



**HIGH PARK VIEWS 13-LOT MAJOR SUBDIVISION**

**STAFF REPORT**

**Agenda Item:** Referral and Staff Report – High Park Views 13-Lot Major Subdivision

**Report Date:** 5/24/2024

**Case Planner:** Lauren Stevens, Senior Planner

**Report Review & Approved by:** Dave DeGrandpre, Planning Supervisor

**Public Meetings & Hearings:**

City Council (CC) Consent Agenda: 06/03/2024

Planning Board (PB) Public Hearing: 06/04/2024

Land Use & Planning (LUP): 06/12/2024

City Council Public Hearing: 06/24/2024

**I. GENERAL PROJECT INFORMATION**

**Applicant:**

Rebecca Donnelly  
231 East Alder, Unit B  
Missoula, MT 59802

**Representative:**

Tamara Ross, IMEG Corp.  
1817 South Avenue West  
Missoula, MT 59801

**Owner:**

Rebecca Donnelly  
231 East Alder, Unit B  
Missoula, MT 59802

**Location of Request:** The subject property is unaddressed and is located directly north of High Park at the end of Landon’s Way. It is in City Council Ward 4 and the Farviews/Pattee Canyon Neighborhood Council area.

**Legal Description:** Certificate of Survey No. 282, the same being a tract of land located in the NE ¼ of Section 5, Township 12 North, Range 19 West, P.M.M., Missoula County, Montana.

**Geocode:** 04-2093-05-1-23-05-0000

**Legal Notification:** The legal ad was published in the Missoulian on May 18<sup>th</sup> and May 25<sup>th</sup>, 2024. The site was posted on May 10<sup>th</sup>, 2024. Property owners adjacent to the subject property were notified by certified mail on May 3<sup>rd</sup>, 2024.

## **II. DECISION AND REGULATORY FRAMEWORK**

**Applicable State Law:** Montana Code Annotated 2023

**Growth Policy:** The [Our Missoula 2035 City Growth Policy](#) is the applicable regional plan and recommends a land use designation of Residential Medium, which is intended for residential neighborhoods ranging in density from 3 to 11 dwelling units per acre, that fit in with many already established residential neighborhoods. The *Our Missoula 2035 City Growth Policy* incorporates previously approved neighborhood area plans as amendments. The applicable neighborhood plan is the 1986 *South Hills Comprehensive Plan*.

**Local Zoning Law:** [Title 20, Missoula Municipal Code](#) adopted by City Council as amended on October 16<sup>th</sup>, 2023.

**Current and Proposed Zoning:** The parcel is zoned R5.4 Residential 5.4. No rezone request is included with the subdivision request, so the zoning will remain R5.4.

**Subdivision Regulations:** Missoula City Subdivision Regulations adopted by City Council as amended on October 16, 2023.

### **Surrounding Land Uses:**

North: Residential, Public Utilities  
South: Public City park – High Park  
East: Residential  
West: Residential

### **Surrounding Zoning:**

North: R5.4 Residential 5.4  
South: R5.4 Residential 5.4  
East: R5.4 Residential 5.4  
West: R8 Residential 8

## **III. RECOMMENDED MOTIONS**

### **City Council Consent Agenda (06/03/2024)**

**Set a public hearing** on June 24<sup>th</sup>, 2024 for the High Park Views 13-Lot Major Subdivision request and **refer this item** to the Land Use and Planning Committee for presentation on June 12<sup>th</sup>, 2024.

### **Planning Board Public Hearing (06/04/2024)**

Recommend City Council **approve** the variance request from Article 3, Section 3-020.3.G, Section 3-020.5.A, and Sections 3-020.5.B(3) and B(4) of the City Subdivision Regulations to allow the

extension of Landon's Way to be in the form of a cul-de-sac, providing only one access route to lots within the Wildland-Urban Interface (WUI).

Recommend City Council **approve** the variance request from Article 3, Section 3-020.4(D) requiring that a street connection must be provided to any existing or approved public street abutting the subdivision to allow for no new street connection to Simons Drive.

Recommend City Council **approve** the variance request from Article 3, Section 3-030.2.A(2) of the City Subdivision Regulations establishing a maximum block length of 480 feet in urban-suburban subdivisions to allow the block to include the entire extension of Landon's Way.

Recommend City Council **approve** the variance request from Article 3, Section 3-020 Table .2A, Section 3-020.15.D.1, and Section 3-020.15.D.2.a of the City Subdivision Regulations to allow Simons Drive to deviate from the design standards for a Low Density Urban Local Street, including the minimum right-of-way width, landscaped boulevard, and 7-foot sidewalk clear space.

Recommend City Council **approve** the High Park Views Subdivision preliminary plat application, subject to the recommended conditions of approval, based on the findings of fact and conclusions of law in this staff report.

#### **Land Use and Planning Committee (06/12/2024)**

No motion – pre-public hearing informational item.

#### **City Council Public Hearing (06/24/2024)**

**Approve** the variance request from Article 3, Section 3-020.3.G, Section 3-020.5.A, and Sections 3-020.5.B(3) and B(4) of the City Subdivision Regulations to allow the extension of Landon's Way to be in the form of a cul-de-sac, providing only one access route to lots within the Wildland-Urban Interface (WUI).

**Approve** the variance request from Article 3, Section 3-020.4(D) requiring that a street connection must be provided to any existing or approved public street abutting the subdivision to allow for no new street connection to Simons Drive.

**Approve** the variance request from Article 3, Section 3-030.2.A(2) of the City Subdivision Regulations establishing a maximum block length of 480 feet in urban-suburban subdivisions to allow the block to include the entire extension of Landon's Way.

**Approve** the variance request from Article 3, Section 3-020 Table .2A, Section 3-020.15.D.1, and Section 3-020.15.D.2.a of the City Subdivision Regulations to allow Simons Drive to deviate from the design standards for a Low Density Urban Local Street, including the minimum right-of-way width, landscaped boulevard, and 7-foot sidewalk clear space.

**Approve** the High Park Views Subdivision preliminary plat application, subject to the recommended conditions of approval, based on the findings of fact and conclusions of law in this staff report.

#### **IV. INTRODUCTION**

Development Services has received a request from IMEG Corp., on behalf of Rebecca Donnelly, for a 13-lot major subdivision of 9.49 acres located north of High Park on Landon's Way, which can be legally described as Certificate of Survey No. 282, the same being a tract of land located in the NE ¼ of Section 5, Township 12 North, Range 19 West, P.M.M., Missoula County, Montana.

Staff has reviewed the applicant's preliminary plat application submittal packet and bases the recommendations of approval on the following findings of fact and conclusions of law:

## **V. GENERAL FINDINGS OF FACT**

1. The subject property has frontage on Simons Drive, which is functionally classified as a Low Density Local Residential street, and abuts the existing dead-end of Landon's Way, which is functionally classified as a Low Density Local Residential Street. *(Pg. 25, City Subdivision Application, Missoula Maps)*
2. The subject property is approximately 413,000 square feet (9.49 acres) and does not contain any existing structures. *(Pg. 2, City Subdivision Application, Supplemental Data Sheets – Existing Conditions Exhibit, Project Summary)*
3. The subject property is inside the Missoula Urban Growth Area, the Utility Services Area, and the Urban Transportation District. *(Missoula County Property Information System)*
4. The subject property is within the Air Stagnation Zone, Bear Buffer Zone Phase 2, and the Wildland-Urban Interface (WUI). *(Missoula County Property Information System)*
5. The subject property is not currently served by City water and sewer, and does not have an existing well or septic system on-site. Proposed future development would be required to connect to City water and sewer. *(Project Summary, Supplemental Data Sheets – Existing Conditions Exhibit, project summary, Sewer & Water Main Construction Plans)*
6. The property is part of City Council Ward 4, and the Farviews/Pattee Canyon Neighborhood Council. *(Pg. Missoula Maps)*
7. The subject property is located within an established service area for Missoula hospitals and the City Fire and Police Departments. *(Pg. 36, City Subdivision Application)*
8. The subject property is within a quarter mile of the Mountain Line bus stop at Simons Drive and High Park Way, but it is located down a steep hill and requires walking on a street without sidewalks to reach. The bus stop is on Route 12. There is a school bus stop located about 400 feet north of the subject property at Simons Drive and Polaris Way. *(Bus Route Exhibit, Missoula County Property Information System)*
9. The subject property is just over one mile from both the Albertsons and Pattee Creek Market grocery stores. *(Missoula County Property Information System)*
10. The subject property is part of Missoula County Public School District and is within the attendance areas for Lewis and Clark Elementary School, Washington Middle School, and Sentinel High School *(Pg. 36, City Subdivision Application, Missoula County Property Information System)*
11. High Park is located directly south of the subject property. Access to the park would be from the same general location, but proposed improvements would include on-street parking that can be utilized by park visitors and typical trailhead signage and garbage facilities. *(Pg. 38, City Subdivision Application)*
12. The property contains areas of steep slopes over 25% grade. There is also a portion of an existing man-made pond and riparian resource area that straddles the property line to the northeast. *(Supplemental Data Sheets, Project Summary)*
13. The subject property is entirely within the 500-year (.2% annual chance) floodplain, which is not a regulated floodplain by the City of Missoula. This is also known as "Shaded-X", and does

not require special floodplain permits. (Pg. 13, *City Subdivision Application, FEMA Map Service Center, City of Missoula Floodplain Administrator*)

