



COMMUNITY PLANNING, DEVELOPMENT & INNOVATION

Development Services Division

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MAJOR SUBDIVISION STAFF REPORT - EXPEDITED

Agenda Item: Missoula Loft Homes on Mary Jane Boulevard, Tract 2 and 5 of COS 6817

Report Date: August 9, 2023

Case Planner: Alex Bramlette, Senior Planner / Steve Reichert, Development Review Engineer

Report Review & Approved by: Cassie Tripard, Land Use Supervisor

Governing Body Public Hearing Deadline: August 25, 2023

Public Meetings:

Land Use & Planning Committee 8/2/23: Motion on referral to set public hearing.

City Council 8/7/23: Consent agenda referral to committee and set public hearing.

City Council 8/14/23: Public hearing.

Land Use and Planning Committee 8/16/23: Discussion and motions.

City Council 8/21/23: Final consideration.

I. GENERAL PROJECT INFORMATION

Subdivider:

Miramonte Homes, LLC
2502 River Road
Tuscon, AZ 85718

Representative:

IMEG Corp
1817 South Avenue W
Missoula, MT 59801

Location of Request: North of O'Leary Street and east of Flynn Lane.

The property is legally described as Tract 2 and 5 of Certificate of Survey No. 6817, located in the northwest one-quarter of Section 18, Township 13 North, Range 19 West, P.M.M. Missoula MT

Geocode: 04-2200-18-2-02-04-0000 (Tract 2) and 04-2200-18-2-08-02-0000 (Tract 5)

Legal Notification: The legal ad was published in the Missoulian on July 29, 2023, and August 5, 2023. Posted notice is not required for major subdivisions per MCA 76-3-605 and Article 4-030 of the City Subdivision Regulations; however, six posters were placed on the property on July 31, 2023. Mailed notification to adjacent property owners is not required for expedited subdivisions per MCA 76-3-623 or the Article 4-051 of the City Subdivision Regulations; however, adjacent property owners were notified via first class mail on July 28, 2023.

Zoning: B2-1 Community Business

II. DECISION AND REGULATORY FRAMEWORK

The City Council Land Use and Planning Committee considers and makes a decision on the subdivision, with confirmation of that decision by City Council at a regular meeting.

Applicable State Law: [Montana Code Annotated](#)

Subdivision Regulations: Missoula City Subdivision Regulations adopted by City Council as amended on July 18, 2022.

Local Zoning Law: Title 20, Missoula Municipal Code amended May 2, 2022.

Surrounding Land Uses:

North: Residential and Vacant Land
South: Residential and Vacant Land
East: Residential and HOA Park
West: Residential, Small Agricultural

Surrounding Zoning:

North: City Zoning- B2-1 Community Business/County Zoning- Neighborhood Residential (NR)
South: City-Zoning- B2-1 Community Business/County Zoning- Neighborhood Residential (NR)
East: City Zoning- Hellgate Special District/County Zoning- Neighborhood Residential (NR)
West: City Zoning- RT10 Residential (two-unit/townhouse)/County Zoning- Rural Residential Small Agriculture (RRS1)

III. RECOMMENDED MOTIONS

City Council (8/7/2023)

Set a public hearing on August 14, 2023, and refer the Missoula Loft Homes on Mary Jane Boulevard Subdivision preliminary plat to the Land Use and Planning Committee on August 16, 2023.

City Council Public Hearing (8/14/2023)

Presentation, public comment, and discussion on the proposal and staff recommended motion to approve the Missoula Loft Homes on Mary Jane Boulevard Major Subdivision preliminary plat application, subject to the recommended conditions of approval, based on findings of fact and conclusions of law in the staff report.

Land Use and Planning Committee (8/16/2023)

Discussion and motion to approve, approve with conditions, or deny the Missoula Loft Homes on Mary Jane Boulevard Major Subdivision preliminary plat application.

Approve the Missoula Loft Homes on Mary Jane Boulevard Subdivision preliminary plat application, subject to the recommended conditions of approval, based on the findings of fact and conclusions of law in the staff report.

City Council Final Consideration (8/21/2023)

Affirm the motions made at the 8/16/2023 Land Use and Planning Committee meeting.

IV. CONDITIONS OF SUBDIVISION APPROVAL

The final plat shall meet the requirements of Section 5-050 (*City Subdivision Regulations Section 5-050*).

Streets

1. The subdivider shall provide plans for and installation of motorized and non-motorized improvements in accordance with Missoula City Public Works Standards and Specifications Manual, Missoula Parks and Recreation Design Manual, and Missoula City Subdivision Regulations, subject to review and approval by Public Works and Mobility, Fire Department, and Parks & Recreation, prior to final plat approval of each applicable phase (3-010.5 and 3-020.15.B(1), *City Subdivision Regulations*).

2. The subdivider shall install secondary improvements to Mary Jane Boulevard, as described in the existing right-of-way agreement, and amend the existing right-of-way agreement, subject to review and approval by Public Works & Mobility, prior to final plat approval of Phases I and IV. The amendment to the right-of-way agreement shall address crediting/offsets to, or reimbursement of, Sxwtpqyen Area Special Transportation Impact Fees for installation costs of secondary improvements, pursuant to Title 15 (3-020.15.B(1), *City Subdivision Regulations*).
3. The subdivider shall provide plans for and installation of collector corridor street lighting on Mary Jane Boulevard, in accordance with Missoula City Public Works Standards and Specifications Manual, subject to review and approval by Public Works & Mobility, prior to final plat approval of Phase I and IV (*Mullan BUILD ROW Agreement* and 3-010.5, *City Subdivision Regulations*).
4. The subdivider shall provide plans for and installation of O'Leary Street, east of Mary Jane Boulevard, in accordance with Missoula City Public Works Standards and Specifications Manual, subject to review and approval by Public Works & Mobility, unless installed by others, prior to final plat approval of Phase I. If any portion of O'Leary Street is installed by others, the subdivider shall provide an executed latecomers agreement prior to final plat approval of Phase I, subject to review and approval by City Attorney's Office and Public Works & Mobility (3-010.5 and 3-020.15.B(1), *City Subdivision Regulations*).
5. The following statement shall appear on the face of each plat, in the covenants, conditions, and restrictions, and on each instrument of conveyance, subject to review and approval by Public Works & Mobility and Development Services, prior to final plat approval of each phase: "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future SID or SILD, based on benefit, for future Flynn Street and O'Leary Street improvements (design and construction), operation, and maintenance, for street lighting systems and facilities. This covenant shall not be amended or deleted without prior written approval of the governing body." (3-020.6.A & 5-050.3.Z, *City Subdivision Regulations*).
6. The subdivider shall provide names for Road A and the alley providing vehicular access to Lot 32, subject to review and approval by the County Surveyor, prior to final plat approval of each applicable phase (3-020.12.C and 3-020.4H, *City Subdivision Regulations*).

