



MISSOULA COMMUNITY PLANNING, DEVELOPMENT & INNOVATION

Development Services Division

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MAJOR PHASED SUBDIVISION, ANNEXATION, AND REZONING STAFF REPORT

Agenda Item: Wildroot Major Phased Subdivision, Annexation, and Rezoning

Report Date: August 13, 2024

Case Planner: Tara Porcari

Report Review & Approved by: Dave DeGrandpre, Land Use Supervisor

Governing Body Review Deadline: September 26, 2024

Public Meetings & Hearings:

City Council (8/19/24): Adopt resolution of intent to annex, 1st reading of rezoning ordinance, referral to LUP committee and set public hearing

Planning Board (8/20/24): Public hearing

LUP (8/28/24): Pre-public hearing informational item

City Council (9/9/24): Public hearing and decision

I. GENERAL PROJECT INFORMATION

Developer:

Pando Holdings
205 Detroit St, Ste 203
Denver, CO 80206-4812

Landowners:

Hillview Road LLC
205 Detroit St, Ste 203
Denver, CO 80206-4812

Hillview MF Project Owner LLC
1144 15th St, Ste 2475
Denver, CO 80202-3078

Representative:

Nicole Olmstead, Cushing Terrell
06 Railroad St W, #104
Missoula, MT 59802

Location of Request: The property is located at/nearby 1600 and 1960 Rimel Road in the Moose Can Gully Neighborhood of the South Hills. There is residential development generally to the west and mostly residentially zoned vacant land to the east. The west border of the property is bounded by Hillview Way.

Legal Notification: The legal ad was published in the Missoulian on July 27, 2024 and August 3, 2024. Two subdivision posters were placed on the property on July 22, 2024. Adjacent property owners were notified by certified mail on July 16, 2024.

II. DECISION AND REGULATORY FRAMEWORK

The Missoula Consolidated Planning Board considers and makes a recommendation on the rezoning and subdivision. Missoula City Council considers and makes a decision on the annexation, zoning upon annexation, rezoning, and subdivision.

Applicable State Law: [Montana Code Annotated 2023](#).

Annexation Policy: [Resolution 8363](#) adopted 7/22/2019. The portion of this property not already within City Limits is within Annexation Area "A" and meets the majority of the City's criteria to determine priority for annexation. Zoning upon annexation must comply with Title 20 Zoning Code, Section 20.85.040.I.

Growth Policy: The [Our Missoula 2035 City Growth Policy](#) is the applicable regional plan and recommends land use designations Residential Medium Density (3 to 11 dwelling units per acre) and Residential High Density (24 to 43 dwelling units per acre) for the subject property. A small portion of the west side of the property directly abutting Hillview Way is also included in the Node Development Overlay, which is described in the Growth Policy as targeting areas with opportunities for more concentrated, mixed-use development and the potential to bring together multi-modal transportation infrastructure.

Local Zoning Law: [Title 20, Missoula Municipal Code](#) amended May 2nd, 2022.

Current and Proposed Zoning: The two parcels currently within City limits are zoned a mix of RM1-35 Residential (multi-dwelling), RM0.5 Residential (multi-dwelling), R8 Residential, and B2-1 Community Business. A portion of the western side of the project area is also covered by the Hillview Heights Zoning Overlay. The five parcels to be annexed as a part of this request are zoned Residential (R) under Missoula County. If City Council approves the annexation and rezone, the recommended City zoning is a mix of RM0.5 Residential (multi-dwelling), RM1-35 Residential (multi-dwelling), and R5.4 Residential. The application materials also include a request to remove the Hillview Heights Overlay entirely from the subject property.

Subdivision Regulations: [Missoula City Subdivision Regulations](#) adopted by City Council as amended on October 16, 2023.

Surrounding Land Uses:

- North: Residential (single-family) and vacant
- South: Residential (single-family), religious assembly, and vacant
- East: Residential (single-family) and vacant
- West: Residential (single-family detached and townhomes) and vacant

Surrounding Zoning:

- North: R8 Residential
- South: R8 Residential, R5.4 Residential, and County RRS1 Rural Residential, Small Agriculture
- East: RT10 Residential (two-unit/townhouse), R5.4 Residential and County R Residential
- West: R40 Residential, RM1-35/Elk Hills PUD, and B2-1/Elk Hills PUD

III. RECOMMENDED MOTIONS

City Council Consent Agenda (8/19/24)

Adopt a resolution of intent to annex and zone to R5.4 Residential the portion of the subject property as shown and legally described in Exhibits A and B; **preliminarily adopt** an ordinance rezoning the subject property from R8 Residential, RM1-35 Residential (multi-dwelling), RM0.5 (multi-dwelling), B2-1 Community Business, and R5.4 Residential, with the west portion of the property including the Hillview Heights Overlay, to RM0.5 Residential (multi-dwelling), RM1-35 Residential (multi-dwelling), and R5.4 Residential, removing Hillview Heights Overlay; **refer this item** to the Land Use and Planning Committee for discussion on August 28, 2024, and **set a public hearing** on September 9, 2024.

Planning Board Public Hearing (8/20/2024)

Recommend City Council **approve** the adoption of an ordinance to rezone the subject property as shown and legally described in Exhibits A and B from RM1-35 Residential (multi-dwelling), RM0.5 Residential (multi-dwelling), R8 Residential, and B2-1 Community Business with a Hillview Heights Overlay to RM0.5 Residential (multi-dwelling), RM1-35 Residential (multi-dwelling), and R5.4 Residential, removing the Hillview Heights Overlay from its entirety.

Recommend City Council **approve** a variance from City Subdivision Regulations Article 3, Section 3-020.5 to allow the construction of a hammerhead turnaround in the street “Local I”.

Recommend City Council **approve** a variance from City Subdivision Regulations Article 3, Section 3-030.2.A(2) to allow a block length in excess of 480 feet in the street area of “Local A”.

Recommend City Council **approve** a variance from City Subdivision Regulations Article 3, Section 3-030.2.A(2) to allow a block length in excess of 480 feet in the area of streets “Local B (east/west), Local D, Local E, and Local G”.

Recommend City Council **approve** a variance from City Subdivision Regulations Article 3, Section 3-030.2.A(2) to allow a block length in excess of 480 feet in the area of streets “Local B (north/south) and Local C”.

Recommend City Council **approve** a variance from City Subdivision Regulations Article 3, Section 3-020.2.B to allow approximately 450 linear feet of Rimel Road to be constructed with a sidewalk on only the north side of the street.

Recommend City Council **approve** a variance from City Subdivision Regulations Article 3, Section 3-030.1.C(3) to allow proposed Phase 2 Lots 18, 19, 20, 21, and 22 to be accessed via the alley and Common Area.

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

LUP pre-public hearing informational only item (8/28/24)

Introductory presentation and discussion on the proposal and staff recommended motions to approve the annexation, rezoning, and phased subdivision preliminary plat application subject to the recommended conditions of approval.

City Council Public Hearing (9/9/24)

Presentation, public comment, and action on the recommended motions, as listed below:

Adopt a resolution to annex the subject property as shown in Exhibit A and apply R5.4 Residential City zoning to the property.

Approve the adoption of an ordinance to rezone the subject property as shown and legally described in Exhibits A and B from RM1-35 Residential (multi-dwelling), RM0.5 Residential (multi-dwelling), R8 Residential, and B2-1 Community Business with a Hillview Heights Overlay to RM0.5 Residential (multi-dwelling), RM1-35 Residential (multi-dwelling), and R5.4 Residential, removing the Hillview Heights Overlay from its entirety.

Approve a variance from City Subdivision Regulations Article 3, Section 3-020.5 to allow the construction of a hammerhead turnaround in the street “Local I”.

Approve a variance from City Subdivision Regulations Article 3, Section 3-030.2.A(2) to allow a block length in excess of 480 feet in the street area of “Local A”.

Approve a variance from City Subdivision Regulations Article 3, Section 3-030.2.A(2) to allow a block length in excess of 480 feet in the area of streets “Local B (east/west), Local D, Local E, and Local G”.

Approve a variance from City Subdivision Regulations Article 3, Section 3-030.2.A(2) to allow a block length in excess of 480 feet in the area of streets “Local B (north/south) and Local C”.

Approve a variance from City Subdivision Regulations Article 3, Section 3-020.2.B to allow approximately 450 linear feet of Rimel Road to be constructed with a sidewalk on only the north side of the street.

Approve a variance from City Subdivision Regulations Article 3, Section 3-030.1.C(3) to allow proposed Phase 2 Lots 18, 19, 20, 21, and 22 to be accessed via the alley and Common Area.

Approve the Wildroot Phased Subdivision preliminary plat application, subject to the recommended conditions of approval, based on the findings of fact and conclusions of law in the staff report.

IV. INTRODUCTION

City of Missoula Development Services has received application materials from Cushing Terrell, on behalf of Pando Holdings, for a phased 248-lot major subdivision, annexation of 41.34 acres, and rezoning of the property located at and nearby 1600 and 1960 Rimel Road in Missoula adjacent to Hillview Way. Once complete, the subdivision would contain 21 townhome lots, 226 single-family lots, and 1 multi-family lot with 203 units. The property consists of 106.6 acres within seven parcels, two of which are already within City limits and five parcels to be annexed as a part of this proposal. The development is called the Wildroot Subdivision, which is proposed to be platted in 7 phases over 20 years.

Improvements include the extension of a new collector road off Rimel Road, new water and sewer infrastructure, additional parkland, trail connections, and improvements to Hillview Way. The first phase of the proposed subdivision is the multi-family development currently permitted and under construction at the southwest portion of the project area off Hillview Way.

The subdivision includes 7.8 acres of dedicated parkland that includes a new 8-foot wide gravel path connecting Moose Can Gully Trail to Rimel Road, and an extensive network of singletrack trails. In addition to parkland, 21.9 acres of common area would be accessible to residents and the public. The common areas are integrated into the overall layout of residential lots, providing additional trail connections throughout the neighborhood.

The proposal includes connection to the municipal sewer and water systems. All post-development stormwater runoff is proposed to be retained onsite.

The subdivision includes six variance requests from the City Subdivision Regulations relating to allowing one dead-end street, exceeding block length requirements in three different areas, accepting a trail alignment along Rimel Rd not fully meeting street/sidewalk standards, and permitting alleys to provide primary vehicular access to five lots.

Staff have reviewed the application materials and base the recommendations of approval on the following findings of fact and conclusions of law.

V. GENERAL FINDINGS OF FACT

1. The subject property is located at/near 1600 and 1960 Rimel Road in Missoula. A portion of the property is currently located outside of the Missoula municipal boundary. See Exhibit A. (*Missoula County Property Information System*)
2. The subject property is 106.6 acres with one single-family home currently on the site that will be removed as a part of this proposal. Multi-family development (Phase I) is already permitted and construction is in progress on the southwest corner of the project area. (*Project Summary pages 4-5, Montana Cadastral Website, Personal Observation*)

3. The property consists of seven existing tracts of record that are located in the southwest quarter of the southwest quarter of Section 5 and the southeast quarter of Section 6, Township 12 North, Range 19 West, P.M.M. Missoula County, Montana. For a full legal description see Exhibit B. (*Subdivision Application page 2, Project Summary page 7*)
4. Surrounding land uses include either existing residential development (generally to the west) or residential zoning (generally vacant at this time to the east) on all sides, as well as one religious assembly use to the south. Another upcoming subdivision proposal, Meadow View Homes, is located northwest of the subject property across Hillview Way. (*Subdivision Application page 3, Aerial Vicinity Map*)
5. The subject property was previously used primarily for pasture grazing. (*Project Summary page 5, Subdivision Application page 9*)
6. The subject property is inside the Missoula Utility Services Area, Urban Transportation District, Air Stagnation Zone, Bear Buffer Zone, and Wildland Urban Interface/Intermix. (*Missoula County Property Information System*)
7. The property owners are requesting annexation of five of the seven parcels. If annexed, the property would become a part of City Council Ward Four and the Moose Can Gully Neighborhood Council area. (*Missoula County Property Information System, Annexation Petition, Ward and Neighborhood Council Maps*)
8. The property abuts and can be accessed by Hillview Way, which is maintained by and under the jurisdiction of the City of Missoula. (*Preliminary Plat, Vicinity Map, Project Summary Page 31*)
9. Public sewer and water currently exist in Hillview Way. Missoula Public Works & Mobility Department staff have indicated the ability to provide municipal services to the development. (*Subdivision Application pages 24 and 25, Preliminary Plat, Intent to Serve – Public Works*)
10. The subject property falls under floodplain designation Zone X Shaded (0.2% Annual Chance), area of minimal flood hazard. (*FEMA Map Service Center, and FEMA Floodplain Map*)

VI. GROWTH POLICY GENERAL FINDINGS OF FACT

1. The Our Missoula 2035 City Growth Policy is the applicable regional plan. The City Growth Policy recommends a land use designation of Residential High on the west side of the subject property, which provides for a density of 24 to 43 dwelling units per acre, and Residential Medium moving east across the site, which provides for a density of 3 to 11 dwelling units per acre. (*Rezone Application page 10, Our Missoula 2035 City Growth Policy page 128*)
2. The Residential High land use designation is intended for areas within the core of the community and where City services and infrastructure are readily available. Structures may be a range of dwelling types from small-lot single dwelling to large scale multistory, multi-dwelling development. (*Our Missoula 2035 City Growth Policy page 123*)
3. The Residential Medium land use designation is intended to fit with many already established residential neighborhoods and acknowledges the single dwelling and two-unit townhouse / duplex residential building types as the primary use with the potential for accessory dwellings as well. (*Our Missoula 2035 City Growth Policy page 123*)
4. Current relatable zoning districts in the Residential High land use designation are RM1-35, RM1-45, RM1.5, and RM0.5. (*Our Missoula 2035 City Growth Policy page 124*) The R5.4 zoning district, a current relatable district to the Residential Medium land use designation, permits only detached single dwellings, while RM1-35, RM1-45, and RM0.5 also permit

townhomes, multi-dwelling homes, and multi-dwelling buildings. Commercial uses are largely prohibited in these districts, with a few low-intensity commercial uses such as personal improvement services and offices allowed in RM1-35 district only. (*Title 20 Zoning Code section 20.05*)

5. The RM0.5 Residential (multi-dwelling), RM1-35 Residential (multi-dwelling), and R5.4 Residential zoning districts are considered current, relatable zoning districts to the Residential High and Residential Medium land use designations. If developed as proposed, the residential density would be approximately 4 dwellings per acre, in conformance with the City Growth Policy. (*Our Missoula 2035 City Growth Policy page 128, Project Summary*).
6. A small portion of the west side of the property directly abutting Hillview Way is also included in the Node Development Overlay, which is described in the Growth Policy as targeting areas with opportunities for more concentrated, mixed-use development and the potential to bring together multi-modal transportation infrastructure. (*Our Missoula 2035 City Growth Policy*)
7. The *Livability* section of the City Growth Policy encourages walkable neighborhoods, access to parks and trails, and easy accessibility to amenities and commercial and local services to meet the needs of an expanding diverse population. (*Our Missoula 2035 City Growth Policy page 30*)
8. The *Safety and Wellness* section of the City Growth Policy encourages building in areas close to existing infrastructure, as is the case here. (*City Growth Policy page 44*)
9. 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. (*City Growth Policy pages 71-73*)

ANNEXATION

I. RECOMMENDATION

Staff recommend City Council **adopt** a resolution to annex five parcels at the southeast portion of the subject property and adjacent road rights-of-way as shown and described on Exhibits A and B, and zone upon annexation to R5.4 Residential, subject to the recommended conditions of approval, based on the findings of fact and conclusions of law in the staff report.

