




COMMUNITY PLANNING, DEVELOPMENT & INNOVATION

Development Services Division

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MAJOR SUBDIVISION AND REZONING STAFF REPORT

Agenda Item:		River View Subdivision and Rezoning	
Report Date:		2/7/2022	
Case Planner:		Alex Eidam, Senior Planner	
Report Reviewed & Approved By:		Dave DeGrandpre, Planning Supervisor	
Public Meetings & Hearing Schedule			
City Council: 1 st Reading of the Ordinance and Referral to LUP		February 14 th , 2022	
Planning Board: Public Hearing		February 15 th , 2022	
LUP Pre-Public Hearing: Information Only Item		March 2 nd , 2022	
City Council: Public Hearing		March 7 th , 2022	
LUP Post-Public Hearing: Information Only Item (Tentative)		March 9 th , 2022	
City Council: Final Consideration		March 14 th , 2022	
Subdivider:		Homes for Missoula, LLC 1923 River Road Missoula, MT 59801	
Owner:		Robert & Coleen Anderson 1923 River Road Missoula, MT 59801	
Representative:		Paul Forsting IMEG Corp. 1817 South Ave. W, Suite A Missoula, MT 59801	
Location of Request:		1923 River Road, Missoula, MT 59801	
Legal description:		The property is legally described as west half of Lot 9 in Cobban and Dinsmore's Orchard Homes #2, located in the NE ¼ of Section 20, Township 13 North, Range 19 West, Principal Meridian Montana.	
Legal Notice:		One subdivision poster was placed on the property along River Road on January 27 th , 2022. Adjacent Property owners were notified on January 27 th , 2022. Legal notice was published in the Missoulian on January 30, 2022 and February 6, 2022.	
Growth policy:		The Our Missoula 2035 City Growth Policy recommends a land use designation of Residential Medium Density (3 to 11 dwelling units per acre).	
Zoning:		RT10 Residential (two-unit/townhouse)	
Surrounding Land Uses		Surrounding Zoning	
North:	Detached Houses	RT10 Residential (two-unit/townhouse)	
South:	Warehouse, Wholesale and Freight Movement	RM2.7 Residential (multi-dwelling)	

East:	Detached Houses	RT10 Residential (two-unit/townhouses)/Carters Orchard Homes Planned Unit Development (PUD)
West:	Detached Houses, Parks and Recreation	RT10 Residential (two-unit/townhouse)
RECOMMENDED MOTIONS		
City Council (2/14/2022)	[First reading and preliminary adoption] Set a public hearing on March 7th, 2022 and preliminarily adopt an ordinance rezoning the subject property located at 1923 River Road and refer this item to the Land Use and Planning Committee for presentation and discussion on March 2 nd and March 9 th , 2022.	
Planning Board Public Hearing (2/15/2022)	<p>Recommend Motions:</p> <p>Subdivision Motion:</p> <ul style="list-style-type: none"> - Approval of the River View Subdivision preliminary plat application, subject to the recommended conditions of approval, based on the findings of fact and conclusions of law in the staff report. - <u>Variances:</u> <ol style="list-style-type: none"> 1. Approval of the variance request to allow a 29.5-foot-wide right-of-way and 25.5-foot-wide street width with one 7-foot-wide parking lane, and two 20-foot-wide easements containing 7-foot-wide boulevards, 5-foot-wide sidewalks, and 8-foot wide utility easements. 2. Approval of the variance request to allow for a turnaround street, Road A, further approving the variance from specific turnaround design standards including the requirements that turnarounds may not represent more than 15% of the total roadway miles in a subdivision, the right-of-way radius must be a minimum of 50 feet, and the pavement width must be a minimum of 45 feet. 3. Approval of the variance request to allow a block length at roughly 534 feet. 4. Approval of the variance request to allow the existing River Road 60-foot-wide right-of-way and proposed improvements. <p>Rezoning Motion:</p> <ul style="list-style-type: none"> - Approve the adoption of an ordinance to rezone the subject property located at 1923 River Road from RT10 Residential (two-unit/townhouse) to RT5.4 Residential (two-unit/townhouse) based on the findings of fact and conclusions of law in the staff report. 	
LUP pre-public hearing info only item (3/2/2022)	Introductory presentation and discussion on the proposal and staff recommended motions to approve each variance and the preliminary subdivision plat and rezoning, subject to the recommended conditions of approval.	
City Council Public Hearing (3/7/2022)	Presentation, public comment, and discussion on the proposal and staff recommended motions to approve each variance and the preliminary subdivision plat and rezoning, subject to the recommended conditions of approval.	
LUP post-public hearing info only item (tentative – 3/9/2022)	Discussion on the proposal and staff recommended motions to approve each variance and the preliminary subdivision plat and zoning subject to the recommended conditions of approval.	
City Council Final Consideration (3/14/2022)	<p>Subdivision Motion:</p> <ul style="list-style-type: none"> - Approval of the River View Subdivision preliminary plat application, subject to the recommended conditions of approval, based on the findings of fact and conclusions of law in the staff report. - <u>Variances:</u> <ol style="list-style-type: none"> 1. Approval of the variance request to allow a 29.5-foot-wide right-of-way and 25.5-foot-wide street width with one 7-foot-wide parking lane, and two 20-foot-wide easements containing 7-foot-wide boulevard, 5-foot-wide sidewalks, and 8-foot wide utility easements. 2. Approval of the variance request to allow for a turnaround street, Road A, further approving the variance from specific turnaround design standards including the requirements that turnarounds may not represent more than 15% of the total roadway miles in a subdivision, the right-of-way radius must be a minimum of 50 feet, and the pavement width must be a minimum of 45 feet. 3. Approval of the variance request to allow a block length at roughly 534 feet. 	

	<p>4. Approval of the variance request to allow the existing River Road 60-foot-wide right-of-way and proposed improvements.</p> <p>Rezoning Motion:</p> <ul style="list-style-type: none"> - Approve the adoption of an ordinance to rezone the subject property located at 1923 River Road from RT10 Residential (two-unit/townhouse) to RT5.4 Residential (two-unit/townhouse) based on the findings of fact and conclusions of law in the staff report
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I. RECOMMENDED CONDITIONS	
1.	The applicant shall show all dedicated public right-of-way for Road A on the face of the plat, subject to the review and approval of the City Engineer, prior to filing the final plat. <i>City Subdivision Regulations Section 3-020.3.B.</i>
2.	The applicant shall show all proposed sidewalk and utility easements on the face of the plat and identify their width and purpose, subject to the review and approval of the City Engineer, prior to filing the final plat. <i>City Subdivision Regulations Section 3-060.1.</i>
3.	The applicant shall pay for the cost of half street improvements to River Road along the entire frontage of the subdivision, subject to the review and approval of the City Engineer, and install those improvements or enter into an Improvements Agreement with financial security for future installation prior to filing of the final plat. <i>City Subdivision Regulations Section 3-020 Table .2A and Section 3-020.4.A.</i>
4.	The following statement shall appear on the face of the final plat, in the covenants, conditions, and restrictions, and on each instrument of conveyance, "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future SID/SLID, based on benefit, for the upgrading of streets within this subdivision and River Road, including but not limited to paving, curbs and gutters, non-motorized facilities, street widening, street lighting and drainage facilities". <i>City Subdivision Regulations Section 5-050.4(M&N); Missoula City Public Works Standards and Specifications, Chapter 12.</i>
5.	All street and non-motorized improvements shall be designed and built in accordance with the City of Missoula Public Works Standards and Specifications and City of Missoula Subdivision Regulations (except as modified by variance), and comply with the Americans with Disabilities Act requirements, subject to the review and approval by Public Works and Mobility, prior to filing the final plat. <i>City Subdivision Regulations Section 3-020.2.</i>
6.	The applicant shall design and install 30-foot wide shared driveways for Lots 1-8 and Lots 10-19 for lot pairs as shown on the preliminary plat and supplemental data sheets, subject to review and approval of the City Engineer, prior to filing of the final plat. <i>Preliminary Plat and Supplemental Data Sheets.</i>
7.	The applicant shall include on the final plat one-foot no-access strips along the River Road frontage on Lots 1 and 19, along the Road A frontage except in locations of the shared driveways for Lots 1-8 and Lots 10-19, and at the hammerhead turnaround on Lots 8 and 12, as shown on the preliminary plat, subject to review and approval of the City Engineer. <i>Preliminary Plat and Effects on Public Health and Safety.</i>
8.	The applicant shall submit complete grading and drainage plans showing proposed grades of streets, proposed drainage facilities, and a storm water pollution prevention plan for all lots, blocks and other areas meeting Montana Department of Environmental Quality standards, subject to the review and approval of the City Engineer, prior to filing the final plat. All drainage facilities shall be constructed in accordance with the approved plan. <i>City Subdivision Regulations Section 5-020.11.</i>
9.	The applicant shall submit water supply, sewage disposal, and solid waste disposal plans subject to the review and approval from the City Engineer, City and County Health Department, and Montana Department of Environmental Quality prior to filing the final plat. <i>City Subdivision Regulations Section 3-070.</i>
10.	The applicant shall meet the parkland dedication requirement by providing the monetary value of 11 percent of the net lotted area of the unsubdivided, unimproved, zoned land as required in the City Subdivision Regulations, Section 3-080, and provide calculations for the total lotted area, the parkland requirement, a Summary Appraisal Report, from the City Parks and Recreation hired appraiser, establishing the then-current fair market value, and a check for the required amount, subject to the review