## **VI. ZONING AND GROWTH POLICY FINDINGS OF FACT**

14. The applicable regional plan is the *Our Missoula: City Growth Policy 2035*, which recommends a land use designation of Residential Medium. This land use designation is for residential neighborhoods ranging in density from 3 to 11 dwelling units per acre, and is intended to fit with many already established residential neighborhoods. Residential land uses generally reflect the existing land use patterns while also considering the “focus inward” policy of higher density development within the core of the community where existing infrastructure is in place. The City Growth Policy indicates that the following districts are most closely aligned with this residential density: RT10 Residential 10 (two-unit/townhouse), R8 Residential 8, R5.4 Residential 5.4, and RT5.4 Residential 5.4 (two-unit/townhouse.) (Pgs. 122-123, *City Growth Policy*)
15. The property is zoned R5.4 Residential 5.4, which is consistent with the land use recommendations of the Growth Policy’s Residential Medium land use designation. Permitted residential building types include detached houses and lot line houses. The R5.4 zoning district requires a minimum parcel area of 5,400 square feet, and must have 5,400 square feet of parcel area per dwelling unit on a parcel. The R5.4 zoning designation has a maximum achievable density of 8 dwelling units per acre. (*City Growth Policy, Title 20.05*)
16. Per Title 20.05.050, Table 20.05-3, footnote 8, “The minimum parcel area requirement does not apply to lots created through subdivisions approved under MCA § 76-3, parts 5 and 6 after May 6, 2019. Total unit yield is calculated based upon the gross parcel area divided by the minimum parcel area per unit and any applicable hillside density reductions.” Therefore, the overall subdivision density is determined by the required minimum parcel area per unit, but the individual lots themselves do not need to meet the minimum size. (*Title 20.05.050*)
17. Given the approximate 413,000 square foot size of the subject property, the current R5.4 zoning would allow up to 76 dwelling units before applicable hillside density reductions. The final allowable density after the reductions is 54 units. (*Hillside Density Adjustment Calculation Worksheet*)
18. The *Safety and Wellness* section of the City Growth Policy encourages building in areas close to existing infrastructure, as is the case here. (Pg. 44, *City Growth Policy*)
19. The *Community Design* section of the City Growth Policy aims to conserve and protect open space and riparian resource areas while providing convenient connections to trails and parks. (Pgs. 71-74, *City Growth Policy*)
20. The applicable neighborhood plan for the area is the 1986 *South Hills Comprehensive Plan*. Much of the plan is outdated compared to current existing conditions, so does not offer much in the way of recommendations. However, the included South Hills Development Plan Map does show a proposed density on the subject property of 2 dwelling units per acre. The preliminary plat shows 13 residential development lots which would result in a density of around 1.3 dwelling units per acre generally, and 2.21 dwelling units per acre after factoring in hillside reductions.

## **HIGH PARK VIEWS SUBDIVISION**

### **I. RECOMMENDATION**

Staff recommends City Council **approve** the High Park Views Subdivision preliminary plat application, subject to the recommended conditions of approval, based on the findings of fact and conclusions of law in this staff report.

## II. CONDITIONS OF SUBDIVISION PRELIMINARY PLAT APPROVAL

### Streets, General

1. All street and non-motorized improvements shall be designed and built in accordance with the City of Missoula Public Works Standards and Specifications Manual and City of Missoula Subdivision Regulations (except as modified by variance), and comply with the Americans with Disabilities Act requirements, subject to the review and approval by Public Works & Mobility, prior to final plat approval. (*City Subdivision Regulations Section 3-020.2*)
2. The following statement shall appear on the face of the final plat, in the Development Covenants, and on each instrument of conveyance, subject to review and approval by Public Works & Mobility and Development Services, prior to final plat approval:  
“Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future SID/RSID/SILD, based on benefit, for future improvements and maintenance of Landon’s Way, Simons Drive and Woodbine Place, including but not limited to paving, curbs and gutters, non-motorized facilities, street widening, street lighting, drainage facilities, and a second access route connecting Landon’s Way to Simons Drive, and may be used in lieu of their signatures on an improvement district petition.” (*City Subdivision Regulations Sections 5-050.3.AA, 5-050.3.BB, 3-020.3.A.1, 3-020.3.G and 3-020.4.B, Title 12.10.110 and 12.02*)
3. The subdivider shall provide a street signage plan and install street signage in accordance with the Manual on Uniform Traffic Control Devices, subject to review and approval by Public Works & Mobility and the City Fire Department, prior to final plat approval. (*City Subdivision Regulations Section 3-020.4.H.2*)
4. The following statement shall appear on the face of the final plat, in the Development Covenants, and on each instrument of conveyance, subject to review and approval by Public Works & Mobility and Development Services, prior to final plat approval: “All owners of High Park Views Subdivision Lots 1-12 shall waive the right to protest being included in the Special Improvement District (“SID”) 549 and further agree to pay the impact fee as described in Chapter 15.68 Hillview Way Special Improvement District No. 549 Impact Fee whether or not the parent parcel of land prior to the subdivision was included in SID 549. The impact fee payments shall be based on the requirements as described in the Special Improvement Agreement recorded as document #201504924 in Book 942, Page 7 in the records of Missoula County.” (*Montana Code Annotated Section 76-3-510, City Subdivision Regulations Section 9-020.1, City Resolution No. 7911*)

### Specific Streets

5. The applicant shall provide plans for and install or enter into an Improvements Agreement with financial security for future installation of the proposed extension of Landon’s Way, a Low Density Urban Local street, including drive lanes, parking lanes, curb and gutter, sidewalks, landscaped boulevards and stormwater facilities, as shown on the preliminary plat and plans, subject to review and approval by Public Works & Mobility and Parks and Recreation, prior to final plat approval. (*City Subdivision Regulations Sections 3-020 Table .2A and 3-020.4.A*)

6. The applicant shall provide plans for and install or enter into an Improvements Agreement with financial security for future installation of half-street improvements to Simons Drive, a Low Density Urban Local street, including a drive lane, parking lane, curb and gutter, curbside sidewalk and stormwater facilities, as shown on the preliminary plat and plans, subject to review and approval by Public Works & Mobility and Parks and Recreation, prior to final plat approval. (*City Subdivision Regulations Sections 3-020 Table .2A and 3-020.4.A*)

#### Rights-of-Way and Easements

7. All proposed rights-of-way and easements shall be shown on the face of the plat and identified for their width and purpose 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. (*City Subdivision Regulations Sections 3-020.3.B, 3-040.2.B, 3-040.3.H & 3-060.1*)
8. The subdivider shall include on the final plat a blanket pedestrian access easement within the proposed common area and a varying width public access and utility easement between Lots 6 and 7 from Landon's Way to Simons Drive, as shown on the preliminary plat, subject to review and approval of Parks and Recreation and Development Services, prior to final plat approval. (*City Subdivision Regulations Section 3-020.15(B)*)
9. The subdivider shall include the following statement on the face of the final plat, subject to review and approval by Public Works & Mobility: "The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, electric power, gas, cable television, water, or sewer service to the public, the right to the join use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities, in over, under, and across each area designated on this plat as "Utility Easement" to have and to hold forever." (*City Subdivision Regulations Section 5-050.3.X*)

#### Storm Water and Drainage

10. The subdivider shall submit complete grading and drainage plans showing proposed grades of streets, proposed drainage facilities, and a storm water pollution prevention plan for all lots, blocks and other areas meeting Montana Department of Environmental Quality standards, subject to the review and approval of Public Works and Mobility, prior to final plat approval. All drainage facilities shall be constructed in accordance with the approved plans prior to final plat approval. (*City Subdivision Regulations Section 5-020.11*)
11. The subdivider shall prepare and submit a maintenance plan for proposed stormwater facilities, including those in Landon's Way and on private property, to be the responsibility of the Property Owners' Association and append the plan to the Development Covenants, subject to review and approval of Public Works & Mobility, prior to final plat approval. (*City Subdivision Regulations Sections 5-020.K(4) and 5-020.K(10)*)

#### Floodplain and Groundwater

12. The subdivider shall include the following statement on the face of the final plat and in the Development Covenants, subject to review and approval of Public Works & Mobility, prior to final plat approval: "The use of individual dry wells and infiltration basins shall be prohibited. Foundation drains and other private stormwater management systems must be

connected to the City storm drainage system upon review and approval by Public Works & Mobility.” *(City Subdivision Regulations Section 3-040.3.A, B & C)*

13. The subdivider shall include on the face of the final plat a hazardous lands notice and a “no build/no alteration” zone indicating areas of steep slopes, applicable floodway, flood fringe, or floodplain delineation lines, and areas of Riparian Resource and Buffer Areas, subject to review and approval of Public Works & Mobility and Development Services, prior to final plat approval. *(City Subdivision Regulations Sections 5-020.14.B and 5-050.4)*

#### Riparian Resource Area

14. The subdivider shall submit a Riparian Resource Management Plan addressing the requirements in Sections 3-130.3 and 5-020.14.L, subject to review and approval of Development Services, prior to final plat approval. The final approved plan shall be appended to the Development Covenants and referenced during both subdivision and individual lot construction. *(City Subdivision Regulations Sections 3-130.3 and 5-020.14.L)*
15. The subdivider shall show on the face of the final plat a “no build/no alteration” zone to include the Riparian Resource Area and Riparian Resource Buffer Area, as shown on the preliminary plat, subject to review and approval of Development Services, prior to final plat approval. *(City Subdivision Regulations Section 5-010.4.L)*

