houlihan, Andy Mefford, and Jason Rice
NAYS: (2): Neva Hassanein, and Stephanie Potts
ABSENT: (3): Peter Bensen, Vince Caristo, and John Newman

Vote results: Approved (5 to 2)

6.2 Hamel Acres Major Subdivision; Lauren Ryan, Missoula County, Community and
Planning Services

Ms. Ryan stated that the Hamel Acres Major Subdivision is a proposal by Kathryn and
Dana Cotnoir, represented by Joshua Phillips, Eli and Associates, Inc., for 13 lots on
20.35 acres located south of I-90 near the Frenchtown Interchange and north of Beckwith
Street and legally described as Lot 1 of Hamel Acres in the NE ¼ of Section 34,
Township 15 North, Range 21 West, Principal Meridian, Montana. The applicants are
proposing three of the lots to be used for duplexes, and the remaining lots to be used as
single-family residential lots. She identified the property location on a map; it is west of
the I-90 interchange in Frenchtown and south of I-90. The property is currently accessed
off Beckwith Street. The lot is vacant and was created through a minor lot subdivision in
2001. It is adjacent to existing rural residential uses and is located near amenities such
as grocery stores, schools, and gas stations. There is an existing irrigation ditch that
runs through the eastern side of the property boundary. This irrigation ditch will be
encompassed in proposed Lot 13 of the subdivision, which is proposed as an agricultural
and single-family residential lot.

The subdivision will have new access through 60-foot wide and 20-foot wide private
access easements. The 60-foot wide private access easement will serve lots 1 through
12; and the 20-foot wide easement will serve Lot 13 through an existing drive. The
applicants are proposing a 24-foot wide loop road to serve the interior of the
subdivision. A 1-foot no-access strip is proposed along Beckwith Street to help control
access through the easements to the lots. Beckwith Street, which currently serves the
lot, has recently been resurfaced and repaved. Concerns of the condition of Beckwith
Street were brought forward at neighborhood meetings; since that time Missoula County
Public Works has resurfaced and repaved Beckwith.

Ms. Ryan displayed a map indicating the boundaries of the wastewater service
areas. This proposal falls outside of these boundaries. The lots in this proposal would
be served by individual septic and wells as there is no community system in this area. The property is unzoned and is located within the Frenchtown Activity Circle. The land use designation for the property is guided by the 1975 Comprehensive Plan; that land use designates this property as Residential, 2 dwelling units per acre. The Frenchtown Activity Circle covers roughly a 7,000-acre area. Within that area, an estimated 1,126 acres is designated for residential development. By the Comprehensive (Comp) Plan, roughly 200 acres is proposed at the 2-dwelling units per acre within the Activity Circle. Most of the Activity Circle is Open in Resource Designation, which has a recommended residential density of one dwelling unit per 40 acres. She displayed a map showing the land use designations; the red circles indicated the boundaries of the Frenchtown Activity Circle. This property is part of the area on the map indicated in yellow with green dots; with a Land Use Designation of 2 dwelling units per acre. Most of the area within the Frenchtown Activity Circle is designated Open in Resource Land Use.

Mr. Tim Worley presented the subdivision review criteria.

- Agriculture and Agricultural Water. Hamel Acres is a platted subdivision dating back to 2001, and it is the largest lot within Hamel Acres. It was part of a larger agricultural operation before the late 1960s, which changed when the freeway was constructed. More recently hay and alfalfa have been grown on the property and an irrigation ditch runs along the eastern edge of the property. Photos of the subject property from 1955 and present day were displayed. Property was altered by the construction the I-90. He pointed out a nearby trailer park and newly resurfaced Beckwith Street.

- Soils and Irrigation. The northwest quarter of the property is Moise gravelly loam, which is a soil of local importance. The southeastern three quarters of the property are Alberton very fine sandy loam; which is prime farmland if irrigated. An irrigation ditch is on the eastern edge of the property, on the portion of the property proposed for the Live/Farm lot.

- Mitigating Impacts to Agriculture. There is a basic requirement that comes out of state law to reasonably mitigate potentially significant adverse impacts to agriculture. Strategies from the subdivision regulations:
  
  o Balance the interest, needs and patterns of development and agriculture preservation between landowners and the community’s collective interests.
  
  o Balance the need for functional agricultural operations with the need to accommodate residential development and growth.

The Live/Farm Lot, Lot 13, is 5.01 acres and the developer has imposed the following restrictions:

- No further subdivision of this parcel
- Irrigation will come from the ditch along the eastern edge
- Owner may have one single-family home, a garage either attached or detached, and buildings which must must be ag related, as prescribed in a deed restriction
- All buildings must within a half-acre building envelope as part of the deed restriction
• The restriction itself frames intent and limitations for the parcel, focusing on agricultural uses

• Irrigation ditch water is to be used for agricultural purposes, not lawn irrigation

Mr. Worley recapped the Growth Policy (2016): “Missoula County seeks to conserve agricultural lands, preserve options for local agriculture, accommodate a growing population, provide for the co-existence of agriculture and development, and preserve agricultural infrastructure.” Mr. Worley continued that this property is Comped Residential with the recommendation for densities up to two homes per acre. This designation is encouraged within activity centers to reinforce these important community focal points. When looking at Frenchtown and the land that is available for residential use:

• Frenchtown is largely unzoned with not a lot of prescriptive land uses because of the lack of zoning

• This location is comped at residential, 2 homes per acre

• Roughly 3% of the land within the Activity Center has this designation of 2 homes per acre

• The remaining land within the Activity Center is primarily floodplain, agriculture, or steeper forested areas

Mr. Worley displayed a map of the Frenchtown Activity Circle, and the estimated 7,000 acres in that area. He described different designations within the Activity Circle. The applicant has offered:

• Covenant restrictions on live/farm lot use

• Notification on living in proximity to agriculture as required in the subdivision regulations

• Right to farm and ranch

• Requirement for water right irrigation water to be directed to the live/farm lot

Mr. Worley noted agricultural endeavors in the Frenchtown area and the emergent Frenchtown Farmers Market.

Ms. Ryan provided the review criteria for roads. As she stated earlier, the subdivision would be served by a 24-foot wide loop road, called Westslope Loop Road. There will be two separate approaches onto Beckwith Road. Lot 13 will be served by the 20-foot wide private access easement. If a roadway was built to Lot 13, it would be considered a driveway per the subdivision regulations and would only be required to be built to a width of 16 feet. Rural major subdivisions are required to include a trail on at least one side of all roads internal to the subdivision. The applicants are proposing a 5-foot wide trail on portions of the interior and exterior of Westslope Loop Road. Additionally, there is a 20-foot wide trail easement along with a 2-foot wide trail proposed within the easement to access the common area to allow connectivity between the trail and the common area. Missoula County Parks Trails and Open Lands recommended that the proposed walkway be built on the outside of Westslope Loop, instead of the walkway being on
portions of both the outside and inside. By being on the outside of Westslope Loop it will serve more lots. Staff is recommending a condition of approval per Section 3.4.95 that the walkway be constructed with a concrete or asphalt surface that is durable in all weather conditions. Staff is also recommending pedestrian access include an installation of a trail through the common area to connect the two proposed trails already in the plans. A 1.34-acre common area is proposed for this subdivision, on the north ends of the lots. The 50-foot wide parkland is intended to act as a noise mitigation buffer as well as a no-build view-shed buffer from the interstate. The common area will be accessed by the two 20-foot wide trail easements.

Additional Subdivision Review Criteria:

- Natural environment. There is an existing irrigation ditch that lies on the easterly boundary of the proposed subdivision. There is one request for a variance; this irrigation ditch lies within an existing 20-foot wide easement per the original Hamel Acres Subdivision. Section 3.2.4.2 of Missoula County Zoning Regulations state that major subdivisions shall be designed to include riparian resources in the subdivision common area and to preserve the area with an irrevocable covenant that prohibits further subdivision and development in that area. The existing irrigation ditch would be considered a riparian area in this case. The applicant is proposing an agricultural use for Lot 13, which requires surface waters for irrigation from the ditch. Staff supports the variance.

- Wildlife

- Wildlife habitat

- Public health and safety. This property is adjacent to I-90, which raises concerns for noise. Mitigation measures include the location of the common area. A Highway Noise Map was included with the subdivision application showing noise contours. The Common Area will encompass the 60-decibel noise contour and will act as a buffer for highway noise.

Public comments came from Community Food & Agriculture Coalition (CFAC). CFAC recommended denial of the subdivision and would like to see cluster development and expand proposed agriculture/residential lot to 10 acres. The comment letter of September 24, 2109 was included in the applicant's packet. Staff recommended approval of the subdivision with conditions. Recommended conditions of approval: 1) Covenants Amendment, 2) Pedestrian Access, and 3) Common Area Signage.

Mr. Joshua Phillips, licensed professional land survey and acting land use planner at Eli and Associates, and developer's representative, stated that one in four workers in Missoula County commute from other counties. This proposed subdivision seeks to provide needed housing. The anticipated price for the proposed homes would be at or near the median home price in Missoula. This subdivision seeks to preserve the rural character of the area and reserve 25% of the total acreage for agricultural use through the designation of the live/work farm on Lot 13. From the outset Mr. and Mrs. Cotnoir endeavored to present a development that would benefit the community. He stated that the language in the state statute to "reasonably mitigate" the loss of agricultural lands is a moving target and he feels that this proposal meets both the letter of the law and the
spirit of the law. Mr. Tom Anderson, PE, Design Engineer at Eli & Associates, was also available for questions.

PUBLIC HEARING OPEN [8:19 pm]

Ms. Jenkins asked persons making comments to please state their name, spell it if necessary, and to keep comments to approximately three (3) minutes.

**Bonnie Buckingham, director of Community Food & Agriculture Coalition (CFAC).** Mrs. Buckingham stated that CFAC is a designated review agency for the mitigation of agricultural loss when a subdivision is proposed on land that has an NRCS classification of important soils. These classifications are used to determine the production potential and the value of the land. The Montana State Constitution provides protection for these important soils and requires that there is reasonable mitigation of that loss. The City and County Growth Policies are explicitly in favor of preserving remaining agricultural soils. CFAC has been reviewing subdivisions for over 13 years, yet at the same time they continue to see housing spread across the valley and the slow removal of the ability to grow food due to development. CFAC has been consistent in urging local developers to think more creatively and find ways to build housing that truly conserves the most amount of important soils and puts a smaller footprint on the land. They want to have land that can continue to be a source of production for food and the foundation for building a local food system, which requires productive agricultural land, farmers and ranchers who want to work that land, and a market that will support that. CFAC works to ensure that all of that happens and that all these elements are in place. Ms. Buckingham stated that in reviewing the Hamel Acres Subdivision proposal, members of CFAC noted that this subdivision is totally on agricultural soils of importance, both prime if irrigated and of local importance. She stated that the developers also recognized that and proposed some mitigation in their application; in this subdivision the developers designated 5 acres. She appreciated that they did that, but considering the total 20 acres, as well as the importance of the soils, CFAC does not feel that the loss will be mitigated. Committee members of the land use policy committee will also speak at this hearing. CFAC recommends denial of the subdivision as proposed. They recommend protection of 10 acres of the prime soils, and housing concentrated on the land with less important soils.