and approval from City Parks and Recreation, prior to filing the final plat. <i>City Subdivision Regulations Section 3-080.3.</i>
11. The applicant shall submit a boulevard landscaping plan for River Road and Road A subject to the review and approval from City Parks and Recreation, prior to filing the final plat. Boulevard landscaping shall be installed prior to final plat approval or included in an Improvements Agreement guaranteed by a security, subject to review and approval of City Parks and Recreation and Public Works and Mobility, prior to filing the final plat. <i>City Subdivision Regulations Section 5-050.4.C.</i>
12. The applicant shall provide plans for address signage and a fire hydrant plan, subject to the review and approval of City Engineering and City Fire, prior to filing the final plat. All approved fire protection improvements shall be installed in accordance with the approved plans. <i>City Subdivision Regulations Section 3-010.1.B and F.</i>
13. The applicant shall provide a street naming exhibit to be reviewed and approved by Development Services prior to filing the final plat. <i>City Subdivision Regulations Section 3-020.12.</i>
14. The applicant shall provide a street signage plan, including “No Parking” signage along the eastern side of Road A, in accordance with the Manual on Uniform Traffic Control Devices to be reviewed and approved by the City Engineer and City Fire Department with installation of approved signs prior to filing the final plat. <i>City Subdivision Regulations Section 3-020.4(H)(2).</i>
15. The applicant shall provide a Weed Management and Revegetation Plan that is appended to the covenants, conditions and restrictions, and provide evidence of plan implementation and noxious weed control subject to the review of Development Services prior to filing the final plat. <i>City Subdivision Regulations Section 5-020.14.K.</i>
16. The applicant shall provide documentation, as outlined in the Historic Preservation Officer’s letter dated December 17 th , 2021, to the Historic Preservation officer for review and approval, prior to filing the final plat. <i>City Subdivision Regulations Section 3-010.8 and Agency Comment Historic Preservation Officer.</i>
17. The applicant shall provide a final fire hydrant plan for review and approval of City Fire, prior to filing the final plat. All approved fire protection improvements shall be installed in accordance with the approved plan. <i>City Subdivision Regulations Section 3-010.1.F.</i>

II. INTRODUCTION

Development Services has received an application for a 19-lot major subdivision and rezoning on 2.37 acres at 1923 River Road, formally known as River View Subdivision, and legally described as the west half of Lot 9 in the Cobban and Dinsmore’s Orchard Homes #2, located in the NE ¼ of Section 20, Township 13 North, Range 19 West, Principal Meridian Montana. The parcel is within the River Road Neighborhood Council and part of City Council Ward 6. (*Application Packet Section A Project Summary, Page 2 Subdivision Application; Missoula County Property Information System; What’s My Zoning*).

The property is currently zoned RT10 Residential (two-unit/townhouse) and is proposed to be rezoned to RT5.4 Residential (two-unit/townhouse). The standards in the RT5.4 Residential (two-unit/townhouse) zoning district limit residential development to detached houses, lot line houses, two-unit houses, and two-unit townhouses.

The 2035 Our Missoula City Growth Policy provides a land use designation in this area as Residential Medium Density (3 to 11 dwelling units per acre). The density permitted in the proposed RT5.4 Residential (two-unit/townhouse) district is a maximum of eight dwelling units per acre and is in compliance with the growth policy. The lots range in size from 4,353 square feet to 4,573 square feet.

Access to the subdivision will be provided from River Road and Road A (a placeholder name to be changed prior to final platting). The applicant is requesting variances from the City Subdivision Regulations road standards for both streets. Improvements to River Road along the street frontage adjacent to the parcel are proposed. Road A is a new proposed Low Density Local Residential Street public right-of-way that would provide access from River Road to all 19 lots within the subdivision.

The applicant requests four variances. One is for right-of-way width and street specifications on Road A; one is for cul-de-sac/turnaround streets; one is for block length, and one is for right-of-way width on River Road.

III. SUBDIVISION FINDINGS OF FACT

A. COMPREHENSIVE PLAN AND ZONING COMPLIANCE

Findings of Fact:

1. Subdivision Regulations Section 3-010.1.I. requires that the subdivision be reviewed for compliance with the Missoula City Growth Policy and its amendments.
2. The Our Missoula 2035 City Growth Policy is the applicable regional plan and recommends a land use designation of Residential Medium Density (3 to 11 dwelling units per acre). Areas designated as Residential Medium Density are for residential building types ranging in density from 3 to 11 dwelling units per acre. This land use designation is intended to fit within many established residential neighborhoods and acknowledges single dwelling residential building types as primary use with the potential for accessory dwelling units, as well. (*Our Missoula 2035 City Growth Policy Land Use Map; "What's My Zoning?"*; *Application Packet Section A Subdivision Application page 3*).
3. According to the Our Missoula 2035 City Growth Policy, current relatable zoning districts in the Residential Medium Density (3 to 11 dwelling units per acre) land use designations include RT10 Residential (two-unit/townhouse), R8 Residential, R5.4 Residential, and RT5.4 Residential (two-unit/townhouse). (*Our Missoula 2035 City Growth Policy Land Use Map; "What's My Zoning?"*).
4. The proposed subdivision and rezoning would result in 19 lots zoned RT5.4 Residential (two-unit/townhouse) with detached houses, which results in a density of eight dwelling units per acre. This is consistent with the Residential Medium Density (3 to 11 dwelling units per acre) goals and current relatable zoning district. (*Title 20 Zoning Ordinance; Application Packet Section A Subdivision Application page 1-3 and Preliminary Plat, and Section B Zoning Map and Zoning District Standards*).
5. The City Housing Policy's goals include equity in land use by ensuring that every neighborhood in Missoula participate in addressing the city's housing issues. The Housing Policy states that housing affordability is connected to the ability to achieve more compact development patterns. The proposed RT5.4 Residential (two-unit/townhouse) zoning district allows medium density development consistent with surrounding properties and is reflective of this goal. (*Our Missoula 2035 City Growth Policy*).
6. Section 3-010.1.B of the City Subdivision Regulations states that subdivision plats must comply with the Missoula City Zoning Ordinance. The current Missoula City Zoning Ordinance is Title 20.
7. The current zoning for subject property is RT10 Residential (two-unit/townhouse), which permits detached houses, lot line houses, two-unit and three-unit townhouses, two-unit houses, and mixed-use building residential uses. The RT10 zoning district requires a minimum parcel size of 10,000 square feet and 10,000 square feet is required per unit for single-purpose residential and mixed-use. The subject property is 2.37 acres, which would allow 10 dwelling units at a density of four dwelling units per acre. (*Title 20 Zoning Ordinance; Missoula County Property Information System*).
8. The proposed zoning for the subject property is RT5.4 Residential (two-unit/townhouse), which permits detached houses, lot line houses, two-unit townhouses, two-unit houses, and mixed-use building residential uses. The RT5.4 zoning district requires a minimum parcel size of 5,400 square feet and 5,400 square feet is required per unit for single-purpose residential and mixed-use. The minimum parcel area requirement does not apply to lots created through subdivisions approved under Part 5 and Part 6 of M.C.A. 76-3 after May 6, 2019, which would be the case if this subdivision is approved. Instead, total unit yield is calculated based upon the gross parcel area divided by the minimum parcel area per unit and any applicable hillside density reductions. The subject property is 2.37 acres, which would allow 19 dwelling units at a density of eight dwelling units per acre. (*Title 20 Zoning Ordinance; Missoula County Property Information System; Application Packet Section A Subdivision Application page 3 and Preliminary Plat, and Section B Zoning Map and Zoning District Standards*).

9. The RT5.4 Residential (two-unit/townhouse) setback requirements are 20 feet from the front and rear yard, seven and one half (7.5) feet or 1/3 the building height from the interior side, and 10 feet from the street side. The maximum building height is thirty (30) feet for a building with a dominant roof pitch of less than 8:12 or thirty-five (35) feet for buildings with a dominant roof pitch of 8:12 or greater. (*Title 20 City Zoning Ordinance*).
10. The subject property currently contains one detached house and one detached shed, both of which are proposed to be removed as a result of this subdivision. The subdivision would create 19 lots. Each lot is proposed to contain one detached house with an attached garage, which would comply with the proposed zoning. The project area is 103,237 square feet, which would allow 19 dwelling units, at a density of 8 dwelling units per acre. The proposed detached houses are permitted building types in the RT5.4 Residential (two-unit/townhouse) zoning district. (*Title 20 Zoning Ordinance; Missoula County Property Information System; Application Packet Section A Subdivision Application page 3, and Section B Zoning Map and Zoning District Standards*).

