



## DEVELOPMENT SERVICES

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October 27, 2020

Brian Throckmorton, P.E.  
406 Engineering.  
1201 S. 6<sup>th</sup> Street W., #102  
Missoula, MT 59801

### **RE: Remington Flats Phased Subdivision, Annexation with Zoning, and Rezoning**

Dear Mr. Throckmorton,

At its regularly scheduled meeting of October 19, 2020 the Missoula City Council voted to annex Tract 9 of Certificate of Survey No. 3176 into the municipal boundaries and apply the RT5.4 Residential zoning, subject to conditions of annexation; approve the adoption of an ordinance to establish and apply the Remington Flats Neighborhood Character Overlay District to the subject property; and approve the Remington Flats Phased Subdivision, subject to the conditions in the attached document entitled "Conditions of Approval." The reasons for the decision to approve the subdivision and zoning, including the imposition of conditions of approval, may also be found in the attached document entitled "Findings of Fact and Conclusions of Law." The Resolution to Annex with conditions of annexation will be provided separately, and will be assigned a resolution number and placed on the City's website here: <https://www.ci.missoula.mt.us/DocumentCenter/View/1010/Ordinance-Index-and-Ordinances?bidId=>

As part of these actions the City Council approved the following motions:

1. **Adopt** a resolution to annex and incorporate within the boundaries of the City of Missoula, Montana a parcel of land described as Tract 9 Certificate of Survey No. 3176 located in the SW ¼ of Section 12, Township 13 North, Range 20 West, P.M.M., and zone the property RT5.4 Residential in the city, based on the findings of fact in the staff report, subject to the recommended conditions of annexation approval as amended by City Council.
2. **Adopt** an ordinance to establish the Remington Flats Neighborhood Character Overlay District and to rezone the subject property from RT5.4 Residential to RT5.4 Residential / NC-RF Remington Flats Neighborhood Character Overlay, based on the findings of fact in the staff report.
3. **Approve** the variance requests to allow the Urban Local Streets to be built within 64-foot rights-of-way.
4. **Approve** the variance request to allow Chuck Wagon Drive to be built as a half-street Urban Collector within a 40-foot right-of-way instead of a full street section within a 90-foot right-of-way.
5. **Approve** the Remington Flats Phased Subdivision, based on the findings of fact and subject to the recommended conditions of approval in the staff report as amended by City Council.

If you wish to appeal this decision on the subdivision, you must follow the procedure established by M.C.A. §76-3-625(2), which states as follows:

A party . . . who is aggrieved by a decision of the governing body to approve, conditionally approve, or disapprove a proposed preliminary plat or final subdivision plat may, within 30 days after the decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.

The statute includes the applicant within the definition of an aggrieved party.

According to M.C.A. §76-3-617(3) all phases of a phased development must be submitted for review and approved, conditionally approved, or denied within 20 years of the date the overall phased development preliminary plat is approved by the governing body.

If you have further questions, please contact me at 529-0709 or email me at [degrandpred@ci.missoula.mt.us](mailto:degrandpred@ci.missoula.mt.us).

Sincerely,



Dave DeGrandpre, AICP  
Planning Supervisor, Development Services

Copy:

Denali Development, LLC  
Zootown Investments, LLC  
Kevin Slovarp, Development Services  
Troy Monroe, Development Services  
Eric Anderson, Development Services

**CONDITIONS OF APPROVAL**  
**REMINGTON FLATS PHASED SUBDIVISION**  
**October 19, 2020**

Note: Montana Code Annotated (MCA) Section 76-3-604(9)(a) states review and approval, conditional approval, or denial of a proposed subdivision may occur only under those regulations in effect at the time a subdivision application is determined to contain sufficient information for review. The Remington Flats Phased Subdivision application was deemed sufficient for review on July 10, 2020. The City of Missoula Subdivision Regulations Amended June 28, 2010 and 2019 Montana Subdivision and Platting Act were in effect at that time. The 2019 Montana Subdivision and Platting Act includes provisions for phased subdivisions in Section 76-3-617. Those provisions apply to the Remington Flats Phased Subdivision.

**Streets, General**

1. All street and non-motorized improvements shall be designed and built in accordance with City of Missoula Public Works Standards and Specifications and City of Missoula Subdivision Regulations (except as modified by variance). All plans must comply with Americans with Disabilities Act requirements. All plans must be reviewed and approved by the City Engineer in accordance with City policies. *City Subdivision Regulations Section 3-020.2*
2. The subdivider shall provide a street naming exhibit to be reviewed and approved by Development Services prior to final plat filing of the first phase. *Subdivision Regulations Section 3-020.12*
3. The subdivider shall provide a street signage plan 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 final plat filing of each applicable phase. *City Subdivision Regulations Section 3-020.4(H)(2)*
4. The following statement shall appear on the face of each 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/RSID, based on benefit, for the upgrading of streets within this subdivision, including but not limited to paving, curbs and gutters, non-motorized facilities, street widening and drainage facilities." *City Subdivision Regulations Section 5-050.4(M&N)*
5. All proposed rights-of-way shall be dedicated to the public on the face of each plat and approved by the City Engineer. *City Subdivision Regulations Section 3-020.3.B*
6. All proposed easements, except as modified by these conditions, shall be shown on the face of each plat and identified for their width and purpose, including easements for vehicular and pedestrian access, utilities, and irrigation facilities. *City Subdivision Regulations Section 3-060.1*
7. The subdivider shall design and install street lighting along Chuck Wagon Drive through the subdivision in accordance with the Missoula Public Works Standards and Specifications Manual. The lighting shall be installed prior to final plat approval of Phase 1 for the southernmost section of Chuck Wagon Drive and Phase 7 for the remainder of Chuck Wagon Drive. Prior to final plat filing of the first phase, the subdivider shall petition to create a new streetlight improvement district. *Missoula Public Works Standards and Specifications Manual Section 7.3.6*