Rights-of-Way and Easements

7. All proposed rights-of-way and easements shall be shown on the face of each plat and identified for their width and purpose, and the recorded book and page numbers, in accordance with Missoula City Public Works Standards and Specifications Manual, subject to review and approval by Public Works and Mobility, prior to final plat approval of each applicable phase (3-020.3.B & 3-060.1, *City Subdivision Regulations*).

Storm Water and Drainage

8. The subdivider shall provide plans for and installation of grading, drainage, and stormwater facilities, subject to review and approval by Montana Department of Environmental Quality and Public Works & Mobility, prior to final plat approval of each phase (5-020.11, *City Subdivision Regulations*).

Water Systems, Sewer Systems, and Solid Waste Disposal

9. The subdivider shall submit plans for solid waste disposal prior to final plat approval of each applicable phase, subject to review approval by Public Works and Mobility, City/County Health Department, and Montana Department of Environmental Quality (3-070.1, *City Subdivision Regulations*).

10. The subdivider shall provide plans for and installation of water supply and sewage disposal facilities for review and approval by Public Works & Mobility, City/County Health Department, and Montana Department of Environmental Quality prior to final plat approval of each phase. Construction of all water supply and sewer systems shall be in accordance with City policies (3-010.5, *City Subdivision Regulations*).
11. The subdivider shall pay the Mullan BUILD Water and Sewer Special Development Fee prior to the first connection to any Mullan BUILD utility main, subject to review and approval by Public Works & Mobility. The subdivider shall provide proof of payment prior to final plat approval of the applicable phase (*Resolution 8671*).
12. The subdivider shall execute a Utility Upsize Agreement for the 16" water main in Flanagan Lane and Flynn Lane, subject to review and approval by Public Works & Mobility, prior to final plat approval of Phase IV and Phase VI (3-010.5, *City Subdivision Regulations*).

Fire Protection

13. The subdivider shall provide plans for fire suppression water flow and hydrant placement, subject to review and approval by City Fire Department and Public Works & Mobility, prior to final plat approval for each phase. The subdivider shall install fire hydrants prior to combustible construction for each phase, subject to review and approval by City Fire Department and Public Works & Mobility (3-010.1.F, *City Subdivision Regulations*).

Parkland Dedication and Landscaping

14. The subdivider shall dedicate the Parkland Tract to the City of Missoula, subject to review and approval by Parks and Recreation, prior to final plat approval of Phase I. The subdivider shall provide plans for and installation of park improvements, including but not limited to: grading, application of topsoil, installation of commercial grade irrigation system, installation of turf grass seed or sod, installation of park trees, and installation of boulevard landscaping on roads abutting the park, subject to review and approval by Parks and Recreation, prior to final plat approval of Phase I. Topsoil shall be approved by Parks and Recreation and shall have a minimum depth of 10 inches. The applicant may guarantee installation of improvements with a cost estimate, improvements agreement, and financial security, subject to review and approval by Parks and Recreation and Public Works & Mobility (5-020.14.H and 3-080.3A, *City Subdivision Regulations*).
15. The subdivider shall provide plans for boulevard landscaping for all roads within and adjacent to subdivision lots, subject to review and approval by Parks and Recreation, prior to final plat approval for Phase I. The subdivider shall amend the Development Covenants to include the following language, subject to review by Parks and Recreation and Development Services, prior to final plat approval for Phase I: "Establishing boulevards and street trees. The first purchaser of each lot in this subdivision that obtains a building permit for a structure on the lot, which shall include builders not intending to occupy the structure, is responsible for establishing boulevards and planting public street trees during the first growing season prior to Certificate of Occupancy. This responsibility shall transfer to any subsequent purchaser until the boulevards and street trees are established. Boulevards are any public rights-of-way or easements between the curb or edge of asphalt and the lot line, property line or edge of easement. Boulevards shall be established per the Missoula City Public Works Standards and Specifications Manual including but not limited to six inches (6") of topsoil that meets the specifications found in the manual, turfgrass and may include other live plantings. Street trees are required to be installed in accordance with the subdivision's approved boulevard landscaping plan and the City of Missoula Parks and Recreation Design Manual. Temporary Certificate of Occupancy will be granted and held in place for occupancy occurring after the growing season and until boulevard and tree establishment has been approved by Urban Forestry. Once the boulevard and tree establishment has occurred, the adjacent property owner is

responsible for ongoing watering/irrigation of all boulevard landscaping and street trees. This covenant may not be changed or terminated without the consent of Missoula City Council.”

Airport Influence Area

16. The subdivider shall obtain an avigation easement from the Missoula Airport Authority in compliance with the Airport Influence Area resolution, and present evidence of the easement, subject to the review and approval of Development Services, prior to final plat approval of Phase I.
17. All final plats shall include the following statement: “This property is in the airport influence area and subject to the requirements of the Airport Influence Area Resolution. Property owners should be aware of the resultant safety risk”, subject to the review and approval of Development Services, prior to final plat approval of each phase.