Conclusions of Law:

1. The subdivision complies with both the Our Missoula 2035 City Growth Policy land use designation of Residential Medium Density (3 to 11 dwelling units per acre), and the standards of the RT5.4 Residential (two-unit/townhouse) zoning district.
2. Per State Law MCA 76-1-605(2)(b) no land use proposal shall be conditioned or denied based solely upon the lack of compliance with the Growth Policy.

B. PRIMARY CRITERIA FOR SUBDIVISION COMPLIANCE

CRITERION A AND B: IMPACT ON AGRICULTURE AND AGRICULTURAL WATER USER FACILITIES

Findings of Fact:

Agriculture:

1. Section 5-020.6.A of the City Subdivision Regulations states the applicant must demonstrate the subdivision proposal will have no adverse impacts on agriculture.
2. The Natural Resources Conservation Service (NRCS) Soil Survey for Missoula County states the subject property is 100 percent 114 – Urban Land, which is not prime farmland, prime farmland if irrigated, or land of agricultural importance. (*Application Packet Section A Subdivision Application, and Section D NRCS Soil Survey*).
3. The application packet states the property does not contain any active agricultural land based on Crop Scape GIS data from the United States Department of Agriculture National Agricultural Statistics Service, and historic aerial imagery dating back to 1972, both of which show no evidence of agricultural uses on the subject property. (*Application Packet Section A Subdivision Application, and Section B Prior Agricultural Use Map and Crop Scape Exhibit*).

Agricultural Water User Facilities:

4. Section 5-020.6.B of the City Subdivision Regulations states in areas where agricultural water user facilities exist on the subject property or adjoin the property, the application packet must identify the agricultural water user, describe any proposed changes to the agricultural water use, and describe alterations to the availability of water.
5. There are no agricultural water user facilities on or in connection with the subject property. There is an off-site irrigation ditch that runs adjacent to the southern property line operated by the Orchard Homes Irrigation Ditch Company. (*Application Packet Section A Subdivision Application*).

Conclusions of Law:

1. There will be no impact to agriculturally important soils as a result of this subdivision.
2. No impacts to agricultural water users or water user facilities are foreseen as a result of this subdivision.

3. The application packet demonstrates the subdivision proposal will have no adverse impacts on agriculture.

CRITERION C: IMPACT ON LOCAL SERVICES

1. Section 5-020.6.C of the City Subdivision Regulations states the application packet must identify the services and evaluate the impacts on those services including transportation elements, utilities, water supply, sewage disposal, solid waste disposal, schools, emergency services, and information pertaining to residential units and taxation.
2. Section 3-101.5 of the City Subdivision Regulations states the subdivision must be served by adequate public facilities and services such as transportation systems (including non-motorized), parking, police and fire protection, drainage structures, solid waste disposal, water supply, and sanitary sewage disposal; or the subdivider will provide adequately for such services.

TRANSPORTATION ELEMENTS

Findings of Fact:

3. The applicant proposes a new 29.5-foot-wide right-of-way, Road A, to provide access from all the lots within the subdivision to River Road. (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 2.3 Existing Conditions Map; 3 Subdivision Application*).
4. Section 3-020.3(A)(1) of the City Subdivision regulations requires each public road to provide for construction and perpetual maintenance of the road. Section 5-050.4(M & N) of the City Subdivision regulations requires the Special Improvement District (SID) statement to be provided on the plat and on each instrument of conveyance.

Road A

5. Road A is functionally classified as a Low Density Local Residential Street. All 19 lots within the subdivision will have access to Road A, which connects to River Road right-of-way on the northern side of the subject property. (*Subdivision Regulations; Application Packet Section A page 23-26 Subdivision Application*).
6. Subdivision Regulations for Low Density Local Residential Streets require a minimum 45-foot-wide right-of-way and a 33-foot-wide street, including two 10-foot-wide travel lanes, two 6-foot-wide parking lanes with curb and gutter, plus 7-foot-wide boulevards and two 5-foot-wide sidewalks. (*Subdivision Regulations, Article 3, Section 3-020 Table .2A*).
7. Section 3-020.3.C of the City Subdivision Regulations states public street and road rights-of-way must meet the standards in Table .2A.
8. Section 3-020.4.N of the City Subdivision Regulations states a parking lane is required on both sides of local residential streets and cul-de-sacs.
9. The applicant requests to vary from Article 3, Sections 3-020 Table .2A, 3-020.3.C, and 3-020.4.N of the City Subdivision Regulations for Low Density Local Residential Streets. The applicant is proposing a 29.5-foot-wide right-of-way with a 25.5-foot-wide street width and one parking lane for Road A. (*Subdivision Regulations; Application Packet Section A Variance, Subdivision Application pages 23-26*).
10. The applicant has addressed the variance criteria in Section 6-010.1-6 of the City Subdivision Regulations to vary from the standards of 3-020 Table .2A, and 3-020.3.C and proposes two 20-foot-wide sidewalk and utility easements alongside and adjacent to the east and west sides of Road A, which would each include one 7-foot-wide boulevard, one 5-foot-wide sidewalk, and one 8-foot-wide utility easement. (*Subdivision Regulations; Application Packet Section A Variance, Subdivision Application pages 23-26*).
11. Section 3-020.3.B of the City Subdivision Regulations states all streets within a subdivision must be dedicated public right-of-way or, at the City Engineer's discretion, may be a private street and public access with private maintenance easement. Road A is a combination of dedicated right-of-way and easements. These easements are designed to contribute to the functionality of the 29.5-foot-wide right-

of-way and 25.5-foot-wide street, while also maintaining the allowed density of the subdivision. This access is adequate for emergency access and service vehicles (*Subdivision Regulations; Application Packet Section A Variance, Subdivision Application pages 23-26; Agency Comment from Dax Fraser, City of Missoula Fire Marshal*).

12. According to City of Missoula Fire Marshall Dax Fraser, the International Fire Code requires 20 feet of unobstructed driving surface for City Fire to provide life safety and fire protection services, so parking should only be allowed on one side of the street if the variance for a narrower street section is approved. Staff recommends a condition of approval that requires "No Parking" posted along the entire eastern side of Road A to help meet this requirement. (*Personal Communication with Dax Fraser*)
13. The applicant has addressed the criteria in Section 6-010.1-6 of the City Subdivision Regulations to vary from the standards of 3-020.4.N, which requires a parking lane on both sides of local residential streets, and proposes shared driveways and no-access-strips in various locations along Road A to limit the locations of driveways and optimize on-street parking. New development on Lots 1-19 would be required to meet the minimum off-street parking requirements at the time of building permit approval. (*Subdivision Regulations; Application Packet Section A Variance, Subdivision Application pages 23-26, Title 20 City Zoning Ordinance*).
14. Staff recommends conditions of approval stating the applicant shall show all dedicated public right-of-way for Road A on the face of the plat; the applicant shall show all proposed sidewalk and utility easements on the face of the plat and identify their width and purpose, and the final plat shall include the required SID statement to provide for ongoing maintenance of Road A.
15. Section 3-020.5.A of the City Subdivision Regulations states that cul-de-sacs, loops and circle streets, and turnaround are prohibited.
16. Section 3-020.B.(3), (5) and (6) of the City Subdivision Regulations state if variances are approved for cul-de-sacs, loop or circle streets, and turnarounds, a separate set of eight standards must be met.
17. The applicant requests to vary from Article 3, Sections 3-020.5.A, 3-020.B.(3), (5), and (6) of the City Subdivision Regulations for turnaround streets and specific standards for turnaround streets. (*Subdivision Regulations; Application Packet Section A Variance, Subdivision Application pages 23-26*).
18. The applicant has addressed the variance criteria in Section 6-010.1-6 of the City Subdivision Regulations to vary from the standards of Sections 3-020.5.A, and 3-020.B.(3), (5), (6) and proposes a turnaround street that meets the International Fire Code Appendix D for hammerhead turnaround streets, so long as no parking is allowed at the end of the hammerhead turnaround on Lots 8 and 12. (*Subdivision Regulations; Application Packet Section A Variance, Subdivision Application pages 23-26; International Fire Code Appendix D*).