### Specific Streets

8. The subdivider shall install road base with dust abatement as proposed by the applicant in accordance with City of Missoula specifications from the end of the existing Chuck Wagon Drive to the north boundary of Phase 1 prior to final plat filing of Phase 1, and pave this stretch of road prior to final plat filing of Phase 2. Required improvements are two 11-foot paved drive lanes, two-foot shoulders, and roadside ditches as shown on Sheet 2 of the preliminary plat. In the event these improvements are made by others, this condition will no longer apply. *Montana Code Annotated 76-3-510*
9. Chuck Wagon Drive through the length of the subdivision shall be improved to Urban Collector half-street standards as proposed including two 10-foot drive lanes, curb and gutter, a 10-foot boulevard, and 5-foot sidewalks within the existing 40-foot wide right-of-way. These improvements shall be completed as shown on the Phasing Plan exhibit and described in the Project Summary. *Subdivision Regulations Table .2A modified by variance.*
10. The Remington Flats Phased Subdivision is located within the Mullan BUILD project area and George Elmer Drive, which is proposed to provide access to the subdivision, is planned to be improved as part of the Mullan BUILD project. Federal funds are planned to pay for a portion of the Mullan BUILD improvements. Funding mechanisms are currently being explored to pay for the remainder of the improvements. The funding mechanisms may include, but are not limited to, a special improvement district, impact fee, latecomers fee, or cost share agreements that allow the City of Missoula and Missoula County to recover the cost of constructing infrastructure from the properties that benefit from the Mullan BUILD project. The total amount of the cost to be recaptured via the funding mechanism(s) is not expected to exceed 50% of the actual costs expended by the City of Missoula and Missoula County to complete the Mullan BUILD project. To the extent that such funding mechanism(s) is created in accordance with state law and applicable principles of land use law, the subdivider, successors, and assigns shall participate in and be bound by the fees assessed and not oppose the creation of or participation in such a district. *Montana Code Annotated 76-3-510*
11. Winchester Drive, Browning Road, Tenderfoot Way, Riata Road, and Remington Drive shall be designed and built to Low Density Urban Local Street standards including two 10-foot drive lanes, 7-foot parking lanes, curb and gutter, 7-foot boulevards, and 5-foot sidewalks within 64-foot rights-of-way as proposed. *Subdivision Regulations Table .2A modified by variance*

### Drainage

12. The subdivider shall submit complete grading and drainage plans prior to final plat approval of each applicable phase showing proposed grades of streets, proposed drainage facilities, and a storm water pollution prevention plan for all lots, blocks, and other areas meeting Montana DEQ standards and subject to approval of the City Engineer. All drainage facilities shall be constructed in accordance with the approved plan and accommodate the planned runoff from all upgradient phases. *City Subdivision Regulations Section 5-020.11*

### Transit

13. The subdivider shall petition for the property to be included in the Missoula Urban Transportation District prior to final plat filing of the first phase. *City Subdivision Regulations Section 3-010.7 and 3-020.1, City of Missoula Annexation Policy*

### Water System and Sewer System

14. The subdivider shall submit plans for water supply and sewage disposal for review and approval of the City Engineer, City/County Health Department, and Montana Department of Environmental Quality prior to final platting of each applicable phase. Construction of all water supply and sewer systems shall be in accordance with City policies. *City Subdivision Regulations Sections 3-070.01 and 3-070.04*

### Solid Waste

15. The subdivider shall submit plans for solid waste disposal for review and approval of the City Engineer, City/County Health Department, and Montana Department of Environmental Quality prior to final platting of each applicable phase. *City Subdivision Regulations Sections 3-070.01*

### Parkland

16. The subdivider shall meet the parkland dedication requirement by providing the monetary value of 1.43 acres of unsubdivided, unimproved, zoned land as required in the City Subdivision Regulations Section 3-080. Prior to final plat filing of each phase, the subdivider shall provide calculations for the total lotted area in that phase, the parkland requirement for that phase, a Summary Appraisal Report establishing the then-current fair market value, and a check for the required amount, to be reviewed and approved by City Council. *City Subdivision Regulations Section 3-080*
17. The subdivider shall submit a boulevard landscaping plan to be reviewed and approved by the City Parks and Recreation Department prior to final plat filing of each applicable phase. *City Subdivision Regulations Section 5-050.4*

### Irrigation Water Rights

18. The subdivider shall sever from the subject property all irrigation water rights and shall revise the water rights statement on the plat to state any irrigation water rights historically serving the property are severed from the land. Lots contained within this plat that are classified as irrigated land may be assessed for irrigation water delivery even though the water might not be deliverable to that particular lot. The revised statement shall be shown on the final plat for each phase and added to the development covenants. *Montana Code Annotated 76-3-504*

### Covenants, Conditions, and Restrictions

19. Final covenants, conditions, and restrictions meeting the requirements of City Subdivision Regulations Section 5-020-14.K shall be submitted for review and approval prior to final plat filing of the first phase. The covenants shall require boulevard landscaping in accordance with the approved plan, a prohibition on basements within the subdivision, a prohibition on wood burning devices, the irrigation water rights statement in the previous condition, and a statement informing lot purchasers of the presence of the subdivision within an airport influence area. *City Subdivision Regulations Section 5-020-14.K*

### Non-Motorized Transportation Facilities

20. The subdivider shall provide five-foot sidewalks along all street frontages and at the proposed location between Lots 127 and 128. All sidewalk plans, including specifications for ADA accessibility and safe street crossings, shall be reviewed and approved by the City Engineering and Parks and Recreation departments prior to final plat filing of each applicable phase. Construction of the non-motorized transportation facilities shall occur as

proposed in the application submittal and as required to serve each phase. *City Subdivision Regulations Section 3-020.15 and Table .2A*

#### Fire Protection

21. The subdivider shall provide plans for address signage and a fire hydrant plan for review and approval prior to final plat filing of each applicable phase. All approved fire protection improvements shall be installed in accordance with the approved plans. *City Subdivision Regulations Section 3-010.1.F*

#### Noxious Weeds

22. The Weed Management and Revegetation Plan shall be appended to the covenants, conditions and restrictions. The subdivider shall provide evidence of plan implementation and noxious weed control prior to final plat filing of each phase. *City Subdivision Regulations Section 5-020.14.K*

#### Airport Influence Area

23. The subdivider shall grant an avigation easement to the Missoula Airport Authority in compliance with the Airport Influence Area Resolution and present evidence of the easement, subject to review and approval of Development Services, prior to final plat filing of the first phase or within two years of City Council approval of annexation, whichever comes first. *City Subdivision Regulations Section 3-010.2*
24. The Covenants, Conditions, and Restrictions and each final plat shall include the following statement:
- “This property is in the airport influence area and subject to the requirements of the Airport Influence Area Resolution. The Remington Flats Subdivision may also be within an extended approach and departure zone for a proposed second runway as shown in the Airport Authority’s 2004 plan and lot owners should be aware of the resultant safety risk. Lot owners should consult the airport layout plan and any relevant documents to determine the status of the proposed runway location at the time of purchase.” *City Subdivision Regulations Section 3-010.2*

#### Zoning

25. The Remington Flats Neighborhood Character Overlay Zoning District shall be adopted concurrent with City Council approval of the subdivision request based on the findings in the rezoning staff report.