II. CONDITIONS OF ANNEXATION APPROVAL

Phasing

1. Final plat submittals shall be made in accordance with the Phasing Plan, unless the timeframes are extended or the phasing plan is amended as per City Subdivision Regulations Section 4-070.3.C. The Phasing Plan includes deadlines for submittal of each final plat phase. (*City Subdivision Regulations Section 4-070.2 and 4-070.3.C*)

Streets, General

2. All street and sidewalk improvements shall be designed in accordance with the Missoula City Public Works Standards and Specifications Manual and the City of Missoula Subdivision Regulations (except as modified by variance), and comply with Public Rights-of-Way Accessibility Guideline requirements, subject to the review and approval by Public Works & Mobility. Improvements shall be installed or secured with an improvement

agreement prior to final plat approval of each appurtenant phase. (*City Subdivision Regulations Section 3-020.2*)

3. The subdivider shall provide a road naming plan for review and approval of Missoula City GIS and City Public Works & Mobility prior to final plat approval of Phase 1. The plan shall include a name for the alleys providing vehicular access to lots. The subdivider shall install or secure with an improvements agreement the approved road name signs appurtenant to each phase prior to final plat approval of each phase. (*City Subdivision Regulations Section 3-020.4.H and 3-020.12*)
4. The subdivider shall provide a street signage plan in accordance with the Manual on Uniform Traffic Control Devices subject to review and approval of Public Works & Mobility and Missoula Fire prior to final plat approval of each phase. The subdivider shall install or secure with an improvement agreement the approved street signage appurtenant to each phase prior to final plat approval of each phase. (*City Subdivision Regulations Section 3-020.4.H*)

Hillview Way Offsite Improvements

5. The subdivider shall design and provide preliminary construction drawings for the future Hillview Way and Rimel Road roundabout to the City of Missoula, subject to review and approval of Public Works & Mobility, prior to final plat approval of Phase 2. (*City Subdivision Regulations Section 3-020.4.B*)

Onsite Streets and Alleys

6. The subdivider shall provide plans for and install or secure within an improvement agreement all streets and alleys within each phase as shown on the preliminary plat, phasing plan, and road plans submitted with the preliminary plat application, subject to review and approval of Public Works & Mobility prior to final plat approval of each appurtenant phase. (*City Subdivision Regulations Sections 3-010.5, 3-020.3.B, and 3-020.4.A*)
7. The subdivider shall provide plans for and install or secure within an improvement agreement all non-motorized facilities within each phase as shown on the preliminary plat, phasing plan, and road and trail plans submitted with the preliminary plat application, subject to review and approval of Public Works & Mobility and Parks & Recreation, prior to final plat approval of each appurtenant phase, subject to review and approval of Parks and Recreation. (*City Subdivision Regulations Sections 3-010.5, 3-020.3.B, and 3-020.4.A*)
8. The subdivider shall provide a maintenance agreement for the hammerhead turnaround at "Local I", subject to review and approval of Public Works & Mobility, prior to final plat approval of Phase 5. (*City Subdivision Regulations Sections 3-020.3.B*)

Rights-of-Way and Easements

9. The subdivider shall dedicate a 10-foot right-of-way easement to the City of Missoula adjacent to Hillview Way, subject to review and approval of the City Attorney and Public Works & Mobility, prior to final plat approval of Phase 1. (*City Subdivision Regulations Section 3-020.3.B and 3-060.1*)
10. The subdivider shall dedicate right-of-way easement for the future Hillview Rimel roundabout, as shown on the Preliminary Plat, to the City of Missoula, subject to review and approval of the City Attorney and Public Works & Mobility, prior to final plat approval of Phase 1. (*City Subdivision Regulations Section 3-020.3.B and 3-060.1*)

11. The subdivider shall establish and dedicate right-of-way easements to the City of Missoula from Hillview Way to edge of property for Rimel Road, subject to review and approval of the City Attorney and Public Works & Mobility, prior to final plat approval of Phase 1. *(City Subdivision Regulations Section 3-020.3.B and 3-060.1)*
12. All proposed rights-of-way and easements shall be shown on each appurtenant final plat, identified for their width and purpose, dedicated to the City of Missoula, and recorded with the County Clerk & Recorder's Office with book and page of the recorded documents provided in accordance with Public Works Standards and Specifications Manual, subject to review and approval by Public Works & Mobility, prior to final plat approval of each phase. In addition to those easements shown on the Preliminary Plat, additional drainage and utility easements along the lot line of Lots 83 and 84, and through Common Area Lot 10 and Park Lot 2 shall be shown on each appurtenant final plat. *(City Subdivision Regulations Sections 3-020.3.B, 3-040.2.B, 3-040.3.H & 3-060.1)*
13. The subdivider shall provide a "municipal utility easement" in Common Area Lot 5 as shown on the Preliminary Plat, subject to review and approval of Public Works & Mobility, prior to final plat approval of Phase 3. *(City Subdivision Regulations Section 3-020.3.B and 3-060.1)*
14. The subdivider shall provide a "right-of-way and public utility easement" in Common Area Lot 23 as shown on the Preliminary Plat, subject to review and approval of Public Works & Mobility, prior to final plat approval of Phase 6. *(City Subdivision Regulations Section 3-020.3.B and 3-060.1)*
15. The subdivider shall provide a "right-of-way and public utility easement" in Common Area Lot 24 as shown on the Preliminary Plat, subject to review and approval of Public Works & Mobility, prior to final plat approval of Phase 6. *(City Subdivision Regulations Section 3-020.3.B and 3-060.1)*
16. The subdivider shall provide a "municipal utility easement" in Park Lot 2 as shown on the Preliminary Plat, subject to review and approval of Public Works & Mobility, prior to final plat approval of Phase 1. *(City Subdivision Regulations Section 3-020.3.B and 3-060.1)*
17. 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 Community Planning, Development & Innovation, prior to final plat approval: "All owners of Wildroot Subdivision Lots not included in Special Improvement District ("SID") 549 along Hillview Way, Rimel Road, and all other internal local streets within the subdivision shall waive the right to protest being included in 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)*
18. The subdivider shall provide a supplemental sheet to each final plat overlaying the Special Improvement District 549 boundary and highlighting the lots outside of the SID 549 boundary which are to pay the impact fee at building permit. *(Montana Code Annotated Section 76-3-510, City Subdivision Regulations Section 9-020.1, City Resolution No. 7911)*

19. The subdivider shall include the following statement on the face of each 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 internet, telephone, electric power, gas, cable television, water, or sewer service to the public, the right to the joint 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*)

Stormwater and Drainage

20. The subdivider shall submit complete grading and drainage plans showing proposed grades of streets, proposed drainage facilities, and a stormwater 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 & Mobility, prior to final plat approval of each phase. All drainage facilities shall be constructed, or secured in an improvement agreement, in accordance with the approved plans prior to final plat approval of each appurtenant phase. (*City Subdivision Regulations Section 5-020.11*)
21. The subdivider shall place the following statement into the convenience language. “Each single-family lot should have a way to convey stormwater to the ROW without discharging across multiple properties unless a drainage easement is provided across downhill lots. Areas with finish grade >8% within 15-ft of rear property lines will need to have a drainage easement and swale constructed at the property line (convenience portion).” (*City Subdivision Regulations Section 3-010.1 B and 3-010.2 and 5, 3-040.3*)
22. The subdivider shall Provide, install and provide vehicular access to all stormwater facilities outside of the rights-of-way prior to final plat approval of each appurtenant phase. (*City Subdivision Regulations 3-010.2 and 5, 3-040.3*)
23. The subdivider shall place the following statement into the convenience language. “Stormwater facilities outside of the public right-of-way shall be maintained by HOA.” (*City Subdivision Regulations 3-010.2 and 3-040.3*)
24. The subdivider shall place the following statement into the convenience language. “Areas with offsite or uphill overland flow will need to provide a drainage easement across the lot. This can be defined during each phase.” (*City Subdivision Regulations 3-010.2 and 4, 3-040.3*)
25. The subdivider shall design and install, or secure in an improvement agreement, additional emergency overflow provisions from the intermediate stormwater pond to the Hillview ROW, subject to review and approval of Public Works & Mobility, prior to final plat approval of Phase 3. (*City Subdivision Regulations 3.010.2 and 4 and 3-040.3*)

Riparian Resource Area

26. The subdivider shall submit a Riparian Resource Management Plan addressing the requirements in City Subdivision Regulations Sections 3-130.3 and 5-020.14.L, subject to review and approval of Community Planning, Development & Innovation prior to final plat approval of Phase 1. The final approved plan shall be appended to the Development Covenants and referenced during subdivision and park improvement design and construction. (*City Subdivision Regulations Sections 3-130.3 and 5-020.14.L*)

Water Systems, Sewer Systems, and Solid Waste Disposal

27. The subdivider shall submit plans for water supply and sewage disposal facilities meeting the requirements of the Montana Department of Environmental Quality, Missoula City/County Health Department, and City of Missoula, prior to final plat approval of each phase. The subdivider shall install or secure with an improvement agreement the approved facilities prior to final plat approval of each phase, subject to review and approval of Public Works & Mobility. (*City Subdivision Regulations Section 3-070.1*)
28. The subdivider shall submit plans for booster pump stations, pressure reducing vaults, and water tank for review and approval by Public Works & Mobility prior to final plat approval of Phase 3. The review and approval shall include, but not be limited to, sizing of facilities, site design and landscaping, security systems, SCADA systems, noise mitigation from pump stations, standby power generation and system appurtenances. Final sizing of tank and pumping facilities to be determined by Public Works & Mobility. (*City Subdivision Regulations Section 3.070.1*)
29. The subdivider shall submit solid waste disposal plans meeting the regulations of Montana Department of Environmental Quality, Missoula City/County Health Department, and the City of Missoula, subject to the review and approval of Public Works & Mobility prior to final plat approval of Phase 1. (*City Subdivision Regulations Section 3-070.1*)
30. The subdivider shall provide easements and vehicular access to wastewater facilities outside of the public right-of-way. Reviewed and approved per Public Works & Mobility. (*City Subdivision Regulations 3.020.3 and 3-070.6*)
31. The following statement shall be placed on each final plat and added to the Development Covenants: "The wastewater system has been designed to gravity feed from each lot. In special cases homeowners must receive written approval from Public Works & Mobility for any external pumped effluent system." (*City Subdivision Regulations Section 3-070.1*)
32. The subdivider shall abandon the existing water services located in Common Area Lot 5 unless metered and used for irrigation, prior to Phase 3 Final Plat. (*City Subdivision Regulations Section 3.070.1*)
33. Irrigation design flows for Common Areas within a subdivision phase must be submitted prior to City approval of Released for Construction plans of that same phase. The irrigation design flow reported to the City should include cumulative irrigation demand of the current and previously approved phases. The Homeowner's Association shall be required to modify irrigation zone flows and schedules as necessary so the water system pumping capacity is not exceeded. (*City Subdivision Regulations Section 5-020.11*)

Fire Protection

34. The subdivider shall provide plans for fire suppression water flow and duration, hydrant placement, and address signage standards, subject to review and approval by Missoula Fire and Public Works & Mobility, prior to final plat approval of Phase 1. The subdivider shall install fire hydrants and related improvements, subject to review and approval by Missoula Fire and Public Works & Mobility, prior to combustible construction in each appurtenant phase. (*City Subdivision Regulations Section 3-010.1.F and 3-070.1*)

Mail Delivery

35. The subdivider shall provide plans for and install or secure an improvement agreement for 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 of Phase 1. The subdivider shall install or secure with an improvement agreement the approved mail

delivery facilities prior to final plat approval of each appurtenant phase, subject to review and approval of Public Works & Mobility. (*City Subdivision Regulations Sections 3-020.15.D(2)(c) and 3-100.18*)

Parkland Dedication, Boulevard Landscaping & Weeds

36. The following statement shall appear on the face of each final plat, in the Development Covenants, and on each instrument of conveyance, subject to review and approval by City Parks & Recreation and Community Planning, Development & Innovation: “Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future park improvement district, based on benefit, for future improvements and maintenance of parks within and adjacent to the Wildroot Subdivision, including but not limited to lighting, watering, drainage, planting, transportation, play equipment, exercise equipment, garbage facilities, signage, and maintenance, and may be used in lieu of their signatures on an improvement district petition.” (*City Subdivision Regulations Sections 5-050.3.AA, 3-080.8.C, 4-010.13.B(c) and (g)*)
37. The subdivider shall provide plans for boulevard landscaping for all roads within and adjacent to development lots, subject to review and approval by Parks and Recreation, prior to final plat approval for each phase. While tree locations may change slightly in final design, the total number of trees shown within the Right-of-Ways 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*).
38. The subdivider shall amend the Development Covenants to state: “Initial lot purchaser shall be responsible for obtaining a boulevard landscaping permit prior to building permit approval and for installation of boulevard landscaping adjacent to development lots prior to certificate of occupancy. Class II trees selected from the City of Missoula approved street tree list shall be planted on all street frontages at a 25-35’ typical spacing”, prior to Phase 1 final plat approval subject to review and approval by City Parks and Recreation (*City Subdivision Regulations Section 5-050.5.C*).
39. The subdivider shall enter into a Development Agreement with Missoula Parks and Recreation to establish expectations and timing of City Parkland improvements, as included in the Phasing Plan, prior to Phase 1 final plat approval. (*City Subdivision Regulations Sections 4-070.3.C(3)*)
40. The subdivider shall provide plans for and installation of park improvements to all City Parkland and common area used to meet parkland dedication requirements, including but not limited to: grading, application of topsoil, installation of commercial grade irrigation system, installation of turf grass and dryland seed or sod, installation of park trees, and installation of trails, subject to review and approval by Parks and Recreation, prior to final plat approval for each phase containing parcels zoned Open Space. Topsoil shall be approved by Parks and Recreation and shall have a minimum depth of 10 inches in irrigated areas. Vegetation in Parkland must be sufficiently established and accepted by Parks and Recreation before Improvements Agreement can be released (*City Subdivision Regulations Section 5-020.14.H*).
41. The subdivider shall show a 10' wide Public Access Easement along all trails within common area lots, centered on the constructed trails, on the final plat of each phase. (*City Subdivision Regulations Section 3-020.15.F.5*)
42. The subdivider shall provide maintenance plans for common areas and mutually controlled facilities per Section 5-020.14. K.10 of the City Subdivision Regulations, subject to review

and approval by CPDI and Parks and Recreation, prior to final plat approval of Phase 1. (*City Subdivision Regulations Section 5-020.14.K.10*)

43. 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 Community Planning, Development & Innovation, prior to final plat approval. (*City Subdivision Regulations Section 5-010.14.K*)

Development Covenants

44. 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 Community Planning, Development & Innovation, prior to final plat approval of Phase 1. (*City Subdivision Regulations Section 5-010.14.K*)
45. The first purchaser of each lot in this subdivision that obtains a building permit for a structure on the lot, which shall include builders not intending to occupy the structure, is responsible for establishing boulevards and planting public street trees during the first growing season prior to Certificate of Occupancy. This responsibility shall transfer to any subsequent purchaser until the boulevards and street trees are established. Boulevards are any public rights-of-way or easements between the curb or edge of asphalt and the lot line, property line or edge of easement. Boulevards shall be established per the Public Works Standards and Specifications Manual including but not limited to six inches (6") of topsoil that meets the specifications found in the manual, turfgrass and may include other live plantings. Street trees are required to be installed in accordance with the subdivision's approved boulevard landscaping plan and the City of Missoula Parks and Recreation Design Manual. Temporary Certificate of Occupancy will be granted and held in place for occupancy occurring after the growing season and until boulevard and tree establishment has been approved by Urban Forestry. Once the boulevard and tree establishment has occurred, the adjacent property owner is responsible for ongoing watering/irrigation of all boulevard landscaping and street trees. This covenant may not be changed or terminated without the consent of Missoula City Council. (*City Subdivision Regulations Section 3-020.15.D*)
46. The subdivider shall include the following sections in the Development Covenants, subject to review and approval by Public Works & Mobility and Community Planning, Development & Innovation, prior to final plat approval: maintenance and replacement of mail delivery facilities, address signage standards, easements remaining unobstructed, wood burning devices, weed control, MTFWP "Living With Wildlife" recommendations, radon mitigation, riparian resource management plan, SID/RSID/SLD, and wildland urban interface fire protection standards, and said sections may not be amended or deleted without written approval by the governing body, prior to final plat approval of Phase 1. (*City Subdivision Regulations Sections 5-010.14.K, 5-020.14.F & 3-010.2*)
47. 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 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 Community Planning, Development & Innovation, prior to final plat approval of Phase 1. (*City Subdivision Regulations Section 5-020.5*)
48. The subdivider shall include language in the Development Covenants that maintenance of all formal Common Areas not considered dedicated Parkland be performed by a Homeowners Association (HOA), so as to ensure quality open space, subject to review and

approval by Community Planning, Development & Innovation, prior to final plat approval of Phase 1. (*City Subdivision Regulations Section 3-100.14*)