River Road

19. River Road is functionally classified as an Urban Collector (without parking), has a 60-foot-wide right-of-way, and provides the only access to this subdivision. (*Subdivision Regulations; Application Packet Section A Variance, Subdivision Application pages 23-26*).
20. Subdivision Regulations for Urban Collectors (without parking) require a minimum 80-foot-wide right-of-way including two 10-foot-wide travel lanes, two 5-foot-wide bike lanes and curbs and gutters, which is equals an approximate 31-foot-wide street width (back of curb to back of curb) plus 7-foot-wide boulevards and 5-foot-wide sidewalks, plus a small amount of additional space for sidewalk maintenance. Table .2A also includes the possibility of a center turn lane, which would require additional space. (*Subdivision Regulations, Article 3, Section 3-020 Table .2A*).
21. Section 3-020.3.H(2) of the City Subdivision Regulations states subdivisions abutting existing or proposed streets and roads must provide dedication of right-of-way to meet the requirements of Table .2A measured from the existing center line and extending along the entire frontage of the proposed subdivision. For River Road along the subdivision, this would require 40 feet of right-of-way instead of the existing 30 feet.

22. The applicant requests to vary from Article 3 Sections 3-020 Table .2A, and 3-020.3.H.2 of the City Subdivision Regulations for Urban Collector (without parking) streets. The variance is to waive the requirement for additional right-of-way dedication. (*Subdivision Regulations; Application Packet Section A Variance, Subdivision Application pages 23-26*).
23. The applicant has addressed the criteria in Section 6-010.1-6 of the City Subdivision Regulations to vary from the standards of 3-020 Table .2A, and 3-020.3.H.2 and proposes to maintain the existing 60-foot-wide right-of-way and install (or pay for the installation of) half street improvements to the centerline of River Road. The applicant is also proposing a 10-foot-wide sidewalk and utility easement along the north portion of Lot 1 and Lot 19 which, in addition to the River Road right-of-way, would include 7-foot-wide boulevard and 5-foot-wide sidewalks along the entire frontage of the subdivision adjacent to River Road. The half street improvements and easements would create sidewalk connectivity along River Road, which would provide additional safe pedestrian access to the Skyla Court and River Road school bus stop. (*Subdivision Regulations; Application Packet Section A Variance, Subdivision Application pages 23-26; Section B School Bus Stop Exhibit*).
24. Staff recommends a condition of approval stating the applicant shall install or pay for the cost of half street improvements to River Road along the entire frontage of the subdivision.
25. River Road is an Urban Collector that needs improvements to meet current collector standards. Because this subdivision is proposed to create 19 additional lots, City Public Works and Mobility Department staff indicated it will be necessary for street lighting to be installed at the intersection of Road A and River Road as part of a larger project to provide for nighttime traffic safety. City Public Works and Mobility Department staff has recommended requiring a waiver of the right to protest the creation of and participation in a Street Improvement District or Street Lighting Improvement District for future lighting and other improvements along River Road, which is also recommended by Development Services staff. (*Missoula Personal Communication with Troy Monroe, City Engineer for Development Review, February 4, 2022; Missoula Municipal Code Section 12.10.110 and Section 12.02*)

Non-Motorized Facilities

26. There is an existing 20-foot-wide conditional public non-motorized access easement on the south portion of Lot 7 and Lot 14 of the Carter Orchard Homes Subdivision directly adjacent to the east of the River View Subdivision. As of this writing, no trail or sidewalk has been developed within the non-motorized access easement. Section 3-020.15.B(1) states subdividers must provide active transportation facilities that provide: (a) continuous access to all lots within the subdivision and access to adjoining developments unless exempted by these regulations, and (b) safe routes to schools, playgrounds, bus stops and public parks and common areas. The applicant is proposing a 10-foot-wide public non-motorized access easement along the entire southern boundary of Lots 9-11 to provide a continued connection from the Carter Orchard Homes Subdivision to Lafray Park. (*Subdivision Regulations; Application Packet Section A Preliminary Plat; Personal Observation; County Property Information*).
27. The subdivision application submittal includes supplemental data sheets that show 5-foot-wide sidewalks within sidewalk and access easements along all street frontages within the subdivision and also connecting this subdivision to Lafray Park. (*Application Packet Section A Supplemental Data Sheets*).

Conclusion of Law:

1. The subdivision will meet the road improvement and non-motorized facility standards in the Missoula City Subdivision Regulations if variance requests numbers 1, 2, 3, and 4 are approved by City Council and the conditions of approval are imposed.

TRANSIT

Findings of Fact:

<ol style="list-style-type: none"> 1. Per Section 3-020.15.B(1)(b) of the City Subdivision Regulations, the subdivider must provide active transportation facilities that provide safe routes to schools, playgrounds, bus stops, and public parks and common areas. 2. Section 3-020.4.G of the City Subdivision Regulations states when development is adjacent to or within ¼ mile of an established public transit or school bus route, subdivider may be required by the City Engineer to construct bus stop facilities along with accessible routes, meeting ADA standards, to those facilities. Subdividers should consult with the Missoula Urban Transportation District and Missoula County Public Schools early in the planning and design process. 3. City Engineering will not be requiring the installation of bus stop facilities for this subdivision. The nearest Mountain Line bus stops are located on Russell Street roughly 0.5 miles away from the subject property. (<i>Application Packet Sections B Bus Route Map</i>). 4. School bus stops are located at the intersection of Skyla Court and River Road roughly 300 feet away from the subject property. Students will need safe access to the bus stops along the portion of River Road that fronts the subject property. In addition to the existing River Road right-of-way, the applicant is proposing 10-foot-wide sidewalk and utility easements that will include one 7-foot-wide boulevard and one 5-foot-wide sidewalk along the subdivision property. (<i>Application Packet Section A Supplemental Data Sheets, Section B School Bus Stop Exhibit</i>).
<p><u>Conclusion of Law:</u></p> <ol style="list-style-type: none"> 1. The subdivision provides active transportation facilities that provide safe routes to bus stops and a public park in compliance with Section 3-020.15.B(1)(b) of the City Subdivision Regulations.
<p>DRAINAGE</p>
<p><u>Findings of Fact:</u></p> <ol style="list-style-type: none"> 1. Section 3-040 of the City Subdivision Regulations provides minimum standards for site grading and control of storm water runoff. 2. Section 3-040.2.E of the City Subdivision Regulations states all drainage systems must meet the minimum standards of the Montana Department of Environmental Quality (DEQ), as required by MCA Title 76, Chapter 4 and 5, Part 1, as amended, and all applicable state and local regulations. 3. The subdivision application submittal contains a grading and drainage report that evaluates pre- and post-development conditions. Groundwater monitoring has been completed in two separate locations for this project and monitored from April 2021 to July 2021 to demonstrate adequate distance between sumps and groundwater. Based on the monitoring from this spring, these results show the groundwater at 16.5 feet below ground at the highest point. With a standard eight-foot drywell sump and two feet of drain rock, the 10-foot total depth exceeds the minimum four feet of separation between groundwater and the bottom of the drywell. This should be adequate for the use of the drywell sumps. (<i>Application Packet Section D Grading and Drainage Report, Section G Agency Comment from Andy Schultz, City Engineer for Utilities, Public Works & Mobility</i>). 4. The applicant is required to submit complete grading and drainage plans showing proposed grades of streets, proposed drainage facilities, and a storm water pollution prevention for all lots, blocks and other areas meeting Montana Department of Environmental Quality standards, subject to the review and approval of the City Engineer, prior to filing the final plat, as per Section 3-040 and Section 5-020.11 of the City Subdivision Regulations. All drainage facilities must be constructed in accordance with the approved plans.
<p><u>Conclusions of Law:</u></p> <ol style="list-style-type: none"> 1. The subdivision will meet the grading and drainage standards in the Missoula City Subdivision Regulations and Montana Department of Environmental Quality if the recommended condition of approval is imposed. 2. Final grading, drainage and stormwater plans will be reviewed and approved by City Engineer prior to final plat approval.

WATER SUPPLY, SEWAGE DISPOSAL AND SOLID WASTE

Findings of Fact:

1. This subdivision is within the Missoula Wastewater Facility Service Area. All 19 lots are planned to be connected to the existing water and sanitary sewer mains in River Road. The subdivision application submittal includes a water and sanitation report meeting the requirements of the City Public Works & Mobility Department. (*Utility Construction Plans, Subdivision Application*).
2. Republic Services will provide disposal service to the subdivision. (*Application Packet Section A, Page 30 Subdivision Application*).
3. Staff recommends a condition of approval that requires review and approval of the water system, sewage disposal system, and solid waste from the City Engineer, City and County Health Department, and Montana Department of Environmental Quality prior to filing the final plat per Section 3-070.1 of the City Subdivision Regulations.

Conclusions of Law:

1. Public sewer and water services are available to the subdivision. Each lot will be served by municipal sewer and water facilities in compliance with the Subdivision Regulations, if the recommended condition of approval is imposed.
2. Solid waste disposal service will be available to the subdivision and will be in compliance with Subdivision Regulations, if the recommended condition of approval is imposed.
3. Review of water supply, sewage disposal, and solid waste is under the jurisdiction of state and local health authorities under the Montana Sanitation in Subdivision Act.