## **FINDINGS OF FACT & CONCLUSIONS OF LAW**

### **REMINGTON FLATS PHASED SUBDIVISION**

**October 19, 2020**

#### **A. GROWTH POLICY COMPLIANCE**

##### **Findings of Fact:**

1. City of Missoula Subdivision Regulations Section 3-010.1.I. requires that subdivisions be reviewed for compliance with the growth policy and its amendments.
2. The *2035 Our Missoula City Growth Policy* contains a future land use map with land use designations that visually depict the community's desired direction as it meets new growth challenges and changing times. The land use descriptions and recommended locations help to set a broad understanding of future land use patterns that enables city services and agencies along with residents, property owners, and neighborhoods to plan effectively for the future. The mapping is a visual representation of the balanced, value-based review of the goals, objectives, and actions recommended as part of the growth policy. (*2035 City Growth Policy page 114*)
3. The *2035 Our Missoula City Growth Policy* future land use map provides a land use designation of Residential Medium Density – 3 to 11 dwelling units per acre for the property. (*2035 City Growth Policy Future Land Use Designation Map*)
4. The subdivision is intended to create 152 lots from the 20.01 acres, for a density of 7.6 dwelling units per acre. (*Preliminary Plat*)

##### **Conclusions of Law**

1. City Council determined the Remington Flats Phased Subdivision substantially complies with the *2035 Our Missoula City Growth Policy*.

#### **B. PRIMARY CRITERIA COMPLIANCE**

##### **CRITERION 1: EFFECTS ON AGRICULTURE & AGRICULTURAL WATER USER FACILITIES**

##### **Findings of Fact:**

##### **Agriculture**

1. The USDA Natural Resources Conservation Service lists one soil type on this tract: Desmet loam. This soil type is classified as "Prime Farmland if Irrigated." (*Subdivision Application Section H, NRCS Soil Report*)
2. The application submittal states the land was historically used for raising livestock and growing hay in the past, although not within the past several years. (*Subdivision Application pages 7-8*)
3. The property is currently zoned by Missoula County as C-RR1 Residential, which provides a maximum residential density of one dwelling unit per acre. The existence of County residential zoning on the parcels anticipates a land use of residential rather than agricultural purposes. The *Our Missoula City Growth Policy* designates the property for urban scale residential development. (*Subdivision Application page 3, City Growth Policy*)

### Agricultural Water User Facilities

4. The property has irrigation water rights, which are proposed to be abandoned or transferred from the property. (*Subdivision Application pages 8-9*)
5. At the southwest corner of the property is a culverted irrigation ditch. This is the only agricultural water user facility on the property and is proposed to be re-culverted with the extension of Chuck Wagon Drive. (*Site Map Existing Conditions Exhibit, Subdivision Application page 14*)

### Conclusions of Law:

1. City Council determined this subdivision would prevent use of productive soils for agriculture although the property is zoned for residential use and is planned for urban scale residential development.
2. City Council determined that no impacts to agricultural water users or water user facilities are foreseen as a result of this subdivision.

## **CRITERION 2: EFFECTS ON LOCAL SERVICES**

### **Transportation and Drainage**

#### Findings of Fact:

#### Streets and Alleys

1. Access to the subdivision would be from Chuck Wagon Drive, classified as an Urban Collector Street, and Tenderfoot Way and Riata Road, classified as Low Density Urban Local Streets. Winchester Drive and Remington Drive are also proposed to provide access to subdivision lots and to connect to the east where future development is planned. The subdivider would be responsible for designing and building/upgrading all of the transportation facilities within the subdivision in accordance with City Public Works Standards and Specifications and the City Subdivision Regulations (except as may be modified by variance). The plans must comply with Americans with Disabilities Act requirements and be approved by the City Engineer. (*Project Summary, Preliminary Plat, Subdivision Regulations Section 3-020.2.*)
2. The subdivision application submittal includes a traffic impact study. The study indicates that due to vehicle trips generated from this and other nearby subdivisions, a right-turn deceleration lane will likely be needed on Mullan Road for westbound traffic at the Chuck Wagon Drive intersection by Phase 2 of Remington Flats development. Improvements to that intersection are currently being planned. (*Traffic Impact Study*)
3. Street names are provided on the preliminary plat. Section 3-020.12 of the City Subdivision Regulations requires the street naming plan to be reviewed and approved prior to final plat approval. This requirement is reflected in a condition of preliminary plat approval. (*Preliminary Plat Sheets, City Subdivision Regulations Section 3-020.12*)
4. Section 3-020.4(H)(2) of the City Subdivision regulations requires street signs and traffic control devices to be approved by the City Engineer and consistent with the Manual on Uniform Traffic Control Devices adopted by the Montana Department of Transportation. A condition of approval requires signage plans to be reviewed and approved by City Fire and the City Engineer and installation of signage meeting the above-named standards prior to platting of each phase.
5. All streets and alley rights-of-way are proposed to be dedicated to the public. 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. A condition of approval requires a SID statement on the plat and in the subdivision covenants for future improvements and maintenance to all streets and alleys providing access to the subdivision lots.

6. Section 3-060.1 of the City Subdivision Regulations requires easements be provided for vehicular and pedestrian access, utilities, and irrigation ditches and City Engineer approval of the easements. A condition of approval requires that the location and width of all easements including streets, utilities, and the irrigation ditch shall be approved by the City Engineer prior to final plat approval of each phase.
7. The Missoula Public Works Standards and Specifications state the need for street lighting shall be considered for all new streets based on functional classification, traffic volumes, and other factors. The Missoula Public Works Director has recommended street lighting along Chuck Wagon Drive, with maintenance to occur through a lighting district or similar ongoing source of funding. A condition of approval requires the subdivider to install street lighting along Chuck Wagon Drive on the property as phases are developed and to petition to create a new street lighting district. (*Missoula Public Works Standards and Specifications Manual Section 7.3.6, Personal Communication with Public Works Director Keene 9/4/20*)
8. Subdivision Regulations Section 3-020.2 and .3C requires improvements to streets within or adjacent to a subdivision to meet the standards prescribed in Table .2A.