**Andy Hayes, farmer in Evaro under conservation easement and CFAC member, Land Use and Viability Committee** was involved with this subdivision review. In 2015 there was an ag mitigation subdivision regulation re-write that spent about a year going through the Planning Board as well as receiving a lot of public input. The goal was to preserve 50% of prime agriculture land and develop less than the remaining 50%. A lot of proposals were put forth on how to accomplish that; agricultural land set asides, ag mitigation fees, and developer alternatives. The Planning Board passed it in 2015 but failed when it went before the County Commissioners. Mr. Hayes stated that the county asked for working groups to be developed, and he was a member of the Conservation Development Models Working Group. Among the conclusions of that group was to be able to have the ability to have cluster developments and to have density bonuses in rural areas. The Missoula Area Land Use Element mapping project was a great piece of work; of the 15 different classifications, nearly all the 6 different rural classifications included the statement that density bonuses may be available if development is clustered to protect natural landscapes. Mr. Hayes felt that now would the opportunity to test cluster
development with having two 10-acre farm/live parcels. Cluster development comes with the challenges of sewer and water needs and the land area it takes to be able to accommodate that. CFAC does not have an issue with having 2 dwelling units per acre; but he is asking that this development be refused tonight and sent back for revision to better preserve agriculture in Missoula County.

**Jim Cusker, Grass Valley residence**, manages the family ranch his father established in 1938. Mr. Cusker pointed out that much of this property is covered with prime soil. Only approximately 2% of Missoula County is covered with prime soil and some of that is already out of commission because of development. The consistent supply of irrigation water that is available on this land maximizes the production potential. Farmers Markets are the fastest growing agricultural business in Missoula County and small farms produce a lot of crops. Mr. Cusker referenced the September 24, 2019 comment letter from CFAC. He spoke about climate change predictions on page 2, item 2 and item 3, and how to resolve the conflicting demands for the use of the land. Mr. Cusker called the board's attention to item number 3, "the problem". He stated that option 2 is the solution he would favor. He feels it would be wasteful for each lot to have their own well and septic system and favors much smaller lots sharing a common water source and waste disposal system. Mr. Cusker identified affordable housing and keeping land resources as two county priorities and feels that this subdivision would provide neither.

**Anne Little**, lives in the lower Rattlesnake area. She and her husband own and operate Moonlight Kitchens. In the busy season they have over two dozen small food businesses working out of their commercial kitchens. They encourage their clients to use local produce and many of them do. In order to use local produce, it needs to be available seasonably to grocery stores, restaurants, specialty food producers, and farmers market vendors. Part of that availability is having growing and farming operations near the Missoula market. She personally knows many small farmers in the Five Valley Area who work very hard to provide fresh local food. Ms. Little stated that allowing prime farmland to be used for residential or commercial uses is short sighted at best and is a slap in the face to these many committed farmers who need that good land. Farmland around the world is being lost to climate change and bad farming practices, and the remaining prime soils in the valley need to be protected at all costs. She feels that designing the Hamel property to include 10-acres of excellent farmland is a step in the right direction. She asked the board to consider Mr. Cusker's proposal to keep prime farmland for farming.

**Evora Glenn, University of Montana student**, has concerns about climate refugees and having a secure local food system. She supports affordable housing clusters. Ms. Glenn stated that she feels it is important to have the ability to feed the growing population that will be coming to this region as climate change unfolds.

**Kate Cotnoir, landowner and co-applicant of Hamel Acres Subdivision**, stated that their family has lived and farmed the Frenchtown valley for over 140 years. The land, the neighbors and the Frenchtown community are very important to her and her husband Dana. They are people of modest means who re-built their livelihoods after they both lost their jobs and retirements with the recent recession. She works at Missoula Aging Services and her spouse does maintenance for friends who own income properties. For these reasons they have approached this project thoughtfully and cautiously. When they decided to begin the project, it was with the following goals:
1. rebuild financial security for their retirement by generating funds to build income property,

2. build a project that would preserve the rural character of the heart of the community, within the Activity Circle, while conserving a reasonable portion of the land for agricultural use,

3. to have a legacy to pass on their children, and

4. to produce a project that they feel morally, aesthetic, and financially good about

Mrs. Cotnoir stated that they spent a great deal of time in careful consideration, exploring all their options. When Missoula County formed a working group to explore options for voluntary agriculture conservation, she was the chair of the incubator farms work group. As part of the process they toured local farms, including Josh Slotnick's farm. She stated that as they stood on the land that Josh and his wife farm, he told the group that live/work land options are critical to the success of small farms and local food production. Mr. Slotnick explained that their work would be much more difficult and challenging if they had to travel to and from their farm to do the work. She paid careful attention to what local farmers said during the entire process. They put a lot of time and effort into participating in the process because she feels it is important for all in the community. Their goal has never been to make as much money as possible; as one entity suggested they do by building high-density cluster development. She feels that high-density cluster development would irrevocably scar the rural character of the area and be abhorrent to their neighbors. This is not something they could pursue morally or financially. She stated that they have designed the subdivision to establish an income property, preserve the rural character of the area, and conserve agricultural land in the heart of the community. Their goal could be summarized in simple terms: to provide financial security in retirement by having a project they, and future generations, can feel morally and aesthetically proud of.

Public Comment Hearing Closed [8:46 p.m.]

PLANNING BOARD COMMENTS

Mr. Mefford asked if the road width of 24 feet included shoulders. Mr. Tom Anderson, Eli & Associates, stated that roads would be done to county standards with shoulders; 20-feet with a 2-foot shoulder on each side. Mr. Mefford asked if this was in the Roman Creek Special Management Area. Mr. Anderson stated it was not. Mr. Mefford asked about the covenant proposing fire sprinklers, and if someone does not have a fire sprinkler then the entire subdivision could be conditioned to put in storage water for use in event of a fire. Mr. Worley stated that this was a standard disclaimer and he could recall only one subdivision where it was implemented. With the building permit system, this problem rarely occurs.

Ms. Hassanein thanked Mrs. Cotnoir for speaking with the board about the project. She asked how the placement of agricultural lot was chosen. Mr. Phillips, Eli & Associates, stated that decision making process for the agricultural lot was twofold: 1) bordered on one side by an irrigation ditch, and 2) it is entirely Alberton prime soils, so the agricultural land would utilize that soil.
Mr. Houlihan lives in a subdivision in the 9 Mile area. The area being discussed is the center of the Frenchtown Activity Center, where he feels it makes sense for Frenchtown to develop. He feels that the size of the lots would lend itself well to future small-scale ag. He is supportive of the proposal.

Mr. Mefford stated that people cannot be forced to farm. The ag plan was vigorously debated in the public and ultimately failed. He stated that there is a struggle in the community, and predictability needs to be realized. He stated that it would incorrect to assume failure of Farmers Markets or a food shortages based on the loss of ag land. Farmers in eastern Montana are paid subsidies not to farm to boost agricultural prices by reducing surpluses. He feels the applicant has exceeded the mitigation requirement by choosing to have 25% of the property to go to the preservation of agriculture.

Ms. Potts thanked the landowners for their presentation. She stated that on a regional scale, only 2% of the land in Missoula county is farm-able; and it is not appropriate to compare farming in eastern Montana to this situation. She reminded the board members of the history of the subdivision review criteria which was introduced in 1973 in the Montana State Legislature. The representative who proposed this language stated that his intention was to preserve agricultural lands from subdivision development. She does not feel building more $300,000 houses would result in affordable housing.

Mr. Rice stated that subdivisions are required to reasonably mitigate potentially significant adverse impacts. He applauds the efforts of agriculture preservation from a cultural standpoint. With the importance some have placed on this, why hasn't there been a fund established to purchase these properties of importance? He brought up these points: 1) the area being discussed is in a planned Activity Center, 2) the concept of clustering is a risky endeavor, and 3) water rights are in short supply and not every property desiring irrigation will be granted water rights. 25% of the workforce population in Missoula County is commuting from other counties; they are coming from counties that are freely developing on many soil types and this population is not paying taxes in this county.

Ms. Hassanein stated that under the state subdivision law there are evaluation criteria for proposed subdivisions. She stated that tens of thousands of acres of prime and statewide quality soils in the county had already been converted to other uses; and this is an irreplaceable resource. She cited the state subdivision law; and that it is a responsibility of this body and the county commissioners to look at how to mitigate. She would like to see more mitigation on this.

Mr. Mefford mentioned that it was unfortunate that the common area could not be used for ag, but there was struggle in the regulations to meet parkland dedication.

Ms. Jenkins asked for a discussion about wells, water and sanitation. There is a lack of sewer infrastructure in this area; Frenchtown has no central system, nor plan for that. Although it is not specific to this subdivision request, she does not want to see this turn into a situation like Seeley Lake, where it will cost hundreds of millions of dollars to correct later.
Mr. Houlihan stated that he and his neighbors all have septic systems and wells, and there have not been complaints. New septic systems are coming out with advanced technology, which work as well, or better than community sewer systems.

Ms. Jenkins spoke about the Blue Mountain community sanitation system and asked for more information on the sanitation framework presented in the application. Mr. Rice stated that any concerns regarding sanitation needs to be communicated to DEQ, which is the reviewing body and part of the process.

Tom Anderson, at Eli and Associates, stated that water studies have already been done and flow rates of Mill Creek were examined. They worked extensively with Mr. Radensberger at DEQ on this project. All the proposed septic systems will go through DEQ review and will be built to DEQ 4 standards. He reminded Ms. Jenkins that the septic issue in Seeley Lake was caused by the lack of primary and secondary treatment. Many of those systems are one single treatment with everything flowing into a seepage pit. The nitrate attenuation is not occurring inside the septic tanks. Septic systems within the proposed subdivision will have both primary and secondary treatment.

Mr. Mefford asked about the variance request to locate riparian resources of the subdivision to be outside the common area. Mr. Worley answered that the subdivision regulations require that riparian areas for major subdivisions be contained in common areas. In the context of that, larger wetland areas that need protection, not be contained within multiple lots. In this case, the riparian area is a thin ribbon along the irrigation ditch, it did not appear practical to make a common area strip along the eastern edge of the property. The variance is permitting them to not have the riparian area in the common area as it would create a hardship and impractical situation for this subdivision.

Mr. Rice asked about a no-build/no-disturb zone. Mr. Ryan stated that in the riparian area is in an irrevocable covenant and cannot be improved upon. Mr. Phillips clarified that it is also in an existing 20’ wide irrigation ditch easement, already in existence.

Ms. Jenkins asked about the deed restriction on Lot 13. Mr. Worley stated that it would restrict all buildings on Lot 13, within a 1/2 acre building envelope and would be filed separately from the plat and would happen after the plat got filed. Owner of Lot 13 could have a single-family home, an attached or detached garage, and agriculture buildings all within the 1/2 acre building envelope. The irrigation ditch water is for irrigation purposes only, in the context of agriculture and not for the lawn area.

Ms. Potts asked about acceptable agriculture buildings and if allowances could be made in the deed restriction for a small-scale commercial kitchen. Mr. Worley stated that the intent was to prohibit over-sized accessory buildings to house motorized recreational toys. Mr. Phillips stated that item 22 in the covenants provides language consistent with agricultural use, which is also defined in state code. The intent was to keep the definition of agriculture broad.

Ms. Jenkins asked about trails and pedestrian facilities Beckwith. Ms. Ryan displayed the slide with the recommendations for Parks Trails and Open Lands. The recommendation that staff is making is with the two trail connections on either side of the subdivision, that the trail be continued through the common area to have connectivity
between the two walking paths. Pedestrian facilities along Beckwith do not currently exist; per the subdivision regulations if there are no existing non-motorized facilities then they are not required to be installed. Mr. Rice asked about an easement along the frontage for future trail. Mr. Phillips stated that there was no need for one as there is a full 130-foot right-of-way at that location.