III. ANNEXATION FINDINGS OF FACT AND CONCLUSIONS OF LAW

Annexation Request

1. Development Services received Annexation Petition No. 10209 from representatives of property owners Hillview Road, LLC and Hillview MF Project Owner, LLC for annexation of 41.34 acres into the City of Missoula and requested zoning upon annexation to R5.4 Residential. (*Annexation Petition No. 10209, Project Summary page 8*)

Property Information

2. The portion of the property to be annexed consists of five existing tracts of record that can be referenced in Book 810 of Micro Records Pages 1424-1428 and all located in Section 6 Township 12 North, Range 19 West and Section 5, Township 13 North, Range 19 West. (*County Property Information System, Annexation Petition*) An annexation map is located in Exhibit A and a complete legal description is in Exhibit B.
3. The portion of the property to be annexed abuts the Missoula municipal boundary on the north, east, and west sides. (*Missoula County Property Information System*)
4. If annexed, the property would become a part of City Council Ward Four and the Moose Can Gully Neighborhood Council area. (*City of Missoula Ward and Neighborhood Council Maps*)
5. The portion of the property proposed for annexation falls under floodplain classification Zone X Shaded, Area of Minimal Flood Hazard. (*FEMA Map Service Center, Preliminary Plat*)
6. The subject property abuts Hillview Way, which is maintained by the City of Missoula.
7. State law requires annexation of the full width of rights-of-way adjacent to property being annexed to occur along with annexation of the property. In this case, small portions of Rimel Road are adjacent to the portion of the subject property being annexed, as shown on Exhibit A. (*Montana Code Annotated 7-2-4211*)

Annexation Policy

8. The subject property is located within the Utility Service Area. The City Annexation Policy states the City should prioritize the annexation of property located within the Utility Service Area. (*City of Missoula Public Utility Map*)
9. The subject property is located within Annexation Area "A" shown on the City Annexation Policy Map. Areas designated as Annexation Area "A" largely meet the guidelines of the City's Annexation Policy. Per the City Annexation Policy, the City should prioritize the annexation of areas located within Annexation Area "A".
10. The Annexation Policy also states the City should prioritize the annexation of areas that contribute to the local growth pattern of the City by creating orderly and contiguous municipal boundaries and that fill in gaps left by previous annexations that created islands. Because the portion of the property to be annexed is surrounded by City property on all but the south side, Annexing the subject property would help to create a more orderly and contiguous municipal boundary and fill in some of the gap left by previous annexation. (*Missoula County Property Information System*)
11. Per the City Annexation Policy, the City should prioritize the annexation of areas that meet current City standards, including water, sewer, and transportation infrastructure, and equitably provide the same levels of service and infrastructure as other parts of the municipality with

similar topography, land use, and population density. This is reflected in the recommended annexation and subdivision conditions of approval.

Growth Policy and Zoning

12. The applicable regional plan is the Our Missoula 2035 Growth Policy, which provides a land use designation for the portion of the property to be annexed of Residential Medium Density (3 to 11 dwelling units per acre). The City Annexation Policy states that any annexation by the City should be guided by the current City Growth Policy.
13. Current relatable zoning districts in the Residential Medium Density land use designation are RT10 Residential, R8 Residential, R5.4 Residential, and RT5.4 Residential. (*Our Missoula 2035 City Growth Policy page 124*)
14. The requested zoning upon annexation for the portion of the property to be annexed is R5.4 Residential, which aligns with the Residential Medium land use designation. (*Rezone Application page 10*)
15. The current Missoula County zoning for the portion of the property to be annexed is R Residential, which is intended to provide a range of small-scale housing options that reflect the traditional character of existing residential neighborhoods, promotes compatible infill development, and supports housing diversity. This district permits lots with a minimum lot size of 5,000 square feet, or a maximum density of 6 dwelling units per acre, with greater density possible under some circumstances. This district also permits single-unit and two-unit homes. The current County zoning generally aligns with the proposed R5.4 Residential district, which permits 8 dwelling units per acre and allows for detached houses. (*Missoula County Zoning Code pages 47-48*)

Road Improvements, Non-Motorized Improvements, Transit, and Utility Infrastructure

Roads, Alleys, and Non-Motorized

16. Findings of fact regarding roads, alleys, and non-motorized facilities are located in the Subdivision section of this report and are incorporated here by reference.
17. In order to meet current City standards and the Annexation Policy, staff recommend conditions of approval requiring the applicant to provide plans for and installation of improvements to all roads, alleys, and non-motorized facilities shown on the preliminary plat within the annexation area, as well as the planned roundabout at Hillview Way and Rimel Road.
18. The road, alley, and non-motorized infrastructure within the proposed annexation area will equitably provide the same levels of service and infrastructure as other parts of the municipality with similar zoning if the recommended conditions of approval are imposed.

Transit

19. The property is located within the Missoula Urban Transportation District (MUTD). Mountain Line Route 12 currently runs inbound and outbound along 55th Street and 23rd Avenue and a bus stop is located approximately 0.3 miles away from the subject property on 23rd Avenue. (*Project Summary page 32, Mountain Line Route Map, Missoula County Property Information System*)

Fire Protection

20. In order to provide the same level of service and infrastructure as other parts of the municipality with similar zoning, including adequate protection from fire, staff recommend a condition of approval requiring the applicant to provide plans for fire suppression water flow and hydrant placement, prior to final plat approval for each phase. The staff recommended

condition of approval requires the applicant to install fire hydrants prior to combustible construction in each phase. (*City Subdivision Regulations Section 3-010.1.F*)

Utilities

21. In accordance with City regulations and following annexation, future development of the property must include approved design, installation, and connection to municipal water and sewer services. The Annexation Policy states the City should prioritize the annexation of areas that meet current City standards, including water and sewer infrastructure. (*City Subdivision Regulations Section 3-010.5*)
22. The currently residential structure on the subject property is served by a private septic system. New construction requires abandonment of the septic systems and connection to City sewer and water. The application includes a water and sanitation report providing preliminary design information for extension of municipal utilities. (*Water and Sanitation Report*)
23. Findings of fact regarding utilities are located in the Subdivision section of this report and are incorporated here by reference.
24. In order to meet the Annexation Policy and current City standards, staff recommend conditions of approval requiring plans for and installation of water supply and sewage disposal facilities.
25. The utility infrastructure within the proposed annexation area will equitably provide the same levels of service and infrastructure as other parts of the municipality with similar zoning if the recommended conditions of approval are imposed.

Statutory Requirements

26. Section 7-2-4211 MCA requires municipalities to include the full width of any public street or road right-of-way that is adjacent to the property being annexed.
27. The subject property is adjacent to right-of-way for Rimel Road. (*Missoula County Property Information System*)
28. The subject property proposed to be annexed, as shown on Exhibit A, includes the full widths of the portions of right-of-way adjacent to the subject property proposed to be annexed.
29. The City will meet the statutory requirements for a petition method annexation in regards to MCA 7-2-4601 and the MMC 20.85.040(1)(2) by considering the petition, adopting a resolution of intent, and scheduling a public hearing regarding the zoning upon annexation, and advertising public notice for at least 15 days prior to the public hearing with the appropriate recommended zoning. The final step for council is to adopt a resolution to adopt or deny the annexation request.

Zoning Upon Annexation

30. Montana Code Annotated (MCA) 76-2-303 allows a municipality to conduct a hearing on the annexation in conjunction with a hearing on the zoning of the property proposed for annexation. Title 20 Zoning Ordinance, Section 20.85.040(1)(2) outlines the three review criteria taken from MCA 76-2-303 which may be considered for zoning upon annexation. The following are the three criteria from Title 20 and a staff assessment as to whether the annexation complies with the criteria. An annexation must comply with at least **one** of the criteria. The zoning district classification assigned at the time of annexation must:

- a. **Authorize land uses comparable to the land uses authorized under the County zoning classification that applied to the property immediately before it was annexed in the City;**

Staff Assessment

- i. The current Missoula County zoning classification is R Residential, which is intended to provide a range of small-scale housing options that reflect the traditional character of existing residential neighborhoods with the intent of promoting compatible infill development and housing diversity. Land uses permitted in the R Residential district are agriculture, community residential facilities, daycares, a few commercial uses, one- and two-unit homes, mobile home parks, schools, religious assembly, and parks and recreational uses. If affordable housing or conservation design are proposed, triplex, quadplex, and small multi-plex housing is allowed. For typical one- and two-unit homes, the minimum lot size is 5,000 square feet and the maximum density is six dwelling units per acre. (*Missoula County Zoning Code Section 2.3.F.3 and Table 5*)
 - ii. The proposed City zoning is R5.4 Residential. Land uses permitted in this district are agriculture, community residential facilities, daycares, detached homes, schools, religious assemblies, and parks and recreational uses. The maximum residential density in the R5.4 Residential zoning district is approximately eight dwelling units per acre. (*Title 20 Zoning Code Table 20.05-1*)
 - iii. The City R5.4 Residential zoning district is comparable to the county R Residential zoning district in terms of allowed land uses and residential densities. The City R5.4 Residential zoning district is slightly more restrictive in terms of permitted uses and permitted residential building types.
 - iv. Based on compliance with the criteria in Title 20, Section 20.85.040.I.2.a, staff recommends annexation of the subject property and zoning upon annexation to R5.4 Residential, subject to the recommended conditions of approval.
- b. Authorize land uses that are consistent with the land uses approved by the Board of County Commissioners or the County Board of Adjustment; or**

Staff Assessment

- i. The *Missoula County Growth Policy*, approved by the Board of County Commissioners, recommends a land use designation of Residential for the subject property.
 - ii. The *Our Missoula 2035 City Growth Policy* provides a land use designation of Residential Medium (3 to 11 dwelling units per acre).
 - iii. The land uses and densities permitted in the City R5.4 Residential are generally consistent with the land uses and densities permitted County R Residential zoning district.
 - iv. An annexation only needs to comply with one criterion. However, the request to annex and zone upon annexation to R5.4 Residential also complies with the criteria in Title 20, Section 20.85.040.I.2.b.
- c. Be consistent with the land use and zoning recommendations for the subject areas, as set forth in the “Our Missoula Growth Policy.”**

Staff Assessment

- i. The *Our Missoula 2035 City Growth Policy* recommends a land use designation of Residential Medium for the subject property.

- ii. The requested R5.4 Residential zoning district is a current relatable zoning district to the Residential Medium land use designation in the Growth Policy.
- iii. An annexation only needs to comply with one criterion. However, the request to annex and zone upon annexation to R5.4 Residential will comply with the criteria in Title 20, Section 20.85.040.I.2.c if the requested zoning upon annexation is approved by City Council.

IV. ANNEXATION EXHIBITS AND ATTACHMENTS

Exhibits

1. Exhibit A, Annexation Map
2. Exhibit B, Legal Description

Attachment

3. Resolution of Intent to Annex

REZONING

I. RECOMMENDATION

Staff recommend City Council **adopt** an ordinance to rezone the subject property shown and legally described in Exhibits A and B from R8 Residential, RM1-35 Residential (multi-dwelling), RM0.5 (multi-dwelling), B2-1 Community Business, and R5.4 Residential, with the west portion of the property including the Hillview Heights Overlay, to RM0.5 Residential (multi-dwelling), RM1-35 Residential (multi-dwelling), and R5.4 Residential, removing the entirety of the Hillview Heights Overlay on the subject property, based on the findings of fact and conclusions of law in the staff report.

II. CONDITIONS OF REZONING APPROVAL

None. Rezoning may not be conditioned per MCA 76-2-302, which requires the regulations for a particular zoning district to be uniform for each class or kind of buildings throughout all locations within the City of Missoula with the same zoning.

III. REZONING REVIEW CRITERIA

Findings Of Fact

General

1. A portion of the subject property is not currently within the City of Missoula municipal boundary. Upon annexation, the applicant is requesting the City Council apply a base zoning district of R5.4 Residential to the current County property zoned R Residential. (*Missoula County Property Information System, Project Summary, Annexation Petition*)
2. Following annexation and initial zoning of a portion of the property (5 lots), the applicant is requesting to rezone a portion of the annexation area, so a small portion would be rezoned to RM0.5 Residential (multi-dwelling) zoning. The additional rezone is to prevent split-zoning of lots as new lots are formed with the Major Subdivision. (*Rezone Application page 8*)
3. The Hillview Heights Overlay District is currently 'overlain' on two parcels along the entire western portion of the subject property. The portion of the project area covered by the overlay is referenced as Tracts C and G in Area 2 within the Hillview Heights overlay, which allows for

up to 450 units and 9.9 units per acre. (*Project Summary, City Central Maps, Hillview Heights Overlay, Ordinance 2942, Ordinance 3217*)

4. Portions of the property currently within the City of Missoula municipal boundary are requested to be rezoned from RM1-35 Residential (multi-dwelling), RM0.5 (multi-dwelling), and B2-1 Community Business, all with a Hillview Heights overlay, and R8 (no overlay), to RM0.5 Residential (multi-dwelling), RM1-35 Residential, and R5.4 Residential, removing the Hillview Heights overlay from the entire property.

Rezoning Conclusions of Law

1. Title 20, Section 20.85.040.G: In reviewing and making decisions on zoning amendments, the zoning officer, Planning Board, and City Council must consider at least the following criteria:
 - a. Whether the zoning is made in accordance with a growth policy;
 - i. Per the Our Missoula 2035 City Growth Policy, the subject property has a land use designation of Residential High Density (24 to 43 units per acre) and Residential Medium Density (3 to 11 dwelling units per acre). (*Our Missoula 2035 City Growth Policy page 128*)
 - ii. The current relatable zoning districts to the Residential High Density land use designation are RM1-35 Residential (multi-dwelling), RM1-45 (multi-dwelling), RM1.5 Residential (multi-dwelling), and RM0.5 Residential (multi-dwelling). (*Our Missoula 2035 City Growth Policy page 124*)
 - iii. The current relatable zoning districts to the Residential Medium land use designation are RT10 Residential, R8 Residential, R5.4 Residential, and RT5.4 Residential. (*Our Missoula 2035 City Growth Policy page 124*)
 - iv. The proposed zoning, along with the Wildroot Subdivision layout, would permit a density of approximately 4 dwelling units per acre in conformance with the recommended density for this area in the growth policy.
 - v. The *Livability* section of the City Growth Policy encourages walkable neighborhoods, access to parks and trails, and easy accessibility to amenities and commercial and local services to meet the needs of an expanding diverse population. (*Our Missoula 2035 City Growth Policy page 30*)
 - vi. The *Safety and Wellness* section of the City Growth Policy encourages building in areas close to existing infrastructure, as is the case here. (*City Growth Policy page 44*)
 - vii. 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. (*City Growth Policy pages 71-73*)
 - viii. The rezoning to RM0.5 Residential (multi-dwelling), RM1-35 Residential (multi-dwelling), and R5.4 Residential allows for a range of housing types including multi-dwelling buildings, townhomes, and single-family residences. It complies with the Our Missoula 2035 City Growth Policy goals for providing appropriate housing types and density, allowing housing near existing infrastructure and services, parks and trails, and a walkable neighborhood.
 - ix. The removal of the Hillview Heights overlay will not impact zoning's ability to meet the goals of the Growth Policy as removing the maximum density (9.9

units/acre) may allow slightly greater density in the future for some of the proposed zones. (*Ordinance 3217*)

- b. Whether the zoning is designed to secure safety from fire and other dangers;
 - i. Emergency services including those provided by hospitals, City Police, and City Fire are available to the site. Law enforcement personnel and procedures are available to address potential problems of noise, property damage, or personal injury. Fire protection is also available through a municipal fire hydrant network planned for the site.
- c. Whether the zoning is designed to promote public health, public safety, and the general welfare;
 - i. The rezoning will promote public health, public safety, and the general welfare by promoting medium to high-density development in a location where existing transportation and utility infrastructure is available.
 - ii. Future development will be subject to all applicable local, state, and federal regulations ensuring the protection of public health, safety, and welfare.
 - iii. No development is proposed within a regulated floodplain zone (located in Zone X Shaded, or 0.2% Annual Chance), which promotes public health, safety, and the general welfare by decreasing flood risk to people and property.
 - iv. The proposed zoning allows for diversity in housing types to meet current housing needs.
 - v. Installation of utility, storm water, and street infrastructure would be required prior to the sale or development of lots, ensuring protection of public health, safety, and general welfare.
 - vi. The removal of the Hillview Heights overlay as a part of the rezoning will not impact public health, public safety, or the general welfare.
- d. Whether the zoning is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
 - i. The proposed zoning would allow for an urban residential subdivision, providing adequate provision of vehicular and pedestrian access, water supply, and sewage disposal through conditions of subdivision approval.
 - ii. Additional findings of fact and conclusions of law related to adequate provision of public requirements, including schools, are located in the Subdivision section of this report.
 - iii. The zoning is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
- e. Whether the zoning considers the reasonable provision of adequate light and air;
 - i. The proposed zoning districts provide for development at appropriate scale to provide for adequate light and air, including maximum height restrictions.
 - ii. The proposed zoning districts would allow for a subdivision providing significant, functional, and valuable open spaces, which would provide light and air to subdivision residents and the general public.