#### Chuck Wagon Drive

9. Chuck Wagon Drive is classified as an Urban Collector (with parking). City of Missoula Subdivision Regulations Table .2A shows Urban Collectors with parking require a minimum 90-foot wide right-of-way that includes two 10-foot drive lanes, 6-foot bike lanes, 8-foot parking lanes, curb and gutter, 7-foot boulevards, and 5-foot sidewalks (approximately 59 feet total, with a small amount of additional space for maintenance). Table .2A also includes the possibility of a center turn lane, which would require additional space. (*Subdivision Regulations, Table .2A*)
10. The existing publicly dedicated right-of-way for Chuck Wagon Drive extending northward from Mullan Road to the southwestern corner of the property is 80 feet wide. Along the west boundary of the subject property, a 40-foot wide right-of-way strip was publicly dedicated. The subdivider has requested a variance to build half-street improvements within the 40-foot right-of-way for Chuck Wagon Drive along the west property boundary, with the expectation that additional right-of-way will be acquired along the adjacent Missoula Airport Authority property at some point in the future so the road can be completed. This variance request is addressed below. (*Certificate of Survey No. 5699, Variance Request #4*)
11. Chuck Wagon Drive is an existing road that currently ends approximately 1,000 feet south of the subject property. Although plans exist to extend Chuck Wagon Drive from Mullan Road to property, it is being developed in conjunction with other subdivisions so the timing is uncertain. The Remington Flats subdivider has proposed to address this situation by installing the road base from the end of the existing road to the subdivision as part of Phase 1 improvements, allowing construction traffic to use this road instead of the adjoining streets in the 44 Ranch Subdivision. The subdivider would then pave this stretch of road as part of Phase 2 improvements to connect to Mullan Road. The developer's off-site improvements to Chuck Wagon Drive would include two 11-foot paved drive lanes, two-foot

shoulders, and roadside ditches, with remaining improvements necessary to complete the road to City standards to be made by other subdividers. (*Preliminary Plat, Project Summary*)

12. The subdivision submittal includes a traffic impact study (TIS) that estimates at full build-out, the subdivision would generate 1,435 new daily vehicle trips. The TIS evaluates potential impacts from this and other development on the intersections of George Elmer Drive / Mullan Road and Chuck Wagon Drive / Mullan Road. The TIS projects that without improvements, these intersections will function below acceptable levels of service by 2026.
13. Improvements to the intersection of George Elmer Drive / Mullan Road are planned to be funded in part through the Mullan BUILD grant and in part through City and County contributions. The City and County are exploring cost recovery mechanisms from subdividers and future residents who will benefit from these investments. Conditions of approval include a requirement for the subdivider and/or future residents to contribute a proportionate share to George Elmer Drive / Mullan Road intersection improvements including potential participation in a special improvement district, impact fees, latecomers fees, or other mechanism. This is reflected in a condition of approval.
14. Chuck Wagon Drive is not a Mullan BUILD project road so improvements to the intersection with Mullan Road that are made necessary by this and other subdivisions must be made by subdividers or future residents in conjunction with the City. The City and County are exploring cost recovery mechanisms from subdividers who will benefit from these investments. Conditions of approval include a requirement for the subdivider and/or future residents to contribute a proportionate share to Chuck Wagon Drive / Mullan Road intersection improvements including potential participation in a special improvement district, impact fees, latecomers fees, or other mechanism. This is reflected in a condition of approval. (*Montana Code Annotated 76-3-510*)

#### Winchester Drive, Browning Road, Tenderfoot Way, Ruger Road, Riata Road, and Remington Drive

15. Subdivision Regulations Table .2A identifies Low Density Urban Local Streets as those streets serving less than 12 dwelling units per acre and having an average daily traffic of up to 2,500 vehicle trips. Table .2A shows Low Density Urban Local Streets to have a minimum 70-foot wide right-of-way that includes two 10-foot drive lanes, 7-foot parking lanes, curb and gutter, 7-foot boulevards, and 5-foot sidewalks (approximately 59 feet total) with additional space necessary for maintaining the sidewalks. The subdivider has requested a variance to build the above street improvements within 64-foot rights-of-way instead of 70. This request is addressed below. (*Variance Request #3*)
16. Tenderfoot Way and Riata Road are north – south streets that are planned to provide connections to the 44 Ranch Subdivision to the south and potential future development to the north. Winchester Drive and Remington are east – west streets that are planned to provide connectivity to future development to the east. (*Preliminary Plat, Project Summary*)

#### Parking

17. Preliminary Plat Sheet 3 of 3 shows potential parking within the subdivision. The Project Summary states, “With the current layout of 152 lots a conservative estimate of 545 parking spaces will be available within Remington Flats. This far exceeds the 304 parking spaces required per City of Missoula regulations.” [It should be noted Title 20 Section 20.60.020 requires two off-street parking spaces per detached house, lot line house, and townhouse.] The off-street parking requirement is proposed to be met via alley loaded garages, front loaded garages, and driveway parking, with on-street parking providing additional spaces.

Metropolitan Planning Organization staff recommends requiring front setbacks for garage entrances to be 20 feet instead of 10 to ensure driveways can be used for vehicle parking. This recommendation is addressed in the separate rezoning report for the Remington Flats Neighborhood Conservation Overlay District. (*Preliminary Plat, Project Summary, July 10, 2020 Agency Comment from Aaron Wilson*)