Mr. Jenkins asked about the sound/noise potential and the sound study and if mitigation was adequately addressed. Mr. Worley stated that MDT usually comments on subdivisions adjacent to the interstate. Being immediately adjacent to the interstate there is excessive noise. In reviewing the subdivision, they felt there was no ultimate impact to public health and safety regarding freeway noise per this study. Mr. Phillips stated that they did receive comments from Glen Cameron at MDT and those were in the packet. Both MDT and PTOL recommended taking a looks the publication entitled "Growing Neighborhood In Growing Corridors", land use planning for traffic noise. The publication was considered and some of the strategies were implemented. A noise study was performed, and contours generated. The 60 db line is enclosed within the common area. Mr. Phillips stated that the suggested cluster development from CFAC would locate the cluster in the north westerly corner, which is the loudest part of the entire 20 acres.

Ms. Potts stated, for the record, that she appreciated the discussion but would be voting against the subdivision request. She feels that globally and locally agricultural land is a very valuable resource and that affordable housing options are not included. She would like to see more creative options to preserve resources and provide affordable housing.

Ms. Jenkins stated that, for the record, she supports the subdivision as presented as there has been a concerted and sincere effort in trying to mitigate for agriculture values. She does not understand the target market; the median house price is Missoula this year was $308,000 and do not know if the homes built here would sell for that. Ms. Jenkins stated that the proposal, as presented, speaks to the values of the county. Ms. Rice stated that there is a demand in this location for housing of this nature. Mr. Mefford stated that the application had indicated home pricing between $250,000 - $400,000; and rental duplexes in the range of $1,200 - $1,600. Mr. Houlihan stated that Frenchtown Schools have been highly rated, which has led to increased housing demands.

Mr. Mefford stated that a lot of people don't realize that the concept of clustering is not as easy as perceived. DEQ and sanitation approval is starting to drive subdivision approval. Clustering of wells and septic systems is much more challenging, not just economically, but they are extremely difficult to get approved. He has seen that centralized sewer systems typically have more detrimental impacts down gradient than scattering individual wells and septic systems over larger pieces. He stated that the Health Department likes the concept of community sewer, but they too have found some of their worst groundwater down gradient of centralized sewer systems because of the high concentration in a small proximity can create a worse situation. Centralized sewer systems are hard to get approved through the regulatory agencies, they are expensive, and there are arguments that they are environmentally friendly.

Ms. Hassanein stated that she would vote against it because of the loss of ag resources. She is hopeful that the county commissioners will work with the landowners to properly mitigate the impact to agriculture.
Moved by: Jason Rice
Seconded by: Andy Mefford

THAT the request to vary from the requirement to include riparian resources in the subdivision common area be approved based on the findings of fact in the staff report.

AYES: (7): Neva Hassanein, Dudley Improta, Helen Pent Jenkins, Michael Houlihan, Andy Mefford, Stephanie Potts, and Jason Rice

ABSENT: (3): Peter Bensen, Vince Caristo, and John Newman

Vote results: Approved (7 to 0)

Moved by: Jason Rice
Seconded by: Andy Mefford

THAT the Hamel Acres Subdivision be approved for a three-year preliminary plat approval period, based on the findings of fact in the staff report and subject to the recommended conditions of approval in the staff report.

AYES: (4): Helen Pent Jenkins, Michael Houlihan, Andy Mefford, and Jason Rice

NAYS: (3): Neva Hassanein, Dudley Improta, and Stephanie Potts

ABSENT: (3): Peter Bensen, Vince Caristo, and John Newman

Vote results: Approved (4 to 3)

7. Communications and Special Presentations
   No special communications nor presentations.

8. Committee Reports
   No committee reports presented.

9. Other Business
   None to report.

10. New Business and Referrals
    None to report.

11. Comments from MCPB Members
    Ms. Jenkins thanked those Planning Board members leaving at the end of the year for their service to the community: Michael Houlihan, Jason Rice, and Dudley Improta.

    Josh Schroeder will be joining the Planning Board in January 2020, on behalf of the Missoula Conservation District.

12. Adjournment
    Ms. Jenkins adjourned the meeting at 9:45 p.m.
CASE PLANNERS: Matt Heimel, AICP

REVIEWED AND APPROVED BY: Tim Worley

PUBLIC HEARING DATES: PB: January 7, 2020
BCC: January 30, 2020

AGENDA ITEM: 9772 Waldo Road Zoning

APPLICANT / FEE OWNER: TLK Properties LLC
1001 E. Broadway #613
Missoula, MT 59802

REPRESENTATIVE: Taylor Tillman

LOCATION: 9772 Waldo Road

LEGAL DESCRIPTION: Lot 1 of Denbleyker Subdivision in Sec. 16, T14 N, R20 W, P.M.M., Less MDOT ROW .24ac

LEGAL NOTICE: The legal ad was published in the Missoulian on December 15 and 22, 2019. Five posters were placed along property on Waldo Road and Highway 93 on November 22, 2019. Adjacent property owners within 300 feet of the site were notified by mail on November 22, 2019.

ZONING DESIGNATION: Current: Unzoned
Proposed: C-C2 (General Commercial)

GROWTH POLICY: Commercial Center, Missoula Area Land Use Element (2019)

RECOMMENDATION: THAT the zoning request be approved, as conditioned.

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<tr>
<th>Surrounding Land Uses</th>
<th>Surrounding Zoning</th>
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<tr>
<td>North: Residential</td>
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<tr>
<td>South: Commercial</td>
<td>C-R2 Residential</td>
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<tr>
<td>East: Highway / Residential</td>
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<td>West: Vacant</td>
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MISSOULA CONSOLIDATED PLANNING BOARD
9772 Waldo Road Zoning
Unzoned to C-C2 General Commercial
January 7, 2020

I. RECOMMENDED MOTIONS

THAT the request for zoning the unzoned parcel to the C-C2 General Commercial Zoning District be approved, based on the findings of fact contained in the staff report, public testimony, and written comment, and subject to the recommended condition of approval. The property subject to this approval is legally described Lot 1 of Denbleyker Subdivision in Section 16, T14 N, R20 W, P.M.M.

II. RECOMMENDED CONDITIONS OF APPROVAL

1. The construction of basements is prohibited, and the lowest floor and all utilities including ductwork shall be constructed a minimum of 2’ above highest adjacent existing grade. (Missoula County Zoning Regulations Chapter 8.01.D.6)

III. INTRODUCTION

Taylor Tillman with TLK Properties, LLC, proposes to establish zoning for 9772 Waldo Road, legally described Lot 1 of Denbleyker Subdivision in Sec. 16, T14 N, R20 W, P.M.M. The 9.76 acre parcel is currently vacant.

The applicant is proposing to zone the property C-C2, General Commercial. The property is currently unzoned. The intent of the C-C2 Zoning District is to provide for the conduct of retail trades and services that are inherently automotive and highway oriented and for commercial uses of low intensity which may require large areas of land. Maximum residential density if connected to public water and sewer would be 1,000 square feet per dwelling unit.

The applicant intends to utilize the property for an approved mini storage facility. In order to connect to city sewer and water, the parcel must be zoned. The applicant is proposing a commercial zoning designation to allow for this use and to also comply with the Commercial Center land use designation of the Growth Policy.
IV. REZONING REVIEW CRITERIA

Findings of Fact:

General Site Geography and Characteristics
1. The subject property is surrounded by uses that include residential and commercial. Highway 93 borders the property to the east.
2. The parcel to the west has not yet been developed.
3. Highway 93 occupies an 80' right-of-way along the east boundary of the subject property.
4. Waldo Road occupies a 60' roadway easement along the south boundary of the subject property.
5. A 40' public drainage easement is located on the south half of the east boundary property and traverses the property southeast to northwest.
6. The proposed zoning would apply to property that fronts Waldo Road and Highway 93. Waldo Road and Highway 93 are classified as a Major Collector and Principal Arterial, respectively.
7. An existing pedestrian path is located along the southern edge of the subject property.
8. The site is currently vacant.
9. On August 2, 2018, the Board of County Commissioners approved the Meadowlark Storage buildings for lease or rent project to build nine new mini-warehouse buildings which will include 250 new units and one single-family dwelling on the south half of the subject property.
10. The site is located within the Air Stagnation Zone.
11. The site is located within the Frenchtown Rural Fire District. The closest Frenchtown Rural Fire Station is located approximately 0.3 miles away from the property.
12. A condition of the Denbleyker Subdivision approval requires plans for and the installation of water supply for fire protection meeting National Fire Protection Association requirements for commercial structures to be reviewed and approved by the Frenchtown Rural Fire District prior to building permit approval.
13. The property is within the Urban Service Area. The city of Missoula has given approval to connect to city water and sewer with a condition that the property be zoned.
14. Zoning compliance review has requirements for safety, visibility, off-street parking, loading, driveways and access requirements, pedestrian movement, sidewalks and safety, lighting, landscaping, and grading and drainage plans. Any structure built on the property will be subject to zoning compliance review.
15. As a component of zoning compliance review, grading, drainage, and erosion control shall be reviewed by County Public Works. The purpose of this review is to ensure that site grading and the control of storm water runoff, both quantity and quality, comply with Missoula County Standards.
16. The site does not contain any mapped floodplain and is greater than 1 mile from any Zone-A designated floodplain area.
17. Flooding has been observed on the southern end of the property. This has been associated with springtime snowmelt and rain-on-snow events. A culvert under Highway 93 discharges drainage onto the southeastern portion of the property. A defined ditch for this water does not exist on or adjacent to the property.
18. The Missoula County Sheriff’s Department responds to calls in this area from the West Broadway location approximately 10 miles away.

**Growth Policy**

19. The applicable land use plan is the Missoula Area Land Use Element (2019), an amendment to the Missoula County Growth Policy (2016).
20. The Land Use Element designates this property as Commercial Center and recommends predominantly auto-oriented retail, lodging, offices, food service, and automobile land uses with residential uses as a secondary use.
21. The Land Use Element recommends a range of building sizes from small (1,000 square feet) to large (80,000 square feet or more). Commercial buildings should be sited with a minimum distance from streets and lot lines.
22. A maximum of eight residential dwelling units per acre is recommended per the Land Use Element. The ability to achieve higher densities may be limited by site considerations, such as lot size, setbacks, floodplain, and slope.
23. The Land Use Element encourages a mix of primarily commercial and higher intensity residential choices in a well-connected, walkable pattern.
24. The Growth Policy states that “zoning should reflect the pattern of development set forth on the Land Use Designation Map.” It further notes that zoning need not be a replica of the plan, however it should assist in carrying out the goals of the plan.

**Missoula County Zoning District C-C2 General Commercial**

25. The Missoula County Zoning Regulations were adopted by the Board of County Commissioners on July 13, 1976 and most recently amended on April 11, 2017.
26. The purposes identified in the general provisions of the Zoning Regulations identify key issues such as health, safety, infrastructure, consistency and innovation through land development.
27. The intent of the C-C2 Zoning District is to provide for the conduct of retail trades and services that are inherently automotive and highway oriented and for commercial uses of low intensity which may require large areas of land.
28. The site is currently unzoned.
29. The proposal would zone the site to C-C2 from its current unzoned designation.
30. Permitted uses in the C-C2 Zoning District include Automotive, marine, trailer, mobile home, recreational vehicle, and accessories sale, rental, and Service; Building materials, hardware, and farm equipment sale and service; Contractor / construction service; Wholesale trade; Farm and garden supply; Retail trades and service, with no outdoor storage or display, with a gross building floor area of less than one hundred thousand (100,000) square feet; Transient lodging; Professional, business, and governmental office; Personal services; Repair service; Eating and drinking establishment; Commercial recreation, amusement, and cultural facility; Printing and publishing establishment; Single-family dwelling; mobile homes constructed prior to June 15, 1976, must be placed on a minimum of five (5) acres with fifty (50’) foot front, rear, and side yard setbacks; Two family dwelling; Day care home; Community residential facility serving eight (8) or fewer persons; Boarding
house; Civic, social, and fraternal organization; Agricultural, including any and all structures or buildings needed to pursue such activities; Open space land; Accessory buildings and uses.

