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:
  - Balance the interest, needs and patterns of development and agriculture preservation between landowners and the community’s collective interests.
  - 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 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, Grasm 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 get 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 does 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. Mr. 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 property 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.