V. INTRODUCTION

Development Services has received a request from IMEG Corp., on behalf of Miramonte Homes LLC, for an expedited major subdivision. The proposed subdivision, formally known as Missoula Loft Homes on Mary Jane Boulevard, is legally described as Tract 2 and 5 of Certificate of Survey No. 6817, located in the northwest one-quarter of Section 18, Township 13 North, Range 19 West, P.M.M. Missoula MT.

The proposed subdivision is located within Missoula City limits, does not require variances, and provides plans for onsite development of or extension to public infrastructure; therefore, this project qualifies for expedited review per the City Subdivision Regulations Article 4-051.1.A which states:

“a subdivision qualifies for the expedited review process if the proposed subdivision:

1. Is within the Missoula city limits;
2. Complies with all adopted zoning, design standards and other adopted subdivision regulations without the need for variances or other deviations to adopted standards; and
3. Includes plans for the onsite development of or extension to public infrastructure in accordance with adopted ordinances and regulations.”

An expedited subdivision is not required to go before Planning Board, and City Council is required to hold a public hearing within 35 business days of determination that the preliminary plat application is sufficient. Expedited subdivision applications are not required to include a Primary Review Criteria Report and Summary of Probable Impacts (*MCA 76-3-623 & City Subdivision Regulations, 4-051.2.C*).

Missoula Loft Homes on Mary Jane Blvd. is a 54-lot major subdivision of 16.74 acres, located north of O’Leary Street, west of Hellgate Special District, and east of Flynn Lane. The proposed subdivision has 6 phases and consists of 162 dwelling units of detached house, 3+-unit townhouse, and multi-dwelling building types. The subdivision proposes 3.24 acres of parkland dedication.

In 2019, the City Council approved a Growth Policy amendment and a rezoning affecting the subject property. The 2035 Our Missoula Growth Policy was amended to apply the Neighborhood Mixed Use land use designation to the subject property. The subject property was rezoned to the B2-1 Community Business zoning district with an executed Development Agreement A-7800, attached, between the property owner(s) and the City of Missoula, which further limits the development opportunities for the subject property. There is no proposed zoning change with this subdivision application.

The proposed subdivision substantially complies with the Development Agreement by containing road and pedestrian connections, containing no less parkland area, and containing no greater intensity of land use, height, or density as shown on the Master Plan.

VI. SUBDIVISION FINDINGS OF FACT

A. COMPREHENSIVE PLAN AND ZONING COMPLIANCE

Findings of Fact:

1. Section 3-010.1.B of the City Subdivision Regulations states that subdivision plats must comply with the Missoula City Zoning Ordinance. The current Missoula City Zoning Ordinance is Title 20.
2. The subject property is zoned B2-1 Community Business, which permits a range of commercial and residential uses, and limited industrial uses. The B2-1 zoning district requires a minimum parcel size of 3,000 square feet for single-purpose residential and mixed-use developments, but otherwise has no minimum parcel size requirements (*Application Packet Section B Zoning Map*).
3. The subject property is approximately 16.74 acres/717,433 square feet which would allow 717 dwelling units in the B2-1 Community Business zoning district (*Application Packet Section A Preliminary Plat*).
4. A Development Agreement (attached) was established with the rezoning limiting the maximum density to 14 dwelling units per acre within Area A and 21 dwelling units per acre within Area B. Areas A and B are shown on a map within the Development Agreement.
5. The applicant is proposing to develop a total of 162 dwelling units which complies with the density allowed in the B2-1 zoning district as well as the Development Agreement (*Application Packet Section A Project Summary*).
6. Section 3-010.1 of the City Subdivision Regulations requires that the subdivision be reviewed for compliance with the Sxwtpqyen Neighborhoods Master Plan which is the applicable Growth Policy for the area.
7. The application packet states the Sxwtpqyen Neighborhood Master Plan and Our Missoula City Growth policy 2035 are the applicable plans (page 3, *City Major Subdivision Application*). The parcel was rezoned to B2-1 in 2019. At that time the applicable regional plan was the Our Missoula: 2035 City Growth Policy. In 2020, the Missoula City Council adopted the Sxwtpqyen Neighborhoods Master Plan and Title 21 Form Based Code which affected the applicable regional plan for this area. Though the Our Missoula: 2035 City Growth Policy land use designation for the subject property was replaced by the Sxwtpqyen Neighborhoods Master Plan, the parcel was not rezoned in compliance with the new master plan.
8. The applicable regional plan is the Sxwtpqyen Neighborhoods Master Plan which corresponds with the Title 21 Form Based Code. Neither the Master Plan nor the Form Based Code consider the B2-1 zoning district or Title 20.
9. The Sxwtpqyen Neighborhoods Master Plan recommends a neighborhood unit type of Community Center. The Community Center neighborhood unit type would require a mix of T3 Edge, T4-R General Restricted, and T4-O General Open zoning districts. The Community Center neighborhood unit would also allow for T5 Mixed Use Center zoning. The T4-O and T5 zoning districts allow for a mix of residential and commercial uses, similar to the B2-1 zoning district applicable to the subject property. The T4-R, T4-O, and T5 zoning districts recommended by the Master Plan allow multi-dwelling residential development in addition to less intensive residential building types.
10. Though not zoned in compliance with the applicable regional plan, the current zoning of B2-1 Community Business aligns with the permitted uses and building types recommended by the Sxwtpqyen Neighborhoods Master Plan.

11. The Sx^wtpqyen Neighborhoods Master Plan refers to this neighborhood unit as being an important connection between Flynn Lane and Mullan Road and, along with the existing neighborhoods, this community provides an opportunity for kids to walk or ride their bikes to Hellgate School.