#### Water Systems, Sewer Systems, and Solid Waste Disposal

16. The subdivider shall submit plans for and complete installation of water supply and sewage disposal facilities, subject to the review and approval of Public Works & Mobility, the Missoula City/County Health Department, and the Montana Department of Environmental Quality, prior to final plat approval. *(City Subdivision Regulations Section 3-070.1)*
17. The subdivider shall submit solid waste disposal plans subject to the review and approval of Public Works & Mobility, the Missoula City/County Health Department, and the Montana Department of Environmental Quality prior to final plat approval. *(City Subdivision Regulations Section 3-070.1)*

#### Fire Protection

18. The subdivider shall provide plans for fire suppression water flow, hydrant placement, and address signage standards, subject to review and approval by the City Fire Department and Public Works & Mobility, prior to final plat approval. The subdivider shall install fire hydrants prior to combustible construction, subject to review and approval by City Fire Department and Public Works & Mobility. *(City Subdivision Regulations Section 3-010.1.F and 3-070.1)*

#### Mail Delivery

19. The subdivider shall provide plans for and install mail delivery facilities for future subdivision residents, subject to review and approval by the U.S. Postal Service and Public Works & Mobility, prior to final plat approval. *(City Subdivision Regulations Sections 3-020.15.D(2)(c) and 3-100.18)*

#### Parkland Dedication, Boulevard Landscaping & Weeds

20. The subdivider shall include certification statements on the face of the final plat and in the Development Covenants for dedication of parkland to the public and common area to the Property Owners’ Association in perpetuity, subject to review and approval of Parks and



Recreation and Development Services prior to final plat approval. (*City Subdivision Regulations Sections 5-050.3.Y*)

21. The subdivider shall submit trail design plans for the hiker trail in the public pedestrian access and utility easement connecting the new cul-de-sac on Landon's Way to Simons Drive, subject to review and approval by Parks and Recreation, prior to final plat approval. (*City Subdivision Regulations Section 5-020.14.H*)
22. The subdivider shall submit a boulevard landscaping plan for Landon's Way, subject to review and approval by Parks and Recreation, prior to final plat approval. While tree locations may change slightly in the final design, the total number of trees shown within the rights-of-way in the preliminary plat application shall remain the same. Class II street trees shall be planted at a linear spacing between 25 and 35 feet, with a minimum of one tree per lot. (*City Subdivision Regulations Section 5-050.5.C*)
23. The subdivider shall amend the Development Covenants to state that "Lot owners shall be responsible for obtaining boulevard landscaping permits prior to building permit approval and for installation of boulevard landscaping adjacent to development lots prior to Certificate of Occupancy," subject to review and approval by Parks and Recreation prior to final plat approval. (*City Subdivision Regulations Section 5-050.5.C*)
24. The subdivider shall provide a Weed Management and Revegetation Plan, appended to the Development Covenants and approved by the Missoula County Weed District, subject to review and approval by Development Services, prior to final plat approval. (*City Subdivision Regulations Section 5-010.14.K*)

#### Development Covenants

25. The subdivider shall submit final Development Covenants meeting the requirements of City Subdivision Regulations Section 5-020.14.K, subject to review and approval by Development Services, prior to final plat approval. (*City Subdivision Regulations Section 5-010.14.K*)
26. The subdivider shall include language in the Development Covenants prohibiting obstructions to be placed within any proposed public access or pedestrian access easements and any dedicated parkland or common area, or any obstructions aside from fences in proposed utility easements, so as to maintain sufficient perpetual legal access, subject to review and approval by Public Works & Mobility and Development Services, prior to final plat approval. (*City Subdivision Regulations Section 5-020.5*)
27. The subdivider shall include language in the Development Covenants requiring a geotechnical report prepared by a professional engineer registered in the State of Montana be submitted with all development applications addressing the applicable requirements in Section 5-020.14.E of the City Subdivision Regulations, to be reviewed and approved by Public Works & Mobility prior to development permit issuance, and implemented by lot owners during lot development, subject to review and approval of Public Works & Mobility and Development Services. (*City Subdivision Regulations Section 5-020.14.E*)
28. The subdivider shall include the following sections in the Development Covenants, subject to review and approval by Public Works & Mobility and Development Services, prior to final plat approval: common area and associated facilities maintenance, maintenance of stormwater facilities, maintenance and replacement of mail delivery facilities, easements remaining unobstructed, wood burning devices, weed control, MTFWP "Living With

Wildlife” recommendations, radon mitigation, riparian resource management plan, SID/RSID/SILD, and wildland urban interface fire protection standards, and said sections may not be amended or deleted without written approval by the governing body. (*City Subdivision Regulations Sections 5-010.14.K, 5-020.14.F & 3-010.2*)

### **III. ZONING AND COMPREHENSIVE PLAN COMPLIANCE**

#### Findings of Fact

1. The findings of fact located in Section V., the General Findings of Fact section of this report (above), are incorporated herein by reference.
2. The findings of fact located in Section VI., the Zoning and Growth Policy Findings of Fact section of this report (above), are incorporated herein by reference.
3. Section 3-010.1.B of the City Subdivision Regulations states that the subdivision is subject to the Missoula City Zoning Ordinance. The applicable Ordinance is Title 20.
4. Section 3-010.1.I of the City Subdivision Regulations requires that the subdivision be reviewed for compliance with the *Our Missoula 2035 Growth Policy* and its amendments.

#### Conclusions of Law

1. The subdivision complies with the Growth Policy and Title 20 Zoning Code, subject to the recommended conditions of approval.

### **IV. SUBDIVISION PRIMARY REVIEW CRITERIA**

#### **CRITERIA A AND B: IMPACT ON AGRICULTURE AND AGRICULTURAL WATER USER FACILITIES**

#### Findings of Fact

##### Agriculture

1. Section 5-020.6.A of the City Subdivision Regulations states the subdivider must demonstrate the subdivision proposal will have no adverse impacts on agriculture or must identify the adverse impacts and describe proposed avoidance and mitigation efforts that will be used to mitigate the adverse impacts. The regulations state mitigation of adverse impacts will not be based on a loss of agricultural soils, and set-aside of land or monetary contribution for the loss of agricultural soils will not be required.
2. The application packet states that the subject property is vacant and has not been used for agricultural purposes in the past, nor does it have desirable characteristics for agricultural use. (*Pg. 9, City Subdivision Application, Project Summary*)
3. The Natural Resources Conservation Service (NRCS) Soil Survey for Missoula County shows that the subject property contains two soil types that are not considered to be prime, prime if irrigated, or of statewide or local agricultural importance. (*Pg. 8, City Subdivision Application, NRCS Soils Map and Soils Report*)
4. There are no existing agricultural operations on properties adjacent to the subject property. (*Pg. 9, City Subdivision Application, Missoula County Property Information System*)

##### Agricultural Water User Facilities

5. Section 5-020.6.B of the City Subdivision Regulations states in areas where agricultural water user facilities exist on the subject property or adjoin the property, the application

packet must identify the agricultural water user, describe any proposed changes to the agricultural water use, and describe alterations to availability of water.

6. The subject property does not contain any existing agricultural water user facilities and it is not within an irrigation district. *(Pgs. 9-10, City Subdivision Application, Supplemental Data Sheets – Existing Conditions Exhibit, Missoula County Property Information System)*
7. There are no existing water rights associated with the subject property. *(Preliminary Title Report, DNRC Water Rights Query System Exhibit)*

#### Conclusions of Law

1. No adverse impacts to agriculture are foreseen as a result of this subdivision.
2. No adverse impacts to agricultural water users or water user facilities are foreseen as a result of this subdivision.

### **CRITERION C: IMPACT ON LOCAL SERVICES**

#### Findings of Fact

1. Section 5-020.6.C of the City Subdivision Regulations states the subdivider must identify services and evaluate the impacts on those services including transportation elements, utilities, water supply, sewage disposal, and solid waste disposal, schools, emergency services, and information pertaining to residential units and taxation.
2. 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.

#### **Transportation Elements**

#### Findings of Fact

1. Proposed Lots 1-12 would be accessed by an extension of Woodbine Place and Landon's Way terminating in a cul-de-sac. Lot 13 is proposed to be accessed from Simon's Drive via a shared driveway easement with the adjacent property. *(Pgs. 23-25, City Subdivision Application, Preliminary Plat, Project Summary)*
2. Section 3-020.3.A.1 of the City Subdivision Regulations requires that each legal access provides for the construction and perpetual maintenance of the road. Sections 5-050.3.AA and .BB of the City Subdivision Regulations requires the 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. Staff recommend conditions of approval requiring a SID/RSID/SILD statement on the plat and in the Development Covenants for future improvements to Woodbine Place, Landon's Way, Simons Drive and Hillview Way.
3. 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. Staff recommend a condition of approval requiring the subdivider to provide a street signage plan and installation of street signage in accordance with the Manual on Uniform Traffic Control Devices, subject to review by Public Works & Mobility and City Fire.

4. Section 3-020.4.J of the City Subdivision Regulations states that the City Engineer may require a traffic study for subdivisions that will generate 200 or more new average daily trips. The subdivision is expected to generate approximately 144 average daily trips, so a traffic impact study was not required. *(Pg. 27, City Subdivision Application, Traffic Memorandum)*
5. Section 3-020.2 of the City Subdivision Regulations requires improvements to roads within and adjacent to a subdivision.