31. Conditional uses in the C-C2 Zoning District include Retail trade and service with gross building floor area of less than one hundred thousand (100,000) square feet; service station; Residential and commercial mini-warehouse; Recreational vehicle park; Multiple-family dwellings; Home occupation; Day care center; Community residential facility serving nine (9) or more persons; Long-term care facility; Seasonal commercial and temporary uses.

32. Special Exception uses identified in the C-C2 Zoning District include Public and quasi-public buildings and uses; Public utility.

33. The proposed zoning will establish development standards for setbacks, building height, lot area and width, parking, signage, landscaping, and other design aspects relative to the development proposal.

34. The zoning regulations establish procedures for addressing future modification and development to the existing commercial use which would be considered a special exception use under the current regulations.

35. Staff is recommending a condition that construction of basements is prohibited, and the lowest floor and all utilities including ductwork shall be constructed a minimum of 2’ above highest adjacent existing grade.

**Agency and Neighborhood Comments**

36. The Clerk and Recorder Office and Public Works Department staff stated they had no comments or concerns with the request.

37. The former County Public Works Director commented that the subject property is subject to spring flooding when sheet flow occurs on the property after emptying from a culvert underneath Highway 93. The comment email is attached to this report.

38. The Environmental Health Supervisor recommends a thorough evaluation of existing and future drainage associated with this project and stated that 2018 showed significant drainage issues on and around the subject property during spring run-off and rain events in April. In addition, soils in this area do not appear to readily infiltrate runoff, and groundwater is shallow.

39. The Floodplain Administrator commented that while not located within the floodplain, the subject property is regularly subjected to sheetflow and also stated that to minimize flood-related damages, recommend that basement construction be prohibited with lowest floor and all utilities including ductwork be constructed a minimum of 2’ above highest adjacent grade.

40. No comments were received from neighboring property owners about the proposal.
Conclusions of Law:

1a. Whether the zoning is made in accordance with a growth policy;
1b. Whether the use sought would enhance and promote the development of the immediate neighborhood as outlined in the comprehensive plan;
1c. Whether the use conforms generally to the objectives of the adopted comprehensive plan and to the purpose of this Resolution;
1d. Whether the zoning is compatible with the zoning ordinances of nearby municipalities;

1a. The proposed rezoning is compatible with the Missoula Area Land Use Element (2019) and the Missoula County Growth Policy (2016), which designate this property as Commercial Center.
1b. The uses and density permitted in the C-C2 Zoning District lay the framework for development and allow for opportunities identified in the comprehensive plan.
1c. The approved use and potential permitted uses in the C-C2 Zoning District conform to the objectives of the Land Use Element and intent of the zoning regulations.
1d. The proposed zoning takes into consideration the context of the area, the adjacent land uses, and has created standards that are compatible with Missoula County Zoning Regulations. City of Missoula zoning districts B3, C1, and C2 are comparable districts in term of use and density to the C-C2 County Zoning proposed.

2a. Whether the zoning is designed to secure safety from fire and other dangers;
2b. Whether the zoning is designed to promote public health, public safety and the general welfare;
2c. Whether the zoning provides adequate light and air;
2d. Whether the use will not adversely affect nearby properties or their occupants;

2a. The zoning will secure safety from fire and other dangers based on emergency response, zoning restrictions, and site infrastructure. The site is outside of any FEMA mapped floodplain. The recommended condition of approval to prohibit basements and require construction 2’ above adjacent grade will mitigate the impact to structures and property associated with sheetflow flooding that is caused by poor drainage, high groundwater, and low soil infiltration rates.
2b. The zoning is designed to promote the public health, public safety, and the general welfare of the neighborhood based on the ability to provide a level of predictability to the site and development standards based on the proposed zoning.
2c. The proposed rezoning will provide density, lot area, building height and setback restrictions that allow adequate light and air between buildings.
2d. The potential uses that are allowed in the C-C2 Zoning District will not adversely affect nearby properties or their occupants in a more intense manner than what could be developed on unzoned property.

3a. Whether the zoning considers the promotion of compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;
3b. Whether the zoning is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; 
3c. Whether the zoning considers the effect on motorized and non-motorized transportation systems; 
3d. Whether the zoning considers the availability of public utilities and services; 

3a. The zoning considers and promotes compatible urban growth between Missoula and this transitional location north of Wye. 
3b. The proposed zoning is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. 
3c. The proposed zoning will have no adverse effect on the motorized or non-motorized transportation system. 
3d. Public utilities and services are not anticipated to be negatively affected by the proposal. 

4a. Whether the zoning considers the character of the district and its peculiar suitability for particular uses; 
4b. Whether the zoning considers the location, character and natural features of the property and surrounding properties; 
4c. Whether the zoning considers vegetation, topography, and natural drainage; 
4d. Whether the use meets overall density, yard, height, and other requirements of the zone in which it is located; 

4a. The proposed zoning matches the character of the district and its peculiar suitability for particular uses. 
4b. The proposed zoning considers the location, character, and natural features of this and surrounding properties by maintaining a development character with commercial use appropriate for the area north of Wye and adjacent to transportation thoroughfares. 
4c. General commercial zoning is well suited for the current topography and vegetation. Compliance with the recommended condition of approval will ensure that there are no significant adverse impacts associated with the natural drainage issues on the subject property. 
4d. Any new use proposed will be required to meet the overall density, yard, height, and other requirements of the zoning district at time of Zoning Compliance Permit submittal. The previously approved use of storage buildings for lease or rent will be considered a permitted use. 

5a. Whether the zoning conserves the value of buildings and encourages the most appropriate use of land throughout the jurisdictional area; 
5b. Whether the zoning considers non-economic situations which prevent the utilization of the property for the full range of uses allowed in that zone; 
5c. Whether the zoning considers site plan design amenities intended to promote the appearance of the proposed use and mitigate adverse
neighborhood impacts, including but not limited to landscaping, fencing, screening, access, parking, pedestrian circulation, signs and lighting;

5a. The proposed zoning is expected to maintain the existing value of buildings and the surrounding area. The zoning proposes uses that are consistent with the lot size and location. The zoning promotes development as outlined in the Growth Policy and the Land Use Element.

5b. Zoning is required by the City of Missoula in order to develop the property with use of sewer connection. The proposed zoning will allow predictable development of the 9.76-acre parcel.

5c. Required landscaping, lighting, screening, parking review, and pedestrian circulation will be addressed with various land use permits. Mitigation of impacts will exceed what was required prior to the zoning.

6a. Whether the zoning considers expressed public opinion on the above consideration;
6b. Whether the zoning considers recommendations of the Zoning Officer.

6a. Noticing was sent to all property owners within 300 feet of the property and agencies potentially affected by the rezoning. The property was posted in five locations 45 days prior to the Planning Board hearing. No objections to the proposal have been received.

6b. The Zoning Officer recommends conditional approval of the rezoning request.

V. AGENCY COMMENT

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</thead>
<tbody>
<tr>
<td>COUNTY PUBLIC WORKS DEPARTMENT:</td>
<td>“No comment on this zoning request”</td>
</tr>
<tr>
<td>FRENCHTOWN RURAL FIRE DISTRICT:</td>
<td>No comments received</td>
</tr>
<tr>
<td>HEALTH DEPARTMENT:</td>
<td>“I recommend a thorough evaluation of existing and future drainage associated with this project. 2018 showed significant drainage issues on and around this parcel during spring run-off and rain events in April. Soils in this area do not appear to readily infiltrate runoff. In addition, groundwater is shallow” Environmental Health Supervisor</td>
</tr>
<tr>
<td>SHERIFF’S DEPARTMENT:</td>
<td>No comments received</td>
</tr>
<tr>
<td>COUNTY WEED DISTRICT:</td>
<td>No comments received</td>
</tr>
<tr>
<td>BOARD OF COUNTY COMMISSIONERS:</td>
<td>No comments received</td>
</tr>
<tr>
<td>MONTANA DEPARTMENT OF TRANSPORTATION:</td>
<td>No comments received</td>
</tr>
<tr>
<td>MONTANA FISH, WILDLIFE AND PARKS:</td>
<td>No comments received</td>
</tr>
<tr>
<td>MISSOULA COUNTY PARKS:</td>
<td>No comments received</td>
</tr>
</tbody>
</table>
MISSOULA COUNTY FLOODPLAIN:  “While not located within the floodplain, this tract is regularly subjected to sheet flow. To minimize potential for flood related damages, recommend that basement construction be prohibited with lowest floor and all utilities including ductwork be constructed a minimum of 2’ above highest adjacent grade.” Floodplain Administrator

CITY DEVELOPMENT SERVICES:  No comments received

FRENCHTOWN SCHOOL DISTRICT:  No comments received

CLERK AND RECORDER:  “No concerns about the proposed request.”

### VI. ATTACHMENTS:

A. Applicant packet  
B. Gregory Robertson’s comments  
C. C-C2 Zoning Regulations
ZONING APPLICATION

TLK Properties LLC
9772 Waldo Road, Missoula MT 59808

A Proposed Rezoning: Unzoned to C-C2
Lot 1 of the Denbleyker Subdivision, a Subdivision in Missoula County, located in the South Half of Section 16, Township 14 North, Range 20 West, Principal Meridian, Montana
Components of Rezoning Packet
TLK Properties LLC

Missoula Rezoning Application
Maps
Project Summary and Primary Review Criteria Report
Attached Documents
- Meadows West Declarations of Approved Conditions Covenants and Restrictions 1986
- Denbleyker Subdivision Department of Environmental Quality. 2009
- Covenants for Denbleyker Subdivision. 2009
- Denbleyker Subdivision Approval Letter. 2009
- Missoula City Development Services. Re: sewer
- County Approval Meadowlark Storage Building for Rent or Lease. 2018
COUNTY REZONE APPLICATION

A. GENERAL INFORMATION
1. One submittal packet is required for Completeness/Sufficiency Review.

2. Once the application is deemed complete by CAPS, 18 submittal packets and the application fee shall be submitted. The packets submitted for governing body review must be exactly the same as the packet that was deemed complete.

3. Name of proposed Rezone: TLK Properties LLC, Unzoned to C-C2

4. Name(s) of Applicant: Taylor Tillman
   Mailing Address: 2023 Raymond Ave., Missoula, MT 59802
   Telephone Number: 406-544-2651
   Email Address: TLK.PropertiesMT@gmail.com

5. Name(s) of Owner of Record: TLK Properties LLC
   Mailing Address: 1001 E. Broadway #613, Missoula, MT 59802
   Telephone Number: 406-544-2651
   Email Address: TLK.PropertiesMT@gmail.com

6. Name and Company of Representative:
   Mailing Address:
   Telephone Number:
   Email Address:

7. If the applicant is someone other than the property owner, the owner must also sign the application in the space provided below.

Certification: I hereby certify that the foregoing information contained or accompanied in this application is true and correct to the best of my knowledge.