- f. Whether the zoning considers the effect on motorized and nonmotorized transportation systems;
 - i. The subject property is located within the Missoula Urban Transportation District. Mountain Line Route 12 currently runs inbound and outbound on 55th Street and 23rd Avenue and a bus stop is within 0.3 miles from the subject property on 23rd Avenue. There is no evidence to show that proposed zoning would negatively affect existing transit infrastructure or options. (*Petition to MUTD, Rezone Application page 13*)
 - ii. Existing non-motorized transportation systems in the area include bike lanes along Hillview Way, a connection point to the Tonkin multi-use trail, and a pedestrian-only natural surface trail loop through High Park. Additional non-motorized facilities within the proposed subdivision are designed to incorporate, expand, and enhance existing facilities, and the proposed zoning is intended to support these options. (*Rezone Application page 13, Missoula County Information Systems*).
 - iii. The zoning would allow for a subsequent subdivision that includes a new collector off Rimel Road, improvements to Hillview Way, a new 8-foot wide gravel path connecting Moose Can Gully Trail to Rimel Road, an extensive network of singletrack trails, and sidewalk infrastructure up to current Engineering standards. (*Project Summary*)
 - iv. Removing the Hillview Heights overlay as a part of the rezoning will not have an impact on motorized or non-motorized transportation systems.
- g. Whether the zoning considers the promotion of compatible urban growth;
 - i. The property is either within City limits or within 'Annexation Area A' and is proposed to be annexed into the City of Missoula municipal boundary. (*Project Summary*)
 - ii. The property is within the existing Utility Service Area boundary. (*Project Summary*)
 - iii. The rezoning is compatible with land use designations in the Our Missoula 2035 City Growth Policy. (*Rezone Application*)
 - iv. Proposed zoning of existing County property is consistent with County R Residential zoning. (*Rezone Application, Project Summary*)
 - v. Residential development is located on all sides of the subject property. Although the proposed zoning would allow a slightly denser development pattern than nearby residential areas, the zoning would allow development that is medium to high-density and compatible in scale. Subdivision lots on the east side of the property are proposed to be sized and zoned to contain single-dwelling residential units (*Subdivision application page 3, Rezone Application*).
 - vi. Removal of the Hillview Heights overlay as a part of the rezoning may help the rezoning better promote compatible urban growth by removing additional maximum density requirements on top of base zoning districts.
- h. Whether the zoning considers the character of the district and its peculiar suitability for particular uses; and

- i. The zoning would help to implement the Our Missoula 2035 Growth Policy Residential Medium and High Density land use designations, which is compatible with the development pattern in this area.
 - ii. The residential nature of the area would continue through the proposed zoning districts.
- i. Whether the zoning conserves the value of buildings and encourages the most appropriate use of land throughout the jurisdictional area;
 - i. The appropriate use of land throughout the jurisdictional area is determined by the Growth Policy and zoning.
 - ii. The proposed zoning would comply with the Growth Policy land use designation of Residential Medium and High Density and would encourage the most appropriate use of land throughout the jurisdictional area. The residential zoning aligns in terms of use with surrounding residential development.
- j. Whether the proposed zoning amendment corrects an error or inconsistency in the zoning ordinance or meets the challenge of a changing condition;
 - i. The zoning amendment would prevent split-zoning, prohibited by Title 20, on the west side of the portion of the project area being annexed. By rezoning that portion, it would allow zoning designations to align with newly created lots as a part of subdividing the land. The proposed zoning would also allow a variety of residential building types at urban density to help to meet the well documented challenge of providing housing at different price points in the Missoula area. Additionally, removing the Hillview Heights overlay within the project area will simplify the zoning and may allow for greater density development under the proposed zoning in the future by removing an additional maximum density requirement.
- k. Whether the proposed zoning amendment is in the best interests of the City as a whole.
 - i. The RM0.5 Residential (multi-dwelling), RM1-35 Residential , and R5.4 Residential zoning districts, alongside the removal of the Hillview Heights overlay, would allow for a mix of residential building types to address the growing need for diverse housing options in the City of Missoula. The development would be served with adequate transportation, water, sewer, fire and police protection, and other services. Therefore, the proposed zoning districts are in the best interests of the City as a whole.

IV. REZONING EXHIBITS AND ATTACHMENTS

Attachments

1. Rezoning Ordinance

WILDROOT PHASED SUBDIVISION

I. RECOMMENDATION

Staff recommend City Council **approve** the Wildroot Phased Subdivision preliminary plat application, subject to the recommended conditions of approval, based on the findings of fact and conclusions of law in the staff report.

II. CONDITIONS OF SUBDIVISION APPROVAL

Phasing

1. Final plat submittals shall be made in accordance with the Phasing Plan, unless the timeframes are extended or the phasing plan is amended as per City Subdivision Regulations Section 4-070.3.C. The Phasing Plan includes deadlines for submittal of each final plat phase. *(City Subdivision Regulations Section 4-070.2 and 4-070.3.C)*

Streets, General

2. All street and sidewalk improvements shall be designed in accordance with the Missoula City Public Works Standards and Specifications Manual and the City of Missoula Subdivision Regulations (except as modified by variance), and comply with Public Rights-of-Way Accessibility Guideline requirements, subject to the review and approval by Public Works & Mobility. Improvements shall be installed or secured with an improvement agreement prior to final plat approval of each appurtenant phase. *(City Subdivision Regulations Section 3-020.2)*
3. The subdivider shall provide a road naming plan for review and approval of Missoula City GIS and City Public Works & Mobility prior to final plat approval of Phase 1. The plan shall include a name for the alleys providing vehicular access to lots. The subdivider shall install or secure with an improvements agreement the approved road name signs appurtenant to each phase prior to final plat approval of each phase. *(City Subdivision Regulations Section 3-020.4.H and 3-020.12)*
4. The subdivider shall provide a street signage plan in accordance with the Manual on Uniform Traffic Control Devices subject to review and approval of Public Works & Mobility and Missoula Fire prior to final plat approval of each phase. The subdivider shall install or secure with an improvement agreement the approved street signage appurtenant to each phase prior to final plat approval of each phase. *(City Subdivision Regulations Section 3-020.4.H)*

Hillview Way Offsite Improvements

5. The subdivider shall design and provide preliminary construction drawings for the future Hillview Way and Rimel Road roundabout to the City of Missoula, subject to review and approval of Public Works & Mobility, prior to final plat approval of Phase 2. *(City Subdivision Regulations Section 3-020.4.B)*

Onsite Streets and Alleys

6. The subdivider shall provide plans for and install or secure within an improvement agreement all streets and alleys within each phase as shown on the preliminary plat, phasing plan, and road plans submitted with the preliminary plat application, subject to review and approval of Public Works & Mobility prior to final plat approval of each appurtenant phase. *(City Subdivision Regulations Sections 3-010.5, 3-020.3.B, and 3-020.4.A)*
7. The subdivider shall provide plans for and install or secure within an improvement agreement all non-motorized facilities within each phase as shown on the preliminary plat, phasing plan, and road and trail plans submitted with the preliminary plat application,

subject to review and approval of Public Works & Mobility and Parks & Recreation, prior to final plat approval of each appurtenant phase, subject to review and approval of Parks and Recreation. *(City Subdivision Regulations Sections 3-010.5, 3-020.3.B, and 3-020.4.A)*

8. The subdivider shall provide a maintenance agreement for the hammerhead turnaround at “Local I”, subject to review and approval of Public Works & Mobility, prior to final plat approval of Phase 5. *(City Subdivision Regulations Sections 3-020.3.B)*

Rights-of-Way and Easements

9. The subdivider shall dedicate a 10-foot right-of-way easement to the City of Missoula adjacent to Hillview Way, subject to review and approval of the City Attorney and Public Works & Mobility, prior to final plat approval of Phase 1. *(City Subdivision Regulations Section 3-020.3.B and 3-060.1)*
10. The subdivider shall dedicate right-of-way easement for the future Hillview Rimel roundabout, as shown on the Preliminary Plat, to the City of Missoula, subject to review and approval of the City Attorney and Public Works & Mobility, prior to final plat approval of Phase 1. *(City Subdivision Regulations Section 3-020.3.B and 3-060.1)*
11. The subdivider shall establish and dedicate right-of-way easements to the City of Missoula from Hillview Way to edge of property for Rimel Road, subject to review and approval of the City Attorney and Public Works & Mobility, prior to final plat approval of Phase 1. *(City Subdivision Regulations Section 3-020.3.B and 3-060.1)*
12. All proposed rights-of-way and easements shall be shown on each appurtenant final plat, identified for their width and purpose, dedicated to the City of Missoula, and recorded with the County Clerk & Recorder’s Office with book and page of the recorded documents provided in accordance with Public Works Standards and Specifications Manual, subject to review and approval by Public Works & Mobility, prior to final plat approval of each phase. In addition to those easements shown on the Preliminary Plat, additional drainage and utility easements along the lot line of Lots 83 and 84, and through Common Area Lot 10 and Park Lot 2 shall be shown on each appurtenant final plat. *(City Subdivision Regulations Sections 3-020.3.B, 3-040.2.B, 3-040.3.H & 3-060.1)*
13. The subdivider shall provide a “municipal utility easement” in Common Area Lot 5 as shown on the Preliminary Plat, subject to review and approval of Public Works & Mobility, prior to final plat approval of Phase 3. *(City Subdivision Regulations Section 3-020.3.B and 3-060.1)*
14. The subdivider shall provide a “right-of-way and public utility easement” in Common Area Lot 23 as shown on the Preliminary Plat, subject to review and approval of Public Works & Mobility, prior to final plat approval of Phase 6. *(City Subdivision Regulations Section 3-020.3.B and 3-060.1)*
15. The subdivider shall provide a “right-of-way and public utility easement” in Common Area Lot 24 as shown on the Preliminary Plat, subject to review and approval of Public Works & Mobility, prior to final plat approval of Phase 6. *(City Subdivision Regulations Section 3-020.3.B and 3-060.1)*
16. The subdivider shall provide a “municipal utility easement” in Park Lot 2 as shown on the Preliminary Plat, subject to review and approval of Public Works & Mobility, prior to final plat approval of Phase 1. *(City Subdivision Regulations Section 3-020.3.B and 3-060.1)*
17. 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 Community Planning, Development & Innovation, prior to final plat approval: "All owners of Wildroot Subdivision Lots not included in Special Improvement District ("SID") 549 along Hillview Way, Rimel Road, and all other internal local streets within the subdivision shall waive the right to protest being included in 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*)

18. The subdivider shall provide a supplemental sheet to each final plat overlaying the Special Improvement District 549 boundary and highlighting the lots outside of the SID 549 boundary which are to pay the impact fee at building permit. (*Montana Code Annotated Section 76-3-510, City Subdivision Regulations Section 9-020.1, City Resolution No. 7911*)
19. The subdivider shall include the following statement on the face of each 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 internet, telephone, electric power, gas, cable television, water, or sewer service to the public, the right to the joint 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*)

Stormwater and Drainage

20. The subdivider shall submit complete grading and drainage plans showing proposed grades of streets, proposed drainage facilities, and a stormwater 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 & Mobility, prior to final plat approval of each phase. All drainage facilities shall be constructed, or secured in an improvement agreement, in accordance with the approved plans prior to final plat approval of each appurtenant phase. (*City Subdivision Regulations Section 5-020.11*)
21. The subdivider shall place the following statement into the convenience language. "Each single-family lot should have a way to convey stormwater to the ROW without discharging across multiple properties unless a drainage easement is provided across downhill lots. Areas with finish grade >8% within 15-ft of rear property lines will need to have a drainage easement and swale constructed at the property line (convenience portion)." (*City Subdivision Regulations Section 3-010.1 B and 3-010.2 and 5, 3-040.3*)
22. The subdivider shall Provide, install and provide vehicular access to all stormwater facilities outside of the rights-of-way prior to final plat approval of each appurtenant phase. (*City Subdivision Regulations 3-010.2 and 5, 3-040.3*)
23. The subdivider shall place the following statement into the convenience language. "Stormwater facilities outside of the public right-of-way shall be maintained by HOA." (*City Subdivision Regulations 3-010.2 and 3-040.3*)
24. The subdivider shall place the following statement into the convenience language. "Areas with offsite or uphill overland flow will need to provide a drainage easement across the lot.