Conclusions of Law:

1. The subdivision complies with Title 20 Zoning Code and substantially complies with the intent of the Community Center Neighborhood Unit Type of the Sx^wtpqyen Neighborhoods Master Plan.
2. Per State Law MCA 76-1-605(2)(b) no land use proposal shall be conditioned or denied based solely upon the lack of compliance with the Growth Policy.

B. STREET AND ROAD PLANS

Findings of Fact:

General

1. Section 3-010.5 of the City Subdivision Regulations states the subdivision must be served by adequate public facilities and services such as transportation systems (including nonmotorized), parking, police and fire protection, drainage structures, solid waste disposal, water supply, and sanitary sewage disposal; or the subdivider will provide adequately for such services.
2. The applicant proposes a system of streets, alleys, and nonmotorized facilities that will connect with existing and proposed facilities in the area (*Application Packet Section D Grading, Drainage, and Road Construction Plans*).
3. Section 3-020.3A(1) of the City Subdivision Regulations requires perpetual legal access to subdivisions from an established public road or by a public perpetual access easement or right-of-way adequate to serve the subdivision and each public road must allow construction and perpetual maintenance of the road.
4. The applicant proposes access to the subdivision from O'Leary Street, Killarney Way, Geary Lane, Flanigan Lane, Mary Jane Boulevard, and Flynn Lane (*Subdivision Application Section F, Application Packet Section A Preliminary Plat and Section D Grading, Drainage, and Road Construction Plans*).
5. Section 3-020.4D of the City Subdivision Regulations states street connections must be provided to any existing or approved public street, road or right-of-way extension abutting the subdivision. Subdividers must incorporate connections to nearby destinations such as schools, parks, employment centers, and commercial areas as well as collector and arterial transportation corridors, non-motorized transportation corridors, and future phases of development.
6. The applicant provides access to these street connections and nearby destinations by extending O'Leary Street, Killarney Way, Geary Lane, Flanigan Lane, Mary Jane Boulevard, and Flynn Lane (*Application Packet Section A Preliminary Plat and Section D Grading, Drainage, and Road Construction Plans*).
7. Section 3-020.4H of the City Subdivision Regulations requires a street, road signage, pavement, and curb markings plan and installation of street signage in accordance with the Manual on Uniform Traffic Control Devices, subject to review and approval by Public Works & Mobility and the Fire Department, prior to final plat approval.
8. City Subdivision Regulations Section 3-020.12.C requires approval of all street names. The alley providing access to Lot 32 must be named in order to provide adequate way finding for emergency services. Staff recommend a condition of approval requiring the signage plan to include a name for Road A and the alley providing vehicular access to Lot 32, prior to final plat approval of each applicable phase.

9. Section 3-020.15.B(1) of the City Subdivision Regulations requires the subdivision to provide active transportation facilities that create a safe and efficient off-road method of travel by providing continuous access to all lots within the subdivision and access to adjoining developments, schools, playground, bus stops, public parks, and services.
10. The subdivision application packet shows sidewalks along all street frontages within the subdivision that also connect to existing and future sidewalks and trails adjacent to the subject property (*Application Packet Section D Grading, Drainage, and Road Construction Plans*).
11. In order to comply with City Subdivision Regulations Sections 3-010.5 and 3-020.15.B(1), staff recommend a condition of approval requiring the applicant to provide plans for and install road improvements to be reviewed by Public Works & Mobility, Fire, and Parks & Recreation.
12. Section 5-050.4M & N of the City Subdivision regulations requires a Special Improvement District (SID) statement to be provided on the plat and on each instrument of conveyance for future street and related improvements that benefit the subject property.
13. In order to comply with Section 5-050.4M & N, staff recommend a condition of approval requiring a SID statement for Flynn Lane and O'Leary Street on the plat and in the Development Covenants for future street and street lighting improvements.

Rights-of-Way and Easements

14. Section 3-020.3B of the City Subdivision Regulations requires all streets within a subdivision to be dedicated public right-of-way or, at the City Engineer's discretion, may be a private street with public access and private maintenance easement.
15. Section 3-060.1 of the City Subdivision Regulations requires easements to be provided for utilities, drainage, watercourse, channel, ditch, stream, vehicular, and pedestrian access. All streets and alleys in the subdivision are proposed to be dedicated public right-of-way or within public access easements (*Application Packet Section A Preliminary Plat*).
16. All utilities and drainage facilities are located within proposed public right-of-way or utility easements (*Application Packet Section A Preliminary Plat, Section D Grading, Drainage, and Road Construction Plans and Utility Construction Plans*).
17. In order to comply with City Subdivision Regulations Sections 3-020.3B and 3-060.1, staff recommend a condition of approval requiring all proposed rights-of-ways and easements to be shown on the face of each plat and identified for their width, purpose, and the case of existing easements, by their recorded book and page numbers.

Transit

18. Section 3-020.4G of the City Subdivision Regulations states when development is adjacent to or within one quarter mile of an established public transit or school bus route, the subdivider may be required by the City Engineer to construct bus stop facilities along with accessible routes, meeting ADA standards, to those facilities.
19. The nearest Mountain Line bus stop is located on Connery Way, approximately 830 feet from the eastern boundary of the subdivision along Flanigan Lane (*Application Packet Section B Bus Route Exhibit*).
20. The nearest Missoula County School District bus stop is located at the intersection of Flynn Lane and Chelsea Drive, approximately 600 feet from the northwestern boundary of the subdivision along Flynn Lane (*Application Packet Section B Bus Route Exhibit*).
21. The nearest Hellgate Elementary School District Bus Stop is located at the intersection of Chelsea Drive and Mary Jane Boulevard, approximately 800 feet from the northern boundary of the subdivision along Mary Jane Boulevard (*Application Packet Section B Bus Route Exhibit*).