PARKS AND RECREATION

Findings of Fact:

1. Section 3-080.3A of the City Subdivision Regulations requires parkland dedication equal to 11 percent of the net lotted area in subdivisions for residential lots of 0.5 acres or smaller. All of the lots within the River View Subdivision are smaller than 0.5 acres.
2. The total lotted acreage of the subdivision 1.89 acres. Eleven percent of 1.89 acres is 0.209 acres, the amount needed to meet the parkland dedication requirement. (*Application Packet Section A Page 35 Subdivision Application, Preliminary Plat*).
3. Section 3-080.6 and .7 of the City Subdivision Regulations provides for cash donation in lieu of land dedication. The subdivision application states, and the City Parks and Recreation Department confirmed, this subdivision is within the service area of Lafray Park, a public park, directly adjacent on the southwestern boundary. The applicant proposes to meet the parkland dedication requirement through cash in lieu of parkland. (*Application Packet Section A Page 35 Subdivision Application, Preliminary Plat; Agency Comment from Neil Miner, City Parks and Trails Design and Development Manager*).
4. Section 5-050.4 of the City Subdivision Regulations requires the applicant to submit a boulevard landscaping plan. Staff recommends a condition of approval requiring the applicant to submit a boulevard landscaping plan, subject to the review and approval by the City Parks and Recreation Department, prior to filing the final plat.

Conclusion of Law:

1. Parkland dedication is required in this subdivision in accordance with the City Subdivision Regulations. The subdivision, as proposed, will meet the parkland dedication requirements if the condition of approval is imposed.
2. City Subdivision Regulations require plans for boulevard landscaping, which will be reviewed and approved prior to filing the final plat if the conditions of approval are imposed.

SCHOOLS

Findings of Fact:

1. Students will attend Hawthorne Elementary, C.S. Porter Middle School, and Big Sky High School. (*Application Packet Sections A, Page 33 of Subdivision Application*).
2. Based on US Census Bureau data, the application estimates approximately one child per two households, resulting in 9 to 10 school age children living in the subdivision at any given time. (*Application Packet Section A Page 33, Subdivision Application*).
3. A School Bus Stop Exhibit was provided and shows an existing school bus stop on the corner of Skyla Court and River Road, less than 300 feet away from this subdivision. (*Application Packet Section B School Bus Stop Exhibit*).
4. An agency comment request was sent to Hawthorn Elementary, C.S. Porter Middle School and Big Sky High School to determine if this subdivision would create any adverse impacts. The principals from Hawthorne Elementary and Big Sky High School responded, indicating that an increase would not cause adverse impacts. C.S. Porter Middle School did not submit comment at the time of this report. (*Application Packet, Section A Page 33 Subdivision Application, Section E School Inquiry*).

Conclusion of Law:

1. No adverse impacts to schools requiring mitigation have been identified.

FIRE DEPARTMENT

Findings of Fact:

1. The Missoula City Fire Department will serve the subdivision. The nearest station is located approximately 2.5 miles away on Pine Street (*Application Packet, Section A Page 33 Subdivision Application*).
2. Section 3-070.1 of the City Subdivision Regulations requires that water supply for fire protection be provided via a public or community water system with 1,000 gallons per minute minimum flow, or via residential sprinkler systems.
3. Existing fire hydrants are located near the property. There are existing hydrants on the corner of Carter Court and River Road adjacent to the subject property, on the corner of Skyla Court and River Road, on Lafray Lane along the west side of Lafray Park, on Idaho Street to the south of the subject property, and on the corner of Johnson Street and Montana Street to the south of the subject property. (*Application Packet Section B Fire Hydrants Exhibit*).
4. City Fire requests that one new fire hydrant be installed on the south side of Road A near the end of the turnaround on Lot 10. (*Utility Construction Plans, Subdivision Application*).
5. Staff recommends a condition of approval stating a fire hydrant plan must be reviewed and approved by City Fire prior to final plat approval.
6. City Fire requires an addressing system to be developed that conforms to the addressing requirements of the City and County Office of Emergency Management in order to facilitate access by emergency personnel. Staff recommends a condition of approval that requires the applicant to develop an address signage plan approved by City Fire. (*City Subdivision Regulations Section 3-010.1.F*).
7. City Subdivision Regulations Section 3-020.4(H)(2) requires the applicant to submit plans for street signs and traffic control devices in accordance with the Manual on Uniform Traffic Control Devices to be reviewed and approved by the City Engineer and City Fire Department, with installation of approved signs prior to filing the final plat. Staff recommends a condition of approval that reflects this requirement. *City Subdivision Regulations Section 3-020.4(H)(2)*.

Conclusion of Law:

1. Fire service is available to the subdivision if the recommended conditions of approval are imposed.

LAW ENFORCEMENT

Findings of Facts:

1. The subdivision is located within the jurisdiction of the Missoula Police Department. (*Application Packet Sections A Page 33 Subdivision Application*).
2. The City of Missoula Police Department is located two miles from the River View Subdivision. (*Application Packet Sections A Page 33 Subdivision Application*).

Conclusions of Law:

1. Law enforcement services are available to the River View Subdivision.

CRITERIA D, E, AND F: IMPACT ON THE NATURAL ENVIRONMENT, WILDLIFE, AND WILDLIFE HABITAT

Findings of Fact:

1. Section 5-020.6.D states the application packet must identify natural environmental resources and evaluate the subdivision's potential impacts on those resources including adjacent public lands, cultural resources, hydrological characteristics, soil characteristics and vegetative cover types.

Public Lands

2. The subject property is adjacent to public lands. Lafray Park is adjacent directly to the west of the River View Subdivision. The applicant is proposing a six-foot-wide non-motorized sidewalk easement and five-foot sidewalks to provide access from the subdivision to Lafray Park. (*Application Packet, Section A Page 13 Subdivision Application; Preliminary Plat*).

Cultural Resources

3. The Montana State Historic Preservation Office (SHPO) provided comment stating that any structure of 50 years of age is considered historic and is potentially eligible for listing on the National Register of Historic Places. If any structures are within the Area of Potential Effect, and are over 50 years old, SHPO recommends that they be recorded, and a determination of their eligibility be made prior to any disturbance taking place. (*Application Packet Sections A Page 14 Subdivision Application, Section E SHPO Report*).
4. Agency comment was requested from the City Historic Preservation Officer, Emily Johnson, who concurs with SHPO's recommendation that because a historic structure known to be over 50 years old will be impacted by the proposed development, historic documentation should be provided for the property. This documentation should include (1) a detailed site history that documents the physical development of the property/landscape, (2) photographs of all four exterior elevations of any buildings on the property to be significantly altered or removed, and (3) reproductions of any available historic images or documents related to the property. In addition to property documentation, Confederated Salish & Kootenai Tribes (CSKT) comment on the development should be considered when determining any additional historic preservation mitigation options. (*Application Packet Section G Agency Comment*).
5. Staff recommends a condition of approval requiring the applicant to submit all documentation necessary for the Historic Preservation Officer to determine this subdivision will not result in a negative impact on historic or cultural resources, prior to filing the final plat.

Hydrological & Soil Characteristics

6. The application states that there is no presence of high ground water based on the groundwater monitoring results. This monitoring consisted of two wells and collected 11 different data points from April 2021 to July 2021. The data showed that June 4th, 2021 is when the ground water was closest to existing grade measuring at 16.5 feet for well #1 and 16.9 feet for well #2. The Natural Resource Conservation Services (NRCS) report submitted with the application concludes this property contains soils classified as 114-Urban Land. (*Application Packet Section A Page 15 Subdivision Application, Section D Grading and Drainage Report, and NRCS Soil Report*).
7. The application states this property is not within a 100-year or Special Flood Hazard Area based on Floodplain Panel 30063C1195E. (*Application Packet Section A Page 16 Subdivision Application*).
8. No riparian resources exist on the property (*Application Packet Sections 1 Project Summary; 3 Subdivision Application*).

Noxious Weeds

9. Subdivision Regulations Section 3-010.1F requires the subdivision to comply with other regulations applicable to the land proposed for subdivision.
10. The Missoula County Noxious Weed Management Plan, adopted by Resolution 2012-063, requires a weed management plan as part of subdivision plans.
11. The application packet includes a weed management and revegetation plan. The weed management plan states weeds will be managed with a combination of hand pulling, herbicide treatments and mowing. It states areas disturbed during construction should be reseeded as soon as possible to prevent weed establishment (*Application Packet Section C River View Weed Management Plan*).
12. The following statement is included in the development covenants: “Weed Control: The owner of each Lot or Ownership Unit which is not in immediate development or does not have improvements being constructed thereon is responsible to maintain such owner’s Lot or Ownership Unit in compliance with the Montana’s Noxious Weed Control Act, and the attached Exhibit A Weed Management and Revegetation Plan. Owners shall revegetate any ground disturbance created by construction or maintenance with beneficial species at the first appropriate opportunity after construction or maintenance is complete, pursuant to the Exhibit A Plan. This provision may not be amended or deleted without governing body approval.” (*Application Packet Section 3 Covenants*).