#### Landon's Way

6. Landon's Way is functionally classified as a Low Density Urban Local Street, which requires a minimum back-of-curb to back-of-curb width of 35 feet, including 7-foot-wide parking lanes, 10-foot-wide drive lanes, 5-foot-wide sidewalks, and 7-foot-wide boulevards within a 70-foot-wide right-of-way. *(Section 3-020, Table .2A, City Subdivision Regulations)*
7. The existing portion of Landon's Way leading to the subject property does not contain boulevards, and only has a 54-foot-wide right-of-way with 10-foot-wide backslope, water service, and sanitary sewer service (BWSE) easements on either side. *(Pg. 25, City Subdivision Application, Missoula County Property Information System)*
8. The applicant is proposing to construct an extension to Landon's Way which would provide access to Lots 1-12. The extension is proposed to blend with the existing street infrastructure but would also meet the required design standards for a Low Density Urban Local Street. *(Pg. 25, City Subdivision Application, Supplemental Data Sheets – Proposed Site Plan, Preliminary Plat, Grading, Drainage and Road Construction Plans)*
9. The applicant has requested a variance to the City Subdivision Regulations to construct Landon's Way as a cul-de-sac over 600 feet long, making up 100% of the roadway miles within the subdivision. The proposed cul-de-sac design also results in only one ingress/egress point for residents, when two are generally required within areas of the Wildland-Urban Interface (WUI). The variance is requested due to the physical characteristics of the parcel, including steep slopes, a riparian resource area, and the lack of nearby streets to connect to. *(Pg. 25, City Subdivision Application, Project Summary, Variance Requests)*
10. Staff recommend a condition of approval requiring the subdivider to provide plans for and install improvements to the extension of Landon's Way as shown on the preliminary plat and plans, prior to final plat approval.

#### Simons Drive

11. Simons Drive is functionally classified as a Low Density Urban Local Street, which requires a minimum back-of-curb to back-of-curb width of 35 feet, including 7-foot-wide parking lanes, 10-foot-wide drive lanes, 5-foot-wide sidewalks, and 7-foot-wide boulevards within a 70-foot-wide right-of-way. *(Section 3-020, Table .2A, City Subdivision Regulations)*
12. The existing segment of Simons Drive adjacent to the subject property includes two drive lanes and no sidewalks or boulevards within a 60-foot right-of-way. *(Pg. 25, City Subdivision Application, Missoula County Property Information System)*
13. The applicant is proposing to construct half-street improvements to include a drive lane, a 7-foot-wide parking lane, curb and gutter, and a 7-foot-wide curbside sidewalk. *(Pg. 25, City Subdivision Application, Grading, Drainage and Road Construction Plans)*

14. The applicant has requested a variance to the required right-of-way width of 70 feet and to the required landscaped boulevard. The property directly adjacent to the existing Simons Drive right-of-way is extremely steep and would require significant grading to dedicate an additional 5 feet and install infrastructure as prescribed by the City Subdivision Regulations. *(Pg. 25, City Subdivision Application, Project Summary, Variance Requests)*
15. Staff recommend a condition of approval requiring the subdivider to provide plans for and install half-street improvements to Simons Drive as shown on the preliminary plat and plans, prior to final plat approval.

#### Hillview Way

16. Woodbine Place and Landon's Way, which are proposed to provide access to Lots 1-12, are streets that connect to Hillview Way. Hillview Way is an Urban Collector leading to facilities and services in the City of Missoula. *(Pg. 26, City Subdivision Application, Preliminary Plat)*
17. In 2014 and 2015, the Missoula City Council created Special Improvement District No. 549 to upgrade Hillview Way to serve the growing South Hills area. Improvements included new curb, gutter, sidewalks, street paving, and related improvements. *(City of Missoula Resolutions No. 7903 and 7911)*
18. The improvements made under Special Improvement District No. 549 were financed in part through the issuance of bonds, which are repaid over time via special tax assessments and impact fees, by the owners of properties that benefit from the improvements. *(City of Missoula Resolution No. 7911)*
19. The area of benefit in Special Improvement District No. 549 includes Woodbine Place and Landon's Way, but does not include the subject property. However, the future owners of Lots 1-12 would benefit from the improvements to Hillview Way made through the improvement district.
20. Montana Code Annotated Section 76-3-510 and City Subdivision Regulations Section 9-020.1 authorize City Council to require subdividers to pay for all or part of the costs of extending capital facilities related to public safety, including streets, to the subdivision. The costs must reasonably reflect the expected impact directly attributable to the subdivision. The stated purpose of the Hillview Way impact fee is to ensure that new development contributes its fair and proportionate share toward the costs of improvements which were not assessed against properties through special assessments, as is the case here. *(Chapter 15.68, Section 1, Hillview Way Special Improvement District No. 549)*
21. Because the future owners of Lots 1-12 would benefit from the recent improvements made to Hillview Way under SID No. 549, staff recommend a condition of approval requiring the lot owners to pay impact fees as described in Chapter 15.68 of the Hillview Way Special Improvement District No. 549. *(Special Improvement Agreement recorded as document #201504924, Book 942, Page 7 in the records of Missoula County; Montana Code Annotated Section 76-3-510 and City Subdivision Regulations Section 9-020.1)*

#### Non-Motorized

22. Section 3-020.15.B.1 of the City Subdivision Regulations requires a subdivider to provide active transportation facilities that provide continuous access to all lots within the subdivision and access to adjoining developments and community active transportation

systems as depicted or described in adopted plans, including the 2004 *Master Parks and Recreation Plan for the Greater Missoula Area*.

23. Each proposed lot within the subdivision would have a sidewalk along the street frontage to allow for pedestrian access. Bike lanes are not required on a Low Density Urban Local Street. (*Supplemental Data Sheets – Proposed Site Plan, Grading, Drainage and Road Construction Plans, Section 3-020 Table .2A, City Subdivision Regulations*)

### Transit

24. Section 3-020.4.G 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.
25. The subject property is within the Missoula Urban Transportation District. (*Missoula County Property Information System*)
26. The subject property is within a quarter mile of the Mountain Line bus stop at Simons Drive and High Park Way, but it is located down a steep hill and requires walking on a street without sidewalks to reach. The bus stop is on Route 12. There is a school bus stop located about 400 feet north of the subject property at Simons Drive and Polaris Way. (*Bus Route Exhibit, Missoula County Property Information System*)

### Conclusions of Law

1. The subdivision will be served by adequate public facilities and transportation infrastructure if the recommended conditions of approval are imposed.

### **Rights-of-Way and Easements**

#### Findings of Fact

1. Section 3-020.3.B 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 privately maintained street within a public access easement. 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.
2. The proposed extension of Landon's Way would be a publicly maintained street within a 70-foot-wide dedicated right-of-way. Proposed improvements to Simons Drive would be publicly maintained and installed within the existing 60-foot-wide dedicated right-of-way. (*Pgs. 24-25, City Subdivision Application, Preliminary Plat, Grading, Drainage and Road Construction Plans*)
3. Utility mains are proposed to be within the rights-of-way for the extension of Landon's Way and Simons Drive. They would connect from Landon's Way to Simons Drive via a varying-width public access and utility easement between proposed Lots 6 and 7. (*Pg. 24, City Subdivision Application, Sewer and Water Main Construction Plans, Preliminary Plat*)
4. In order to comply with Sections 3-020.3.B and 3-060.1 of the City Subdivision Regulations and Missoula City Public Works and Specifications Manual, staff recommends a condition of approval requiring all proposed rights-of-ways and easements to be shown on the face of the plan and identified for their width and purpose.

### Conclusions of Law

1. The subdivision will meet the rights-of-way and easement requirements of Sections 3-020.3.B and 3-060.1 of the City Subdivision Regulations if the recommended conditions of approval are imposed.

## **Drainage**

### Findings of Fact

1. Sections 5-020.11 and 3-040 of the City Subdivision Regulations requires the subdivider to submit a complete grading and drainage plan showing the proposed grade of streets, proposed drainage facilities, and a storm water pollution prevention plan for all lots, blocks, and other areas, subject to the review and approval of Public Works and Mobility. All drainage facilities must be constructed in accordance with the approved plans.
2. Section 3-040.2.E of the City Subdivision Regulations states all drainage systems must meet the minimum standards of the Montana Department of Environmental Quality (DEQ), as required by MCA Title 76, Chapter 4 and 5, Part 1, as amended, and all applicable state and local regulations.
3. The subdivision application includes pre- and post-development conditions for stormwater and drainage in the Grading and Drainage Engineering Design Report. Stormwater is proposed to be managed in two separate basins, with a portion being conveyed through the proposed common area and connecting to an existing stormwater pipe in Black Pine Trail. The other basin would rely on a proposed retention pond. The applicant is proposing that the stormwater facilities be maintained by the Property Owners' Association after installation. Staff recommend a condition of approval that the Development Covenants contain a statement regarding responsibility for maintenance of stormwater facilities, and any associated restrictions such as prohibiting obstructions in proposed drainage easements. *(Pgs. 30-31, City Subdivision Application, Grading and Drainage Engineering Design Report, Preliminary Plat, Sewer and Water Main Construction Plans)*
4. The application indicates that groundwater does not rise within 15 feet of the surface on-site, but notes that the South Hills area generally is known for springs and seeps. The geotechnical report indicates that perched groundwater zones may be encountered during excavation and construction work on-site. The applicant proposes two swales to be located downslope from Lots 1-5 and 6-8 to capture and convey any groundwater seepage encountered during construction. Staff recommend a condition of approval requiring a statement on the face of the final plat and in the Development Covenants notifying lot owners that each lot will be required to include a geotechnical report with any building permit and follow the recommendations of that report, subject to review and approval of Public Works & Mobility and Development Services. *(Pg. 13, City Subdivision Application, Geotechnical Analysis, Potentiometric Surface Exhibit, Grading and Drainage Engineering Design Report, Effects on Public Health and Safety)*
5. In order to comply with Section 5-020.11 of the City Subdivision Regulations, 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.