Applicant's Signature Date

Owner's Signature Date

Representative's Signature Date
B. SUBJECT PROPERTY INFORMATION
General location of subject property and address (if address has been assigned): 9772 Waldo Road, Missoula, MT 59808 - Waldo Road and Hwy 93
Legal Description - complete and unabbreviated:
Township, Range, Section(s): Township 14 N, Range 20 West, South half of section 16
Subdivision, Lot(s), Block(s): Lot 1 of the Denbleyker Subdivision, Missoula County
Tract(s), COS#: 
Bearings & Distances Descriptions (if boundaries of proposed rezone are not exactly the same as the boundaries of the property legally described above):
Geocode: 04-2325-16-4-01-01-0000

C. ZONING AND GROWTH POLICY INFORMATION
1. Complete the following table (where applicable, indicate Unzoned):

<table>
<thead>
<tr>
<th></th>
<th>Zoning</th>
<th>Current Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adjacent (North)</td>
<td>Unzoned</td>
<td>Residential</td>
</tr>
<tr>
<td>Adjacent (South)</td>
<td>C-R2</td>
<td>Residential and Office</td>
</tr>
<tr>
<td>Adjacent (East)</td>
<td>Unzoned</td>
<td>Residential</td>
</tr>
<tr>
<td>Adjacent (West)</td>
<td>Unzoned</td>
<td>Residential</td>
</tr>
</tbody>
</table>

2. What is the current zoning of the property? Unzoned

3. What is the requested zoning for the property? C-C2

4. What is the applicable comprehensive plan and land use designation for the property? 2019 Land Use Element - Adopted June 6, 2019 Missoula County, Commercial Center

5. What is the intended use for the property? Mini storage approved but need commerical zoning for an office and any new development regulated by the proposed zoning.

D. RESPONSES TO REVIEW CRITERIA REQUIRED BY STATE LAW & THE MISSOULA COUNTY ZONING RESOLUTION

Review Criteria. Provide a response to the following review criteria for rezone requests.

1a. Whether the zoning is made in accordance with a growth policy;
1b. Whether the use sought would enhance and promote the development of the immediate neighborhood as outlined in the comprehensive plan;
1c. Whether the use conforms generally to the objectives of the adopted comprehensive plan and to the purpose of this Resolution;
1d. Whether the zoning is compatible with the zoning ordinances of nearby municipalities;

The proposed C-C2 zoining meets the criteria for the Growth Policy adopted by Missoula County in April, 2019. The land use design guidelines suggest commerical development. This designation, C-C2, provides for the conduct of retail trades and services, including mini storage that are automotive and highway-orientated for commerical uses of low intensity. The proposed designation would enhance the Wye area with services for present and future growth. It is a logical extenstion of the previously C-C2 zoned Wye corridor immediately southeast of the lot. This zoning is consistent in fulfilling the purpose.
of the resolution while meeting the growth plan criteria. The neighboring zoning is compatible with the ordinaces of nearby municipalities.

2a. Whether the zoning is designed to secure safety from fire and other dangers
2b. Whether the zoning is designed to promote public health, public safety and the general welfare
2c. Whether the zoning provides adequate light and air;
2d. Whether the use will not adversely affect nearby properties or their occupants;

The proposed zoning will not adversely affect nearby properties or their occupants, emergency services, municipal facilities or established infrastructure. The area is supported by the Frenchtown Rural Fire District. There is a new and improved driveway from Waldo Road and an agreement with MDT to improve the access from Hwy 93 next year. There is a new pedestrian path along the southern edge of the lot. No negative impacts are anticipated to motorized or non-motorized transportation systems. Any light and air pollution issues were addressed by the commissioners during approval for Medadowlark Storage on August 2, 2018. The property is outside the air stagnation zone but have agreed to use asphalt milling surfacing for dust abatement. The adopted lighting design limits light trespass and minimizes the impact to neighbors. The proposed zoning is thought to improve and protect public health and safety as well as adjacent properties from unforeseen development that could adversely take place on unzoned land.

3a. Whether the zoning considers the promotion of compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;
3b. Whether the zoning is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
3c. Whether the zoning considers the effect on motorized and non-motorized transportation systems;
3d. Whether the zoning considers the availability of public utilities and services;

The C-C2 zoning regulation offers flexibility to detail the development of the land in conjunction with surrounding properties. There are no public bus facilities and public water is five miles away. However shared Williams water is nearby and a sewer main is stubbed onto the property. The Frenchtown School District provides buses. There is a new public pedestrian path adjacent to the lot which terminates at the property. The C-C2 General Commercial Zoning designation is appropriate for this lot as it refers specifically to retail trades which are "highway orientated".

4a. Whether the zoning considers the character of the district and its peculiar suitability for particular uses;
4b. Whether the zoning considers the location, character and natural features of the property and surrounding properties;
4c. Whether the zoning considers vegetation, topography, and natural drainage;
4d. Whether the use meets overall density, yard, height, and other requirements of the zone in which it is located;

The property is located at the intersection of two busy throughfares, Waldo Road (Frenchtown Frontage Road) and US Hwy 93. Therefore it complies with the intent of automotice and highway oriented businesses. This property is within the corridor of the Wye with truckstops, RV parks, auto sales, garages, restaurants, casinos and hotels. The proposed zoning, C-C2, would be a logical designation based on the existing retail, history of intent for the lot and highway access. There are more commerical properties along US Hwy 93 going north including another RV park and equipment sales. There is no significant vegetation (only grass & weeds), is relatively flat and the natural drainage has been addressed by the WGM engineers along with MDT. The use meets density yard and height requirements and provides a variety of options for future development.

5a. Whether the zoning conserves the value of buildings and encourages the most appropriate use of land throughout the jurisdictional area;
5b. Whether the zoning considers non-economic situations which prevent the utilization of the property
for the full range of uses allowed in that zone;
5c. Whether the zoning considers site plan design amenities intended to promote the appearance of the proposed use and mitigate adverse neighborhood impacts, including but not limited to: landscaping, fencing, screening, access, parking, pedestrian circulation, signs and lighting;

The proposed zoning encourages easy public access which is provided by two approaches, Waldo Road and US Hwy 93, as noted on the Right of Way Agreement with MDT. The City of Missoula installed a sewer main with a manhole and a 6” stub to the property line. The city does not allow a sewer connection to an office unless the property is zoned A connection to the infrastructure will result in the appropriate use of the property. The lack of a sewer actually prevents the full utilization of the property, therefore, connection to sewer and zoning should be seen as beneficial to this area. The Denbleyker Covenants (2009) and the approval for the proposed Meadowlark Storage facility include plans for fencing, landscaping, lighting and parking. The zoning C-C2 limits parcel area, lot area setbacks and building height.

6a. Whether the zoning considers expressed public opinion on the above consideration;
6b. Whether the zoning considers recommendations of the Zoning Officer.

Public opinion and recommendations of the zoning officer are requested and evaluated during the staff and governing body review portions of the rezone process.

E. ATTACHMENTS
As separate attachments (8.5” x 11” or 11” x 17”), provide the following materials with the site clearly identified. Where appropriate, required information may be combined as long as the information is clearly presented. Please check the box if the material is included in the packet. If the material is not included in the submittal packet, please note “N/A”.

☐ A vicinity map showing the subject property and the area within 300 feet of the subject property.
☐ A zoning map of the subject property and vicinity (showing the existing zoning district), extending at least 300 feet from the property boundaries.
☐ An aerial photo of the subject property and vicinity extending at least 300 feet from the property boundaries.
☐ A comprehensive plan map of the subject property and vicinity extending at least 300 feet from the property boundaries for the applicable comprehensive plan, clearly showing the land use designation of the subject property and surrounding properties.
☐ The current plat of the subject property.
System depending on topography, with short block lengths.

The local street network disperses traffic through a well-connected grid system or an irregular

At-grade and collector roads are in a traditional grid pattern or irregular pattern depending on
elevated services are needed where vehicular speeds and traffic volume increase.

Although specific land uses on these roads may be auto-oriented, a variety of modes should

Specifically located along arterial roads and near interstate interchanges.

MOBILITY AND ACCESS

Pedestrians, bicyclists, and horses

The ability to achieve higher densities may be limited by the considerations, such as lot size.

WATER

Residential density is eight units per acre or greater, requiring connections to public sewer and

Buildings generally range from small (900 square feet) to large (6,000 square feet or more).

INTENSITY

Vertically mixed-use place.

Over time, these areas are expected to redevelop and experience infill, transitioning to a more

Secondary uses may include residential.

LAND USES

LAND USES

Provide for a mix of primarily commercial and higher intensity residential choices in a well-connected, walkable pattern.

Provide for opportunities for retail, service, and employment.

GOALS
TLK PROPERTIES ZONING APPLICATION

PROJECT SUMMARY AND PRIMARY REVIEW CRITERIA REPORT

9772 Waldo Rd. Missoula, Montana 59808

SUMMARY

The owner of this property is TLK Properties LLC. The Zoning Application is proposed to move Unzoned property into the C-C2 General Commercial Zoning.

The subject property, Lot 1 of the Denbleyker Subdivision, a Subdivision in Missoula County, located in the South Half of Section 16, Township 14 North, Range 20 West, Principal Meridian, Montana, was created in 2009 with Lot 1 proposed for commercial use. The property is approximately 9.75 acres.

The property is currently Unzoned, approved for Meadowlark Storage, Buildings for Rent or Lease (August 13, 2018). There are no structures and the land is non-irrigated, undeveloped pasture land.

The timeline below outlines the history of the property leading up to this zoning request:

1986:
Meadows West. Declaration of approved conditions, covenants and restrictions. (Bk 238, Pg 1040). Commercial use and development shall be permitted on 10 acres in the east half of Tract 74.

2009:
Approval of the Denbleyker Subdivision. Department of Environmental Quality Document. (Bk 833, Pg 436). That Lot 1 shall be used for commercial development using the guidelines from the 1979 Wye/O’Keefe Creek plan goal to provide commercial uses along a major or primary travel corridor.

Covenants for Denbleyker Subdivision (Bk 833, Pg 439). Lot 1 is anticipated to be utilized for commercial use.

Denbleyker Subdivision Approval Letter (Bk 833, Pg 435). The developer proposes a commercial use for Lot 1.
MTD Approach from Highway 93 (Bk 215, Pg 1408). Reserved ingress and egress right of 60'.

2016:
Right-of-Way Agreement. (Bk 974, Pg 488 and 489). Signed with MTD to accommodate the reconstruction of Waldo Road and the associated pedestrian path.

2018:
Deed of Trust; (Bk 999, Pg 323). Dated and recorded July 6, 2018. Lot 1 of the Denbleyker Subdivision purchased by TLK Properties LLC.


Missoula City Development Services. Sewer stub approval letter states, “It is assumed at this time, based on the planned uses of these lots, that Lot 1 shall be zoned prior to connection...”

Sewer Stub Availability. (Bk 997, Pg 366). A 6” stub was installed to the property line in October.

MDOT Right-of-Way Agreement. A 24’ private approach from Waldo Road was built and completed in June 2019.

2019:
MDOT Right-of-Way Agreement. Build a private approach from Hwy 93 during highway reconstruction anticipated to begin in 2020/2021.

REVIEW CRITERIA

Impact on Agriculture

The subject property contains soils that fall into the soil groups of farmland of local importance. There is no dedicated irrigation water available. The lot is a mixture of some native grasses and noxious weeds. A single cutting of low quality hay has been harvested in some years. There is no anticipated agricultural use for the future. There are no impacts to ditches or water rights and none anticipated in the future.
Impact on Natural Environment

The subject proposed zoning is located immediately north of the commercially intensive Wye area west of Missoula. The rezoning property is situated at the corner of two busy roadways and is surrounded by residential developments, one office and an RV Park. The property has no significant natural features, native plant life, wildlife, wildlife habitat, riparian habitat or natural resources. Exception: Western Meadowlarks. Per FWP data, no species of concern are located on the subject property.

Weeds are controlled by pulling or approved spraying.

Regulating the use of this property through zoning will be of benefit to the natural environment.