Wildlife and Wildlife Habitat

13. The subdivision application indicates the property may support common wildlife mammals including rodents, skunks, bats, porcupine, deer, elk, moose, bear, mountain lion, coyote, and fox. Potential bird species in the area are the Evening Grosbeak, Hummingbird, and Bald Eagle. Section 22 of the covenants includes information for lot purchasers about living with wildlife and advises lot owners of potential issues associated with wildlife concerning pets, garbage, and other potential areas of conflict. (*Application Packet Section 3 Covenants, Subdivision Application Page 19*).

Conclusion of Law:

1. No impacts to the natural environment, wildlife, and wildlife habitat are foreseen as a result of this subdivision.
2. No historic or cultural resources will be impacted as a result of this subdivision, if the recommended condition of approval is imposed.

CRITERION G: EFFECTS ON PUBLIC HEALTH AND SAFETY

Findings of Fact:

1. Section 5-020.6.G of the City Subdivision Regulations states the applicant must demonstrate that the subdivision will have no adverse impact on conditions that relate to the public health and safety including disease control and prevention, emergency services, environmental health, flooding, fire or wildfire hazards, rock falls or landslides, unstable soils, steep slopes, and other natural hazards, high voltage lines or high pressure gas lines, on-site or nearby off-site land uses that create a nuisance (e.g. noise, dust, smoke, unpleasant odors), and air or vehicular traffic safety hazards.
2. Subdivision Regulations Section 3-010.2 requires the mitigation of hazards to subdivision development, including but not limited to flooding and slopes of 25% or more.
3. The subject property is outside of the FEMA-identified 1% annual chance flood hazard areas and floodplain (*Application Packet Section A Page 16 Subdivision Application, Section B Floodplain Map*).
4. The subject property does not contain areas with slopes of 25% or greater or other apparent hazards. (*Application Packet Section A Page 21 Subdivision Application, and Supplemental Data Sheets*).

Conclusion of Law:

1. No adverse impacts to public health and safety are foreseen as a result of this subdivision if the recommended conditions of approval are imposed.

IV. PRIMARY CRITERIA COMPLIANCE

This subdivision complies with:

1. SURVEY REQUIREMENTS

Findings of Fact:

1. The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with Part 4 of M.C.A. 76-3.
2. City Subdivision Regulations Section 4-070 includes a process to ensure final plats contain all necessary seals and certificates prior to filing and comply with state survey requirements.

Conclusion of Law:

1. This proposal meets the survey requirements.

2. SUBDIVISION REGULATIONS

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision regulations provided for in Part 5 of M.C.A. 76-3.

Conclusion of Law:

1. The plat will be brought into compliance with the local subdivision regulations if the conditions of approval are imposed.

3. REVIEW PROCEDURE

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in Article 4 of the Missoula City Subdivision Regulations.
2. Notice of a public hearing for this subdivision was posted on the property on January 27th, 2022 and letters were mailed to adjacent property owners on January 27th, 2022. Legal notice is scheduled to be published in the Missoulian on January 30, 2022 and February 6, 2022.
3. The Planning Board public hearing is scheduled for February 15, 2022 and the City Council public hearing is scheduled for March 7th, 2022.
4. City Council is scheduled to give final consideration to this subdivision on March 14th, 2022. The 60-working day review period for this subdivision expires on March 23rd, 2022.

Conclusion of Law:

1. This subdivision review has followed the necessary application procedure and has been reviewed within the procedures provided in Article 4 of the Missoula City Subdivision Regulations and the Montana Subdivision and Platting Act.

V. PROVISION OF EASEMENTS FOR UTILITIES

Findings of Fact:

1. The subdivision will be served by city water and sewer (*Application Packet Section A Preliminary Plat, Page 30 Subdivision Application*).
2. Access to utilities is proposed to be provided to the subdivision with two 20-foot-wide sidewalk and utility easements that run along the western and eastern boundary of Road A, 10-foot wide sidewalk and utility easements on the northern boundary for Lots 1 and 19, 10-foot-wide sidewalk and utility easement on the southern boundary of Lot 8, 20-foot-wide sidewalk and utility easement on the northern boundary of Lots 9, 10, and 11. (*Application Packet Section A Preliminary Plat, Supplemental Data Sheets, Page 30 Subdivision Application*).

3. All utilities necessary to serve the subdivision, including water, sewer, electrical, phone and power, are planned to be located within public access and utility easements and public rights-of-way. This project does not propose overhead utilities. (*Application Packet Section A Preliminary Plat, Supplemental Data Sheets, Page 30 Subdivision Application*).
4. The subdivision will be served by Northwestern Energy for electricity and gas within appropriate easements. (*Application Packet Section A Page 30 Subdivision Application*).
5. Staff recommends a condition of approval that requires access and utility easements be provided per 3-060 of the City Subdivision Regulations prior to filing the final plat.

Conclusion of Law:

1. Utility services are available to this subdivision and the subdivision will be in compliance with the Subdivision Regulations if the condition of approval is imposed.

VI. PROVISION OF LEGAL AND PHYSICAL ACCESS

Finding of Fact:

1. Legal and physical access would be provided to the subdivision via one existing public right-of-way: River Road. Access to the lots would be provided via one new, publicly dedicated right-of-way: Road A, which would include a new street and sidewalks. (*Application Packet Section A Project Summary, and Preliminary Plat*).

Conclusion of Law:

1. The subdivision proposal meets the physical and legal access requirements of the City Subdivision Regulations.

VII. VARIANCE REQUEST

VARIANCE REQUEST #1 – Road A

A variance is requested from Article 3, Sections 3-020 Table .2A, 3-020.3.C and 3-020.4.N of the City Subdivision Regulations which prescribe road design standards and requires public street and road rights-of-way to meet Table .2A, and requires a parking lane on both sides of local residential streets and cul-de-sacs.

Road A would be functionally classified as a Low Density Local Residential Street and requires a minimum 45-foot wide right-of-way, minimum 33-foot wide street, which includes two 10-foot-wide travel lanes and two 6-foot-wide parking lanes, and 7-foot-wide boulevards and 5-foot-wide sidewalks. Bike lanes are not required for Low Density Local Residential Streets.

The applicant requests to vary from the requirements for a Low Density Local Residential Street and proposes a 29.5-foot-wide right-of-way and a 25.5-foot-wide street width for Road A with one 7-foot-wide parking lane, plus standard boulevards and sidewalks in easements as opposed to dedicated right-of-way. (*Application Packet Section A Project Summary page 1, Subdivision Application page 7, and Variances, Section D Road Construction Plans page 11*).

RECOMMENDATION:

Development Services recommends **APPROVAL** of the variance request to allow a 29.5-foot-wide right-of-way with a 25.5-foot-wide street, and one 7-foot-wide parking lane for all of Road A, based on the findings of fact:

FINDINGS:

- A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.**

Granting of the variance does not pose a threat to public safety, health, or welfare. Road A would contain two 10-foot-wide driving lanes and one 7-foot-wide parking lane on the west side, with no parking allowed on the east side as required by City Fire. The applicant is proposing strategically

placed no-access-strips to limit the location of driveways and optimize on-street parking. Further, the applicant is proposing two 20-foot-wide sidewalk and utility easements adjacent to and alongside the east and west sides of Road A right-of-way, which would each include 7-foot-wide boulevards, 5-foot-wide sidewalks, and 8-foot-wide utility easements. These easements contribute to the functionality of the 29.5-foot-wide right-of-way resulting in safe and adequate traffic circulation for motorized and non-motorized transportation. (*Application Packet Section A Variances, Subdivision Application page 7, and Preliminary Plat*).

B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.

The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other properties. This property is a narrow, elongated shape at 162.66 feet wide and 638.15 feet long and has one legal access from River Road. The unique shape minimizes the road configuration options while also optimizing the residential density potential. Road A is designed to provide safe and effective access for all 19 Lots to River Road. (*Application Packet Section A Variances, and Preliminary Plat*).

C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.

The applicant is proposing two 20-foot-wide sidewalk and utility easements adjacent to and alongside the east and west sides of Road A right-of-way, which will each provide 7-foot-wide boulevard, 5-foot-wide sidewalks, and 8-foot-wide utility easement. These easements allow for the creation of 19 lots while also contributing to the functionality of the 29.5-foot-wide right-of-way. Strict enforcement of the regulations would result in a hardship because complying with the required right-of-way width, in addition to the required zoning setback, would reduce the feasible density to about half of what is being proposed. Granting the variance meets our Growth Policy focus inward and infill goals by allowing more area to be dedicated to lot development. (*Application Packet Section A Variances, and Preliminary Plat*).

D. The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy;

Approving this variance request will not violate the provisions of the Missoula City Zoning Ordinance or Our Missoula 2035 City Growth Policy. Road A will provide for all modes of transportation between the dedicated right-of-way and easements. (*Application Packet Section A Variances, and Preliminary Plat*).