### Conclusions of Law

1. The subdivision will meet the grading and drainage standards of the City of Missoula Subdivision Regulations and the Montana Department of Environmental Quality if the recommended conditions of approval are imposed.

## **Water Supply, Sewage Disposal, and Solid Waste**

### Findings of Fact

1. The subject property is located within the Utility Services Area Boundary. (*City Central Maps*)
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. A new water main connection is proposed within the rights-of-way for the extension of Landon's Way and Simons Drive. The new main would create a looped system connecting to existing mains within the two streets through a varying-width public access and utility easement between proposed Lots 6 and 7. (*Pg. 33, City Subdivision Application, Sewer and Water Main Construction Plans, Preliminary Plat*)
4. A new sewer main connection is proposed within the rights-of-way for the extension of Landon's Way and Simons Drive. The new main would connect the existing mains within the two streets through a varying-width public access and utility easement between proposed Lots 6 and 7. (*Pg. 35, City Subdivision Application, Sewer and Water Main Construction Plans, Preliminary Plat*)
5. In order to comply with Section 3-010.5 of the City Subdivision Regulations, staff recommends a condition of approval requiring the subdivider to provide plans for and installation of water supply and sewage disposal facilities for review and approval by Public Works and Mobility, City/County Health Department, and Montana Department of Environmental Quality, prior to final plat approval.
6. 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. Staff recommend a condition of approval requiring the subdivider to submit plans for solid waste disposal for review and approval by City/County Health Department, and Montana Department of Environmental Quality, prior to final plat approval. (*Pg. 32, City Subdivision Application*)

### Conclusions of Law

1. Public sewer and water services are available to the subdivision and proposed utilities will comply with the City Subdivision Regulations if the recommended conditions of approval are imposed.
2. Solid waste disposal service will be available to the subdivision and will comply with the City Subdivision Regulations if the recommended conditions of approval are imposed.

## **Parks and Recreation**

### Findings of Fact

1. Section 3-080 of the City Subdivision Regulations requires dedication of open space (parkland) equal to 11% of the net lotted area for land proposed to be subdivided into lots of 0.5 acres or smaller that will have one or two dwelling units on the lots and 5% of the



area proposed to be subdivided into lots larger than one acre that do not exceed three acres. The total parkland dedication required for this subdivision is 0.55 acres, and the applicant proposes dedication of 0.83 acres. *(Pg. 39, City Major Subdivision Application)*

2. The applicant, per discussion with the Parks and Recreation Department, proposes a parkland dedication of 0.83 acres along the eastern side of the subject property where an existing informal trail connects Simons Drive to High Park. The area is steep, wooded, and includes the riparian resource area adjacent to the man-made pond that straddles the property line. This property is proposed to be dedicated to the City for future ownership and maintenance, but proposed improvements to the existing social trail are not planned at this time. *(Pgs. 38-39, City Subdivision Application, Preliminary Plat)*
3. The applicant is proposing the creation of a 1.78-acre common area to be owned and maintained by the Property Owners' Association. The common area is located on the northern portion of the subject property below the extension of Landon's Way and abuts the City-owned utility parcel containing a water tank. Maintenance of the common area would be subject to the approved Weed Management and Revegetation Plan. Staff recommend a condition of approval requiring the Weed Management and Revegetation Plan be included with the Development Covenants prior to filing the final plat. *(Pgs. 38-39, City Subdivision Application, Preliminary Plat, Weed Management and Revegetation Plan)*
4. The applicant is proposing to dedicate a blanket public pedestrian access easement over the proposed common area to allow for a potential future trail to be constructed. Per discussion with the Parks and Recreation Department, the City may opt to construct a trail connection between the City utility lot north of the subject property up to the extension of Landon's Way to provide additional access to High Park. The proposed trail would be constructed in the future by the City and not by the applicant or the Property Owners' Association. *(Pgs. 38-39, City Subdivision Application, Preliminary Plat)*
5. The applicant is proposing a public access and utility easement to be located between Lots 6 and 7 connecting the end of the Landon's Way cul-de-sac to Simons Drive. A new gravel hiker trail is proposed to be constructed within this easement by the subdivider. The easement has varying widths to accommodate necessary trail switchbacks, with a minimum width of 32 feet. The final trail design must be approved by Parks and Recreation. Future maintenance of the trail after construction would be performed by Parks and Recreation as part of the trail system connecting to High Park. *(Pg. 38, City Subdivision Application, Preliminary Plat)*
6. The existing access point to High Park is located at the south edge of the current terminus of Landon's Way. The applicant is proposing public access to the park to remain in the same general location and would include installation of new signage and a trash receptacle. New sidewalks and on-street parking spaces would allow for additional public access to the existing High Park walking trails. *(Pg. 38, City Subdivision Application)*
7. Section 5-050.5.C of the City Subdivision Regulations requires the subdivider to submit a boulevard landscaping plan. For findings of fact regarding installation of boulevards, see the roads section of this report. Preliminary plans for boulevard landscaping are provided on the proposed site plan and road plans. Staff recommend a condition of approval requiring the subdivider to submit final plans for boulevard landscaping, subject to review and approval by Parks and Recreation, prior to final plat approval. For boulevards adjacent to development lots, boulevard landscaping installation would be required of the lot owner

prior to issuance of the Certificate of Occupancy for a new residence. Staff recommend a condition of approval requiring the subdivider to include a statement in the Development Covenants apprising future owners of this requirement. (*Supplemental Data Sheets, Road, Grading and Drainage Construction Plans*)

### Conclusions of Law

1. The subdivision will meet the cash-in-lieu of parkland dedication requirements if the recommended conditions of approval are imposed.

### **Schools**

#### Findings of Fact

1. The subject property is part of Missoula County Public School District and is within the attendance areas for Lewis and Clark Elementary School, Washington Middle School, and Sentinel High School (*Pg. 36, City Subdivision Application, Missoula County Property Information System*)
2. It is estimated that at full build-out, this subdivision could result in an addition of 7 school-aged children to the Missoula County Public School District. (*Pg. 36, City Subdivision Application*)
3. No agency comment was received from the Missoula County Public School District at the time of writing of this report. (*School District Inquiry, 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Sufficiency Review Agency Comments*)

### Conclusions of Law

1. No adverse impacts to schools as a result of this subdivision have been identified.

### **Fire Department**

#### Findings of Fact

1. The Missoula City Fire Department would serve the subdivision. The nearest fire station is located approximately one-half mile from the subject property. (*Pg. 36, City Subdivision Application, Missoula County Property Information System*)
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 is proposed to be supplied by one new fire hydrant located on the south side of the proposed Landon's Way cul-de-sac, near Lot 2. The nearest existing hydrant is roughly 230 feet to the west of the subject property on Landon's Way. (*Pg. 28, City Subdivision Application, Water Main Construction Plans, Missoula Maps*)
4. In order to comply with Section 3-070.1 of the City Subdivision Regulations, staff recommend a condition of approval requiring the subdivider to provide plans for fire suppression water flow and hydrant placement for review and approval by Public Works & Mobility and City Fire, prior to final plat approval.
5. The Missoula City Fire Department requires a street signage plan and 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 submittal. A condition of

approval is recommended to address signage standards. (*City Subdivision Regulations Section 3-010.1.F*)

6. The proposed Landon's Way cul-de-sac would provide a paved surface with a 45-foot radius to allow for the maneuvering of emergency vehicles. (*Pg. 28, City Subdivision Application, Grading, Drainage and Road Construction Plans*)
7. The property is located in the Wildland Urban Interface / Intermix, an area where structures and other human development meets or intermingles with wildland or vegetative fuels. (*Application Section B, Wildland Urban Interface Map, City Subdivision Regulations Section 2-020.13*)
8. If this subdivision is approved as proposed, Lots 1-12 would only have one access due to steep topography making connection between Landon's Way and Simons Drive infeasible. City Subdivision Regulations Section 3-020.3.G states that in such situations, a Special Improvement District waiver statement is required for future lot owners to waive the right to protest any future SID for the construction of a second access route. Additionally, Section 5-020.14.F requires subdivisions in the Wildland Urban Interface to include protective lot development and building standards in the Development Covenants. Staff have included these items in the recommended conditions of approval.

#### Conclusions of Law

1. Fire and emergency services are available to the subdivision.
2. The Fire Department will have adequate access and infrastructure for fire-fighting within the subdivision if the recommended conditions of approval are imposed.

#### **Law Enforcement**

##### Findings of Fact

1. The Missoula Police Department would serve the subdivision. The nearest police station is located approximately 3.8 miles from the subject property. (*Pg. 36, City Subdivision Application*)
2. The Missoula Police Department did not provide agency comments on the subdivision application.

##### Conclusions of Law

1. Law enforcement services are available to the subdivision.

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

##### Findings of Fact

1. Section 5-020.6.E of the City Subdivision Regulations states that the subdivider must identify the resources and evaluate the subdivision's likely impacts on those resources including adjacent public lands, cultural resources, hydrological characteristics, soil characteristics, and vegetative cover types.
2. Section 5-020.6.F of the City Subdivision Regulations states that the subdivider must identify the species of fish and wildlife that use the area to be affected by the proposed subdivision and describe measures to minimize and mitigate conflicts between residents and wildlife.