Impact of Wildlife ad Wildlife Habitat

Since the surrounding neighborhood consists of residential and heavy traffic use along Highway 93 and Waldo Road, there will be no further adverse impact on wildlife beyond current impact. Nearby species that could occasion the property are deer, birds, snakes and small rodents. There will be no wildlife habitat impacted beyond the current level of impact so no habitat mitigation is needed or proposed.

Impacts on Public Health and Safety

The proposed rezoning property is not located near any known existing hazards such as high pressure gas mains, overhead high voltage power transmission lines, superfund or hazardous waste sites, sewage treatment plants, high seismic hazard, open mines, meat packing plants or other health safety concerns.

Any increase in traffic can easily be accommodated with the newly constructed/improved Waldo Road and the proposed reconstruction and widening of Hwy 93.

For a commercial development, and to address seasonal runoff and storm water flows, a grading and drainage plan was prepared by WGM engineers. On-site water management consists of storm water drains, a detention pond in the northwest corner, and swales. This engineered water management design for the proposed Meadowlark
Storage development was incorporated into the BFLR request and subsequent approval by the Board of County Commissioners (BCC) on August 2, 2018.

Seasonal stormwater runoff along the south property line will be kept as close as possible to the historic channel, DEQ MS4 Waterway #30, with a swale along the Lot’s southern boundary.

Regulating the property through General Commercial C-C2 Zoning will allow for future consideration of impacts to health and safety which is an improvement to the current unzoned designation.

Community Impact Report and Impact On Local Services and Roads

The proposed zoning may create more traffic but will also potentially create needed services and jobs for the community. The property is already serviced by recently reconstructed public roads, has easy accessibility from the roadways, public sewer, school buses, and rural fire protection. The General Commercial C-C2 will have a positive impact that fits the existing character of the surrounding area and profile for current commercial use. This rezoning meets guidelines and land use designation suggested and recently adopted by the Missoula Area Land Use Element (June 6, 2019).
AMENDMENTS TO DECLARATION OF RESTRICTIVE COVENANTS
OF THE MEADOWS AND MEADOWS WEST

THIS AMENDMENT, made this 10th day of April, 1986, by the undersigned, owners of certain tracts in The Meadows and Meadows West, Missoula County, Montana.

WITNESSETH:

WHEREAS, Declarants have placed protective restrictions, covenants and conditions on The Meadows and Meadows West, Missoula County, Montana, recorded at Volume 129, Page 717 and at Volume 140, Page 747, records of Missoula County, Montana.

WHEREAS, the Declaration of Restrictive Covenants may be amended by the owners of tracts in The Meadows and Meadows West, and

WHEREAS, it is the desire of these owners to amend certain provisions of said Declaration of Restrictive Covenants, and

WHEREAS, these amended restrictive covenants and conditions shall apply to all tracts in The Meadows and Meadows West with the exception of Tracts 31, 37, 39, 40, 41, 42, 43, 44, 45, 78 and 1C and 1D. Commercial use and development shall be permitted on ten (10) acres in the east half of Tract 74 and on Tracts 7A and 7B, but these tracts shall otherwise be subject to all other restrictive covenants and applicable land use regulation, and

WHEREAS, these amendments do not alter any legal obligation of the Declarant Developers to tract owners arising before these amendments are effective, unless expressly agreed otherwise by the tract owners,

NOW, THEREFORE, the following provisions of the Declaration of Restrictive Covenants of The Meadows and Meadows West shall be amended to read as follows:

[Amendments to Provisions are Underlined]

Article II, Section 1: Land Use. All tracts in the above described property shall be used for residential purposes only except as hereinafter provided. No tract shall be subdivided so that any residential site contains fewer than two (2) acres without the prior approval of the Architectural Control Committee. Any division of land
TO: County Clerk and Recorder  
Missoula County  
Missoula, Montana  

E.Q. #09-1453  
HD #Sub 1008  
Owner: Denbleyker

THIS IS TO CERTIFY THAT the plans and supplemental information relating to the subdivision known as Denbleyker Subdivision located in the SE 1/4 of Section 16, Township 14 N., Range 20 W., PMM, Missoula County, consisting of two lots has been reviewed by personnel of the Permitting and Compliance Division, and,

THAT the documents and data required by ARM Chapter 17 Section 36 have been submitted and found to be in compliance therewith, and,

THAT the approval of the plat is made with the understanding that the following conditions shall be met:

THAT the lot sizes as indicated on the plat to be filed with the county clerk and recorder will not be further altered without approval, and,

THAT lot 1 shall be used for commercial development and lot 2 shall be used for one single family dwelling, and,

THAT the individual water system serving each lot will consist of a well drilled to a minimum depth of 25 feet constructed in accordance with the criteria established in Title 17, Chapter 36, Sub-Chapters 1, 3, and 6 ARM and the most current standards of the Department of Environmental Quality, and,

THAT data provided indicates an acceptable water source at a depth of approximately 100 feet, and,

THAT each individual sewage treatment system will consist of a septic tank and subsurface drainfield (evapotranspiration absorption system) of such size and description as will comply with Title 17, Chapter 36, Sub-Chapters 1, 3, and 6 ARM, and,

THAT each subsurface drainfield (evapotranspiration absorption system) shall be constructed as designed using an application rate of 0.15 gallons per square foot per day for soil infiltration, and,

THAT the water and sewer systems serving the commercial facility on lot 1 shall not service more than 24 people for more than 60 days per year, and,

THAT acceptance of a deed for a lot in this subdivision shall constitute:

1. assent by the owners of the lot to waive the right to protest an RSID or SID affecting said property for the purpose of financing the design and construction of a public sewer benefiting said property; and

2. an agreement whereby the owner(s) shall connect to public sewer within 180 days after public sewer is installed and available in the public right of way adjacent to the property. This waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land described herein. All documents of conveyance shall refer to and incorporate this waiver, and,

THAT the commercial establishment on Lot 1 shall not dispose of hazardous/deleterious waste substances in this on-site waste disposal systems.

THAT the bottom of the drainfield (evapotranspiration absorption system) shall be at least four feet above
Janet Grove PE
WGW Group Inc
P O Box 16027
Missoula MT 59808

RE: Denbeyer Subdivision
Missoula County
E.Q. #09 1453

November 18, 2008

Dear Janet Grove:

The plans and supplemental information relating to the water supply, sewage, solid waste disposal, and storm drainage (if any) for the above referenced division of land have been reviewed as required by ARM Title 17 Chapter 36(101-805) and have been found to be in compliance with those rules.

Two copies of the Certificate of Subdivision Plat Approval are enclosed. The original is to be filed at the office of the county clerk and recorder. The duplicate is for your personal records.

Development of the approved subdivision may require coverage under the Department’s General Permit for Storm Water Discharges Associated with Construction Activity, if your development has construction-related disturbance of one or more acre. If so, please contact the Storm Water Program at (406) 444-3080 for more information or visit the Department’s storm water construction website at http://www.deq.state.mt.us/woinfo/MPDES/StormwaterConstruction.asp. Failure to obtain this permit (if required) prior to development can result in significant penalties.

Your copy is to inform you of the conditions of the approval. Please note that you have specific responsibilities according to the plat approval statement primarily with regard to informing any new owner as to any conditions that have been imposed.

If you wish to challenge the conditions of this Certificate of Subdivision Plat Approval, you may request a hearing before the Board of Environmental Review or the Department, pursuant to Section 76-4-126, MCA and the Montana Administrative Procedures Act.

If you have any questions, please contact this office.

Sincerely,

Steve Kilbreath, Supervisor
Subdivision Review Section

SK/le

cc: County Sanitarian
    County Planning Board
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
DENBLEYKER SUBDIVISION

This Declaration entered into this 24th day of December, 2008 by Debra Denbleyker, the owner of the property described below and hereinafter referred to as the Declarant.

A. Declarant is the owner of Lots 1 and 2 of Denbleyker Subdivision, a platted subdivision of Missoula County, Montana, according to the official recorded plat thereof.

B. Lot 1 of Denbleyker Subdivision is anticipated to be utilized for commercial use, with Lot 2 of Denbleyker Subdivision anticipated to be utilized for residential use.

C. Declarant desires to place beneficial covenants, conditions and restrictions upon Lots 1 and 2 of Denbleyker Subdivision for the use and benefit of Declarant and for the use, benefit and protection of the future owners thereof.

NOW, THEREFORE, Declarant hereby declares that all the property described above shall be held, sold, and conveyed subject to the following covenants, conditions, and restrictions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property by providing a reasonably uniform plan as a desirable development. These covenants, conditions, and restrictions shall run with the real property and shall be binding upon all owners thereof, and shall inure to the benefit of and be binding upon each successor in interest to the owner thereof.

ARTICLE I
DEFINITIONS

Section 1. Properties. "Properties" shall mean and refer to that certain real property in said Denbleyker Subdivision.

Section 2. Lot. "Lot" shall mean and refer to any plot of land shown upon the recorded plat map of the real estate, which is subject to this Declaration. If any plot other than a lot as shown on the recorded 1
D. PROVISION OF EASEMENTS FOR UTILITIES

Findings of Fact:
1. This subdivision will be served by Northwestern Energy, Missoula Electrical Cooperative, and Qwest telephone service.
2. Utility lines are located within the public right-of-way of Highway 93 and Waldo Road and the private right-of-way of George Cates Boulevard bordering the subject property.

Conclusions of Law:
1. Utility services and easements for utilities are available to this subdivision.

E. PROVISION OF LEGAL AND PHYSICAL ACCESS

Findings of Fact:
1. Highway 93, Waldo Road, and George Cates Boulevard provide legal and physical access to the subdivision.
2. Lot 1 can be accessed from Highway 93 and Waldo Road.
3. Lot 2 shall be accessed from George Cates Boulevard.

Conclusions of Law:
1. The proposal meets physical and legal access requirements.
FINDINGS OF FACT AND CONCLUSIONS OF LAW
DENBLEYKER SUBDIVISION
MARCH 5, 2008

A. ZONING AND COMPREHENSIVE PLAN COMPLIANCE

Findings of Fact:
1. The subject property is unzoned and is vacant.

2. The 1979 Wye/O'Keefe Creek Plan amendment to the 2002 Missoula County Urban Growth Policy designates the property as Residential, one dwelling unit per five acres. Surrounding adjacent uses are residential, agricultural, Bed and Breakfast Inn, and RV Park.

3. The developer proposes a commercial use for Lot 1. The commercial use conflicts with the residential land use recommendation in the 1979 Wye/O'Keefe Creek Plan.

Conclusions of Law:
1. The proposed subdivision does not comply with the comprehensive plan's recommended residential land use designation for this area. However, this subdivision may meet the 1979 Wye/O'Keefe Creek Plan goal of providing commercial uses along a major travel corridor.

2. Missoula County Subdivision Regulations require that subdivisions be reviewed for compliance with the Comprehensive Plan. Due to changes in state law, no land use proposal shall be conditioned or denied based solely upon the lack of compliance with the Growth Policy. For that reason, no conditions are recommended based upon failure to comply with the Growth Policy or its amendments.

B. PRIMARY CRITERIA COMPLIANCE

CRITERION 1: EFFECTS ON AGRICULTURE AND AGRICULTURAL WATER USER FACILITIES

Findings of Fact:
1. The property has been used for agriculture. It has been cropped for hay. The soil is classified by the Natural Resources Conservation Service (NRCS) as "Farmland of Local Importance."

Conclusions of Law:
1. The subdivision will result in an incremental loss of farmland designated by soil type as "Farmland of Local Importance."