### Drainage

18. The City of Missoula Storm Water Specifications and Design Standards and Section 3-040 of the City Subdivision Regulations provide minimum standards for site grading and control of stormwater runoff.
19. The subdivision application submittal contains a grading and drainage report that evaluates pre- and post-development conditions. The proposed method of managing storm runoff is grading the site and developing a system with drywell sumps and infiltration chambers to collect and infiltrate runoff. (*Storm Drainage Report*)
20. The subdivision application submittal contains a technical memorandum that assesses the potential effects of drywell sumps on water table elevations, the potential for infiltration of runoff via sumps to flood crawl spaces or basements on the property and surrounding area, and whether use of sumps is likely to have an adverse effect on groundwater quality. The analysis concludes that drywell sumps would result in minimal (less than one foot) mounding of groundwater under and near the site, even during a simulated 100-year flood event. It also concludes that during such an extreme event, groundwater could rise to within 9-10 feet of the ground surface along the west property boundary so basements are not recommended. Finally, the memorandum concludes the use of sumps will not result in significant water quality impacts. (*Newfields Technical Memorandum*)
21. Section 3-040.2 and Section 5-020.11 of the City Subdivision Regulations require a complete grading and drainage plan showing proposed grades of streets, proposed drainage facilities, and a storm water pollution prevention plan for all lots, blocks, and other areas to be submitted prior to final plat approval meeting Montana DEQ standards and subject to approval of the City Engineer. All drainage facilities must be constructed in accordance with the approved plan as per Section 5-020.11.B and due to the phased development, must be constructed to accommodate the planned runoff from all upgradient phases. A condition of approval reflects these requirements.

### Transit

22. Section 3-010.7 and 3-020.1 of the City Subdivision Regulations require subdividers to provide safe, efficient, and convenient transportation corridors for motorists, pedestrians, bicyclists and bus riders. Section 3-020.4.E requires subdivision circulation systems to provide for various modes of transportation such as automobiles, pedestrians, bicycles, buses, and emergency vehicles. The City of Missoula Annexation Policy states that where appropriate, proposed annexation areas should be conditions to join the Missoula Urban Transportation District.
23. The property is not currently within the Missoula Urban Transportation District, which is necessary to provide for future transit service. A condition of approval is the subdivider be required to petition into the district prior to final plat approval of the first phase. *Missoula Urban Transportation District Parcel Viewer online map*

## Non-Motorized Transportation

24. City Subdivision Regulations Section 3-020.15 requires sidewalks and boulevards adjacent to all streets in accordance with Table .2A.
25. The subdivision application submittal includes preliminary plat sheets that show five-foot wide sidewalks along street frontages.

### Conclusions of Law:

1. City Council determined the subdivision will meet the Subdivision Regulations requirements for streets and non-motorized improvements with approval of the variance requests and if the conditions of approval are imposed and met.
2. City Council determined the subdivision will meet the City of Missoula Storm Water Specifications and Design Standards and grading and drainage standards in the Missoula City Subdivision Regulations if the condition of approval is imposed and met.
3. City Council determined final grading, drainage and stormwater plans will be reviewed and approved by Montana DEQ and the City Engineer prior to final plat approval of each phase.
4. City Council determined the subdivision will meet the transit standards in the City Subdivision Regulations if the condition of approval is imposed and met.

## **Water System and Sewer System**

### Findings of Fact:

1. The property is within the Missoula Wastewater Facility Service Area and planned to be connected to existing water and sanitary sewer mains that were extended into the area for the 44 Ranch development, Flynn Ranch development, and RSID #8474 sewer mains along north side of Mullan Road. (*Utility Plan Exhibit, Subdivision Application*)
2. The subdivision application submittal includes water and sanitation reports. The City of Missoula provided a letter stating the intent to provide water and sewer service to the subdivision in December of 2019. Individual water and sanitary sewer mains internal to the subdivision are planned to be extended as the project builds out. (*Water and Sanitation Report, Utility Plan Exhibit, December 27, 2019 Letter from Missoula Development Services*)
3. As per Sections 3-070.01 and 3-070.04 of the City Subdivision Regulations, water supply and sewage disposal systems require review and approval from the City Engineer, City/County Health Department, and Montana Department of Environmental Quality prior to final platting of any phase. This is required as a condition of approval.

### Conclusions of Law:

1. City Council determined water and sewer are available to the subdivision.
2. City Council determined review of water and sewer systems is under the jurisdiction of City Engineering and state and local health authorities under the Montana Sanitation in Subdivision Act.
3. City Council determined the water and sewer systems will meet the subdivision regulations if the conditions of approval are imposed and met.

## **Solid Waste**

### **Findings of Fact:**

1. Republic Services is expected to provide disposal service to the subdivision. (*Subdivision Application page 17*)
2. Solid waste systems must meet the minimum standards of the Montana Department of Environmental Quality and City/County Health Code as per Section 3-070.1 of the City Subdivision Regulations. This requirement is a condition of approval.

### **Conclusions of Law:**

1. City Council determined solid waste disposal service are expected to be available to the subdivision and in compliance with Subdivision Regulations.
2. City Council determined review of solid waste disposal 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% of the net lotted area in subdivisions with residential lots of 0.5 acres or smaller. All of the lots in the Remington Flats Subdivision are smaller than 0.5 acres.
2. The total lotted acreage of the subdivision is 13.02 acres. Eleven percent of 13.02 acres is 1.43 acres, the amount needed to meet the parkland dedication requirement. (*Parkland Dedication Exhibit, Subdivision Application page 20, Covenants, Conditions and Restrictions*)
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 this subdivision is within the service area of the public park directly to the south in the 44 Ranch Subdivision so the subdivider proposes to meet the parkland dedication requirement through cash in lieu of parkland. The City Parks and Recreation Department has indicated support for this approach and can use the money for improvements to the existing park. (*Subdivision Application pages 20-21, April 3, 2020 letter from Missoula Parks and Recreation*).
4. Per Section 5-050.4 of the City Subdivision Regulations, a boulevard landscaping plan is required to be reviewed and approved prior to final platting. A condition of approval is for the subdivider to submit boulevard landscaping plan to be approved by the City Parks and Recreation Department prior to final plat filing of each applicable phase.
5. The subdivider is proposing covenants, conditions, and restrictions as a way to manage affairs of the homeowners association and to communicate information and requirements to lot purchasers. City Subdivision Regulations Section 5-020.14.K. contains requirements for covenants including that the property owners' association be formed before any property is sold, the association is responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities, and other matters. A condition of approval is for the subdivider to submit final covenants, association bylaws, and articles of incorporation along with the final plat materials for the first phase.

### **Conclusion of Law:**

1. Parkland dedication is required in this subdivision in accordance with the City Subdivision Regulations. City Council determined the subdivider's proposal would meet the parkland dedication requirements if the conditions are imposed and met.

