

Potential changes to conditions of preliminary approval for the Heron's Landing Phased Subdivision Plat and Application

September 11, 2020

Note 1: Montana Code Annotated (MCA) Section 76-3-604(9)(a) states review and approval, conditional approval, or denial of a proposed subdivision may occur only under those regulations in effect at the time a subdivision application is determined to contain sufficient information for review. The Heron's Landing Phased Subdivision application was deemed sufficient for review on May 14, 2020. The City of Missoula Subdivision Regulations Amended June 28, 2010 and 2019 Montana Subdivision and Platting Act were in effect at that time. The 2019 Montana Subdivision and Platting Act includes provisions for phased subdivisions in Section 76-3-617. Those provisions apply to the Heron's Landing Phased Subdivision.

Note 2: The Heron's Landing Phased Subdivision application includes a phasing plan that lists the anticipated platting of W phases to the west of George Elmer Drive and E phases to the east of George Elmer Drive. The subdivider has indicated the sequence of final platting depends in part on construction of George Elmer Drive, which is planned to be developed as part of the Mullan BUILD project. The City of Missoula acknowledges that under 76-3-617, MCA the subdivider may seek to amend the phasing plan in the future, following review and approval by City Council.

Streets, General

1. All street and non-motorized improvements shall be designed and built in accordance with City of Missoula Public Works Standards and Specifications and City of Missoula Subdivision Regulations (except as modified by variance). All plans must comply with Americans with Disabilities Act requirements. All plans must be reviewed and approved by the City Engineer in accordance with City policies. *City Subdivision Regulations Section 3-020.2*
2. The subdivider shall provide a street naming exhibit to be reviewed and approved by Development Services prior to final plat filing of the first phase. *Subdivision Regulations Section 3-020.12*
3. The subdivider shall provide a street signage plan in accordance with the Manual on Uniform Traffic Control Devices to be reviewed and approved by the City Engineer and City Fire Department prior to final plat filing of ~~the first~~ each applicable phase. *City Subdivision Regulations Section 3-020.4(H)(2)*
4. The following statement shall appear on the face of each plat, in the covenants, and on each instrument of conveyance:
"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future SID/RDSID, based on benefit, for the upgrading of streets

within this subdivision, including but not limited to paving, curbs and gutters, non-motorized facilities, street widening and drainage facilities" *City Subdivision Regulations Section 5-050.4(M&N)*

5. All proposed rights-of-way shall be dedicated to the public on the face of each plat and approved by the City Engineer. *City Subdivision Regulations Section 3-020.3.B*
6. All proposed easements, except as modified by these conditions, shall be shown on the face of each plat and identified for their width and purpose, including easements for vehicular and pedestrian access, utilities, and irrigation ditches. *City Subdivision Regulations Section 3-060.1*
- ~~6.7. Street lighting shall be installed within the subdivision along Chuck Wagon Drive and George Elmer Drive in accordance with the Missoula Public Works Standards and Specifications Manual. The subdivider shall install lighting along Chuck Wagon Drive and George Elmer Drive prior to filing any plat that abuts those streets as part of that phase's improvements. Prior to final plat filing of the first phase, the subdivider shall petition to create a new street light improvement district. *Missoula Public Works Standards and Specifications Manual Section 7.3.6*~~

Specific Streets

- ~~7.8. George Elmer Drive through the length of the subdivision shall be improved to Urban Collector (with parking) standards as proposed including two 10-foot drive lanes, 6-foot bike lanes, 8-foot parking lanes, curb and gutter, 7-foot boulevards, and 5-foot sidewalks within the existing 80-foot wide right-of-way. All improvements to George Elmer Drive shall be constructed prior to final plat approval of the first east phase or phase W2, W3, or W4, whichever is platted first. *Subdivision Regulations Table .2A modified by variance.* The Heron's Landing Phased Subdivision is located within the Mullan BUILD project area and George Elmer Drive, which provides access to the subdivision property, is planned to be improved as part of the Mullan BUILD project. Federal funds are planned to pay for a portion of the Mullan BUILD improvements. Funding mechanisms are currently being explored to pay for the remainder of the improvements. The funding mechanisms may include, but are not limited to, a special improvement district, impact fee, latecomers fee, or cost share agreements that allow the City of Missoula and Missoula County to recover the cost of constructing infrastructure from the properties that benefit from the Mullan BUILD project. To the extent that such funding mechanism(s) is created in accordance with state law and applicable principles of land use law, the subdivider, successors, and assigns shall participate in and be bound by the fees assessed and not oppose the creation of or participation in such a district. (*Montana Code Annotated 76-3-510*)~~
9. Chuck Wagon Drive through the length of the subdivision shall be improved to Urban Collector (with parking) standards as proposed including two 10-foot drive lanes, 6-foot bike lanes, 8-foot parking lanes, curb and gutter, 7-foot boulevards, and 5-foot sidewalks within the existing 80-foot wide right-of-way. All improvements to Chuck

Wagon Drive from back of curb to back of curb shall be ~~constructed~~ reviewed and approved adjacent to Phase W1 prior to final plat approval of Phase W1, ~~W5, W6 or W7~~. All improvements to Chuck Wagon Drive from back of curb to back of curb north of Phase W1 shall be reviewed and approved prior to final plat approval of the third west phase. All other street improvements including boulevards and sidewalks shall be reviewed and approved prior to final plat approval of each adjacent phase.
Subdivision Regulations Table .2A modified by variance.