22. Existing and proposed accessible routes will provide access to these existing bus stops. City Engineering (Public Works & Mobility) will not be requiring the installation of bus stop facilities for this subdivision (*Application Packet Section B Bus Route Exhibit*).
23. The subject property is not within the Missoula Urban Transportation District. Though not within the MUTD, the subject property has access to Mountain Line bus service within a quarter mile. Title 20 Zoning Code requires lots containing multi-dwelling development to petition the Missoula Urban Transportation District to annex the property at the time of building permit.

Non-Motorized

24. Section 3-020.15.B(1) of the City Subdivision Regulations requires the subdivision to provide active transportation facilities that create a safe and efficient off-road method of travel by providing continuous access to all lots within the subdivision and access to adjoining developments, schools, playground, bus stops, public parks, and services.
25. The subdivision application packet shows sidewalks along all street frontages within the subdivision that also connect to existing and future sidewalks and trails adjacent to the subject property (*Application Packet Section D Grading, Drainage, and Road Construction Plans*).

Mary Jane Boulevard

26. Mary Jane Boulevard is functionally classified as a Collector and designated as an Urban Collector, within an existing 80-foot right-of-way. The applicant is proposing an additional 10 feet of right-of-way dedication (*Application Packet Section A Preliminary Plat*).
27. Two proposed roads, O'Leary Street and Flanagan Lane, will be accessed from Mary Jane Boulevard (*Application Packet Section A Preliminary Plat*).
28. Improvements to Mary Jane Boulevard were designed with the Mullan BUILD project and include two 10-foot-wide drive lanes, 7-foot-wide parking lanes, curb and gutter, 10-foot-wide boulevards with bioswales, 6-foot-wide bike lanes, and 6-foot-wide sidewalks. Per an existing right-of-way agreement, the City is responsible for cost and installation of primary improvements to Mary Jane Boulevard including drive lanes and curb and gutter. Installation of primary improvements have been completed. Secondary improvements including bike lanes, parking lanes, boulevards, and sidewalks are to be funded through the Sxwtpqyen Area Special Transportation Impact Fees. The agreement states the City will install secondary improvements as funding becomes available but that the subdivider may install secondary improvements (*Application Packet Section D Grading, Drainage, and Road Construction Plans, Mullan BUILD approved plans and Mullan BUILD ROW agreement*).
29. The applicant is responsible for design and installation of boulevard landscaping and street lights on Mary Jane Boulevard (*Mullan BUILD ROW agreement*).
30. The City does not have plans to install secondary improvements. In order to comply with City Subdivision Regulations, Section 3-020.15.B(1) requiring active transportation facilities, staff recommend a condition of approval requiring the subdivider to install secondary improvements to Mary Jane Boulevard, as described in the existing right-of-way agreement, and amend the existing right-of-way agreement, prior to Phase I and Phase IV final plat approval. The amendment to the right-of-way agreement shall address crediting/offsets to, or reimbursement of, Sxwtpqyen Area Special Transportation Impact Fees for installation costs for secondary improvements incurred by the subdivider, pursuant to Title 15.

O-Leary Street

31. O'Leary Street is functionally classified as a Local Street and designated as an Urban Local Street, within an existing 80-foot right-of-way. The applicant is proposing an additional 5-foot public access and utility easement (*Application Packet Section A Preliminary Plat*).

32. Road A will be accessed from O'Leary Street. (*Application Packet Section A Preliminary Plat*)
33. Improvements to O'Leary Street include two 10-foot-wide drive lanes, 7-foot-wide parking lane, curb and gutter, 7-foot-wide boulevard, 5-foot-wide bike lane (future), and 5-foot-wide sidewalk.
34. City Subdivision Regulations Section 3-010.5 requires the subdivision to be served by adequate public facilities and Section 3-020.15.B(1) requires the subdivision to provide active transportation facilities. The subdivider is required to install improvements unless installed by others.
35. A project is currently proposed south of O'Leary Street and east of Mary Jane Boulevard that is also required to design and construct street improvements on O'Leary Street.
36. In order to comply with City Subdivision Regulations Sections 3-010.5 and 3-020.15.B(1), staff recommend a condition of approval requiring the subdivider to install improvements to O'Leary Street, east of Mary Jane Boulevard. If improvements are installed by other adjacent projects, then the subdivider shall provide an executed agreement which outlines which improvements will be installed by others.
37. Plans for and installation of O'Leary Street west of Mary Jane Boulevard is required by staff recommended condition of approval #1.

Flanagin Lane, Geary Lane, Killarney Way, Road A

38. Flanagin Lane, Geary Lane, and Road A are functionally classified as a Local Streets and designated as a Local Residential Streets, within proposed 60-foot rights-of-way (*Application Packet Section A Preliminary Plat, Development Agreement*).
39. Killarney Way is functionally classified as a Local Street and designated as a Local Residential Street, within a proposed 61-foot right-of-way (*Application Packet Section A Preliminary Plat, Development Agreement*).
40. Improvements to these roads include two 10-foot-wide drive lanes, 7-foot-wide parking lanes, curb and gutter, 7-foot-wide boulevards, and 5-foot-wide sidewalks (*Application Packet Section D Grading, Drainage, and Road Construction Plans*).
41. City Subdivision Regulations Section 3-010.5 requires the subdivision to be served by adequate public facilities and Section 3-020.15.B(1) requires the subdivision to provide active transportation facilities.
42. In order to comply with City Subdivision Regulations Sections 3-010.5 and 3-020.15.B(1), staff recommend a condition of approval requiring the subdivider to provide plans for and installation of motorized and non-motorized improvements prior to each applicable phase. These improvements include Flanagin Lane, Geary Lane, Killarney Way, and Road A through the subdivision.

