

## ***TAB 2***

### **Tab 2- Project Summary, Assessments, Variance Requests**

- Project Summary/ Environmental Assessment/ Probable Impacts Report
- Variance Requests

# MEADOW VIEW HOMES SUBDIVISION

## Project Summary, Environmental & Community Assessment and Community Impact Report

*A Proposed 97-Lot Residential Subdivision*

*Located in the East ½ of Section 6, T.12 N., R. 19 W., P.M.M.,  
Missoula County, MT*

### Introduction

The proposal is for a 97-lot residential subdivision on 31.47 acres, located west of Hillview Way and north of Clearview Way in the south hills area. The property is in three separate parcels, those being 1) Tract 1, Certificate of Survey No. 4969 (27.39 ac.), 2) Deed Exhibit 1170 (aliquot 4.0 ac.) and 3) Tract A, Certificate of Survey No. 6904 (.08 ac./3578 s.f.). The property address is 4824 Clearview Way, where exists a single-family home and four outbuildings.

The 97 lots will average about 7660 square feet each. The typical street section is 34 feet wide from face to face of curb, with parking on both sides and boulevard sidewalks throughout most of the subdivision. The streets will be 60-foot rights-of-way with 5-foot utility and sidewalk maintenance easements along the lot frontages to either side. A total of 6.71 acres in common area open space, or 21% of the property, will be dedicated to the Meadow View Homes Homeowner Association (HOA). Included in this is a 0.82-acre common area recreational park, located central to the development and available to the public. All common areas are dedicated as Public Pedestrian, Utility, and Maintenance Easements. Protective and restrictive covenants will be filed to create a quality living environment. An Architectural Review Committee of the HOA will review and approve plans for all structures on the lots.

### Brief History of Parcel

During the 1950's Marshall and Kathryn Henry purchased about 300 acres in this vicinity, which included the existing home and subject property and other ground to the bottom of the hill. There were just a few dirt roads in the area at the time, and only a few houses. Marshall and Kathryn raised horses on the property. The farm was colloquially called "Meadow View Stables", hence the reason for the subdivision name. The new street names of Princess, Serenade and Velvet were names of three of the many horses they raised over the years.

The late Katherine Patricia "Pat" Tonkin was the daughter of Marshall and Kathryn. Pat grew up on the farm and followed in her mother's footsteps, serving as a nurse at St. Patrick's Hospital and at other hospitals. In the mid-1970's Pat came back to live on the farm and care for her parents. Together they continued to raise, ride, and show horses. They also kept a variety of pets such as dogs & cats, chickens, peacocks, goats, and homing pigeons- all of whom Pat loved and trained.

Over time, the Henrys sold off parcels of the original 300 acres to developers. Therefore, the land beneath several existing subdivisions and developments in the area were once part of the Henry family farm.

## **Neighborhood Character**

The 31.47-acre subject property is a remnant piece of the original +/- 300-acre Henry farm. The parcels sold off for subdivision development were rezoned to suit the plans and proposals at the time. As a result, the surrounding neighborhoods are residential but with an array of housing types including SFR and condos consisting of 2, 3, 4, and 5-plexes, and a large group living facility.

The area is a wonderful place to live. Homes and properties are well-maintained and keep their value. There are great schools (elementary, middle, and high schools) nearby, along with several city-owned open spaces, parks, and greenway pedestrian trails. The Tonkin Trail, located along the west and north property boundaries, was dedicated to the public by the Tonkin family.

## **Zoning, Growth Policy, Surrounding Area**

The subject property is currently zoned R40 in the city. It is a 'leftover' undeveloped parcel after the rest of the area has been rezoned and/ or developed at different times over the years.

Therefore, it is the only property zoned R40 aside from city-owned open space adjacent to the north. Had this property been rezoned and developed earlier in time as have the other parcels, it likely would have been in line with the current zoning allowances of the rest of the area. So too, the development would likely have met the neighborhood's character. Being among the last undeveloped and/ or rezoned properties in the area, the goal of this proposal is to reasonably meet the existing neighborhood character of the area through planning and rezoning of the property, with 97 homes and a gross density of 3.08 homes per acre.