10. Heron's Landing Drive, Nesting Lane, and Audubon Loop shall be designed and built to Low Density Urban Local Street standards including two 10-foot drive lanes, 7-foot parking lanes, curb and gutter, 7-foot boulevards, and 5-foot sidewalks (except where the Secondary Commuter Trail is to be located) within 60-foot rights-of-way. The subdivider shall provide an additional access and utility easement at least one foot wide along the outer edge of the sidewalks and secondary commuter trail along these streets to allow for maintenance. *Subdivision Regulations Table .2A modified by variance, Correspondence with City Engineer.*

Drainage

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

Transit

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

Water System and Sewer System

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

Solid Waste

14. The subdivider shall submit plans for solid waste disposal for review and approval of the City Engineer, City/County Health Department, and Montana Department of

Environmental Quality prior to final platting of ~~the first~~each applicable phase. *City Subdivision Regulations Sections 3-070.01*

Parkland

15. The subdivider shall meet the parkland dedication requirement as depicted on the Phasing Plan Exhibit and on the Parkland Dedication Exhibit of the application by providing 5.14 acres of dedicated common area to be maintained by the Heron's Landing Homeowners Association. *City Subdivision Regulations Section 3-080.3.A*

16. The subdivider shall draft an agreement for review and approval of the Parks and Recreation Department and City Attorney to provide for the dedication of land and/or payment of money prior to final platting of each phase. The agreement shall provide for different circumstances including where more than the required land is dedicated per phase, where an insufficient amount of land is dedicated per phase and cash is also required to make up for the insufficient amount of land, and where refunds may be issued by the City when more land is dedicated than needed to meet the dedication requirement. The agreement shall be submitted, reviewed and approved prior to final plat filing of the first phase. *City Subdivision Regulations Section 3-080.6*

17. When cash ~~is proposed to be provided instead of land in lieu of parkland is~~ proposed, the amount shall be equal to the fair market value of the amount of land that is statutorily required to be dedicated for that phase. The fair market value shall be determined by a Montana certified general real estate appraiser, hired and paid by the subdivider. Fair market value means the value of the unsubdivided, unimproved land based on the zoning designation that applies to the property at that time. The City reserves the right to require a separate appraisal for each phase. *City Subdivision Regulations Section 3-080.7*

18. The subdivider shall submit a park and common area landscape and maintenance plan and a boulevard landscaping plan to be reviewed and approved by the City Parks and Recreation Department prior to final plat filing of ~~the first~~each applicable phase. *City Subdivision Regulations Section 5-050.4*

Covenants, Conditions, and Restrictions

19. Final covenants, conditions, and restrictions meeting the requirements of City Subdivision Regulations Section 5-020-14.K shall be submitted for review and approval prior to final plat filing of the first phase. *City Subdivision Regulations Section 5-020-14.K*

Non-Motorized Transportation Facilities

20. The subdivider shall provide five-foot sidewalks along all street frontages (except for where the Secondary Commuter Trail is to be located) and at the proposed mid-

block locations depicted on the circulation plan exhibit. The subdivider shall provide a 10-foot Secondary Commuter Trail in the locations, dimensions, and within the rights-of-way and easements proposed in the preliminary plat phased subdivision submittal and approved by City Council. All sidewalk and trail plans, including specifications for ADA accessibility and safe street crossings, shall be reviewed and approved by the City Engineering and Parks and Recreation departments prior to ~~approval~~ final plat filing of ~~the first each applicable~~ phase. Construction of the non-motorized transportation facilities shall occur as proposed in the application submittal and as required to serve each phase. *City Subdivision Regulations Section 3-020.15 and Table .2A*

~~20.21.~~ The subdivider shall provide a five-foot ADA accessible asphalt path connecting to existing sidewalks north of Heron's Landing along Chuck Wagon Drive in conjunction with Phase W1 and George Elmer Drive in conjunction with Phase W2 as depicted on the Phasing Plan. Subdivision Application Phasing Plan

Fire Protection

~~24.22.~~ The subdivider shall provide plans for address signage and a fire hydrant plan for review and approval prior to final plat filing of ~~the first each applicable~~ phase. All approved fire protection improvements shall be installed in accordance with the approved plans. *City Subdivision Regulations Section 3-010.1.F*

Noxious Weeds

~~22.23.~~ The Weed Management and Revegetation Plan for Heron's Landing shall be appended to the covenants, conditions and restrictions. The subdivider shall provide evidence of plan implementation and noxious weed control prior to final plat filing of each phase. *City Subdivision Regulations Section 5-020.14.K*

Airport Influence Area

~~23.24.~~ Each final plat shall include the following statement:

This property is in the airport influence area and subject to the requirements of the Airport Influence Area Resolution. The Heron's Landing Subdivision may also be within an extended approach and departure zone for a proposed second runway as shown in the Airport Authority's 2004 plan and lot owners should be aware of the resultant safety risk. Lot owners should consult the airport layout plan and any relevant documents to determine the status of the proposed runway location at the time of purchase. *City Subdivision Regulations Section 3-010.2*

Easements

~~24.~~ ~~Each final plat shall show utilities within easements and public rights-of-way for review and approval by the City Engineering Division prior to final plat filing of each phase. City Subdivision Regulations Section 3-060.~~

Zoning

25. The Heron's Landing Neighborhood Character Overlay Zoning District shall be adopted concurrent with City Council approval of the subdivision request based on the findings.