2. No impacts to agricultural water users are anticipated.

CRITERION 2: EFFECTS ON LOCAL SERVICES

Roads/Driveways/Primary Travel Corridor

Findings of Fact:
1. The property is bordered by Highway 93, Waldo Road, and George Cates Boulevard. No new streets are proposed.

2. Lot 1 has a reserved ingress and egress right to have one at-grade road approach onto Highway 93 by the Montana Department of Transportation. This 60-foot access is granted per Book 215 Page 1408. A one-foot No Access Strip is on the face of the plat to prevent any additional access to Highway 93. Lot 1 could also be accessed from Waldo Road.
March 16, 2018

Debra DenBleyker
PO Box 111
Stevensville, MT 59870

Re: Sewer Stub Letter – Lot 1 & 2 of the DenBleyker Subdivision
Subject File No. 191.10.02 Sewer Availability Notification

Dear Debra:

City of Missoula public sanitary sewer is available to be stubbed to the property commonly known as Lot 1 and Lot 2 of the DenBleyker Subdivision, and is located in the S 1/2 of Section 16, T14N, R20W, P.M., M. These lots are hereby authorized to receive one sewer stub each from the gravity main F located in Waldo Road and constructed with the Wye Area Sanitary Sewer Phase 2B RSID No. 8489 Project.

These properties are within the City of Missoula Wastewater Facilities Service Area Boundary and therefore, sanitary sewer capacity is available (including main size, lift station size, and plant capacity). The sanitary sewer system has adequate capacity to accommodate the future extension.

The current development proposal for Lot 1 and Lot 2 are storage units and single family residential, respectively.

When ready to proceed with sanitary sewer stub installation, please arrange the following:

1. Arrange for a City licensed and bonded contractor to obtain the necessary excavation permits (City required and also County if applicable) and perform the installation of the sewer stubs.

2. Prior to construction startup, verify information regarding depth and location of the sewer lines with this office.

3. A deed restriction shall be placed on Lot 2 for the use of Lot 1 sewer stub. The City of Missoula understands that these lots are currently in your ownership but are also under current buy/sell agreements.

Prior to eventual connection to structures on these lots, please complete the following:

1. Obtain a sewer availability letter from the City Engineer.
2. Prior to connection of sewer, the property owner must pay the necessary sanitary sewer connection fees and sign the appropriate legal documents (if applicable).

3. Arrange for a City licensed and bonded contractor to obtain the necessary excavation permits (City required and also County if applicable) and perform the installation of the sewer connections.

4. This property is also outside the City's incorporated boundary and the City cannot legally provide sanitary sewer in the future unless the property owners execute a sewer service or development agreement and a petition for annexation.

5. The lots must be addressed.

6. It is assumed at this time, based on the planned uses on these lots, that Lot 1 shall be zoned prior to connection and Lot 2 does not require a zoning designation as its planned use is single family residential.

7. A sewer service line easement shall be filed across Lot 2 for the use and benefit of Lot 1 sewer service line.

This letter is valid for 180 days after the date above unless changes to sanitary sewer policy occur at the legislature. This letter is also deemed transferrable to a new owner as the lots are currently under buy/sell agreements.

Sincerely,

[Signature]

Kevin J. Sloyan, P.E.
City Engineer

KJS

cc: Pat Brook
    Elena Evans
    Jane Plummer
MEADOWLARK STORAGE BUILDINGS FOR LEASE OR RENT

Dear Mr. Tillman,

This is to confirm that at the public meeting on August 2, 2018, the Board of County Commissioners approved the Meadowlark Storage buildings for lease or rent project proposed on Lot 1 of the Denbleyker Subdivision, as represented in the applicant packet and amended by the revised layout received July 24, 2018 included as Attachment C to the staff report, subject to the conditions attached to this letter. The reasons for the decision, including the imposition of any condition of approval, may also be found in the attached document entitled “Findings of Fact and Conclusions of Law.”

If you wish to appeal this decision or the imposition of any condition, you must follow the procedure established by M.C.A. §76-8-113(2) which states as follows:

“An applicant who has filed an application for the creation of buildings for lease or rent or a landowner with a property boundary contiguous to the tract on which the buildings are proposed to be located who is aggrieved by a decision of the governing body may, within 30 days of the date of the decision of the governing body, appeal to the district court in the county in which the property involved is located.”

The statute includes the applicant within the definition of an aggrieved party. Please contact our office at (406) 258-4877 if you have any questions or concerns regarding this matter.

Sincerely,
BOARD OF COUNTY COMMISSIONERS

NOT AVAILABLE FOR SIGNATURE

David Strohmaier, Chair
Jeann Curtiss, Commissioner
Nicole Rowley, Commissioner

cc: Casey Drayton, Community and Planning Services
Tim Worley, Community and Planning Services
Andrew Stickney, Community and Planning Services
Todd Klettz, Community and Planning Services
Tyler Gernant, Clerk and Recorder
County Surveyors Office

Environmental Health Department
Nicole Whyte, Public Works
Adriane Beck, County Fire Inspector
Joe Calnan, Frenchtown Rural Fire District
Jeff Smith, WGM Group

Please visit www.missoulacounty.us to view Missoula Board of County Commissioners public meeting minutes.
17. County Public Works will require a Building Permit for all new buildings, including the storage structures and any fence over 8 feet tall.
18. County Planning will require a Land Use Permit prior to construction.

Conclusions of Law:
1. The buildings for lease or rent project is subject to review under BFLR Regulations Section 6, with the total number of applicable buildings being ten.
2. The project will comply with all other regulations as presented in the application.

IMPACTS ON THE PHYSICAL ENVIRONMENT AND HUMAN POPULATION IN THE AREA

Findings of Fact:
Physical Environment Impacts
1. The property will be accessed off Waldo Road via a new approach permitted by Montana Department of Transportation.
2. There is no FEMA designated floodplain on the property.
3. The property is outside of the Air Stagnation Zone.
4. The application indicates a gravel surface for circulation areas within the development.
5. The developer's representative noted that the vehicle circulation area surfaces would be improved with an asphalt millings surface to reduce dust.
6. A condition of approval requires the vehicular use areas to be constructed with a material superior to gravel.
7. The property has been known for surface flooding and sheet flows of water released from the culvert near the southeast corner of the property. The culvert collects water from the area east of Highway 93 and south of Ladyslipper Lane.
8. The Denbleyker Subdivision plat contemplated development and the need to address drainage flows with the platting of a 40' wide drainage easement originating at the southeast corner of the property then running north approximately 260' along the east property line before crossing the Denbleyker Subdivision lots diagonally toward the northwest corner.
9. A grading and drainage plan has been prepared to address management of the offsite water flows within the drainage easement terminating in a detention pond that will also collect onsite flows from storm drains within the developed area.
10. The detention pond is located adjacent to the drainage easement at the northwest corner of the development area.
11. Reconstruction of Waldo Road and associated roadside ditches currently underway by Montana Department of Transportation will likely improve and accommodate drainage along the south property line.

Human Population Impacts
12. Property owners within 300' of the buildings for lease or rent project were notified regarding the proposal.
13. The West Valley Community Council commented that number of units proposed seems excessive and expressed concerns over the impacts to the nice residential development in the area.
14. Landscape improvements have been proposed on the site plan to mitigate visual impacts the development may have.
15. Primary Travel Corridor landscape requirements were established as a condition of the Denbleyker Subdivision approval.
16. A condition of Buildings for Lease or Rent approval enhances the tree planting requirements found in the Primary Travel Corridor landscape requirements to reduce the visual impacts of the development to adjacent property owners and from public rights-of-way.

17. The condition clarifies the steps required for landscape plan review and fulfillment.

18. A comment from an adjacent property owner was received prior to the hearing addressing lighting associated with the development. The written comment was accompanied by testimony from the adjacent owner. A recommended condition of approval establishing lighting requirements was submitted.

19. Based on testimony from an additional property owner in the area, the Board of County Commissioners discussed limiting lighting to avoid light trespass to adjacent properties late at night. The condition was modified to include an aspect on the timeframe for which lighting shall be turned on, and imposed by the Board of County Commissioners.

Conclusions of Law:
1. The physical environment in the area will not be adversely impacted.
2. The human population will not be adversely impacted if the conditions of approval are satisfied.

WATER, WASTEWATER AND SOLID WASTE FACILITIES
Findings of Fact:
1. The single-family dwelling is the only structure that will have water and wastewater facilities.
2. The dwelling will be served by an extension of City Sewer located in the Waldo Road right-of-way.
3. The dwelling will be served by an onsite private well located north of the development area.
4. There will not be an office associated with the mini-warehouse development, therefore, no additional sewer connection or wells will be required.
5. Republic Services provides trash collection services for this area.

Conclusions of Law:
1. The water and wastewater systems of adjacent property owners will not be impacted by the proposed mini-warehouse development.
2. Review and approval of the water and wastewater is also reviewed by the local and state jurisdictions responsible for the oversight of those facilities.
3. Garbage service is available to the site.

ACCESS TO THE SITE
Findings of Fact:
1. Waldo Road is a state road connecting Frenchtown to the Wye area.
2. The access point to the development is proposed from Waldo Road.
3. The Denblyker Subdivision plat created no-access strips for all but 165' at the west side of the south property line along Waldo Road.
4. It is within the 165' area that the proposed approach will be located.
5. Montana Department of Transportation commented that they are aware of the proposal and have not reviewed or approved an approach permit at this time.

Conclusions of Law:
1. The buildings for lease or rent will meet site access requirements.
AVAILABLE EMERGENCY MEDICAL, FIRE PROTECTION, AND LAW ENFORCEMENT SERVICES

Findings of Fact:
1. The property is roughly .3 miles from the nearest Frenchtown Rural Fire District station located on Ladyslipper Lane.
2. The Missoula County Fire Inspector commented that they have no comment on the proposal.
3. The development will require review and approval of appropriate fire suppression meeting NFPA standards by the Missoula County Fire Inspector as a condition of the Denbleyker Subdivision approval prior to issuance of a building permit.
4. The Missoula County Sheriff serves this location from its headquarters at 200 West Broadway.

Conclusions of Law:
1. Emergency medical assistance, fire protection, and law enforcement are able to respond to the site.

COMPLIANCE WITH FLOODPLAIN REGULATIONS

Findings of Fact:
1. The property is outside of a FEMA-mapped floodplain.

Conclusion of Law:
1. The proposed buildings for lease or rent do not trigger any applicable floodplain regulations.

REVIEW PROCEDURE AND NOTICE OF APPEAL PROCESS

Findings of Fact:
1. Buildings for lease or rent are subject to BFLR Regulations Section 6. The application has been reviewed under this section.
2. The application was deemed sufficient upon receipt of the application on June 1, 2018.
3. A revision to correct the count of individual units within each building was submitted on June 29, 2018 and included as Attachment B to the staff report.
4. An amendment to the site layout for buildings 5 and 6 was received on July 24, 2018 and included as Attachment C to the staff report.
5. The Board of County Commissioners reviewed the application, correction and requested amendments at the public hearing on August 2, 2018.
6. An applicant or landowner with a property boundary contiguous to the tract on which the buildings for lease or rent is proposed who is aggrieved by a decision of the governing body pursuant to Section 6 of these regulations may, within 30 days of the date of the final decision of the governing body, appeal to the district court in the county in which the property is located. The application shall specify the grounds upon which the appeal is made. In order to file an appeal, the plaintiff must be aggrieved by the decision, demonstrating that a specific personal and legal interest, as distinguished from a general interest, has been or is likely to be specifically and injuriously affected by the decision.

Conclusion of Law:
1. The buildings for lease or rent proposal has followed the necessary procedure.
Hi Matt – please read/enter the pertinent portions of the below email received from former County Public Works Director Greg Robertson into the record.