3. Section 5-020.6.G of the City Subdivision Regulations states that the subdivider must identify any known critical or key wildlife areas and travel corridors and describe any proposed measures to protect or enhance wildlife habitat or to minimize degradation of habitat.
4. High Park is located directly south of the subject property. Access to the park would be from the same general location, but proposed improvements would include on-street parking that can be utilized by park visitors and typical trailhead signage and garbage facilities. *(Pg. 38, City Subdivision Application)*
5. The property contains areas of steep slopes over 25% grade. There is also a portion of an existing man-made pond and riparian resource area that straddles the property line to the northeast. *(Supplemental Data Sheets, Project Summary)*
6. The subject property is entirely within the 500-year (0.2% annual chance) floodplain, which is not a regulated floodplain by the City of Missoula. This is also known as “Shaded-X”, and does not require special floodplain permits. *(Pg. 13, City Subdivision Application, FEMA Map Service Center, City of Missoula Floodplain Administrator)*
7. The application packet states that no wetlands were identified on the subject property. The existing riparian resource area on the property is associated with a man-made pond that is part of an intermittent drainage area. The applicant has included a Riparian Resource Management Plan with the application packet. *(Pg. 15, City Subdivision Application, Riparian Resource Management Plan)*
8. The property does not contain prime agricultural soils, and currently has a mixture of wild grasses, weeds, and pine trees on-site. The majority of trees are located on the eastern side of the subject property on the steeper slope adjacent to the riparian area. The riparian resource area supports riparian vegetation such as Red Osier Dogwood, Snowberry, and Woods Rose, which contribute to bank stabilization. The Natural Heritage Program Environmental Summary did not indicate a high likelihood of critical plant communities occurring on site, but did note scattered observations of several noxious weed species. The Riparian Resource Management Plan prohibits structures, motorized access, or other disturbance of riparian vegetation aside from control for noxious weeds. The parkland and common area are proposed to remain largely undisturbed, and the project design aims to limit the removal of mature trees on-site. Disturbed areas of the hillside are to be revegetated per the Weed Management and Revegetation Plan and approved boulevard landscaping plan. Staff recommend a condition of approval requiring the Weed Management and Revegetation Plan be included in the Development Covenants prior to final plat approval. *(Pgs. 15-16, City Subdivision Application, NRCS Soils Map and Soils Report, Vegetation Exhibit, NHP Environmental Summary, Riparian Resource Management Plan, Weed Management and Revegetation Plan)*
9. The application packet indicates that the property likely supports various species of birds, small mammals and deer similar to other urban residential developments in the area. The Natural Heritage Program Environmental Summary did indicate the presence of confirmed bald eagle nesting areas within one square mile of the subject property, with the most recent observation occurring in 2021. The nesting areas appear to mainly be located to the west of the property near the Bitterroot River. Other observations noted in the NHP Environmental Summary include various bird species, including the native Varied Thrush, Northern Flicker and Turkey Vulture, to name a few. Neighborhood comments have also

indicated the potential presence of Great Horned Owls. The proposed parkland dedication on the eastern side of the subject property is the most heavily wooded and may serve as a potential nesting area and wildlife travel corridor; this area is intended to remain largely undisturbed. The Montana Fish, Wildlife and Parks agency comment notes that there has been significant mountain lion and bear activity in the vicinity of the subject property, and they recommend the inclusion of the “Living With Wildlife” recommendations in the Development Covenants. *(Pg. 20, City Subdivision Application, NHP Environmental Summary, Wildlife Exhibit, MTFWP 2<sup>nd</sup> Sufficiency Agency Comment, Missoula County Property Information System)*

10. The Missoula City Council and Board of County Commissioners adopted a joint resolution (RES 8629) regarding the storage of solid waste in areas that have a higher chance of human-bear interactions. The regulations are intended to be implemented in phases. The subject property is located within the Bear Buffer Zone, Phase 2 area. Effective April 30<sup>th</sup>, 2025, all garbage must be stored in bear resistant containers or bear resistant enclosures. *(Pg. 20, City Subdivision Application, City Resolution 8629)*
11. To mitigate potential negative impacts on wildlife or wildlife habitat due to human-wildlife interactions, family pets, or possible attractants, staff recommend a condition of approval requiring the inclusion of the Montana Fish, Wildlife and Parks “Living With Wildlife” recommendations in the Development Covenants prior to final plat approval.

#### Conclusions of Law

1. Minimal impacts to the natural environment, wildlife, and wildlife habitat are anticipated as a result of this subdivision if the recommended conditions of approval are imposed.

### **CRITERION G: IMPACT ON PUBLIC HEALTH AND SAFETY**

#### Findings of Fact

1. Section 5-020.6.G of the City Subdivision Regulations states the subdivider must demonstrate the proposed subdivision will have no adverse impact on conditions that relate to public health and safety including disease control and prevention, emergency services, environmental health, flooding, fire or wildfire hazards, rock falls or landslides, unstable soils, steep slopes and other natural hazards, high voltage lines or high pressure gas lines, on-site or nearby off-site land uses that create nuisance (e.g. noise, dust, smoke, unpleasant odors), and air or vehicular traffic safety hazards.
2. The subject property does not contain high voltage lines or high-pressure gas lines. *(Pg. 22, City Subdivision Application, Supplemental Data Sheets – Existing Conditions Exhibit)*
3. The subject property contains areas of steep slopes in excess of 25% grade. Development on slopes over 25% grade is prohibited. Staff recommend a condition of approval requiring all areas of steep slopes be indicated on the face of the final plat and be designated as “no-build” areas. *(Pg. 23, City Subdivision Application, Preliminary Plat, Supplemental Data Sheets)*
4. The application indicates that groundwater does not rise within 15 feet of the surface on-site, but notes that the South Hills area generally is known for springs and seeps. The geotechnical report indicates that perched groundwater zones may be encountered during excavation and construction work on-site. Staff recommend a condition of approval requiring a statement on the face of the final plat and in the Development Covenants

notifying lot owners that each lot will be required to include a geotechnical report with any building permit and follow the recommendations of that report, subject to review and approval of Public Works & Mobility and Development Services. *(Pg. 13, City Subdivision Application, Geotechnical Analysis, Potentiometric Surface Exhibit, Grading and Drainage Engineering Design Report)*

5. The subject property is entirely within the 500-year (.2% annual chance) floodplain, which is not a regulated floodplain by the City of Missoula. This is also known as “Shaded-X”, and does not require special floodplain permits. *(Pg. 13, City Subdivision Application, FEMA Map Service Center, City of Missoula Floodplain Administrator)*
6. The subject property is not located within the Airport Influence Area. *(Missoula County Property Information System)*
7. The subject property is located within the Air Stagnation Zone. Staff recommend a condition of approval that the Development Covenants include language stating no wood burning devices of any type shall be permitted or used within the subdivision and all lot owners shall abide by laws and regulations relating to air pollution. *(Pg. 22, City Subdivision Application, Missoula County Property Information System)*
8. The property is located in the Wildland Urban Interface / Intermix. For findings related to fire safety, see Criterion C, Impact on Local Services, under the fire department discussion of this report.
9. For findings of fact on the provision of emergency services, also see Criterion C of this report.

#### Conclusions of Law

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

## **V. PRIMARY CRITERIA COMPLIANCE**

This subdivision complies with the following primary criteria:

### **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. Article 4, Section 4-070 of the City Subdivision regulations includes a process to ensure final plats contain all necessary seals and certificates prior to filing and comply with state survey requirements.

#### Conclusions of Law

1. This proposed plat will meet the survey requirements.

### **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 76-5.

### Conclusions of Law

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

## **REVIEW PROCEDURE**

### Findings of Fact

1. Subdivisions are required to comply with the local subdivision review procedure provided for in Article 4 of the City of Missoula Subdivision Regulations.
2. Notice of a public hearing on this subdivision was posted on the subject property on May 11<sup>th</sup>, 2024, and letters were sent via certified mail to adjacent property owners on May 3<sup>rd</sup>, 2024. Legal notice was published in the Missoulian on May 18<sup>th</sup> and May 25<sup>th</sup>, 2024.
3. The public hearing before the Missoula Consolidated Planning Board is scheduled for June 4<sup>th</sup>, 2024 at 6 pm. The public hearing before the Missoula City Council is scheduled for June 24<sup>th</sup>, 2024 at 6 pm.
4. The 60-working day review period for this subdivision expires on July 10<sup>th</sup>, 2024.

### Conclusions of Law

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

## **VI. PROVISION OF EASEMENTS FOR UTILITIES**

### Findings of Fact

1. The subdivision is proposed to be served by City water and sewer. Article 3, Section 3-070.6 of the City of Missoula Subdivision Regulations requires that all water mains be placed in a public right-of-way or public utility easement.
2. All utilities within the subdivision are planned to be located in a public right-of-way or public utility easement. This project does not propose overhead utilities. *(Pgs. 32-35, City Subdivision Application, Sewer and Water Main Construction Plans)*
3. A new water main connection is proposed within the rights-of-way for the extension of Landon's Way and Simons Drive. The new main would create a looped system connecting to existing mains within the two streets through a varying-width public access and utility easement between proposed Lots 6 and 7. *(Pg. 33, City Subdivision Application, Sewer and Water Main Construction Plans, Preliminary Plat)*
4. A new sewer main connection is proposed within the rights-of-way for the extension of Landon's Way and Simons Drive. The new main would connect the existing mains within the two streets through a varying-width public access and utility easement between proposed Lots 6 and 7. *(Pg. 35, City Subdivision Application, Sewer and Water Main Construction Plans, Preliminary Plat)*
5. This subdivision is proposed to be served by NorthWestern Energy for electricity and gas within appropriate easements and by various wireless and cable providers for internet, telephone, and cable service. *(Pg. 32, City Subdivision Application)*

6. Staff recommend a condition of approval that requires access and utility easements be provided per Article 3, Section 3-060 of the City of Missoula Subdivision Regulations prior to the filing of the final plat.