E. The variance will not cause an increase in public costs.

Approval of the variance will not cause an increase in public costs because the street and sidewalks can be maintained over time in the same manner as other streets and sidewalks in the city. (*Application Packet Section A Variances, and Preliminary Plat*).

F. The hardship has not been created by the applicant or the applicant's agent or assigns.

The hardship has not been created by the applicant or the applicant's agent or assigns. The hardship is a result of one access point to a public right-of-way and parcel configuration. (*Application Packet Section A Variances, and Preliminary Plat*).

VARIANCE REQUEST #2 – ROAD A DEAD-END TURNAROUND

A variance is requested from Article 3, Sections 3-020.5.A, 3-020.5.B(3), 3-020.5.B(5), and 3-020.5.B(6) of the City Subdivision Regulations which prohibit cul-de-sacs, loop and circle streets, and turnarounds. If variances are approved for cul-de-sacs, loop or circle streets, and turnarounds, a separate set of eight standards must be met (discussed below).

The applicant requests to vary from the requirement that prohibits turnaround dead-ends, and further requests to vary from turnaround street standards, including the requirement that turnarounds may not

represent more than 15% of the total roadway miles in a subdivision, the minimum right-of-way radius is 50 feet, and the minimum pavement width is 45 feet.

RECOMMENDATION:

Development Services recommends **APPROVAL** of the variance request to allow for a turnaround street, Road A, further approving the variance for specific turnaround design standards, including the requirements that turnarounds may not represent more than 15% of the total roadway miles in a subdivision, the right-of-way radius must be a minimum of 50 feet, and the pavement width must be a minimum of 45 feet, based on the findings of fact:

FINDINGS:

- A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.**

Granting of the variance as submitted does not pose a threat to public safety, health, or welfare. Both motorized and non-motorized circulation will increase as a result of the proposed subdivision. The proposed sidewalk easements along Road A connect to Lafray Park, providing additional pedestrian access. The turnaround design allows for adequate access for emergency vehicles. (*Application Packet Section A Variances, and Preliminary Plat; International Fire Code Appendix D*).

- B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.**

The conditions upon which the request for variance are based are unique to the property as the existing parcel shape, public right-of-way access, and lack of connectivity through adjoining properties are all limiting factors. The turnaround design allows for the maximum residential density while also providing adequate access to all proposed lots. (*Application Packet Section A Variances, and Preliminary Plat*).

- C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.**

Enforcing the strict letter of the regulations would result in a hardship to the owner. The physical surroundings of the subject property are consumed with a built out residential subdivision, public park, and warehouse building, all of which eliminate the possibility of any through connection from the turnaround. (*Application Packet Section A Variances, and Preliminary Plat*).

- D. The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy;**

This variance request will not violate the provisions of the Missoula City Zoning Ordinance or Our Missoula 2035 City Growth Policy. The turnaround design implements safe access for emergency vehicles and other motorized and non-motorized traffic, and provides sidewalk access to public parks. (*Application Packet Section A Variances, and Preliminary Plat*).

- E. The variance will not cause an increase in public costs.**

Granting this variance will not cause an increase in public costs. All site improvements of the turnaround will occur on the subject property and be paid for by the applicant. No additional or unusual maintenance costs are expected. (*Application Packet Section A Variances, and Preliminary Plat*).

- F. The hardship has not been created by the applicant or the applicant's agent or assigns.**

The hardship has not been created by the applicant or the applicant's agent. It is due to the unique shape of the lot and lack of options for connectivity due to existing surrounding development.

ARTICLE 3-020.5.B. IF APPROVED BY VARIANCE, THE FOLLOWING STANDARDS APPLY

FINDINGS:

- (1) Where additional future street extension is proposed, a temporary turn-around or cul-de-sac must be provided.**

No future street extensions are proposed with this subdivision. (*Application Packet Section A Variances, and Preliminary Plat*).

- (2) Cul-de-sacs and turnarounds must meet the requirements of the City Engineer and Fire Chief.**

The proposed turnaround, currently known as Road A, will meet both the City Engineering and Fire Chief requirements. (*Application Packet Section A Variances, and Preliminary Plat; International Fire Code Appendix D*).

- (3) Permanent cul-de-sac streets may not represent more than 15% of the total roadway miles in a subdivision unless the Office of Planning and Grants Director, and the City Engineer determines that a practical difficulty exists due to the presence of streams, steep slopes, other natural resources or significant physical constraints. Connections must be made with existing roads or streets or planned roads or streets.**

Proposed Road A represents 100% of the roadway miles within the subdivision. The property is surrounded by existing development, with no other street connections available. Development Services and Public Works & Mobility Department staff has found the property configuration and location surrounded by existing development results in no reasonable alternative to the proposed design. (*Application Packet Section A Variances, and Preliminary Plat*).

- (4) The maximum length of a cul-de-sac street must not be more than 600 feet.**

The distance from River Road to the southern terminus of the proposed turnaround is approximately 554 feet. (*Application Packet Section A Variances, and Preliminary Plat*).

- (5) The minimum right-of-way of the turn-around or cul-de-sac radius is 50 feet.**

The proposed turnaround for this property has 20-foot widths on the eastern and western edges. The entire length of the turnaround is 120 feet with a turnaround radius of 28 feet. The standards in the subdivision regulations are applicable to cul-de-sac style turnaround designs rather than a hammerhead turnaround design. The turnaround provides adequate access for safe and efficient emergency access. (*International Fire Code Appendix D*).

- (6) The minimum pavement width of the turn-around or cul-de-sac radius is 45 feet.**

The proposed turnaround for this property has 20-foot widths on the eastern and western edges. The entire length of the turnaround is 120 feet with a turnaround radius of 28 feet. The standards in the subdivision regulations are applicable for cul-de-sac style turnaround designs rather than a hammerhead turnaround design. The turnaround provides adequate access for safe and efficient emergency access.

- (7) Cul-de-sacs over 45 feet in radius must include a water permeable center island.**

The proposed turnaround does not exceed 45 feet in radius. This specific standard is not applicable for the proposed turnaround.

- (8) Development with cul-de-sacs, circle and loop streets, or turnarounds must provide non-motorized access easements that connect the ends of these streets with each other or provide non-motorized access to existing or reasonably expected future streets, schools, shopping, parks, trails, or open space, bus stops and community facilities.**

The proposed turnaround dead ends both to the east and west at the southern end of the property. The west side dead end is directly adjacent to the east of Lafray Park. Non-motorized transportation infrastructure including a 5-foot sidewalk, has been proposed to connect the southern end of proposed Road A with Lafray Park. The east side dead end is adjacent to the Carter Orchard Homes Subdivision which contains a cul-de-sac and no through connection option. (*Application Packet Section A Variances, and Preliminary Plat*).

VARIANCE REQUEST #3 – LOTS AND BLOCKS

A variance is requested from Article 3, Sections 3-030.2.A(2) of the City Subdivision Regulations, which states blocks may not exceed a maximum length of 480 feet in urban and sub-urban subdivisions.

This variance is requested to allow the block length of Road A to be roughly 534 feet. (*Application Packet Section A Variances, and Preliminary Plat*).

RECOMMENDATION:

Development Services recommends **APPROVAL** of the variance request allowing a block length of roughly 534 feet.

FINDINGS:

- A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.**

The granting of this variance does not result in a threat to the public safety, health, or welfare. Road A, as proposed with the right-of-way, easements and turnaround, provides adequate access for emergency vehicles, and motorized and non-motorized traffic. It is intended to provide vehicular and pedestrian access to subdivision residents and visitors and will have no impact on other persons or property. (*Application Packet Section A Variances, and Preliminary Plat*).

- B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.**

This property is a narrow, elongated shape at 162.66 feet wide and 638.15 feet long and has one legal access from River Road. The unique shape minimizes the road configuration options while the proposed road configuration optimizes the residential density potential. Granting this variance to block length allows Road A to provide safe and accessible access to all 19 Lots in the subdivision. This is a condition that is unique to the property and not generally applicable to other properties. (*Application Packet Section A Variances, and Preliminary Plat*).

- C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.**

Enforcing the strict letter of the regulations would result in a hardship to the owner. Requiring road connections within the minimum 480-foot block length along Road A would not result in an increase of connectivity as there are no road connections available on the adjacent properties. The physical surroundings of this parcel are consumed with a built out residential subdivision, public park, and warehouse building. (*Application Packet Section A Variances, and Preliminary Plat*).

- D. The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy;**

This variance request will not violate the provisions of the Missoula City Zoning Ordinance or Our Missoula 2035 City Growth Policy. (*Our Missoula 2035 City Growth Policy; Application Packet Section A Variances*).

- E. The variance will not cause an increase in public costs.**

Approval of this variance will not cause an increase in public costs. (*Application Packet Section A Variances*).

- F. The hardship has not been created by the applicant or the applicant's agent or assigns.**

The hardship has not been created by the applicant or the applicant's agent. The hardship is a result of parcel shape and surrounding land uses. (*Application Packet Section A Variances, and Preliminary Plat; County Property Information System*).