Flynn Lane

43. Flynn Lane is functionally classified as a Local Street and designated as an Urban Local Street, within an existing 33-foot public road easement. The applicant is proposing a dedication of an additional 9.2 feet of right-of-way (*Application Packet Section A Preliminary Plat*).
44. Half-street improvements to Flynn Lane include curb and gutter, asphalt patch that provides two 10-foot-wide drive lanes and a 7-foot-wide parking lane, 7-foot-wide boulevard, and 5-foot-wide sidewalk adjacent to the lots, and curb and gutter on the portion extending to the north on Flynn Lane. (*Application Packet Section D Grading, Drainage, and Road Construction Plans*)
45. In order to comply with City Subdivision Regulations Sections 3-010.5 and 3-020.15.B(1), staff recommend a condition of approval requiring the subdivider to provide plans for and installation of motorized and non-motorized improvements prior to each applicable phase. These improvements include half-street improvements to Flynn Lane adjacent to the subject property.

Alleys

46. The applicant is proposing a system of alleys that provide both primary and secondary access to many of the lots (Application Packet Section A Preliminary Plat).
47. All alleys providing primary fire response access must meet fire apparatus access road requirements as well as small building access to units on the lots (*International Fire Code*).
48. City Subdivision Regulations Section 3-010.5 requires the subdivider to provide adequate facilities, which includes alleys providing vehicular access to lots.
49. In order to comply with City Subdivision Regulations Section 3-010.5, staff recommend a condition of approval requiring the subdivider to provide plans for and installation of motorized and non-motorized improvements prior to each applicable phase. These improvements include installation of alleys within the subdivision.

Conclusions of Law:

1. The subdivision will meet the road improvements and non-motorized facility standards in the City Subdivision Regulations if the recommended conditions of approval are imposed.
2. The subdivision provides active transportation facilities that provide safe routes to bus stops, open space, other neighborhoods, and all lots within the subdivision in compliance with the subdivision regulations, if the recommended conditions of approval are imposed.

C. GRADING AND DRAINAGE

Findings of Fact:

1. Section 3-040 of the City Subdivision Regulations provides minimum standards for site grading and control of storm water runoff.
2. Section 3-040.2.E of the City Subdivision Regulations states all drainage systems must meet the minimum standards of the Montana Department of Environmental Quality (DEQ), as required by MCA Title 76, Chapter 4 and 5, Part 1, as amended, and all applicable state and local regulations.
3. Section 5-020.11 and 3-040 of the City Subdivision Regulations requires the subdivider to submit a complete grading and drainage plan showing proposed grade of streets, proposed drainage facilities, and a storm water pollution prevention plan for all lots, blocks, and other areas meeting Montana Department of Environmental Quality standards, subject to the review and approval of the City Engineer and MDEQ. All drainage facilities must be constructed in accordance with the approved plans.
4. The subdivision application includes a Preliminary Storm Drainage Memorandum and Geotechnical Analysis that evaluates pre- and post-development conditions and proposes stormwater will be managed using drywell sumps. A Preliminary Stormwater Prevention Pollution Plan and Mass Grading plan has been provided (*Application Packet Section D Grading, Drainage, and Road Construction Plans, Preliminary Storm Drainage Memorandum, Geotechnical Analysis*).
5. In order to comply with City Subdivision Regulations Section 5-020.11, staff recommend a condition of approval requiring the subdivider to provide plans for and installation of grading, drainage, and stormwater facilities, subject to review and approval by Montana Department of Environmental Quality and Public Works & Mobility, prior to final plat approval for each phase.

Conclusions of Law:

1. The subdivision will meet the grading and drainage standards in the City Subdivision regulations and Montana DEQ, if the recommended condition of approval is imposed.

D. WATER SUPPLY, SEWAGE DISPOSAL, AND SOLID WASTE

Findings of Fact:

1. The subject property is within the Utility Services Area Boundary (*Missoula Maps – Infrastructure and Utilities*).
2. Section 3-010.5 of the City Subdivision Regulations requires subdivisions to be served by adequate public facilities and services including water supply, sewage disposal, and solid waste disposal.
3. Water main extensions are planned from existing mains located in Mary Jane Boulevard, Killarney Way, Flanagan Lane, and Geary Lane. Proposed water mains will also be extended into Flynn Lane for future expansion (*Application Packet Section D Utility Construction Plans*).
4. The water main extension in Flanagan Lane and in Flynn Lane north of Flanagan Lane will be upsized for greater capacity with the difference in upsize paid by the City.
5. In order to comply with City Subdivision Regulations Section 3-010.5, staff recommend a condition of approval requiring the applicant to enter into a Utility Upsize Agreement with the City of Missoula.
6. Sewer main extensions are planned from existing mains located in Mary Jane Boulevard, Killarney Way, and Geary Lane. Proposed sewer mains will also be extended to Flynn Lane for future expansion (*Application Packet Section D Utility Construction Plans*).
7. The subdivision application includes a water and sanitation report meeting the City's requirements for this stage of the review process (*Application Packet Section D Water and Sanitation Report*).
8. In order to comply with City Subdivision Regulations Section 3-010.5, staff recommend a condition of approval requiring the subdivider to provide plans for and installation of water supply and sewage disposal facilities, subject to review and approval by Public Works and Mobility, City/County Health Department, and Montana Department of Environmental Quality (MDEQ), prior to final plat approval.
9. Section 3-070.1 of the City Subdivision Regulations states the means for solid waste disposal is subject to approval of the City Council. Republic Services is expected to provide solid waste disposal service to the subdivision (*Subdivision Application Section K.v*).
10. In order to comply with City Subdivision Regulations Section 3-070.1, staff recommend a condition of approval requiring the subdivider to submit plans for solid waste disposal prior to final plat approval of each phase, subject to review and approval by Public Works & Mobility, City/County Health Department, and MDEQ.
11. The subject property is located within the Mullan BUILD project area and is subject to the Mullan BUILD Water and Sewer Special Development Fee which reimburses the City of Missoula for utility main extensions installed as part of the Mullan BUILD project adjacent to the subject property. Reimbursement is required prior to connection to a City of Missoula utility main (*City of Missoula Resolution 8671*).
12. Staff recommend a condition of approval requiring the subdivider to pay the Mullan BUILD Water and Special Sewer Development Fee prior to the first connection to any Mullan BUILD utility main. Proof of payment shall be provided prior to final plat approval of the applicable phase (*City of Missoula Resolution 8671*).