#### Conclusions of Law

1. Utility services are available to the subdivision and the subdivision will comply with the City of Missoula Subdivision Regulations if the recommended conditions of approval are imposed.

### **VII. PROVISION OF LEGAL AND PHYSICAL ACCESS**

#### Findings of Fact

1. Article 3, Section 3-020.3 of the City Subdivision Regulations requires that perpetual legal access to subdivisions must come from an established public road or by a public perpetual access easement or right-of-way adequate to serve the subdivision. Access to the subdivision is proposed from Landon's Way and Simons Drive via a shared driveway easement. (*Preliminary Plat, Missoula County Property Information System*)
2. Legal and physical access to Lots 1-12 would be provided via a new, publicly dedicated extension of Landon's Way. Lot 13 would abut the existing public road Simons Drive, but would physically access through the property at 503 Simons Drive via a private shared driveway easement. (*Pg. 32, City Subdivision Application, Preliminary Plat*)

#### Conclusions of Law

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

### **VIII. VARIANCE REQUESTS**

The City Council, upon recommendation of the Planning Board (when applicable), may grant a variance from the City Subdivision Regulations when strict compliance will result in undue hardship and when it is not essential to the public welfare. Costs or financial considerations may not constitute the sole basis for approval of a variance. The City Council must consider the review criteria and make a finding based upon the evidence presented in each specific case. In approving variances, the City Council may require that conditions be attached to secure the objectives of the standards or requirements of the City Subdivision Regulations.

#### **Variance Request 1 – Landon's Way Cul-de-Sac**

A variance is requested from Article 3, Section 3-020.3.G, Section 3-020.5.A, and Sections 3-020.5.B(3) and B(4) of the City Subdivision Regulations to allow the extension of Landon's Way to be in the form of a cul-de-sac, providing only one access route to lots within the Wildland-Urban Interface (WUI).

The prohibition on cul-de-sacs provides the option for relief through a variance when a practical difficulty exists due to steep slopes or other physical constraints. The City Subdivision Regulations note that a cul-de-sac may not make up more than 15% of the total roadway miles within a subdivision and may not be longer than 600 feet. Due to the characteristics of the subject property and surrounding development, the proposed cul-de-sac would not meet these standards.



The proposed extension of Landon's Way would meet the design standards for a Low Density Urban Local Street per Section 3-020 Table .2A and all other requirements for a cul-de-sac, including adequate radii of the right-of-way and paved turn-around area for fire and emergency access. The applicant is also proposing several non-motorized pedestrian access easements on-site, including a 32-foot-wide pedestrian access easement and new hiker trail between Lots 6 and 7 which would connect to Simons Drive. This easement and trail would provide a connection from the end of the cul-de-sac to Simons Drive.

### RECOMMENDATION

**Approve** the variance request from Article 3, Section 3-020.3.G, Section 3-020.5.A, and Sections 3-020.5.B(3) and B(4) of the City Subdivision Regulations to allow the extension of Landon's Way to be in the form of a cul-de-sac, providing only one improved access route within the WUI due to physical site constraints.

### REVIEW CRITERIA AND FINDINGS

- 1. The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property;**
  - a. The proposed extension of Landon's Way meets the design standards of the City Subdivision Regulations for a Low Density Urban Local Street and would have a sufficient cul-de-sac radius for fire and emergency access. *(Pg. 25, City Subdivision Application, Variance Requests, Supplemental Data Sheets – Proposed Site Plan)*
  - b. The proposed extension of Landon's Way would connect to the existing curbside sidewalk and transition into a sidewalk with landscaped boulevard, increasing pedestrian safety by moving them farther from vehicle travel lanes. *(Pg. 25, City Subdivision Application, Variance Requests, Supplemental Data Sheets – Proposed Site Plan)*
  - c. In order to connect to Simons Drive, the proposed street would need to pass through areas on the parcel with slopes of 25% or greater. These areas are generally categorized as no-build zones due to the potential hazards of disturbance. *(Variance Requests, Supplemental Data Sheets)*
  - d. Recommended conditions of approval require waiver of the right to protest the creation of an improvement district to connect Landon's Way and Simons Drive and inclusion of WUI lot development and building standards in the covenants, as required by the City Subdivision Regulations.
  - e. The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.
- 2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;**
  - a. The subject property sits at the existing dead-end of the Landon's Way cul-de-sac and the applicant is proposing an extension of the street to a similar cul-de-sac. Due to the existing development pattern in the area, there is not a street on the opposite side of the subject property that Landon's Way could provide a through-connection to. Other streets above and below Landon's Way are also cul-de-sacs, with residential

development or public parkland preventing connection. (*Variance Requests, Missoula County Property Information System*)

- b. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.
- 3. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, undue hardship to the owner would result if the strict requirements of these regulations are enforced;**
  - a. The variance is being requested due to the physical characteristics of the subject property which include steep slopes and sensitive riparian and habitat areas. With no adjacent roads to connect to, the proposed development would not be feasible without significant cost and disturbance to natural areas. (*Variance Requests*)
  - b. Because of the physical surroundings, particular shape, or topographical conditions of the property, undue hardship to the owner would result if the strict requirements of these regulations are enforced.
- 4. The variance will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Growth Policy;**
  - a. The Title 20 Zoning Ordinance and the City Growth Policy do not address specific street design standards.
  - b. The variance will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Growth Policy.
- 5. The variance will not cause an increase in public costs;**
  - a. The applicant would be responsible for the costs of construction for the proposed extension to Landon's Way and its associated infrastructure.
  - b. Future maintenance of Landon's Way is not anticipated to be costlier than it would be if the street were to be a through-street.
  - c. The variance will not cause an increase in public costs.
- 6. The hardship has not been created by the applicant or the applicant's agent or assigns.**
  - a. The variance is requested due to physical site constraints of the undeveloped parcel. There is existing development adjacent to the property, further limiting options for development with a through-street design. (*Variance Requests*)
  - b. The hardship has not been created by the applicant or the applicant's agent or assigns.

## **Variance Request 2 – Connectivity Standards**

A variance is requested from Article 3, Section 3-020.4(D) requiring that a street connection must be provided to any existing or approved public street abutting the subdivision. Proposed Lot 13 would be adjacent to Simons Drive but would technically gain access through a shared driveway easement at 503 Simons Drive. No street connection would exist from the proposed subdivision directly to Simons Drive.

### **RECOMMENDATION**

**Approve** the variance request from Article 3, Section 3-020.4(D) requiring that a street connection must be provided to any existing or approved public street abutting the subdivision to allow for access to Lot 13 via a shared driveway easement with the adjacent property.

#### REVIEW CRITERIA AND FINDINGS

- 1. The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property;**
  - a. The proposed shared driveway for Lot 13 would be accessed via an existing driveway, so no new approach onto Simons Drive would be required. (*Missoula County Property Information System*)
  - b. The portion of the property abutting Simons Drive slopes steeply down to the roadway, and contains existing mature trees. Removal of vegetation or additional cutting and filling of this section of the slope may cause slope stability issues.
  - c. The section of Simons Drive abutting the property leads to a relatively sharp corner in a low spot, which could cause visibility issues for a new driveway in this location.
  - d. The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.
- 2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;**
  - a. The physical constraints of connecting to Simons Drive are unique to the subject property.
  - b. The proposed shared driveway easement would be located on property also owned by the applicant, so adjacent property owners would not be impacted.
  - c. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.
- 3. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, undue hardship to the owner would result if the strict requirements of these regulations are enforced;**
  - a. The steep slope and existing road design of Simons Drive would result in a costlier roadway connection due to the additional engineering considerations that would be required.
  - b. Because of the physical surroundings, particular shape, or topographical conditions of the property, undue hardship to the owner would result if the strict requirements of these regulations are enforced.
- 4. The variance will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Growth Policy;**
  - a. The Title 20 Zoning Ordinance and the City Growth Policy do not address specific street design standards.
  - b. The variance will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Growth Policy.

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

- a. The proposed shared driveway should result in lower public costs than the addition of a new approach onto Simons Drive, requiring a curb cut through the new proposed infrastructure.
- b. The variance will not cause an increase in public costs.

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

- a. The topography and surrounding conditions of the subject property have not been created by the applicant.
- b. The hardship has not been created by the applicant or the applicant's agent or assigns.

**Variance Request 3 – Block Length**

A variance is requested from Article 3, Section 3-030.2.A(2) of the City Subdivision Regulations establishing a maximum block length of 480 feet in urban-suburban subdivisions.

The proposed block length of approximately 600 feet is due to the length of the proposed cul-de-sac extension of Landon's Way. Because Landon's Way is not proposed to be a through-street, the effective block length is the distance of the property that would contain future development lots.