VARIANCE REQUEST #4 – RIVER ROAD

A variance is requested from Article 3, Sections 3-020 Table .2A, and 3-020.3.H.(2) of the City Subdivision Regulations which requires public street and road rights-of-way to meet Table .2A and requires dedication of right-of-way to meet the requirements of Table .2A.

River Road is functionally classified as an Urban Collector (without parking), which typically includes a minimum 80-foot-wide right-of-way. Within the right-of-way are typically two 10-foot-wide travel lanes and two 5-foot-wide bike lanes, which equals an approximate 31-foot-wide street width (back of curb to back of curb), plus 7-foot-wide boulevards, 5-foot-wide sidewalks, and additional space for sidewalk and utility maintenance. Table .2A also includes the possibility of a center turn lane, which would require additional space. (Subdivision Regulations, Article 3, Section 3-020 Table .2A).

The existing right-of-way for River Road is 60 feet wide. The applicant requests to vary from the 80-foot right-of-way requirement for an Urban Collector (without parking) street while constructing (or paying the costs for constructing) additional asphalt, new curb, gutter, boulevards, and sidewalks on River Road along the subdivision frontage. (*Application Packet Section A Project Summary page 1, Subdivision Application page 7, and Variances, Section D Road Construction Plans page 11*).

RECOMMENDATION:

Development Services recommends **APPROVAL** of the variance request to allow the existing 60-foot-wide right-of-way and proposed improvements.

FINDINGS:

A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

Granting of the variance does not pose a threat to public safety, health, or welfare. River Road is currently a 60-foot-wide right-of-way and currently provides safe public access. Dedicating additional right-of-way to the Urban Collector (without parking) standards will not contribute to an increase in public safety along this right-of-way. The applicant is proposing 10-foot-wide sidewalk and utility easements that will include a 7-foot-wide boulevard and 5-foot-wide sidewalk on River Road along the entire frontage of the subject property. These easements will contribute to the functionality of River Road and will increase the safe pedestrian access. (*Application Packet Section A Project Summary page 1, Subdivision Application page 7, and Variances, Section D Road Construction Plans page 11*).

B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.

The conditions upon which the request for variance are based are unique to this property because the entire River Road right-of-way is 60 feet. Requiring dedicated right-of-way above and beyond what the remaining properties along River Road have dedicated is not necessary to achieve public health and safety. (*Application Packet Section A Project Summary page 1, Subdivision Application page 7, and Variances, Section D Road Construction Plans page 11*).

C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.

River Road currently provides adequate and safe transportation without meeting the requirements for an Urban Collector (without parking). Strict enforcements of these regulations will result in a hardship to the owner because dedicating additional right-of-way will not improve the functionality of

River Road as the entire portion is 60 feet. (*Application Packet Section A Project Summary page 1, Subdivision Application page 7, and Variances, Section D Road Construction Plans page 11*).

D. The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy;

This variance request will not violate the provisions of the Missoula City Zoning Ordinance or Our Missoula 2035 City Growth Policy. (*Application Packet Section A Project Summary page 1, Subdivision Application page 7, and Variances, Section D Road Construction Plans page 11*).

E. The variance will not cause an increase in public costs.

This variance request will not cause an increase in public costs. (*Application Packet Section A Project Summary page 1, Subdivision Application page 7, and Variances, Section D Road Construction Plans page 11*).

F. The hardship has not been created by the applicant or the applicant's agent or assigns.

The hardship has not been created by the applicant or the applicant's agent. The hardship is the result of existing conditions along River Road. (*Application Packet Section A Project Summary page 1, Subdivision Application page 7, and Variances, Section D Road Construction Plans page 11*).

VIII. REZONING REVIEW CRITERIA

Criterion 1a. Whether the zoning is made in accordance with a growth policy;

1. The rezoning complies with the Growth Policy because RT5.4 Residential (two-unit/townhouse) zoning district is a current relatable district of the Residential Medium Density (3 to 11 dwelling units per acre) land use designation.
2. The rezoning complies with many of the focus inward goals and objectives of the growth policy.

Criterion 2a. Whether the zoning is designated to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; 2b. Whether the zoning considers the effects on motorized and non-motorized transportation systems;

1. The rezoning facilitates the adequate provision of public services, including transportation, water, schools, parks, and other public requirements. The subject property is inside the Urban Growth Area and the Sewer Service Area, and is served by City water, sewer, motorized and non-motorized transportation.

Criterion 3. Whether the zoning considers the promotion of compatible urban growth;

1. The rezoning reflects compatible urban growth because it implements the focus inward goal of the 2035 Our Missoula City Growth Policy and provides for increased density while promoting efficient use of existing infrastructure.

Criterion 4a. Whether the zoning is designated to promote public health, public safety, and the general welfare; 4b. Whether the zoning is designed to secure safety from fire and other dangers; 4c. Whether the zoning considers the reasonable provision of adequate light and air; 4d. Whether the zoning conserves the value of buildings and encourages the most appropriate use of land throughout the jurisdictional area;

1. The rezoning will promote public health, public safety, and the general welfare by providing for increased residential density in an area with access to sewer, public water, emergency services, streets, public parks, schools, and other urban services.
2. Emergency services are available to the site. Law enforcement personnel and facilities area available to address potential problems of noise, property damage, or personal injury. Fire project is also available to the site.
3. This rezoning should not adversely impact the provision of adequate light and air as all future development will meet the required internal and external zoning, building and engineering requirements.
4. This rezoning encourages appropriate use of the land because the RT5.4 Residential (two-

unit/townhouse) zoning district allows a density that matches the Growth Policy Residential Medium Density (3 to 11 dwelling units per acre) land use designation.

Criterion 5. Whether the zoning considers the character of the district and its peculiar suitability for particular uses;

1. The rezoning to RT5.4 Residential (two-unit/townhouse) is suitable for the subject property and gives reasonable consideration to the character of the neighborhood because the proposal allows for similar density as surrounding properties and the same building types.
2. The rezoning considers the location and character of the property, which has easy access to urban infrastructure and services in Missoula.

Criterion 6a. Whether the proposed zoning amendment corrects an error or inconsistency in the zoning ordinance or meets the challenge of a changing condition; 6b. Whether the proposed zoning amendment is in the best interests of the city as a whole;

1. The zoning amendment is a map amendment and not a text amendment, therefore there is no change to the Title 20 zoning ordinance with the map amendment to rezone the subject property from RT10 Residential (two-unit/townhouse) to RT5.4 Residential (two-unit/townhouse).
2. The rezoning is in the best interest of the city as a whole because the rezoning implements the recommendations of the 2035 Our Missoula City Growth Policy for areas designated Residential Medium Density.
3. The rezoning promotes compatible urban growth because it is inside the Waste Water Service Area and served by public infrastructure and services, including motorized and non-motorized transportation, water, sewer, schools, parks, and public utilities and services. Further, the rezoning would allow for residential development at a similar scale and density to the existing residential development immediately to the east.

IX. REFERENCES CITED

The following materials are referenced throughout this document. For ease of reading, short versions of the citations are used in-text, and full citations are included here.

Plans and Regulations

M.C.A.: Montana Code Annotated, 2019

<https://leg.mt.gov/bills/mca/index.html>

Subdivision Regulations: City of Missoula Subdivision Regulations, adopted by the Missoula City Council and amended April 28, 2014

<http://www.ci.missoula.mt.us/DocumentCenter/View/22394>

2035 Our Missoula City Growth Policy

<http://www.ci.missoula.mt.us/1748/Our-Missoula>

Title 20: Title 20 Missoula Zoning Ordinance, adopted by the City Council

https://library.municode.com/mt/missoula/codes/municipal_code

Elements of the Application Packet for Governing Body Review

Project Summary

City Major Subdivision Application

City Rezone Application

Preliminary Plat

Supplemental Data Sheets

Variance Request

USGS Vicinity Map
Floodplain Map
Vegetation Exhibit
Wildlife Exhibit
Bus Route Map
Fire Hydrants Exhibit
School Bus Stop Exhibit
Preliminary Title Report & Ownership Deeds
Covenants
River View Weed Management Plan
Water & Sanitation Report
Groundwater Monitoring Results
Well Logs Max. & Min.
Grading and Drainage Report
Road Construction Plans
Utility Construction Plans
NRCS Soil Report
SHPO Report
School Inquiry

Agency Comments Cited:

Elizabeth Johnson, City of Missoula Historic Preservation Officer
Andy Schultz, City of Missoula Engineer for Utilities
Dax Fraser, City of Missoula Fire Marshal
Neil Miner, City of Missoula Parks and Trails Design/Development Manager

Other Resources

Missoula County Property Information System

<https://gis.missoulacounty.us/propertyinformation/>

"What's My Zoning?"

<https://www.ci.missoula.mt.us/1529/Whats-My-Zoning>