13. City Subdivision Regulations Section 3-010.1.F states subdivisions must comply with all other applicable regulations, including Fire Department regulations. Proposed fire hydrants are shown in Section D, Utility Construction Plans in the application packet.
14. In order to comply with City Subdivision Regulations Section 3-010.1.F, staff recommend a condition of approval requiring the subdivider to provide plans for and installation of fire hydrants, subject to review and approval by City Fire and Public Works & Mobility.

Conclusions of Law:

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

E. EXISTING HAZARDS

Findings of Fact:

Groundwater, Floodplain, Slope Instability/Steep Slopes, Airport Influence Area

1. The Geotechnical Analysis states groundwater was not observed in any of the test pits to the 10-foot maximum depth explored. A review of groundwater well data indicates the static groundwater level in this area is variable but likely 25-30 feet in depth below existing grades (*Application Packet Section D Geotechnical Analysis*).
2. The application states this property is not within a 100-year floodplain or Special Flood Hazard Area based on Floodplain Panel 30063C1195E (*Application Packet Section A Subdivision Application*).
3. The application states this property does not have slopes over 15% (*Application Packet Section A Subdivision Application*).
4. The subject property is located within the Airport Influence Area (AIA) Overlay, which is an overlay established to promote public health, safety, and general welfare, to protect the lives and property of users of the airport and of occupants of land in its vicinity, and to preserve the utility of the airport and the public investment in it (*Airport Influence Area Resolution*).
5. Staff recommends a condition of approval requiring the applicant to obtain an avigation easement from the Airport Authority, in compliance with the Airport Influence Area Resolution.
6. Staff recommends a condition of approval requiring all final plats to include a statement notifying of the airport influence area and the resultant safety risk.

Conclusions of Law:

1. This subdivision will have no impacts to groundwater, floodplain, slope instability/steep slopes, or the airport influence area if the recommended condition of approval is imposed.

F. PARKS AND RECREATION

Findings of Fact:

1. Section 3-080.3A of the City Subdivision Regulations requires parkland dedication for lots of any size where the zoning allows three or more dwelling units. When the density for the zoning is greater than 10 dwelling units per acre, the calculation is 0.02 acres x 10 dwelling units/acre x acreage of lots.
2. The net lotted acreage of the subdivision 7.8 acres. The calculation 0.02 acres x 10 dwelling units/acre x 7.8 acres = 1.56 acres, the amount of required parkland dedication for this subdivision (*Application Packet Section A Subdivision Application, Preliminary Plat*).
3. The Development Agreement shows a park in the approximate location of the park on the preliminary plat.
4. The applicant is proposing 3.24 acres of parkland dedication, which substantially complies with the subdivision regulations, as well as the Development Agreement (*Application Packet Section A Preliminary Plat*).
5. Staff recommend a condition of approval requiring the subdivider to dedicate the parkland to the City and to install improvements to the park, prior to final plat approval of Phase 1. These improvements include installation of boulevard trees on boulevards abutting the parkland.
6. Section 5-050.5.C of the City Subdivision Regulations requires the applicant to submit a boulevard landscaping plan. Staff recommends a condition of approval requiring the applicant to submit a boulevard landscaping plan, subject to the review and approval by the City Parks and Recreation Department, prior to final plat approval. Installation of boulevard landscaping is the responsibility of the property owner or builder at the time of building permit. The recommended condition of approval requires the covenants to notify property owners of this requirement.

Conclusion of Law:

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

G. COVENANTS AND/OR HOMEOWNER ASSOCIATIONS, VEGETATION, RIPARIAN RESOURCE AREAS, WEEDS, HISTORIC AND/OR CULTURAL FEATURES

Findings of Fact:

Covenants, Conditions and Restrictions

1. Section 5-020.14.I of the City Subdivision Regulations requires drafts of covenants and restrictions to be included in deeds or contracts for sale when covenants and restrictions are proposed.

Vegetation, Riparian Resource Areas, and Noxious Weeds

1. Section 3-010.1.F of the City Subdivision Regulations requires the subdivision to comply with other regulations applicable to the land proposed for subdivision.
2. No riparian resources exist on the property (*Application Packet Section A Subdivision Application*).
3. The Missoula County Noxious Weed Management Plan, adopted by Resolution 2012-063, requires a weed management plan as part of subdivision plans.
4. The application packet includes a weed management and revegetation plan. The weed management plan states weeds will be managed with a combination of hand pulling, herbicide

treatments and mowing. It states the re-establishment of vegetation in disturbed areas will be done as soon as possible to minimize erosion, decrease competition from weeds and improve survival of the seed mix planted (*Application Packet Section C Weed Management and Revegetation Plan*).

5. The following statement is included in the development covenants: "Weed Control: The owner of each Lot or Ownership Unit which is not in immediate development or does not have improvements being constructed thereon is responsible to maintain such owner's Lot or Ownership Unit in compliance with the Montana's Noxious Weed Control Act, and the attached Exhibit A Weed Management and Revegetation Plan. Owners shall revegetate any ground disturbance created by construction or maintenance with beneficial species at the first appropriate opportunity after construction or maintenance is complete, pursuant to the Exhibit A Plan. This provision may not be amended or deleted without governing body approval." (*Application Packet Section C Covenants*).