2. City Council determined the parkland and common areas are to be managed by a homeowners association and the City Subdivision Regulations require homeowners association documents to include specific provisions that will be reviewed prior to final platting of the first phase if the condition is imposed and met.
3. City Council determined the City Subdivision Regulations require plans for boulevard landscaping, which will be reviewed and approved prior to final platting of the each applicable phase if the condition is imposed and met.

## **Schools**

### **Findings of Fact**

1. The application states at full buildout the subdivision would create 152 additional residential lots with an estimated addition of 31 – 76 school age children attending Hellgate Elementary and Big Sky High School. The application includes a School Bus Stop Location exhibit showing existing school bus stops in the 44 Ranch Subdivision immediately to the south of Remington Flats (*Subdivision Application, Bus Stops Exhibit*)

### **Conclusion of Law:**

1. City Council determined 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 closest station is located at 3011 Latimer Street, approximately three miles away. (*Subdivision Application, page 19*)
2. Subdivision Regulations Section 3-070.1 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. Water supply for fire protection for this subdivision is planned to be supplied via new fire hydrants proposed to be installed in each phase. A fire hydrant spacing exhibit was provided with the subdivision application. Missoula City Fire Marshall Dax Fraser approved the locations and indicated the hydrants must provide a minimum 1,500 gallons per minute. (*Hydrant Spacing Exhibit and December 23, 2019 Letter*)
4. The Missoula City Fire Department regularly requires an addressing system to be developed that conforms to the addressing requirements of the City. All new buildings are assigned an address at the time of building permit approval, and are required to meet City standards for signage. (*Subdivision Regulations Section 3-010.1.F*)
5. A condition of approval requires the developer to provide plans for address signage and a fire hydrant plan subject to review and approval of the Missoula City Fire Department prior to final plat approval of each applicable phase. Fire hydrants shall be installed prior to combustible construction as required by the City Fire Department approved hydrant plan. (*Subdivision Regulations Section 3-010.1F*)

### **Conclusion of Law:**

1. City Council determined fire service is available to the subdivision if the condition of approval is imposed and met.

## **Law Enforcement**

### **Findings of Fact:**

1. The subdivision is located within the jurisdiction of the Missoula Police Department. (*Subdivision Application, page 19*)
2. Captain Chris Odlin of the Missoula Police Department provided comments stating, “The proximity of the residences to each other lends itself to neighborhood issues related to noise. While the department realizes this may fit within the growth policy it is the department’s opinion that developments with this density will impact the department with an increase in calls for services. The other potential impact will be in the area of parking. One of the most complained about neighborhood issues in Missoula is parking. Even with the work the developer has done to mitigate parking issues we feel it will still be brought up and be an impact to the Police Department in the way of increased calls for service.”

### **Conclusion of Law:**

1. City Council determined law enforcement service is expected to be available to the subdivision, although the subdivision design may result in some additional calls for service.

## **CRITERIA 3 AND 4: EFFECTS ON THE NATURAL ENVIRONMENT AND WILDLIFE AND WILDLIFE HABITAT**

### **Findings of Fact:**

1. The subject property was historically used for hay and livestock production. It does not have trees or significant vegetative cover. (*Subdivision Application pages 7-11*)
2. The USGS quadrangle map shows Grant Creek running through a portion of the property. According to a June 17, 2020 letter from 406 Engineering, “The arm of Grant Creek as shown on the USGS Exhibit is a former channel that has not conveyed water for over 60 years. Grant Creek was rerouted to the north and channelized during the 1950s for irrigation water. There will be no impacts to the proposed development and no special precautions are needed in regard to the shallow depression located on the site.”
3. The property no longer has naturally occurring surface water or wetlands. The hydrogeologic evaluation technical memorandum states groundwater may rise to within 9 – 10 feet of the ground surface under 100-year storm conditions. The only water source is a culverted irrigation ditch located at the southwestern corner of the property. (*Vicinity Map, Site Aerial, Field Observation, Technical Memorandum, June 17, 2020 Correspondence*)
4. The property is not known to contain critical plant communities or support vegetative species of concern. *Subdivision application page 11, Montana Natural Heritage Program Information*)
5. A residential subdivision is located immediately to the south. A proposed multi-dwelling and mixed-use subdivision directly to the east is in the early review stages. The property is located between Mullan Road and West Broadway in an area being planned for urban development. (*44 Ranch Subdivision Plats, Mcnett Flats Preliminary Plat and Application, Draft Mullan Area Master Plan*)
6. The property may support common wildlife mammals including rodents, deer, skunks, and fox. Potential bird species in the area are Lewis’ Woodpecker, Great Blue Heron, and Bald Eagle. Section 15 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. (*Montana Heritage Society report, Covenants, Conditions, and Restrictions*)

7. The subdivision is not located adjacent to public lands and will therefore have no impact on public land uses, public land management policies, or public land access. (*Vicinity Map, Subdivision Application, page 9*)
8. No riparian resources or regulated floodplain exist on the property. (*Floodplain Map, Field Observation*)
9. The subdivision application submittal contains a preliminary storm drainage report and hydrogeologic evaluation that assesses the risk to groundwater quality impacts from the use of sumps following a typical storm event. The evaluation concludes the use of sumps would not significantly impact concentrations in nitrate in groundwater below or beyond the site boundary. (*Newfields Hydrogeologic Evaluation Technical Memorandum*)
10. Section 5-020.14.K of the City Subdivision Regulations requires that a management plan be developed to address noxious weeds. The subdivision application contains a revegetation plan developed by the Missoula County Weed District that includes seed species and seeding rates, method and timing, fertilization, and weed control methods. A condition of approval is the final covenants include the revegetation plan and evidence of plan implementation to be submitted to Development Services prior to final plat approval of each phase. (*City Subdivision Regulations Section 5-020.14.K, Revegetation Plan*)

#### Conclusion of Law:

1. City Council determined no impacts to the natural environment and wildlife habitat are foreseen as a result of this subdivision if the condition to manage noxious weeds is imposed and met.

### **CRITERION 5: EFFECTS ON PUBLIC HEALTH AND SAFETY**

#### Findings of Fact:

##### Hazardous Land

1. 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.
2. The subject property is outside of the FEMA-identified 1% annual chance flood hazard areas and floodplain. (*Floodplain map*)
3. The property does not contain significant areas of slopes of 25% or more. (*Field Observation, USGS Topographic Map*)

##### Wood Stoves

4. The property is located within an air stagnation zone. The covenants, conditions, and restrictions should be amended to include language prohibiting wood burning devices (fire places, wood burning and pellet stoves, etc.)