This can be defined during each phase.” (*City Subdivision Regulations 3-010.2 and 4, 3-040.3*)

25. The subdivider shall design and install, or secure in an improvement agreement, additional emergency overflow provisions from the intermediate stormwater pond to the Hillview ROW, subject to review and approval of Public Works & Mobility, prior to final plat approval of Phase 3. (*City Subdivision Regulations 3.010.2 and 4 and 3-040.3*)

Riparian Resource Area

26. The subdivider shall submit a Riparian Resource Management Plan addressing the requirements in City Subdivision Regulations Sections 3-130.3 and 5-020.14.L, subject to review and approval of Community Planning, Development & Innovation prior to final plat approval of Phase 1. The final approved plan shall be appended to the Development Covenants and referenced during subdivision and park improvement design and construction. (*City Subdivision Regulations Sections 3-130.3 and 5-020.14.L*)

Water Systems, Sewer Systems, and Solid Waste Disposal

27. The subdivider shall submit plans for water supply and sewage disposal facilities meeting the requirements of the Montana Department of Environmental Quality, Missoula City/County Health Department, and City of Missoula, prior to final plat approval of each phase. The subdivider shall install or secure with an improvement agreement the approved facilities prior to final plat approval of each phase, subject to review and approval of Public Works & Mobility. (*City Subdivision Regulations Section 3-070.1*)
28. The subdivider shall submit plans for booster pump stations, pressure reducing vaults, and water tank for review and approval by Public Works & Mobility prior to final plat approval of Phase 3. The review and approval shall include, but not be limited to, sizing of facilities, site design and landscaping, security systems, SCADA systems, noise mitigation from pump stations, standby power generation and system appurtenances. Final sizing of tank and pumping facilities to be determined by Public Works & Mobility. (*City Subdivision Regulations Section 3.070.1*)
29. The subdivider shall submit solid waste disposal plans meeting the regulations of Montana Department of Environmental Quality, Missoula City/County Health Department, and the City of Missoula, subject to the review and approval of Public Works & Mobility prior to final plat approval of Phase 1. (*City Subdivision Regulations Section 3-070.1*)
30. The subdivider shall provide easements and vehicular access to wastewater facilities outside of the public right-of-way. Reviewed and approved per Public Works & Mobility. (*City Subdivision Regulations 3.020.3 and 3-070.6*)
31. The following statement shall be placed on each final plat and added to the Development Covenants: “The wastewater system has been designed to gravity feed from each lot. In special cases homeowners must receive written approval from Public Works & Mobility for any external pumped effluent system.” (*City Subdivision Regulations Section 3-070.1*)
32. The subdivider shall abandon the existing water services located in Common Area Lot 5 unless metered and used for irrigation, prior to Phase 3 Final Plat. (*City Subdivision Regulations Section 3.070.1*)
33. Irrigation design flows for Common Areas within a subdivision phase must be submitted prior to City approval of Released for Construction plans of that same phase. The irrigation design flow reported to the City should include cumulative irrigation demand of the current and previously approved phases. The Homeowner’s Association shall be required to

modify irrigation zone flows and schedules as necessary so the water system pumping capacity is not exceeded. (*City Subdivision Regulations Section 5-020.11*)

Fire Protection

34. The subdivider shall provide plans for fire suppression water flow and duration, hydrant placement, and address signage standards, subject to review and approval by Missoula Fire and Public Works & Mobility, prior to final plat approval of Phase 1. The subdivider shall install fire hydrants and related improvements, subject to review and approval by Missoula Fire and Public Works & Mobility, prior to combustible construction in each appurtenant phase. (*City Subdivision Regulations Section 3-010.1.F and 3-070.1*)

Mail Delivery

35. The subdivider shall provide plans for and install or secure an improvement agreement for 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 of Phase 1. The subdivider shall install or secure with an improvement agreement the approved mail delivery facilities prior to final plat approval of each appurtenant phase, subject to review and approval of Public Works & Mobility. (*City Subdivision Regulations Sections 3-020.15.D(2)(c) and 3-100.18*)

Parkland Dedication, Boulevard Landscaping & Weeds

36. The following statement shall appear on the face of each final plat, in the Development Covenants, and on each instrument of conveyance, subject to review and approval by City Parks & Recreation and Community Planning, Development & Innovation: "Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future park improvement district, based on benefit, for future improvements and maintenance of parks within and adjacent to the Wildroot Subdivision, including but not limited to lighting, watering, drainage, planting, transportation, play equipment, exercise equipment, garbage facilities, signage, and maintenance, and may be used in lieu of their signatures on an improvement district petition." (*City Subdivision Regulations Sections 5-050.3.AA, 3-080.8.C, 4-010.13.B(c) and (g)*)

37. The subdivider shall provide plans for boulevard landscaping for all roads within and adjacent to development lots, subject to review and approval by Parks and Recreation, prior to final plat approval for each phase. While tree locations may change slightly in final design, the total number of trees shown within the Right-of-Ways 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*).

38. The subdivider shall amend the Development Covenants to state: "Initial lot purchaser shall be responsible for obtaining a boulevard landscaping permit prior to building permit approval and for installation of boulevard landscaping adjacent to development lots prior to certificate of occupancy. Class II trees selected from the City of Missoula approved street tree list shall be planted on all street frontages at a 25-35' typical spacing", prior to Phase 1 final plat approval subject to review and approval by City Parks and Recreation (*City Subdivision Regulations Section 5-050.5.C*).

39. The subdivider shall enter into a Development Agreement with Missoula Parks and Recreation to establish expectations and timing of City Parkland improvements, as included in the Phasing Plan, prior to Phase 1 final plat approval. (*City Subdivision Regulations Sections 4-070.3.C(3)*)

40. The subdivider shall provide plans for and installation of park improvements to all City Parkland and common area used to meet parkland dedication requirements, including but not limited to: grading, application of topsoil, installation of commercial grade irrigation system, installation of turf grass and dryland seed or sod, installation of park trees, and installation of trails, subject to review and approval by Parks and Recreation, prior to final plat approval for each phase containing parcels zoned Open Space. Topsoil shall be approved by Parks and Recreation and shall have a minimum depth of 10 inches in irrigated areas. Vegetation in Parkland must be sufficiently established and accepted by Parks and Recreation before Improvements Agreement can be released (*City Subdivision Regulations Section 5-020.14.H*).
41. The subdivider shall show a 10' wide Public Access Easement along all trails within common area lots, centered on the constructed trails, on the final plat of each phase. (*City Subdivision Regulations Section 3-020.15.F.5*)
42. The subdivider shall provide maintenance plans for common areas and mutually controlled facilities per Section 5-020.14. K.10 of the City Subdivision Regulations, subject to review and approval by CPDI and Parks and Recreation, prior to final plat approval of Phase 1. (*City Subdivision Regulations Section 5-020.14.K.10*)
43. 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 Community Planning, Development & Innovation, prior to final plat approval. (*City Subdivision Regulations Section 5-010.14.K*)

Development Covenants

44. 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 Community Planning, Development & Innovation, prior to final plat approval of Phase 1. (*City Subdivision Regulations Section 5-010.14.K*)
45. The first purchaser of each lot in this subdivision that obtains a building permit for a structure on the lot, which shall include builders not intending to occupy the structure, is responsible for establishing boulevards and planting public street trees during the first growing season prior to Certificate of Occupancy. This responsibility shall transfer to any subsequent purchaser until the boulevards and street trees are established. Boulevards are any public rights-of-way or easements between the curb or edge of asphalt and the lot line, property line or edge of easement. Boulevards shall be established per the Public Works Standards and Specifications Manual including but not limited to six inches (6") of topsoil that meets the specifications found in the manual, turfgrass and may include other live plantings. Street trees are required to be installed in accordance with the subdivision's approved boulevard landscaping plan and the City of Missoula Parks and Recreation Design Manual. Temporary Certificate of Occupancy will be granted and held in place for occupancy occurring after the growing season and until boulevard and tree establishment has been approved by Urban Forestry. Once the boulevard and tree establishment has occurred, the adjacent property owner is responsible for ongoing watering/irrigation of all boulevard landscaping and street trees. This covenant may not be changed or terminated without the consent of Missoula City Council. (*City Subdivision Regulations Section 3-020.15.D*)
46. The subdivider shall include the following sections in the Development Covenants, subject to review and approval by Public Works & Mobility and Community Planning, Development & Innovation, prior to final plat approval: maintenance and replacement of mail delivery

facilities, address signage standards, easements remaining unobstructed, wood burning devices, weed control, MTFWP “Living With Wildlife” recommendations, radon mitigation, riparian resource management plan, SID/RSID/SLD, and wildland urban interface fire protection standards, and said sections may not be amended or deleted without written approval by the governing body, prior to final plat approval of Phase 1. (*City Subdivision Regulations Sections 5-010.14.K, 5-020.14.F & 3-010.2*)

47. 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 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 Community Planning, Development & Innovation, prior to final plat approval of Phase 1. (*City Subdivision Regulations Section 5-020.5*)
48. The subdivider shall include language in the Development Covenants that maintenance of all formal Common Areas not considered dedicated Parkland be performed by a Homeowners Association (HOA), so as to ensure quality open space, subject to review and approval by Community Planning, Development & Innovation, prior to final plat approval of Phase 1. (*City Subdivision Regulations Section 3-100.14*)

III. SUBDIVISION FINDINGS OF FACT

A. GROWTH POLICY AND ZONING COMPLIANCE

Findings of Fact:

1. The City Subdivision Regulations Section 3-010.1.I. requires that a subdivision be reviewed for compliance with the Missoula City Growth Policy and its amendments. See the Growth Policy General Findings of Fact, Annexation, and Rezoning Findings of Fact sections of this report, which are incorporated here by reference, that address and demonstrate compliance with the Our Missoula 2035 Growth Policy.
2. Section 3-010.B of the City Subdivision Regulations states subdivision plats must comply with the Missoula City Zoning Ordinance. Section 4-010.14.B.(2) of the City Subdivision Regulations states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, City Council must consider whether the proposed subdivision complies with the applicable zoning regulations. See the Growth Policy General Findings of Fact, Annexation, and Rezoning Findings of Fact sections of this report, which are incorporated here by reference, that address and demonstrate compliance with the Title 20 Zoning Ordinance and the proposed zoning.

Conclusion of Law:

1. The Wildroot subdivision complies with both the Our Missoula 2035 City Growth Policy and the standards of the proposed zoning districts, subject to the recommended conditions of approval.
2. Per State Law MCA 76-1-605(2)(b), no land use proposal shall be conditioned or denied based solely upon the lack of compliance with the Growth Policy.

B. PRIMARY CRITERIA COMPLIANCE

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

Findings of Fact:

Agriculture

1. Section 5-020.6.A of the City Subdivision Regulations states the 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. Agriculture includes the use of the land for growing, raising, or marketing of plants and animals to produce food, feed, and fiber commodities, not including gardening for personal use. Agricultural land includes land used for agriculture or having a soil type defined by the Natural Resources Conservation Service (NRCS) as having agricultural importance including prime farmland, farmland of statewide importance, and farmland of local importance. (*City Subdivision Regulations Section 2-020.5*)
3. The subdivision application says the land was historically used for pasture grazing (*Project Summary page 8*), but not for at least the past 40 years based on historic aerial imagery. (*Subdivision Application page 9*)
4. The NRCS Soil Survey submitted with the application shows almost all of the subject property is classified as farmland of local importance and farmland of statewide importance, but not prime farmland. (*Subdivision Application page 10, NRCS Soils Report and Map*)
5. All surrounding land is either developed for residential purposes or vacant, with one religious assembly use to the south. No working agricultural lands are located in the vicinity of the property. (*Missoula County Property Information System, Subdivision Application page 3*)
6. The Our Missoula 2035 Growth Policy future land use map designation is Residential Medium and Residential High. The Missoula Area Land Use Element is a 2019 amendment to the County Growth Policy. The associated land use map identifies this area as residential, which seeks to accommodate a range of housing options, preserve and enhance the residential character of existing neighborhoods, and provides for compatible infill housing where land uses are in transition. Neither the City or County land use plans call for agricultural production on this property or in the vicinity. (*2019 Missoula Area Land Use Element, page 39*)

Agricultural Water Users

7. 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.
8. Agricultural water user facilities are those facilities that provide water for irrigation or stock watering to agricultural lands for the production of agricultural products. These facilities include, but are not limited to, ditches, head gates, pipes, and other water conveying facilities. (*City Subdivision Regulations Section 2-020.7*)
9. The subdivision application states the property does not have any associated water rights. It also does not contain ditches, canals, or any other water conveyances, therefore will not impact any known agricultural water user facilities. (*Subdivision Application page 10*)

Conclusions of Law:

1. The subdivision would prevent use of productive soils for agriculture. No agricultural production currently occurs in the vicinity of the property, so no other agricultural operations

would be impacted by this subdivision. The property is planned for residential use and development and mitigation may not be required for the loss of agricultural soils.

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

CRITERION C: IMPACT ON LOCAL SERVICES

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 non-motorized), parking, police and fire protection, drainage structures, solid waste disposal, water supply, and sanitary sewage disposal; or the subdivider will provide adequately for such services.

Transportation Elements

General Findings of Fact:

3. Section 3-020.2 and .3C of the City Subdivision Regulations requires improvements to roads within and adjacent to a subdivision and states all public and private street and road improvements, including pavement, curbs, sidewalks, bike facilities, and drainage to be in accordance with the Missoula City Public Works Standards and Specifications Manual and standards prescribed in Table .2A, except as authorized by variance.
4. Section 3-020.3.A.1 of the City Subdivision Regulations requires that each legal access to a subdivision must provide for the construction and perpetual maintenance of the access road. Sections 5-050.3.AA and .BB of the City Subdivision Regulations requires a Special Improvement District (SID) statement to be provided on the plat and on each instrument of conveyance for future street and related improvements that benefit the subject property. Staff recommend a condition of approval requiring a SID/RSID/SLID statement on the plat and in the Development Covenants for future improvements to Rimel Road and Hillview Way.
5. 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.
6. Section 3-020.12 of the City Subdivision Regulations provides requirements for street names, with review and approval required prior to final plat approval. Staff recommend a condition of approval to reflect this requirement.
7. The subdivider proposes access to the subdivision from Hillview Way at two locations on the west side of the property. (*Preliminary Plat*)
8. Based on trip generation rates from the Institute of Transportation Engineers Trip Generation Manual, the traffic impact study submitted with the application estimates the subdivision would produce up to 4,437 vehicle trips per day at full buildout, with an

estimated average of approximately 3,751 trips per day. (*Subdivision Application, Traffic Impact Study page 8*)

Collector Streets

9. Hillview Way is a public offsite collector providing two points of access to the Wildroot Subdivision at Local A and Rimel Road. It has an existing right-of-way width of 60 feet, curb and gutter on the east side, a 5-foot sidewalk, and no boulevard. (*Preliminary Plat, Preliminary Plat Road Table*)
10. The subdivider proposes modifications to Hillview Way including an increase in right-of-way to 70 feet, with the 10 feet of additional right-of-way on the east side to be dedicated to achieve a total of 40 feet from center of the existing right-of-way. The subdivider is proposing new dedicated turn lanes, new crosswalks, and adjustment of the right-of-way for a future roundabout at Hillview Way and Rimel Road. All of the proposed specifications meet the Collector Street standards in the City Subdivision Regulations Table .2A and a condition has been added to ensure the future installation of the roundabout. (*Project Summary, Preliminary Plat, Preliminary Plat Road Table, Subdivision Application*)
11. 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*)
12. 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 who benefit from the improvements. (*City of Missoula Resolution No. 7911*)
13. The area of benefit in Special Improvement District No. 549 includes the portions of the subject property currently within City limits, but does not include the portion of the subject property being annexed as a part of this request. However, the future owners of the existing County portion of the subdivision will also benefit from the improvements to Hillview Way made through the improvement district.
14. 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*)
15. Because the future owners of the entirety of Wildroot Subdivision 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*)
16. Rimel Road is proposed to be the primary public onsite collector for the subdivision, spanning 3,775 feet with a maximum grade of 8 percent and maintaining a right-of-way width of 90 feet through the multi-family development and 80 feet throughout the rest of the

subdivision. It is proposed to include curb and gutter on the full extent of the road and swale on the south side for a portion of the length. The proposal includes a 10-foot sidewalk through the multi-family portion of the development, transitioning to a 5-foot sidewalk and 8-foot boulevard. *(Project Summary, Preliminary Plat, Preliminary Plat Road Table, Subdivision Application)*