Historic or Cultural Features

1. Section 3-010.8 of the City Subdivision regulations requires the subdivision to not result in the destruction, loss, or damage of significant, natural, scenic, cultural, or historic features.
2. The Montana State Historic Preservation Office (SHPO) provided comment stating that any structure of 50 years of age is considered historic and is potentially eligible for listing on the National Register of Historic Places. If any structures are within the Area of Potential Effect, and are over 50 years old, SHPO recommends that they be recorded, and a determination of their eligibility be made prior to any disturbance taking place. If there will be no disturbance or alteration to structures over fifty years of age, SHPO feels there is a low likelihood cultural property will be impacted (*Application Packet Subdivision Application Section A, SHPO Report Section E*).
3. No historic, paleontological, archaeological, or cultural sites were identified, and no structures will be disturbed or demolished as a result of this proposed subdivision (*Subdivision Application Section A*).

Conclusion of Law:

1. The subdivision will have no impact on vegetation, riparian resource areas, or noxious weeds.
2. No historic or cultural resources will be impacted as a result of this subdivision.

VII. PRIMARY CRITERIA COMPLIANCE

1. SURVEY REQUIREMENTS

Findings of Fact:

1. The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with Part 4 of M.C.A. 76-3.
2. As described in the Subdivision Regulations Section 4-070.4, Development Services has a process to require review of all final plats for conformance with state law and local regulations.

Conclusion of Law:

1. This proposal will meet the survey requirements if the condition of approval is imposed.

2. SUBDIVISION REGULATIONS

Findings of Fact:

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

Conclusion of Law:

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

3. REVIEW PROCEDURE

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in Article 4 of the Missoula City Subdivision Regulations.
2. Notice of a public hearing for this expedited subdivision is not required; however, the site was posted on July 31st, 2023, and letters were mailed to adjacent property owners on July 28th, 2023.
3. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty days of such decision. The application shall 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. This subdivision proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Article 4 of the Missoula City Subdivision Regulations.

PROVISION OF EASEMENTS FOR UTILITIES:

Findings of Fact:

1. All utilities necessary to serve the subdivision, including water, sewer, electrical, phone and power, are planned to be located within public rights-of-way or easements. This project does not propose overhead utilities (*Application Packet Subdivision Application Section A*).
3. The application packet states the subdivision electricity will be served by Northwestern Energy and Missoula Electric Cooperative. The subdivision natural gas will be serviced by Northwestern Energy (*Application Packet Subdivision Application Section A*).
4. The application packet states that the subdivision will be served by numerous wireless providers (telephone) and Direct TV and Dish Network (cable TV) (*Application Packet Subdivision Application Section A*).
5. Subdivision Regulations Section 3-060.1 states that easements must be reviewed and approved by City Engineering.

Conclusion of Law:

1. Utility services are available to this subdivision and the subdivision is in compliance with the Subdivision Regulations so long as the conditions of approval are met.

PROVISION OF LEGAL AND PHYSICAL ACCESS:

Finding of Fact:

1. Legal and physical access will be provided to the subdivision via Mary Jane Boulevard, O’Leary Street, Flynn Lane, Geary Lane, Flanagin Lane, and Killarney Way (*Subdivision Application, Section A Preliminary Plat*).
2. The application states some proposed access to the subdivision is provided through private property not owned by the subdivider. These two accesses are on the northwestern portion of the property through Hellgate Village Townhome Ownership Association common area, and HEH, LLC common area. The subdivider has provided a recorded access easement describing the allowable construction and perpetual maintenance of areas across the property (*Application Packet Subdivision Application Section A, Legal Access List and Filed Access Easement Section C*).

Conclusion of Law:

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

VIII. REFERENCES CITED

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

Plans & Regulations

- **M.C.A.:** Montana Code Annotated, 2021
https://leg.mt.gov/bills/mca/title_0760/chapters_index.html
- **Subdivision Regulations:** *City of Missoula Subdivision Regulations*, adopted by the Missoula City Council and amended on July 18, 2022
<http://www.ci.missoula.mt.us/DocumentCenter/View/22394>
- **Sxwtpqyen Neighborhoods Master Plan**
- **Title 20:** *Title 20 Missoula Zoning Ordinance*, adopted by the City Council
https://library.municode.com/mt/missoula/codes/municipal_code

Elements of the application packet:

Section A

- Project Summary
- City Major Subdivision Application – Expedited
- Preliminary Plat

Section B

- Zoning Map
- Floodplain Map
- Airport Influence Area Exhibit
- Bus Route Exhibit
- Vegetation Exhibit

Section C

- Draft Covenants Conditions and Restrictions
- Weed Management and Revegetation Plan
- Legal Access List
- Filed Access Easement
- **Development Agreement**

Section D

- Water and Sanitation Report
- Preliminary Storm Drainage Memorandum
- Road Atlas Worksheet
- Grading, Drainage, and Road Construction Plans

- Utility Construction Plans
- Geotechnical Analysis

Section E

- State Historic Preservation Office (SHPO) Report

Other Resources

- Missoula County Noxious Weed Management Plan: Adopted by the Missoula Board of County Commissioners in Resolution 2012-063
<http://missoulaeduplace.org/images/weeds/noxiousweedmanagementplan/2012weedplan.pdf>
- Montana Department of Natural Resources and Conservation:
<http://dnrc.mt.gov/divisions/water/water-rights/new-appropriations-program>
- International Fire Code: <https://codes.iccsafe.org/content/IFC2021P2>
- Missoula Maps – Infrastructure and Utilities: <https://missoulamaps-cityofmissoula.hub.arcgis.com/pages/30d6486e778848b9b6879fdadea114ef>
- Mullan BUILD: <https://www.mullanbuild.com/improvements-1>
- City of Missoula Resolution 8671:
<https://www.ci.missoula.mt.us/DocumentCenter/View/65068/Resolution-8671>
- Airport Influence Area Resolution:
<https://gis.missoulacounty.us/ResearchAPI/Handlers/Documents.ashx?did=j4C9spe%2BuoUAtIhQLNzew%3D%3D>