##### Airport Influence Area

5. The property is located within an airport influence area of Missoula International Airport. (*Airport Influence Area Exhibit*)
6. Dan Neuman, Business Development Manager of the Missoula International Airport, submitted a letter dated April 20, 2020 objecting to the subdivision. The letter states, "Remington Flats is located directly in the flight path of a proposed second runway...Pursuant to guidance from the Federal Aviation Administration ("FAA"), residential is incompatible in this proximity to the Airport and specifically in the flight path of a proposed runway. Mr. Neuman's letter lists potential incompatibilities including aircraft



noise, aircraft flying over the homes, the possibility of electronic interference with aviation navigation aids, and the potential for interaction between aircraft and wildlife. The letter concludes, "While some of these issues can be mitigated with an Avigation Easement, an Avigation Easement is not a panacea that will make all of these issues disappear. MCAA would propose entering into a dialogue with the City, Denali Development [sic], and 406 Engineering to determine how best to mitigate the risks posed by the proposed subdivision."

7. For other subdivisions located within the airport influence area including 44 Ranch and RMB Subdivision, a condition of approval has been for the subdivider to grant an avigation easement to the Missoula International Airport for the unobstructed use of airspace at certain elevations above the subdivisions. Such mitigation is a condition of approval for this subdivision.
8. For other subdivisions located within the airport influence area including the currently-under-review Heron's Landing, plats are required to include the following statement, which is to be included in the covenants and on each final plat in the Remington Flats Subdivision:

"This property is in the airport influence area and subject to the requirements of the Airport Influence Area Resolution. The Remington Flats Subdivision may also be within an extended approach and departure zone for a proposed second runway as shown in the Airport Authority's 2004 plan and lot owners should be aware of the resultant safety risk. Lot owners should consult the airport layout plan and any relevant documents to determine the status of the proposed runway location at the time of purchase."

#### Conclusion of Law:

1. City Council determined if the covenants are amended as described above, an avigation easement is granted, and the airport influence area statement is printed on the plats, an acceptable level of adverse impacts to public health and safety is expected as a result of this subdivision.

### **C.) COMPLIANCE: 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. Forthcoming review of the final plats will ensure compliance with state subdivision and platting law.

#### Conclusion of Law:

1. City Council determined this proposal will meet the survey requirements of state law.

### **D) 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. City Council determined the plat will be brought into compliance with the local subdivision regulations if the requested variances are approved and the conditions of approval are imposed.

## **E) 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 and the Montana Subdivision and Platting Act.
2. The public hearing before the Missoula Consolidated Planning Board occurred on September 15, 2020. The Missoula City Council hearing occurred on October 5, 2020. The preliminary plat review period expires on November 3, 2020.
3. Development Services staff sent notices of the public hearings by certified mail to adjacent property owners and the subdivider on August 31, 2020. Two posters were placed on the property August 31, 2020. Legal notice of the public hearings was published in the Missoulian August 30 and September 6. All noticing occurred at least 15 days prior to the public hearings.
4. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within 30 days of such decision. The application must specify the grounds upon which the appeal is made. An appeal may be made by the subdivider, a contiguous landowner, an owner of land within the City of Missoula who can establish a likelihood of material injury to property or its material value, or the City Council. In order to file an appeal, the plaintiff must be aggrieved by the decision, demonstrating that a specific personal and legal interest, as opposed to a general interest, has been or is likely to be specifically and injuriously affected by the decision.

### Conclusion of Law:

1. City Council determined this subdivision proposal followed the necessary application procedure and has been reviewed within the procedures provided in Article 4 of the Missoula City Subdivision Regulations.

## **F) PROVISION OF EASEMENTS FOR UTILITIES:**

### Findings of Fact:

1. City Subdivision Regulations Section 3-060 requires that easements be provided for utilities, drainage, ditch, vehicular, and pedestrian access and that easements be reviewed and approved by the City Engineering Division. A condition of approval addresses this requirement.
2. Access to utilities is planned to be provided to the subdivision from the south within public access and utility easements and public rights-of-way. (*Preliminary Plat*)
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. (*Preliminary Plat*)

### Conclusion of Law:

1. City Council determined 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 and met.

## **E) PROVISION OF LEGAL AND PHYSICAL ACCESS:**

### Finding of Fact:

1. Legal and physical access is planned to be provided to the subdivision from Chuck Wagon Drive, Tenderfoot Way, and Riata Road, which are publicly dedicated rights-of-way within the Missoula city limits. Each lot is designed with access to an alley or roadway that is proposed to be located within rights-of-way of appropriate width, pending approval of certain variances. (*Certificate of Survey No. 5699, 44 Ranch Subdivision Plats, Preliminary Plat*)

Conclusion of Law:

1. City Council determined that with the approval of certain variances, the subdivision proposal meets the legal and physical access requirements of the Subdivision Regulations.

**F) VARIANCE REQUESTS**

**VARIANCE REQUEST #1:**

A variance was requested from Section 3-020.2.A(2), which states blocks may not exceed a maximum length of 480 feet in urban-suburban subdivisions. This variance was requested to allow the block with proposed Lots 1-9 to be 540 feet long.

DECISION:

City Council **approved** the variance request, allowing the block with proposed Lots 1-9 to be 540 feet based on the following 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.**

The variance is requested so this block matches the length of the adjacent block in 44 Ranch Subdivision Phase 7A to the south. The variance would allow Chuck Wagon Drive and Tenderfoot Way to align with those streets as they are planned or built in the adjoining subdivision. Adequate circulation would be provided and no threats to public safety, health, or welfare are apparent. There is no reason to believe granting the variance would be injurious to other persons or property.

**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.**

44 Ranch Subdivision Phase 7A is platted and largely built out, with an extension of Chuck Wagon Drive planned along the west boundary and Tenderfoot Way already constructed on the east boundary of the phase. Matching this alignment would provide safe and efficient traffic flow. This is a condition that is unique to the property and not generally applicable to other property.

**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.**

Because of the approved block length in the adjoining subdivision, requiring a maximum 480-foot block length here would result in a hardship and simply not make sense from a traffic flow perspective.