17. Rimel Road is one of two access points to the Wildroot Subdivision via Hillview Way. *(Preliminary Plat)*

Local Streets

18. Local A is proposed as a public street spanning 3,700 feet from Hillview Road to its second intersection with Rimel Road where it becomes Local B. The maximum grade is proposed to be 7.54 percent and the proposal includes a 70-foot right-of-way with a 5-foot sidewalk, 7-foot boulevard, and curb and gutter on the full extent of the road, with swale on the south side of the road for a portion of the length. *(Project Summary, Preliminary Plat, Preliminary Plat Road Table, Subdivision Application)*
19. Local B is proposed as a public street spanning 1,900 feet from Local A to Rimel Road. The maximum grade is proposed to be 6.70 percent and the includes a 70-foot right-of-way with a 5-foot sidewalk, 7-foot boulevard, and curb and gutter on the full extent of the road. *(Project Summary, Preliminary Plat, Preliminary Plat Road Table, Subdivision Application)*
20. Local C is proposed as a public street spanning 1,600 feet from Local A to the eastern boundary of the subdivision. The maximum grade is proposed to be 8 percent and includes a 70-foot right-of-way with a 5-foot sidewalk, 7-foot boulevard, and curb and gutter on the full extent of the road. *(Project Summary, Preliminary Plat, Preliminary Plat Road Table, Subdivision Application)*
21. Local D is proposed as a public street spanning 1,300 feet from Local E to the eastern boundary of the subdivision. The maximum grade is proposed to be 8 percent and includes a 70-foot right-of-way with a 5-foot sidewalk, 7-foot boulevard, and curb and gutter on the full extent of the road. *(Project Summary, Preliminary Plat, Preliminary Plat Road Table, Subdivision Application)*
22. Local E is proposed as a public street spanning 1,005 feet from Local C to Rimel Road. The maximum grade is proposed to be 8 percent and includes a 70-foot right-of-way with a 5-foot sidewalk, 7-foot boulevard, and curb and gutter on the full extent of the road. *(Project Summary, Preliminary Plat, Preliminary Plat Road Table, Subdivision Application)*
23. Local F is proposed as a public street spanning 1,385 feet from Local C to Local A. The maximum grade is proposed to be 7 percent and the proposal includes a 61-foot right-of-way south of Rimel Road and a 70' right-of way north of Rimel Road with a 5-foot sidewalk, 7-foot boulevard, and curb and gutter on the full extent of the road. *(Project Summary, Preliminary Plat, Preliminary Plat Road Table, Subdivision Application)*
24. Local G is proposed as a public street spanning 1,065 feet from Local B to Local A. The maximum grade is proposed to be 7.2 percent and includes a 61-foot right-of-way south of Rimel Road and a 70' right-of way north of Rimel Road with a 5-foot sidewalk, 7-foot boulevard, and curb and gutter on the full extent of the road. *(Project Summary, Preliminary Plat, Preliminary Plat Road Table, Subdivision Application)*
25. Local H is proposed as a public street spanning 345 feet from Local C to Local D. The maximum grade is proposed to be 8 percent and includes a 61-foot right-of-way with a 5-

foot sidewalk, 7-foot boulevard, and curb and gutter on the full extent of the road. (*Project Summary, Preliminary Plat, Preliminary Plat Road Table, Subdivision Application*)

26. Local I is proposed as a private dead-end street with a hammerhead turnaround spanning 215 feet east from Rimel Road. The maximum grade is proposed to be 8 percent and the includes a 61-foot right-of-way with a 5-foot sidewalk, 7-foot boulevard, and curb and gutter on the full extent of the road. A variance has been requested for the dead-end street to be approved and a maintenance agreement will be required as a recommended condition of approval. (*Project Summary, Preliminary Plat, Preliminary Plat Road Table, Subdivision Application*)
27. All public roadways in the Wildroot Subdivision are proposed to be under the jurisdiction of the City of Missoula. (*Preliminary Plat, Preliminary Plat Road Table*)

Non-Motorized

28. Sections 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.
29. Each proposed lot in the Wildroot Subdivision would have frontage on and access to a sidewalk in conformance with City standards. The subdivider is proposing a variance for a portion of Rimel Road stretching 450 feet adjacent to Moose Can Gully Park where only the north side of the street would have sidewalk. The south side would also be adjacent to trail options and no lots are proposed to be accessed directly from this section of sidewalk. (*Preliminary Plat, Variance Requests*)
30. Mid-block pedestrian access easements are proposed between Lots 27/28, 75/76, 88/89, 31/32, 37/38, 42/43, 48/49, 99/100, 108/109, 113/114, 54/55, 155/156, 241/242, 231/232, 225/226, 212/213, 203/204, and 198/199 to mitigate for a block length exceeding the maximum 480 feet, as required in the City Subdivision Regulations Section 3-040.2.A(2). This is discussed in greater detail in the Variance Requests section of this report. (*Preliminary Plat, Variance Requests*)
31. A new 8-foot wide gravel path is proposed to connect Moose Can Gully Trail to Rimel Road and an extensive network of over 14,000 lineal feet of trail is planned throughout the subdivision and associated parkland. (*Project Summary, Preliminary Plat, Landscaping Plan*)
32. New collector streets are proposed to have both dedicated bike lanes and sidewalks or a shared use path for both bicycle and pedestrian travel. (*Subdivision Application page 19, Road Cross Sections*)

Transit

33. Section 3-020.4.G of the City Subdivision Regulations states when development is adjacent to or within ¼ mile of an established public transit or school bus route, the subdivider may be required by the City Engineer to construct bus stop facilities along with accessible routes, meeting ADA standards, to those facilities.
34. The property is located within the Missoula Urban Transportation District (MUTD). Mountain Line Route 12 currently runs inbound and outbound along 55th Street and 23rd Avenue and a bus stop is located approximately 0.3 miles away from the subject property on 23rd Avenue. No new bus stops are planned at this time for the subdivision. (*Project Summary*)

35. School bus pick-up and drop-off is currently located across Hillview Way from the proposed subdivision at Clearview Way and Hillview Way. Development Services has not received comments from school representatives regarding bus service. Additionally, as school children inhabit the subdivision over time, bus routes may change. Therefore, staff do not recommend the subdivider be required to construct bus stop facilities or additional pedestrian routes specific to bus stop locations. (*Missoula County Public Schools Bus Schedules and Stops, Agency Requests for Comments*).

Conclusions of Law:

1. The Wildroot Subdivision will meet the road improvement and non-motorized facility standards in the Missoula City Subdivision Regulations if the recommended conditions of approval are imposed.
2. The Wildroot Subdivision provides active transportation facilities that provide safe routes to bus stops, open space, other neighborhoods, and all lots within the subdivision in compliance with Section 3-010.7 and 3-020.15.B.1.b of the City Subdivision Regulations 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 private street and public access with private maintenance easement.
2. 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, and requires them to be approved by City Engineering. Public Works & Mobility has requested conditions of approval to reflect this requirement.
3. All streets proposed in the subdivision are proposed to be dedicated public right-of-way. All utilities and drainage are planned to be located within easements. (*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 recommend a condition of approval requiring all proposed rights-of-ways and easements to be shown on the face of each plat and identified for their width, purpose, and the recorded book and page numbers.

Conclusions of Law:

1. The Wildroot Subdivision will meet the easement and right-of-way 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. Section 3-040 of the City Subdivision Regulations provides minimum standards for site grading and control of stormwater runoff.
2. Section 3-040.2.E of the City Subdivision Regulations states all drainage systems must meet the minimum standards of the Montana Department of Environmental Quality (DEQ),

as required by MCA Title 76, Chapter 4 and 5, Part 1, as amended, and all applicable state and local regulations.

3. The subdivision application includes a Grading and Drainage section that includes an Aquatic Resources Delineation Technical Memorandum, Moose Can Gully Stream Statistics, and a Storm Report that evaluate pre- and post-development conditions. The proposed stormwater system design utilizes pipe conveyance, detention storage, and controlled outfalls, mitigating downstream impacts by utilizing proprietary pre-treatment systems to allow for removal of sediment and debris prior to outfall, uses impermeable storage facilities to prevent infiltration, and provides access to the storage facilities and outlet structures for maintenance. (*Storm Report, Subdivision Application*)
4. Subdivision regulations require all stormwater facilities be subject to approval by City Engineering. Public Works & Mobility has requested conditions of approval to reflect this and require vehicular access to all stormwater facilities outside of rights-of-way, as well as convenience language requiring HOA maintenance (*City Subdivision Regulations Section 3-040.3*)
5. The subdivision regulations state that “restrictive covenants may be required to mitigate adverse effects of property drainage”. Public Works & Mobility has requested a condition of approval to reflect this so that all single-family lots have an appropriate way to convey stormwater to the right-of-way. (*City Subdivision Regulations Section 3-040.3.C*)
6. Subdivision regulations require drainage facilities to be located in rights-of-way or in perpetual easements, subject to approval of the City Engineer. Public Works & Mobility has requested a condition of approval to reflect this requirement and require a statement in the convenience language to provide a drainage easement across lots with offsite or uphill overland flow. (*City Subdivision Regulations Section 3-040.2.B*)
7. Section 5-020.11 and 3-040 of the City Subdivision Regulations requires the subdivider to submit a complete grading and drainage plans showing proposed grade of streets, proposed drainage facilities, and a storm water pollution prevention plan for all lots, blocks, and other areas meeting Montana Department of Environmental Quality standards, subject to the review and approval of the City Engineer. All drainage facilities must be constructed in accordance with the approved plans.
8. Subdivision regulations require all drainage facilities to handle all onsite drainage, subject to the approval of the City Engineer. Public Works & Mobility has requested a condition of approval to reflect this and provide for the installation of emergency overflow provisions from the intermediate stormwater pond to the Hillview right-of-way (*City Subdivision Regulations Section 3-040.3*)
9. 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 for each phase.

Conclusions of Law:

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

2. Final grading, drainage, and stormwater plans will be reviewed and approved by the City Engineer prior to final plat approval of each phase if the recommended conditions of approval are imposed.

Water Supply, Sewage Disposal, and Solid Waste

Findings of Fact:

1. 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.
2. The subject property is within the Utility Services Area Boundary. (*City Central Maps*)
3. The subdivider has an approved sewer extension serving the Phase 1 multi-family development which connects to the Clearview Way sewer main, that is also proposed to serve the townhomes. The subdivider is also proposing a new sewer main to connect to existing mains at Hillview Way to serve the 226 single-family lots, looping the lines under streets in the subdivision to serve each lot. (*Sewer Report page 1*)
4. The subdivider has an approved water main extension serving the multi-family development and townhomes, which connects to the Hillview Way water main in two locations. The proposed 226 single-family lots are outside the allowable pressure zone to be directly serviced from the Hillview Way water main. Therefore, the proposed system will be served by a storage tank and associated pumps. Water system improvements by phase are shown in 'Appendix A: Water System Exhibits' in the Water Report and will be developed with each phase. Staff recommend a condition of approval that installations be complete prior to final plat approval for each phase. (*Water Report*)
5. The average daily demand for domestic water service and landscaping irrigation for the proposed subdivision is 144,900 gallons per day. (*Subdivision Application Page 25*)
6. Section 3-070.6 of the City Subdivision Regulations requires that all utilities be placed in public rights-of-way or public utility easements. The preliminary plat shows all utility lines within proposed easements and staff recommend a condition of preliminary approval to reflect this requirement.
7. In order to comply with Section 3-010.5 of the City Subdivision Regulations, staff recommend 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 for each phase. (*City Subdivision Regulations Section 3-010.5 and 3-070.1*)
8. Section 3-070.1 of the City Subdivision Regulations states the means for solid waste disposal is subject to approval of the City Council. Republic Services is expected to provide solid waste disposal service to the subdivision. (*Subdivision Application page 24*) 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 for each phase.
9. Subdivision regulations state that all water and drainage facilities are subject to review and approval by the City Engineer. Public Works & Mobility has requested a condition of approval reflecting this statement to require design flows to be submitted for the irrigation of Common Areas prior to City approval of Released for Construction plans of the same phase. (*City Subdivision Regulations Section 3-070.1 and 5-020.11*)

Conclusions of Law:

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

Parks and Recreation

Findings of Fact:

1. Section 3-080.3.A of the City Subdivision Regulations requires parkland dedication equal to 11% of the net lotted area in subdivisions when residential lots are 0.5 acres or smaller that will have one or two dwelling units on the lots, and 7.5% when the lots are between 0.5 acres and 1 acre in size. Based on the parkland dedication requirements in the subdivision regulations, the Wildroot Subdivision is required to provide a minimum of 6.39 acres of parkland in total. (*Subdivision Application page 29, Phasing Plan*)
2. The subdivider has proposed to dedicate to the City 7.78 acres of parkland throughout 7 phases, which exceeds the required 6.39 acres. (*Preliminary Plat, Phasing Plan, Subdivision Application, Landscaping Plans*)
3. The application includes a new Moose Can Gully neighborhood park with an 8-foot wide gravel path connecting Moose Can Gully Trail to Rimel Rd, bench seating, and a seeded grass planted stormwater pond. It is proposed to be developed by the applicant and dedicated to the City for ownership and maintenance. (*Preliminary Plat, Phasing Plan, Subdivision Application page 28-29*)
4. In addition to the parkland, 21.86 acres of common area are proposed for the subdivision. Common areas will be accessible to the public and integrated throughout the subdivision, providing trail access and native vegetation. Staff recommend a condition of approval for the maintenance of common areas be performed by a Homeowners Association (HOA). (*Preliminary Plat, Phasing Plan*)
5. Section 3-080.6 of the City Subdivision Regulations states, "Giving due weight to the expressed preference of the subdivider, the City Council may, in consultation with the Planning Board or the Park Board, determine whether the park dedication must be a land donation, a cash donation or a combination of both." City Parks & Recreation and Planning staff recommend City Council accepts the subdivider's proposal, ensuring the required acreage is dedicated to the City as stated in the Phasing Plan. (*Phasing Plan, Subdivision Regulations*)
6. Section 5-020.4.C of the City Subdivision Regulations requires the subdivider to submit a boulevard landscaping plan. The subdivider submitted preliminary landscaping plans and staff recommend a condition of approval requiring the subdivider to submit final plans for and installation of landscaping, subject to review and approval by Parks and Recreation, prior to final plat filing or each phase. 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.

Conclusion of Law:

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

Schools

Findings of Fact

1. The subject property is within the Russell Elementary School, Washington Middle School, and Sentinel High School districts. The proposed subdivision would create 450 residential lots with an estimated addition of up to 135 children to the Missoula County Public Schools district upon full buildout. (*Subdivision Application page 27*)
2. School district personnel were contacted via email for agency comment and no comments have been received at the time of this report.

Conclusion of Law:

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

Fire Department

Findings of Fact:

1. The Missoula City Fire Department will serve the subdivision. The nearest station is located approximately 0.9 miles away at the intersection of Russell Street and NW Higgins Avenue (*Subdivision Application page 20*).
2. Subdivision Regulations Section 3-070.1 requires that water supply for fire protection be provided via a public or community water system with 1,000 gallons per minute minimum flow, or via residential sprinkler systems.
3. Water supply for fire protection for this subdivision is planned to be supplied via new fire hydrants, proposed to be installed with each phase.
4. The Missoula City Fire Department regularly requires an addressing system to be developed that conforms to the addressing requirements of the City. All new buildings are assigned an address at the time of building permit approval, and are required to meet City standards for signage (3-010.1.F, *City Subdivision Regulations*).
5. The Missoula Fire Department did not provide comments on the subdivision or annexation requests but were involved with planning at early stages of this development.
6. Staff recommend a condition of approval requiring the subdivider to provide plans for fire suppression water flow and hydrant placement, prior to final plat approval for each phase.

Conclusion of Law:

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

Law Enforcement

Findings of Fact:

1. The subdivision is located within the jurisdiction of the Missoula Police Department.
(*Subdivision Application page 27*)
2. The Missoula Police Department did not provide comments on the subdivision or annexation requests.

Conclusion of Law:

Law enforcement service is available to the subdivision.

Mail Delivery

Findings of Fact

1. Sections 3-020.15.D(2)(c) and 3-100.18 state City Council may require mail delivery facilities for future subdivision residents, and such facilities may not obstruct or be located on a sidewalk.
2. Staff recommend a condition of approval requiring the subdivider provide plans for and install mail delivery facilities to be reviewed and approved by the U.S. Postal Service prior to final plat approval of each phase, with maintenance of the facilities provided by a homeowners association or individual lot owners, depending on the requirements of the U.S. Postal Service, with maintenance provisions addressed in the development covenants.

Conclusions of Law

Adequate mail delivery service can be provided to the subdivision if the recommend conditions of approval are imposed.

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

Findings of Fact:

Natural Environment

1. Section 5-020.6.D states the subdivider must identify the resources and evaluate the impacts on those resources including adjacent public lands, cultural resources, hydrological characteristics, soil characteristics and vegetative cover types.
2. The subject property is bordered by public lands on the east/southeast by Missoula County School District #1 land. (*Subdivision Application page 11, Preliminary Plat*)
3. The portion of the property proposed for annexation falls under floodplain classification Zone X Shaded (0.2% Annual Chance), area of minimal flood hazard. (*FEMA Map Service Center, Preliminary Plat*)
4. The subject property contains riparian vegetation at the base of a woody draw (Moose Can Gully). At the base of the woody draw a 2-foot wide, unnamed perennial rock bottom channel flows southeast to northwest. A 2-foot wide emergent wetland occurs along both sides of the channel with small inclusions of willow and red-osier dogwood. Where the channel enters the south property line, a sedge-dominated slope wetland emerges from the south slope of the draw and connects to the channel wetland fringe. (*Riparian Management Plan*)
5. A Riparian Resource Management Plan is provided in compliance with Section 3-130.3 of the City Subdivision Regulations. The Riparian Resource Management Plan designates the riparian area, but since no activities are proposed for the woody draw, no mitigation or restoration of the site has been deemed necessary. That being said, dedicated park land

surrounds Moose Can Gully on the subject property and acts as a buffer to development. (*Riparian Management Plan*).