RECOMMENDATION

**Approve** the variance request from Article 3, Section 3-030.2.A(2) of the City Subdivision Regulations to exceed the 480-foot maximum block length and allow for a proposed block length of 600 feet.

REVIEW CRITERIA AND FINDINGS

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

- a. The proposed block would meet all design standards for a Low Density Urban Local Street, including a 5-foot sidewalk with a 7-foot landscaped boulevard on either side of the street. (*Variance Requests, Grading, Drainage and Road Construction Plans*)
- b. The properties to the north and the south of the subject property are either publicly owned, or owned by the applicant. Therefore, no adjacent property owners would parallel this block. The extension of Landon's Way would function the same as the existing portion of the street in terms of block length.
- c. Multiple public access routes are proposed to enhance connectivity between public lands and other streets. The longer block length would not preclude movement of pedestrians through the subdivision.
- d. The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

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

- a. The subject property has steep slopes, sensitive riparian and habitat areas, and limited options for additional street connections.
  - b. The conditions the variance is based on are similar for other developments in the area, which have also been developed with cul-de-sac designs. However, these conditions inherent to hillside infill development are not applicable generally to other areas of the city.
  - c. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.
- 3. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, undue hardship to the owner would result if the strict requirements of these regulations are enforced;**
- a. If the strict requirements of the City Subdivision Regulations were enforced here, the owner would lose potential proposed residential units due to the shortened block length. There would be developable area east of the 480-foot block that would not be utilized for housing.
  - b. Because of the physical surroundings, particular shape, or topographical conditions of the property, undue hardship to the owner would result if the strict requirements of these regulations are enforced.
- 4. The variance will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Growth Policy;**
- a. The Title 20 Zoning Ordinance and the City Growth Policy do not address specific block length standards.
  - b. The variance will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Growth Policy.
- 5. The variance will not cause an increase in public costs;**
- a. The applicant would be responsible for the installation of the extension of Landon's Way, and the dedication of public access easements through the property. A new hiker trail is also proposed to be constructed by the applicant, which would enhance connectivity from the end of the cul-de-sac. With the exception of onsite stormwater facilities, which are planned to be maintained by the Property Owners' Association, public right-of-way improvements would be maintained after installation like other infrastructure in the City.
  - b. The variance will not cause an increase in public costs.
- 6. The hardship has not been created by the applicant or the applicant's agent or assigns.**
- a. The variance request is due to conditions outside the control of the applicant, including topography, hydrology, and existing adjacent development.
  - b. The hardship has not been created by the applicant or the applicant's agent or assigns.

## **Variance Request 4 – Simons Drive Design Standards**

A variance is requested from Article 3, Section 3-020 Table .2A, Section 3-020.15.D.1, and Section 3-020.15.D.2.a of the City Subdivision Regulations requiring dedication of public right-of-way to meet the standards for a Low Density Urban Local Street and the installation of sidewalks with landscaped boulevards. The variance request also includes a deviation from the requirement of curbside sidewalks to have a clear space at least 7 feet wide.

The Simons Drive frontage of the subject property contains steep slopes and has existing mature vegetation which enhances slope stability. The required right-of-way width would require that the applicant dedicate an additional 5-feet of right-of-way. To install the required infrastructure, significant cut and fill would be required and additional methods of hillside stabilization would be required.

### RECOMMENDATION

**Approve** the variance request from Article 3, Section 3-020 Table .2A, Section 3-020.15.D.1, and Section 3-020.15.D.2.a of the City Subdivision Regulations requiring dedication of public right-of-way to meet the standards for a Low Density Urban Local street type and the installation of sidewalks with landscaped boulevards or curbside sidewalks at least 7 feet wide.

### REVIEW CRITERIA AND FINDINGS

- 1. The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property;**
  - a. The proposed improvements to Simons Drive would include a 7-foot-wide curbside sidewalk. Because the road has a sharp corner adjacent to the property, the new sidewalk would enhance pedestrian safety for those walking in this area.
  - b. Proposed curb and gutter and stormwater infrastructure may improve conditions related to flooding at the sharp corner of Simons Drive.
  - c. The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.
- 2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;**
  - a. The property has an excessively steep grade leading up to the existing Simons Drive right-of-way which would require substantial cut and fill and retaining structures to widen the right-of-way and install the required infrastructure.
  - b. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.
- 3. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, undue hardship to the owner would result if the strict requirements of these regulations are enforced;**
  - a. The required additional 5 feet of right-of-way that the applicant would need to dedicate would be a steeply sloped portion of the subject property. The costs of installation of required infrastructure in this area would be higher than installation elsewhere in the city.

- b. Because of the physical surroundings, particular shape, or topographical conditions of the property, undue hardship to the owner would result if the strict requirements of the City Subdivision Regulations are enforced.

**4. The variance will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Growth Policy;**

- a. The Title 20 Zoning Ordinance and the City Growth Policy do not address specific street design standards.
- b. The variance will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Growth Policy.

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

- a. The motorized and non-motorized transportation infrastructure and utility infrastructure is to be installed by the subdivider. Dedicated public rights-of-way would follow the same maintenance structure as elsewhere in the City after installation.
- b. The variance will not cause an increase in public costs.

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

- a. The existing sub-standard right-of-way width and steep terrain in the area are not conditions created by the applicant.
- b. The hardship has not been created by the applicant or the applicant's agent or assigns.

## **IX. SUBDIVISION ATTACHMENTS**

Subdivision Attachment A: Project History Form

## **X. REFERENCES CITED**

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

### **Plans and Regulations**

City of Missoula Resolution 7903

*<https://www.ci.missoula.mt.us/DocumentCenter/View/27738>*

City of Missoula Resolution 7911

*<https://www.ci.missoula.mt.us/DocumentCenter/View/27730>*

City of Missoula Resolution 8629

*<https://www.ci.missoula.mt.us/DocumentCenter/View/62777/Resolution-8629->*

Master Parks and Recreation Plan for the Greater Missoula Area (2004)

*<https://www.ci.missoula.mt.us/DocumentCenter/View/776/May-2004-Final-Master-Parks-and-Recreation-Plan-?bidId=>*

M.C.A.: Montana Code Annotated 2023

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

Missoula Public Works Standards and Specifications Manual, amended 01/1/2024  
<https://www.ci.missoula.mt.us/2941/Public-Works-Standards-Specifications-Ma>

M.M.C. Title 12, Streets, Sidewalks, and Public Places, adopted as amended 6/5/2023  
<https://www.ci.missoula.mt.us/DocumentCenter/View/36507/Municipal-Code-Title-12-Sts-Sdwks--Pub-Places-PDF?bidId=>

M.M.C. Title 20, Zoning Code, adopted as amended 10/16/2023  
[https://library.municode.com/mt/missoula/codes/municipal\\_code?nodeId=TIT20ZO](https://library.municode.com/mt/missoula/codes/municipal_code?nodeId=TIT20ZO)

Our Missoula 2035 City Growth Policy  
[https://www.ci.missoula.mt.us/DocumentCenter/View/34746/OurMissoulaGP\\_full?bidId=](https://www.ci.missoula.mt.us/DocumentCenter/View/34746/OurMissoulaGP_full?bidId=)  
=

South Hills Comprehensive Plan (1986)  
<https://www.ci.missoula.mt.us/DocumentCenter/View/22427/South-Hills-Comprehensive-Plan-1986-Links?bidId=>

Subdivision Regulations: Missoula City Subdivision Regulations, as amended on 10/16/2023  
<https://www.ci.missoula.mt.us/DocumentCenter/View/58232/Missoula-City-Subdivision-Regulations2022-Amend?bidId=>

## **Elements of the Application Packet for Governing Body Review**

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Hillside Density Adjustment Calculation Worksheet  
MBMG Geologic Conditions Exhibit  
MBMG Seismology Exhibit  
Potentiometric Surface Exhibit

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School Districts Inquiry  
Neighborhood Meeting Minutes and Public Comments  
Missoula Conservation District Inquiry

### Agency Comment

1<sup>st</sup> Sufficiency Agency Comments  
2<sup>nd</sup> Sufficiency Agency Comments  
3<sup>rd</sup> Sufficiency Agency Comments

## **Other References**

FEMA Map Service Center  
<https://msc.fema.gov/portal/home>

Missoula County Property Information System  
<https://gis.missoulacounty.us/propertyinformation/>

Missoula Maps (City Central)  
<https://missoulamaps-cityofmissoula.hub.arcgis.com/>

## **SUBDIVISION ATTACHMENT A SUBDIVISION PROJECT HISTORY**

**Project:** High Park Views Subdivision

**Applicant:** Rebecca Donnelly

**Representative:** IMEG Corp.

**Pre-application Meeting:** Pre-application Meeting 6/9/2022

**Element Review:** Submitted 6/5/2023, 7/12/2023, 8/21/2023; Complete 8/28/2023

**Sufficiency Review:** Submitted 8/30/2023, 12/19/2023, 3/6/2024, 4/1/2024; Complete 4/12/2024

**Start Governing Body Review:** 4/15/2024

**60-Working-Day Deadline:** 7/10/2024

**Extension Granted?:** N/A

**Public Notice:** Site Posted 5/11/2024; Adjacent Property Owner Letters Sent 5/8/2024; Legal Ad in Missoulian 5/18/2024 and 5/25/2024

**City Council Consent Agenda:** 6/3/2024

**Planning Board Public Hearing:** 6/4/2024

**Land Use and Planning Committee:** 6/12/2024

**City Council Public Hearing:** 6/24/2024