**D. The variance will not in any manner violate the provisions of the Missoula City Zoning Ordinance or the Growth Policy.**

Granting the variance would not in any manner violate provisions of the City zoning ordinance, the Growth Policy, or other plans for the area.

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

Approval of the variance will not cause an increase in public costs.

**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 the result of the block length approved in the adjacent subdivision.

**VARIANCE REQUEST #2:**

A variance was requested from Section 3-030.2.A(2), which states blocks may not exceed a maximum length of 480 feet in urban-suburban subdivisions. This variance is requested to allow the block with proposed Lots 122-135 to be 540 feet long.

**DECISION:**

City Council **approved** the variance request, allowing the block with proposed Lots 122-135 to be 540 feet long, based on the following 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.**

The variance is requested to continue the existing road grid pattern established in the 44 Ranch Subdivision to the south. The variance would allow Chuck Wagon Drive and Tenderfoot Way to align with those streets as they are planned or built. Adequate circulation would be provided and no threats to public safety, health, or welfare are apparent. There is no reason to believe granting the variance would be injurious to other persons or property. Between Lots 127 and 128 is a 10-foot wide pedestrian easement proposed to be developed with a five-foot sidewalk that could be extended when the neighboring land to the north is developed to help break up the block.

**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 existing north-south road pattern was established in the 44 Ranch Subdivision. The Remington Flats Subdivision seeks to continue this pattern to provide for safe and efficient traffic flow. An extension of Chuck Wagon Drive is planned along the west boundary and Tenderfoot Way is already constructed in the adjoining subdivision. Matching this alignment would provide safe and efficient traffic flow. This is a condition that is unique to the property and not generally applicable to other property.

**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.**

Because of the approved block length and grid pattern established in the adjoining subdivision, requiring a maximum 480-foot block length here would result in a hardship and simply not make sense from a traffic flow and efficiency perspective.

**D. The variance will not in any manner violate the provisions of the Missoula City Zoning Ordinance or the Growth Policy.**

Granting the variance would not in any manner violate provisions of the City zoning ordinance, the Growth Policy, or other plans for the area.

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

Approval of the variance will not cause an increase in public costs.

**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 the result of the block length approved in the adjacent subdivision.

**VARIANCE REQUEST #3:**

A variance was requested from Section 3-020 Table .2A, which requires 70-foot rights-of-way for Low Density Urban Local streets. Winchester Drive, Browning Road, Tenderfoot Way, Ruger Road, Riata Road, and Remington Drive were proposed to be built in accordance with City standards (10-foot driving lanes, 8-foot parking lanes, curbs and gutters, 7-foot boulevards and 5-foot sidewalks) within 64-foot rights-of-way instead of 70.

**DECISION:**

City Council **approved** the variance request the variance, allowing the streets to have 64-foot rights-of-way instead of 70 based on the following 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.**

The proposal would allow the streets to be built in accordance with City standards for Low Density Urban Local streets including driving lanes, parking lanes, curbs and gutters, boulevards and sidewalks. This would not result in a threat to public health, safety, or welfare, or be injurious to other persons or property.

**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 are unique to this subdivision in that additional right-of-way for turning lanes is not required now and is unlikely to be necessary in the future based on the configuration of the subdivision and projected traffic flows. This is not necessarily the case in other subdivisions.

**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.**

Granting the variance would allow more area to be used for lot development. It is not necessarily due to physical surroundings, shape, or topography, but would benefit the future lot owners. The hardship is that additional right-of-way is not necessary to provide for this subdivision now and in the future.

**D. The variance will not in any manner violate the provisions of the Missoula City Zoning Ordinance or the Growth Policy.**

Granting the variance would not in any manner violate provisions of the City zoning ordinance, the Growth Policy, or other plans for the area.

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

Approval of the variance will not cause an increase in public costs.

**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.

#### **VARIANCE REQUEST #4:**

A variance was requested from Section 3-020 Table .2A, which requires 90-foot rights-of-way for Urban Collectors (with parking). Chuck Wagon Drive is proposed to be built as an Urban Collector half-street within the existing 40-foot dedicated right-of-way along the west property boundary with a 2.5-foot temporary gravel shoulder, two 10-foot driving lanes, curb and gutter, 10-foot boulevard, 5-foot sidewalk, and 0.5-foot strip of land for maintenance. The remaining 40-foot right-of-way is planned to be acquired from the Missoula Airport Authority, the adjoining landowner to the west. Future right-of-way acquisition and future development would facilitate completion of Chuck Wagon Drive to Urban Collector standards in alignment with the planned 44 Ranch road section for Chuck Wagon Drive.

#### **DECISION:**

City Council **approved** the variance, allowing Chuck Wagon Drive within the subdivision to be built to Urban Collector half-street standards within the existing 40-foot right-of-way instead of the full cross section within 90 feet based on the following 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.**

The proposed street section would provide adequate access to the first phase of the subdivision in conjunction with Tenderfoot Way and Riata Road. As phases in this and other subdivisions to the south are developed over time, Chuck Wagon Drive is planned to be completed and connected to Mullan Road. A more complete street section to the north will not be necessary until land to the north is developed. Based on these factors, this proposal would not result in a threat to public health, safety, or welfare, or be injurious to other persons or property.

**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.**

To the south the current 80-foot wide right-of-way was dedicated via Certificate of Survey No. 5699 and an accompanying deed. This survey and deed also included a 40-foot dedicated right-of-way along the west property boundary of the subject parcel. Land has not yet been dedicated on property to the west (under separate ownership) that would allow for a full 80 feet. These conditions are unique to this property and not applicable to other property in the vicinity to the south.

**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.**

Theoretically Chuck Wagon Drive along the west property boundary could transition to the east, putting it out of alignment with the planned extension of Chuck Wagon coming from the south. This would require additional land to be taken out of lots along the west boundary and possibly result in unsafe driving conditions due to the necessary transition, presenting a hardship based on conditions that are unique to the property. Granting the variance would allow a safe street section to be built serving the short term needs of subdivision residents while a longer term solution is found through negotiation between the City and Airport Authority.

**D. The variance will not in any manner violate the provisions of the Missoula City Zoning Ordinance or the Growth Policy.**

Granting the variance would not in any manner violate provisions of the City zoning ordinance, the Growth Policy, or other plans for the area.

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

Approval of the variance will not cause an increase in public costs.

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

The hardship is an existing condition not created by the applicant or the applicant's agent or assigns.