6. The application identifies that the property and surrounding adjacent properties appear to have seeded grass rather than natural vegetation. Aerial imagery as far back as 1982 does not indicate crop production or grazing on the site. However, there is evidence of a gravel pit at the southwest of the property. The seeded vegetation may have been planted as a part of gravel pit reclamation. Historic images also confirm that the subdivision property has not been used for agricultural purposes within the last 40 years. (*Subdivision Application page 9*)
7. The Missoula County Noxious Weed Management Plan adopted by Resolution 2012-063 requires a weed management plan as part of subdivision plans.
8. The application packet includes a Weed Management Plan. The weed management plan states weeds will be managed by a combination of herbicide treatments, hand pulling, and mowing. The single family lots will be the responsibility of the respective owners. Until the lots are sold management will remain under the control of the developer, Pando Holdings. Park areas associated with the with subdivision will be dedicated to the City of Missoula, and the City parks department will assume responsibility for weed management. Until the City assumes ownership, weed management will remain under the control of the developer. Open spaces will be under the control of Homeowners Association (HOA), but until the HOA is established, weeds in the open spaces will be managed by the developer. Funds needed to manage weeds in the open spaces will come from HOA dues. (*Weed Management Plan*).
9. Staff recommend a condition of approval requiring the subdivider to provide and append the Weed Management and Revegetation Plan to the Development Covenants.

Wildlife and Wildlife Habitat

10. The application packet indicates animals that may use the site include Hungarian partridge, moose, ground squirrels, chipmunks, fox, coyote, skunk, raccoon, bald eagles, osprey, hawks, gray wolf, black bear, grizzly bear, mountain lion, mule deer, and white-tailed deer. The area along Moose Can Gully would be protected by the dedicated open space and riparian management plan, protecting wildlife habitat. Additionally, the covenants include information for lot purchasers about living with wildlife and advises lot owners of potential issues associated with wildlife concerning pets, garbage, and other potential areas of conflict. (*Subdivision Application, Riparian Management Plan, Master Declaration CCR*)
11. The application indicates that the property is predominantly open grassland with minimal tree coverage. Denser vegetation is present in the wetlands/riparian area. Thus, white-tailed deer pass through the grasslands and seek protection in the denser vegetation. The planned development will maintain an open north-south trending area along sloped topography to provide a travel corridor for deer and will maintain the wetlands/riparian area for their continued use. (*Subdivision Application, Master Declaration CCR*)
12. Montana Fish, Wildlife, and Parks Regional Supervisor Randy Arnold provided comments on the subdivision, noting this area should utilize Living with Wildlife Covenants as part of the project development, which staff recommend as a condition of preliminary approval. (*Agency Comment, Fish, Wildlife & Parks Regional Supervisor Randy Arnold*)
13. Other agencies or interest groups that have commented to date on the natural environment and wildlife habitat values of the property include Five Valleys Audubon, Missoula Valley Water Quality District, and Missoula Public Health/Air Quality, none of which have major concerns or opposition to the proposed subdivision. Five Valleys Audubon did however, mention bird species that may inhabit the area. Knudsen Gerhard commented "The property

on which the development would occur was, at one time, a valued grassland. There, such bird species as meadow larks, grasshopper sparrows and vesper sparrows could be found. For the most part, however, the value of that habitat has diminished and, so too, has its bird use. That being the case, we do not see where the proposed development would significantly affect important grassland habitat.” (*Agency Comments*)

Cultural Resources

14. The property currently contains two residential structures. The subdivider contacted Damon Murdo of the State Historic Preservation Office (SHPO) about the impact of the subdivision development on the integrity of any potentially historic resources. He commented that the residential structures are not of interest to the SHPO and there is a low likelihood of impacts so a cultural resources inventory is not recommended at this time. (*Subdivision Application page 12, SHPO Correspondence*)

Conclusion of Law:

1. Adequate protections are in place to limit the impact of the subdivision on the natural environment and water quality if the recommended conditions of approval are applied and the riverfront property is dedicated to and managed by the City of Missoula.
2. No historic / cultural resources would be impacted by the subdivision.
3. The subdivision would result in the loss of wildlife habitat and reduced wildlife values. However, the parkland and common area would continue to provide habitat and the impacts can be mitigated through the imposition of Living with Wildlife Covenants and stormwater and riparian management provisions as conditions of approval.

CRITERION G: EFFECTS 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 are or vehicular traffic safety hazards.
2. Subdivision Regulations Section 3-010.2 requires the mitigation of hazards to subdivision development, including but not limited to flooding and slopes of 25% or more.
3. The portion of the property proposed for annexation falls under floodplain classification Zone X Shaded (0.2% Annual Chance), area of minimal flood hazard. (*FEMA Map Service Center, Preliminary Plat*)
4. Stormwater runoff is proposed to be captured in a series of inlets and transmitted via underground storm drains to one of three detention systems. Two of the detention systems are proposed to be lined ponds that will prevent infiltration of stormwater. Stormwater would then be discharged from these ponds at pre-development rates to Moose Can Gully just downstream of the development. The third stormwater management system is proposed to be an underground sealed (to prevent infiltration) detention system that would discharge at pre-development rates to the storm drain system in Hillview Road north of the site. (*Subdivision Application page 13, Storm Report*)

5. The application packet indicates that there are slopes at or above 15 percent throughout the subdivision and includes a hillside density adjustment calculation worksheet to determine maximum adjusted units permitted for the site to be 755. The applicant has provided “no-build” zones on the preliminary plat for all areas containing slopes at or above 25%. (*Preliminary Plat*)
6. The subject property is located within the Wildland Urban Interface (WUI) and is in an area considered to have moderate wildfire risk. Section 5-020.14.F of the City Subdivision Regulations require the standards found in Exhibit 2 of the subdivision regulations to be included in the covenants when land is located in the WUI. Staff recommend a condition of approval requiring the subdivider to include the standards found in Exhibit 2 in the covenants. (*Missoula County Mapping System, Subdivision Regulations*)
7. The subject property is located within an air stagnation zone. The development covenants include language requiring all lot owners to abide by the woodstove, paving, and outdoor burning rules provided by the Missoula City-County Health Department. (*Missoula County Mapping System, Master Declaration CCR*)
8. For findings of fact on provision of emergency services, see Criterion C of this report. For findings of fact and mitigation related to nuisances created by off-site agriculture, see Criteria A and B of this report.

Conclusion of Law:

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

C. PRIMARY CRITERIA COMPLIANCE

This subdivision complies with:

1. SURVEY REQUIREMENTS

Findings of Fact:

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

Conclusion of Law:

1. This proposal meets the survey requirements.

2. SUBDIVISION REGULATIONS

Findings of Fact

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

Conclusion of Law:

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

3. REVIEW PROCEDURE

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in Article 4 of the Missoula City Subdivision Regulations.
2. Notice of a public hearing on this subdivision was posted on the property on July 22, 2024, and letters were mailed to adjacent property owners on July 15, 2024. Legal notice was published in the Missoulian on July 27, 2024 and August 3, 2024.
3. The public hearing before the Missoula Consolidated Planning Board is scheduled for August 20, 2024 at 6 pm. The public hearing before the City Council is scheduled for September 9, 2024.
4. City Council is scheduled to give final consideration to this subdivision on September 9, 2024. The 80-working day review period for this subdivision expires on September 26, 2024.

Conclusion of Law:

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

D. PROVISION OF LEGAL AND PHYSICAL ACCESS

Finding 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 Hillview Way. (*Preliminary Plat, Project Summary, Subdivision Application*)

Conclusion of Law:

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

IV. PHASING

Findings of Fact:

1. City staff deemed the subdivision application to be sufficient for review on June 3, 2024. A component of the application was a phasing plan depicting seven phases anticipated to be developed through the end of 2044. (*Project Timeline, Phasing Plan*)
2. The Phasing Plan includes lots and improvements to be included in each independent phase, as well as a schedule of parkland to be dedicated with each phase, culminating in 7.783 acres of total parkland for the project, which meets and exceeds the minimum requirement of 6.39 acres of parkland. (*Phasing Plan*)

Conclusion of Law:

2. The phasing plan includes adequate parkland dedication by phase, improvements and lots to be included with each phase, and reasonable deadlines per phase.

V. VARIANCE REQUESTS

The City Council, upon recommendation of the Planning Board, 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 – Dead-End Streets

The subdivider requests a variance from Article 3, Section 3-020.5 to allow the construction of a dead-end in the form of a hammerhead turnaround on Local I. Local I is provided adjacent to an existing easement, so it will be available for connection to the adjacent property at the time of future development.

RECOMMENDATION

Approve the variance request from Article 3, Section 3-020.5 of the City Subdivision Regulations to allow the construction of a dead-end street in the form of a hammerhead turnaround on Local I.

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. While the proposed alignment is not compliant with the Subdivision Regulations, it would allow the alignment of Rimel Road to be compliant with Engineering Standards and allows the City's request for Rimel Road to connect with the Public Highway Easement per COS 5525 and provide a limiting depth of 150 feet per International Fire Code, which is adequate for truck access to be properly maintained for emergency services. The hammerhead design has been provided to the City Engineer and Fire Chief, neither of whom have shown concern regarding a threat to public health or safety. (*Variance Requests page 5*)
- 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 conditions are unique to the property due to existing historic easements, steep site topography, and general shape of the property. Due to the existing Public Highway Easement located on the southeast corner of the site and its establishment well before plans to develop this area, the City has requested that the alignment of Rimel Road coordinate with and eventually connect into the easement. Since the applicant must maintain the appropriate collector street profile through grade changes, dead-end access must exist here to provide access to lots that do not front Rimel Road. (*Variance Requests page 6, Existing Conditions ALTA Survey, Existing Slope Category Map, Preliminary Plat*)
- 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 alignment of Rimel Road, per the City's request for future easement connection, the existing site topography, and property shape create a hardship which limits the ability to strictly comply with the transportation design framework. The existing highway

easement is located on the southeast corner of the site and the alignment of Rimel Road must coordinate with and eventually connect to this easement to provide future access to adjoining property. Due to the parcel shape and the connection to the easement, a dead-end street is necessary to provide access to lots that do not front Rimel Road. A hammerhead turnaround provides safe alternative access to the proposed lots that do not front Rimel Road and would not otherwise be possible should the regulations be strictly enforced. (*X001 Slope Analysis, Variance Requests page 7, Existing Conditions ALTA Survey, Existing Slope Category Map, Preliminary Plat*)

- 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 roads. No abnormal future maintenance is anticipated.
- 6. The hardship has not been created by the applicant or the applicant's agent or assigns.**
 - a. The applicant or the applicant's agent or assigns did not create the hardship. The highway easement was in place prior to development requests and topography and other site considerations are in existence prior to this application.

Variance Request #2-4 – Block Length

The subdivider requests three variances from Article 3, Section 3-020.2.A.2 to allow the following block areas to exceed the maximum block length of 480 feet at a number of locations throughout the development. To simplify review, block length sections were organized in three groups. Reasons for variances are the same.

- Variance #2: Local A
- Variance #3: Local B (east/west), Local D, Local E, and Local G
- Variance #4: Local B (north/south) and Local C

RECOMMENDATION

Approve the variance requests from Article 3, Section 3-020.2.A.2 to allow the three block areas listed in Variances two through four to exceed 480' in length.

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 request does not result in a threat to public safety. Although certain block lengths would exceed the standard set in the Subdivision Regulations, the proposed network satisfies the regulatory intent to maintain safe and comfortable right-of-way elements. In addition, mid-block crossings have been added wherever possible to eliminate a lack of

pedestrian and bicycle access between longer blocks. (*Variance Requests page 9, Preliminary Plat*)

- 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. Unique challenges to the construction of sidewalks, roads, access, and broader development are present on this site due to pre-existing steep slopes, many of which are greater than 15 percent. (*Variance Requests page 10, Slope Analysis Map*)
- 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 slope analysis shows site conditions where the existing topography is greater than 15 percent, with the average slope at about 7 percent. In order to meet Public Rights-of-Way Accessibility Guidelines (PROWAG), American Association of Highway and Transportation Officials (AASHTO) guidelines, and City of Missoula Traffic Engineering Standards, while designing around existing topographical constraints of the site, the identified block lengths must be increased in order to provide acceptable roadway slopes. (*Variance Requests page 11, Block Length Profile, Slope Analysis Map*)
- 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 roads. Future maintenance is not anticipated to be costlier than if all block lengths met the 480-foot requirement. Therefore, 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 applicant or the applicant's agent or assigns did not create the hardship. Block lengths exceeding 480 feet are required due to existing site topography challenges and the requirement to meet AASHTO/PROWAG/City Engineering standards.

Variance Request #5 – Only One Sidewalk on a Portion of Rimel Road

The subdivider requests a variance from Article 3, Section 3-020.2.B to allow a portion of Rimel Road to be constructed with a sidewalk on only the north side of the road for approximately 450 feet of street frontage adjacent to the proposed Moose Can Gully Park.

RECOMMENDATION

Approve the variance request from Article 3, Section 3-020.2.B to allow a sidewalk on only one side of Rimel Road instead of both for approximately 450 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 lack of sidewalk on the south side of the road for approximately 450 feet would not cause a threat to public safety, health, or welfare. Rimel Road is proposed to be constructed in accordance with an approved City cross section for all but the portion of road considered as a part of this variance. Pedestrian access would still be available on the north side of Rimel Road via an 8-foot sidewalk for the entirety of this section and trail connections are able to be utilized on the south side as well, so pedestrian access would not be diminished. (*Variance Requests page 11 and 32, Roadway Profile Cross Sections*)
- 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 conditions are unique to the property due to site topography and property shape. Additionally, the location of the Moose Can Gully trail system limits the amount of space for a sidewalk on that portion of the south side of Rimel Road. (*Variance Requests Page 15, Preliminary Plat*)
 - b. On the south side of Rimel there is a 20-foot cut slope and the additional width needed to include a sidewalk and boulevard would compromise the provision of the Moose Can Gully trail. (*Variance Requests page 15, Geotechnical Report, Preliminary Plat*)
- 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. Due to topographical constraints, providing the additional 12 feet for the required boulevard and sidewalk would compromise the ability to include a continuous trail on the south side of the road, which would be a hardship to the neighborhood and the parks system as well as the owner. (*Variance Requests page 16, Preliminary Plat*)
- 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 roads and non-motorized facilities. Further, the proposed variance may also minimize snow removal work for the 450 feet on the south side of Rimel Road.
- 6. The hardship has not been created by the applicant or the applicant's agent or assigns.**
 - a. Challenging topographic conditions, in addition to City Parks and Recreation's request for a 10-foot trail along the southern property boundary are all conditions not created by

the applicant. It is due to these challenges that a variance is requested to ensure the safety and livability of the full cross section, while still providing pedestrian access.

Variance Request #6 – Access for Lots 18-22

The subdivider requests a variance from Article 3, 3-030.1.C.3 to allow Lots 18, 19, 20, 21, and 22 to be accessed via the alley and Common Area on the north and west sides of the lots instead of access to a public or private street or road. Homes are proposed to face the streets, there is proposed pedestrian access via easements to all lots, and the private access easement alleys provide rear vehicular access to all lots.

RECOMMENDATION

Approve a variance from City Subdivision Regulations Article 3, 3-030.1.C.3 to allow Lots 18, 19, 20, 21, and 22 to be accessed via the alley and Common Area on the north and west sides of the lots instead of access to a public or private street or road.