From: Gregory Robertson <grobertson@forestgrove-or.gov>
Sent: Tuesday, November 26, 2019 12:29 PM
To: Todd Klietz <tklietz@missoulacounty.us>
Subject: Tax Lot ID No. 5821197 - TLK Properties

Good morning Todd:

I hope you are doing well and carrying on the fight against poor floodplain management practices! A “friend” of mine at the Wye reached out to me the other day about a piece of property I had been dealing with prior to my departure. The gift that keeps on giving. Can’t seem to get away from it.

Anyway, I do know the property and spent a few years working with the original developer Debbie Denbleyker for whom the subdivision was named. Debbie owned two parcels that comprised the subdivision. I have been advised that one of the parcels (east one) is in for development of some sort. So I’ll tell you what I know.

Both of the parcels in the subdivision are both subject to spring flooding. There is a large culvert underneath US 93 that empties onto this property. It eventually sheet flows over and across both parcels till it hits the impoundment created by George Cates Blvd. Eventually it over tops the road and finds its way to the creek. A portion of it flows north to a cross culvert underneath George Cates Blvd making its way to the creek by another path. There are drainage easements dedicated by the plat, however they are pretty useless since they are in the wrong location. They could be effective, but a considerable amount of site grading would be necessary to make it work. Nobody to date has been interested in investing the money to do so.

I was hopeful that MDT improvements to Waldo Road might have, in part helped to address the situation, but as I recall they weren’t much help. Surprise. So I believe the problem continues and needs to be mitigated. Missoula County has had knowledge of this for years. I know because I worked on it for many years in an attempt to avoid another Mullan Trail Subdivision. While the flooding isn’t as bad here, it is significant enough to invite a lawsuit.

So, thought I would reach out to you and apprise you of this in hopes that it will get someone’s attention.

I hope you and your family have a safe and enjoyable holiday season. My son flew in late last night and we are all meeting up at in-laws all 50 of them Thursday.

Regards,

Gregory H. Robertson, P.E., AICP, CFM
SECTION 2.16  C-C2 GENERAL COMMERCIAL

A. **Intent**
   This district provides for the conduct of retail trades and services that are inherently automotive and highway oriented and for commercial uses of low intensity which may require large areas of land.

B. **Space and Bulk Requirements**
   - **Minimum parcel area per dwelling**: One thousand (1,000) square feet per dwelling
   - **Minimum lot area**: None, except that minimum lot area for residential uses is 3,000 square feet.
   - **Minimum lot width**: None
   - **Minimum required setback**: front Twenty-five (25) feet, side None, rear Ten (10) feet

   See Section 3.06 C. for Accessory Structure setbacks
   **Maximum building height**: Forty-five (45) feet

C. **General Standards**
   See Supplementary Regulations - Chapter 3

D. **Permitted Uses**
   1. Automotive, marine, trailer, mobile home, recreational vehicle, and accessories sale, rental, and service
   2. Building materials, hardware, and farm equipment sale and service
   3. Contractor / construction service
   4. Wholesale trade
   5. Farm and garden supply
   6. Retail trades and service, with no outdoor storage or display, with a gross building floor area of less than one hundred thousand (100,000) square feet
   7. Transient lodging
   8. Professional, business, and governmental office
   9. Personal services
   10. Repair service
   11. Eating and drinking establishment
   12. Commercial recreation, amusement, and cultural facility
   13. Printing and publishing establishment
   14. Single-family dwelling; mobile homes constructed prior to June 15, 1976, must be placed on a minimum of five (5) acres with fifty (50') foot front, rear, and side yard setbacks
   15. Two-family dwelling
   16. Day care home
   17. Community residential facility serving eight (8) or fewer persons
   18. Boarding house
   19. Civic, social, and fraternal organization
20. Agriculture, including any and all structures or buildings needed to pursue such activities
21. Open space land
22. Accessory buildings and uses

E. Conditional Uses
   1. Retail trade and service with gross building floor area of less than one hundred thousand (100,000) square feet
   2. Service station
   3. Residential and commercial mini-warehouse
   4. Recreational vehicle park
   5. Multiple-family dwellings
   6. Home occupation
   7. Day care center
   8. Community residential facility serving nine (9) or more persons
   9. Long-term care facility
   10. Seasonal commercial and temporary uses

F. Special Exceptions
   1. Public and quasi-public buildings and uses
   2. Public utility
Pat Nagy Swartz comment re: 9772 Waldo Road zoning request

critters oooo <critters829@hotmail.com>
Tue 12/31/2019 10:57 AM
To: Matt Heimel <mheimel@missoulacounty.us>
Cc: caps <caps@missoulacounty.us>; bcc <bcc@missoulacounty.us>; Alan <alanmcc1@yahoo.com>; Kristopher Fisk <fiskkchristopher@gmail.com>

Matt, your e-mail to me directs public comment regarding this zoning request be sent directly to you. (I have copied others).

Might be important: neither of the published legal ad notices in the Missoulian (12/15 and 22, 2019), referenced contact information for making public comment.

All but one of the posters placed along Waldo Road and the corner of Waldo and Highway 93 on November 22, 2019 were on the ground in the snow on Nov. 26.

I have photos. The one standing on the 26th was flat in the snow on the 28th.

IMPORTANT:
RE: 9772 Waldo Road from unzoned to C-C2 General Commercial.
My concern about C-C2 for this tract in this rural area is the allowance of 'residential use as a secondary use', including single family or two family dwellings, and the 'conditional use' of multi-family dwellings.
My story: "Attractive nuisance" - in the 1970s my husband and I lived on a 5-acre farm in rural Orchard Homes. Horses and barns. In the mid 1970s a multi-family housing unit was built 3 blocks away. The 11, 12 and 13 year old boys from that housing development decided our barn was the place for them to hide out to smoke cigarettes. Cigarette butts were left on the floor of the barn. One day we caught two of them in the barn, smoking their cigs. One ran off, the other stayed for the lecture. We had a sheriff's deputy come to make the point to the boy that entering other people's properties was wrong. Instead, the Missoula County Sheriff's Deputy said, in front of the young boy, that he (the deputy) couldn't do anything about these boys entering our property because we had an "attractive nuisance". Then he drove the boy home to the housing complex. Yup, at that time, Missoula County authorities called horses and barns an "attractive nuisance". By mid 1978 we had loaded up our horses, our rural lifestyle and moved to where horses and barns are NOT an 'attractive nuisance'.
We paid a hefty price per acre to be here in this Meadows West development, a development dedicated to providing the space, rural environment and land use protections for a lifestyle with barns, horses, cattle, and other farm animals. A place where horses and barns should never be considered an "attractive nuisance". We knew from the date of our land purchase that the Denbleyker Lot 1 could be used for commercial. For us that meant 'commercial' not 'residential'.
Matt, your Executive Summary to the Consolidated Planning Board recommends approval of the application for C-C2 without consideration of the public comment, without consideration of the negative consequences associated with mixing 'high density' housing with horses, cows, and barns.
I'm hopeful you will change your recommendation as now presented, and instead, prepare a modification to the allowed commercial development of the Denbleyker Lot 1 to exclude all residential use other than 1 single family dwelling. A modification to the C-C2 zoning, allowed use of the land, would not impede on the intended use of the tract as presented in the application for the zoning designation. Thus, the minor restriction for that property will forever eliminate the potential conflict associated with "attractive nuisance" and will preserve our rural open spaces.
Any decisions made regarding use of this tract must also consider the storm water runoff issue.
I have made comments to the Board of County Commissioners and CAPS regarding the water runoff problem existing with this tract of land. Addressing that issue is essential to all 'use' designations for the property. George Cates Blvd., a private road, was not engineered to be the runoff ditch for Denbleyker 1 & 2.
Matt, I've already copied to you my comments sent to Christine Dascenzo for the BCC meeting on 1/2/2020. I ask that you include them as a part of these comments to be presented to the Consolidated Planning Board.
Thank you for the opportunity to comment.
Pat Nagy Swartz, 10215 George Cates Blvd.
406-721-8586
critters829@hotmail.com
Comments regarding proposed amendments to Missoula County Subdivision Regulations
Specific reference to Appendix A – Map – code designation of high density housing for Denbleyker Lot 1

December 17, 2019
Christine Dascenzo, CAPS
127 E. Main Street, Suite 2
Missoula, MT 59802
cdascenzo@missoulacounty.us

Comment:  Regarding proposed amendments to Missoula County Subdivision Regulations, Chapters 2,3,5,6 & 7.

As outlined in your document, the focus of the Chapter 3 amendments is to align the urban/rural distinction with land use designations from the Missoula Area Land use Element adopted in June, 2019.

The Appendix A Urban Area Map shows a designation of ‘8 units per acre or greater’ for the tract of land known as Lot 1, Denbleyker Subdivision, a subdivision within the exterior boundaries of the Meadows West Development. The Meadows West Restrictive Covenants allows for that tract of land to be used as ‘commercial’.

I was at the public meetings of the ‘element’ and I have the final copies of the language and maps adopted at the final meeting. I don’t recall, nor can I find in the minutes or documents, any discussion, nor mention of ‘high density housing’ for Denbleyker Lot 1. The land use element ‘commercial’ designation did not quantify the specific use for that tract. In my mind, appropriate use of that land is yet to be determined.

Take note of the comments by the Missoula Valley Water Quality District, comments 3,4,5 and 10, O’Keefe area ‘high ground water hazard’ and ‘. . .huge runoff events’.

Denbleyker Lot 1 is susceptible annually to both water hazards. As noted in the current TLK Properties Zoning Application (dated 10/24/2019), “Impacts on the physical environment and human population in the area, Item 7: The property has been known for surface flooding and sheet flows of water released from the culvert near the southeast corner of the property. The culvert collects water from the area east of Highway 93 and Lady Slipper Lane.”

My house windows face directly at this tract of land. 23 of the 24 years I have lived here, the water sheet flow has always run from the southeast corner into the northwest corner of Denbleyker Lot 2, with the water pooling in that northwest corner. This tract of land has an obvious southeast to northwest slope. Other than last spring (2018) when the property owner of Denbleyker Lot 1 bermed his ground to push some of the runoff water at George Cates Blvd., this past spring (2019) is the only time the water has not been a SHEET flow across the property. The channel flow, that took out the Waldo Road pedestrian path, made a mess of our
private road (George Cates Blvd.), flowed across George Cates into another’s property, and flowed under Waldo Road flooding a neighbor’s basement, was caused by a delay in the State’s construction of the path. The dirt piles blocked the natural flow of the runoff. Channel flow aimed at George Cates Blvd. is not the natural flow and should not be acceptable to the County, and is certainly not acceptable to the property owners of the private road, George Cates Blvd. Any suggestion that the water flow problem on Denbleyker Lot 1 can be mitigated by pushing the water to George Cates Blvd. is misguided. It is premature to label this tract of land suitable for anything until this issue is revisited. The WGM group engineering plan, a plan that pushes the water to our private road (George Cates Blvd.), must be challenged. As of now, that plan does not protect the other properties bordering George Cates Blvd. from being flooded, nor does it ensure that our private road will not be washed out. Currently, as an un-zoned tract, the issues with the water flow, and your own preference for ‘housing density’, the Appendix A map is misrepresenting land use of Denbleyker Lot 1 as property suitable for ‘high density’ housing. That designation should be removed and the map corrected prior to the BCC’s vote. There is no justification for the "Land Use Designation of 8 Units per Acre or Greater".

Thank you for the chance to comment.
Pat Nagy Swartz, 10215 George Cates Blvd., Missoula, MT 59808

critters829@hotmail.com  406-721-8586