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 units on Lots 18 through 22 are designed to safely and conveniently be accessed via the alley and Common Area on the north and west sides of the lots. The alley would provide adequate traffic circulation and safe vehicular access to all proposed lots within this portion of the subdivision, with the Common Area providing for additional pedestrian access via an 8-foot access easement. The granting of this design variance does not result in a threat to public safety, health, or welfare. (*Variance Requests page 19, Preliminary Plat*)
- 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 necessity to request this variance is site-specific due to steep slopes. Local A (access road into subdivision) had to be designed to fit the steep hillside while being limited in grade, which combined with attempting to get all townhome units facing the public realm and maintaining garage access, made it necessary to look into other similar options. By creating alley access for vehicles and an additional public access easement for pedestrian connectivity will create similar amenities as are supplied by fronting a public or private street or road. (*Variance Requests page 20, Preliminary Plat, Slope Analysis Map*)
- 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 proposal, which meets the intent of providing amenities for multi-modal access and placing the fronts of each unit in an outward-facing orientation, compensating for the challenges of existing steep slopes and adjacent roadways were applied, the applicant would face an undue hardship. (*Variance Requests page 20*)
- 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 block dimensions.
- 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 variance would have no impact on public costs.

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

- a. The applicant or the applicant’s agent or assigns did not create the hardship. Steep slopes are a natural occurrence and the City’s Growth Policy makes it clear that this area of the property is to be centered around higher density residential zoning.

VI. SUBDIVISION ATTACHMENTS

- 1. Subdivision Attachment A: Project History Form

VII. REFERENCES CITED

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

Plans and Regulations

M.C.A.: Montana Code Annotated, 2021

https://leg.mt.gov/bills/mca/title_0760/chapters_index.html

Subdivision Regulations: *City of Missoula Subdivision Regulations*, adopted by the Missoula City Council and amended on October 16, 2023

<https://www.ci.missoula.mt.us/DocumentCenter/View/58232/Missoula-City-Subdivision-Regulations2022-Amend?bidId=>

Our Missoula 2035 City Growth Policy

https://www.ci.missoula.mt.us/DocumentCenter/View/34746/OurMissoulaGP_full?bidId=

Title 20 Missoula Zoning Ordinance, adopted by the City Council and amended May, 2022.

https://library.municode.com/mt/missoula/codes/code_of_ordinances?nodeId=TIT20ZO

Annexation Policy, adopted July 22, 2019

http://www.ci.missoula.mt.us/DocumentCenter/View/50374/July-23_Annexation-Policy-as-Amended?bidId=#:~:text=City%20annexation%20provides%20a%20united,addressing%20community%20goals%20and%20values.

Missoula Public Works Standards and Specifications Manual, amended December 1, 2022

<http://www.ci.missoula.mt.us/2708/Public-Works-Standards-Specifications-Ma>

Title 18 City of Missoula Floodplain Hazard Management Regulations, amended May 16, 2022

<https://www.ci.missoula.mt.us/DocumentCenter/View/36563/Floodplain-Regulations-31319-Title-18>

Missoula County Zoning Code, effective July 1, 2022

<https://www.missoulacounty.us/government/community-development/community-planning-services/regulations/zoning-regulations>

Missoula County Growth Policy, amended 2019

Elements of the Application Packet for Governing Body Review

00 – Cover Page

00 – Table of Contents

00 – Agency Comments

A. Maps, Plat, Plans, and Figures

A.1. Preliminary Plat

A.2. Pine at Wildroot COS

A.3. Subject Property COS

A.4. Subject Property Title Report

A.5. Pine at Wildroot Title Report

A.6. Existing Conditions Alta Survey

A.7. Existing Conditions Site Aerial

A.8. Annexation Policy Map

A.9. Existing Zoning Map

A.10. Roadway Profile Cross-Sections

A.11. Lighting

A.12. Roadway Plans

A.13. Preliminary Plat Road Table

A.14. Road Class Plan

A.15. No Access Strip Plan

A.16. Storm Sewer Plans

A.17. Road Sections

A.18. Dry Utility Map

A.19. Roundabout Exhibit

A.20. Road Maintenance Agreement

A.21. Sanitary Sewer Plans

A.22. Water Plans

A.23. Booster Buildings and Tank

A.24. FEMA Floodplain Map

A.25. Phasing Plan

A.26. Landscape Plans

A.27. USGS Topographic Maps

A.28. Vicinity Map with Aerial

B. Density and Steep Slopes

B.1. Hillside Density Adjustment

B.2. Slope Analysis Map

B.3. Lot Setback Exhibit

B.4. Park Grading Exhibit

B.5. Existing Grade Limitations Map

B.6. Proposed Grade Limitations Map

B.7. Cut Fill Map

C. Project Summary

C.1. Project Summary

D. Subdivision Application and Supporting Documentation

D.1. Subdivision Application

D.2. Pipeline Map

- D.3. USGS Seismic Map
- D.4. Government Records Report
- D.5. Missoula Police Department Letter
- D.6. Bus Stop Coordination Correspondence
- D.7. Missoula Co Public Schools Letter
- D.8. Missoula Fire Department Response Letter
- D.9. Utility Correspondence
- D.10. MUTD Bus Coordination
- D.11. Missoula Fire Department Letter
- D.12. Adjacent Property Owners
- D.13. Wetland Inventory Map
- D.14. Important Farmland Map
- D.15. Wildlife Observations Document
- D.16. Wildlife Species Map
- D.17. Habitat Suitability Map
- D.18. SHPO Correspondence
- D.19. City of Missoula Code Chapter 20.05

E. Annexation Petition and Rezone Application

- E.1. Annexation Petition
- E.2. Rezone Application
- E.3. MUTD Petition
- E.4. Land Use Intake Form

F. Covenants

- F.1. Master Declaration CCR
- F.2. Development Guidelines

G. Variance Requests

- G.1. Variance Requests

H. Neighborhood Meeting Information

- H.1. Neighborhood Comment and Response

I. NRCS Soil Survey

- I.1. NRCS Soils Report and Map
- I.2. Soils Map

J. Weed Management Plan

- J.1. Weed Management Plan

K. Traffic Impact Study

- K.1. TIS Report
- K.2. TIS Response June 2022
- K.3. TIS Response to City Comments
- K.4. TIS Comment Response Letter

L. Geotechnical Report

- L.1. Geotechnical Report Phase 2
- L.2. Geotechnical Supplemental Info

M. Grading and Drainage Report

- M.1. Aquatic Resources Delineation Tech Report
- M.2. Moose Can Gully Stream Stats
- M.3. Storm Report

N. Water and Sanitation Report

- N.1. Intent to Serve – Public Works
- N.2. Intent to Serve – Republic Service
- N.3. Sewer Report

N.4. Water Report

N.5. Public Utility Estimate

O. Riparian Resource Plan

O.1. Riparian Management Plan

Other References

Missoula County Property Information System

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

City Central Maps

<https://missoulamaps.ci.missoula.mt.us/portal/apps/sites/#/gis>

FEMA Map Service Center

<https://msc.fema.gov/portal/home>

Mountain Line Bus Stop Master Plan

<https://mountainline.maps.arcgis.com/apps/webappviewer/index.html?id=c73e4b12cf114db798e150af2722360e>

A Place to Call Home: Meeting Missoula's Housing Needs

https://www.ci.missoula.mt.us/DocumentCenter/View/50833/A-Place-to-Call-Home_Meeting-Missoulas-Housing-Needs_Adopted-PDF

**SUBDIVISION ATTACHMENT B
SUBDIVISION PROJECT HISTORY**

Project: Wildroot Phased Subdivision, Annexation, and Rezoning
Applicant: Hillview Road LLC and Hillview MF Project Owner LLC
Developer: Pando Holdings
Representative: Nicole Olmstead, Cushing Terrell

Pre-application Meetings: 4/28/21, 2/15/23

Element: Submitted 7/13/23, 8/18/23, 8/30/23; Complete 9/6/23

Sufficiency: Submitted 9/14/23, 12/13/23, 2/13/24, 3/28/24, 5/16/24; Sufficient 6/3/24

Start Governing Body Review: 6/4/24

80-day Deadline: 9/26/24

Extension Granted: Not as of this writing

City Council Consent Agenda: 8/19/24

Planning Board Public Hearing: 8/20/24

Land Use and Planning Committee: 8/28/24; 9/11/24 (if sent back to committee)

City Council Public Hearing and Decision: 9/9/24

City Council Final Consideration: 9/16/24 (if sent back to committee)

Public Notice: Posted 7/22/24; Adjacent Property Owner Letters Sent 7/16/24; Legal Ad in Missoulian 7/27/24 and 8/3/24.

EXHIBIT A: ANNEXATON MAP

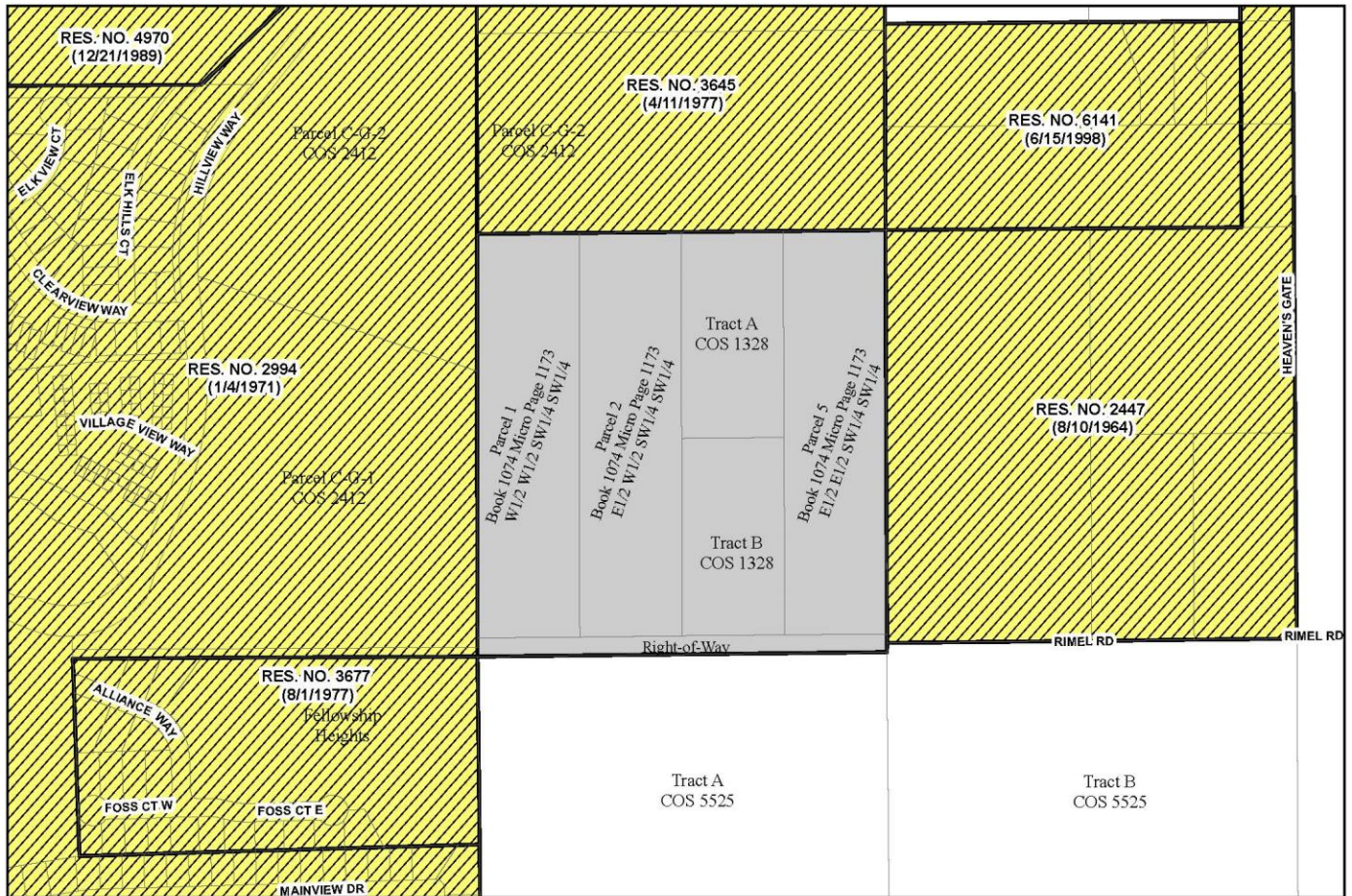


Exhibit 'A'



Tract A and Tract B Certificate of Survey 1328, Parcels 1, 2 & 5 of Page 1173 of Micro Book 1074 & Adjacent Right-of-Way

All Located in Sections 5 & 8, T.12 N., R.19 W., P.M.M.

Prepared by: CITY OF MISSOULA GIS SERVICES

Legend

- Parcel Boundaries
- Proposed Annexation
- Annexation Resolutions
- City Limits

EXHIBIT B: LEGAL DESCRIPTION

PARCEL 1: $W\frac{1}{2}W\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$ OF SECTION 5, TOWNSHIP 12 NORTH, RANGE 19 WEST, P.M.M., MISSOULA COUNTY, MONTANA - RECORDING REFERENCE: BOOK 810 OF MICRO RECORDS AT PAGE 1424

PARCEL 2: $E\frac{1}{2}W\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$ OF SECTION 5, TOWNSHIP 12 NORTH, RANGE 19 WEST, P.M.M., MISSOULA COUNTY, MONTANA - RECORDING REFERENCE: BOOK 810 OF MICRO RECORDS AT PAGE 1425

PARCEL 3: A TRACT OF LAND LOCATED IN THE $W\frac{1}{2}E\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$ OF SECTION 5, TOWNSHIP 12 NORTH, RANGE 19 WEST, P.M.M., MISSOULA COUNTY, MONTANA, BEING MORE PARTICULARLY DESCRIBED AS TRACT A OF CERTIFICATE OF SURVEY NO. 1328. - RECORDING REFERENCE: BOOK 810 OF MICRO RECORDS AT PAGE 1426

PARCEL 4: A TRACT OF LAND LOCATED IN THE $W\frac{1}{2}E\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$ OF SECTION 5, TOWNSHIP 12 NORTH, RANGE 19 WEST, P.M.M., MISSOULA COUNTY, MONTANA, BEING MORE PARTICULARLY DESCRIBED AS TRACT B OF CERTIFICATE OF SURVEY NO. 1328. - RECORDING REFERENCE: BOOK 810 OF MICRO RECORDS AT PAGE 1427

PARCEL 5: $E\frac{1}{2}E\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$ OF SECTION 5, TOWNSHIP 12 NORTH, RANGE 19 WEST, P.M.M., MISSOULA COUNTY, MONTANA. - RECORDING REFERENCE: BOOK 810 OF MICRO RECORDS AT PAGE 1428

PARCEL 6: A TRACT OF LAND LOCATED IN THE $SE\frac{1}{4}$ OF SECTION 6, TOWNSHIP 12 NORTH, RANGE 19 WEST, P.M.M., MISSOULA COUNTY, MONTANA, BEING MORE PARTICULARLY DESCRIBED AS TRACT C-G-1 OF CERTIFICATE OF SURVEY NO. 2412.

PARCEL 7: A TRACT OF LAND LOCATED IN THE $SE\frac{1}{4}$ OF SECTION 6, TOWNSHIP 12 NORTH, RANGE 19 WEST, P.M.M., MISSOULA COUNTY, MONTANA, BEING MORE PARTICULARLY DESCRIBED AS TRACT C-G-2 OF CERTIFICATE OF SURVEY NO. 2412. TOGETHER WITH A TRACT OF LAND LOCATED IN THE $NW\frac{1}{4}SW\frac{1}{4}$ OF SECTION 5, TOWNSHIP 12 NORTH, RANGE 19 WEST, P.M.M., MISSOULA COUNTY, MONTANA, BEING MORE PARTICULARLY DESCRIBED AS PORTION A OF CERTIFICATE OF SURVEY NO. 4322. - RECORDING REFERENCE: BOOK 810 OF MICRO RECORDS AT PAGE 1429