The property is proposed to be rezoned to RT5.4, which allows single-family residences plus the option for two attached single-family residences/ townhomes having the property boundary down the common wall. The RT5.4 district could yield up to 8 units per acre- although such high density is not achievable through development under this zoning district. The applicable growth policy, the "2015 Our Missoula Growth Policy", recommends a density of 3 to 11 units per acre for the property and general area. Such is also the designation for most of the area between Hillview Way and Miller Creek Road. The actual density of this proposed subdivision of 97 lots on 31.47 acres comes to 3.08 units per acre, which is at the far low end of the allowable density scale per the growth policy.

**North-** Zoning adjacent to the north and westerly is RT10/ PUD Homesteads, which contains mostly 2FR homes. Immediately to the north is R40/ City of Missoula owned open space, and immediately to the north and easterly is RT10 zoning on the former Hillview Crossing Townhome Exemption Development (TED) approval. This 25 acres is now owned by Habitat for Humanity of Missoula, Inc.

**East-** Adjacent to the east of the property, and west of Hillview Way, is a sliver of property being 1.3 acres in size that is also currently owned by Habitat for Humanity. It is zoned RM1-35/ PUD Elk Hills and is filed as Lot 23 of Elk Hills Phase 1. Across Hillview Way is RM-135 zoning, which can allow multi-family residential at a relatively high density. At this time, construction is ongoing on a 106-acre property for several apartment buildings, with further plans of subdivision development on the remaining acreage. Their plan is for two connections to Hillview Way, one at the Clearview Way intersection and one at the Village View Way intersection (not at Clearview Way).

**South-** To the south the property is zoned RM1-35/ PUD Elk Hills Phase 1 where the Elk Hills Phase 1 development abuts the subject property. Of the 58 lots in Elk Hills Phase 1, 36 lots are SFR and 22 lots are condominiums (2,3,4, and 5-plexes). The multi-family homes all access directly to Clearview Way. Further south is The Village at Elk Hills, zoned RM1-35/ PUD Elk Hills Phase 2, which consists of multi-family condominiums in eight 2-story buildings.

**West-** Adjacent to the west is property zoned R8 where are located the Clearview Village Condominiums, consisting of 23 buildings containing 2FR's, as well as the Mountain Home Montana living facility (formerly the Hillside Senior Health & Rehabilitation Facility.)

### **Phasing Plan**

The applicant is requesting a Phasing Plan consisting of five phases as shown on the Phasing Plan drawing in the packet. Phase 1 would be filed within 3 years of preliminary plat approval; Phase 2 would be filed within 5 years of preliminary plat approval, Phase 3 within 7 years, Phase 4 within 9 years, and Phase 5 within 11 years of the exact date of preliminary plat approval.

**Phase 1-** will consist of 29 lots as shown on the Phasing Plan. Improvements will involve the backbone of the drainage system to include basins and infrastructure within the Phase 1 area to handle the entire site's runoff at the time the entire subdivision is built. Phase 1 improvements will also consist of regrading and reconstruction of the east-west portion of the Tonkin Trail in CA4, relocation/ regrading of the Tonkin Trail to cross Princess Lane at grade, lessen overall grade around behind Lots 3 and 4, the connector trail and greenway between Lots 30 and 31 to Elk Hills Drive, and installation of a 10-foot trail/ maintenance track from the trail crossing over Princess Lane and around to the far northeast corner of the property to reach the north-south sewer manhole, main and easement. Grading for lots, common areas, roads, etc. in Phase 1 will be graded out to finish grade. Sewer and water mains and accessories, to include the first PRV at the Clearview Way intersection, other utility mains, and service line stub outs will be provided to each lot. The common areas will be graded out to finish grade and seeded in eco-lawn type grass. Boulevard street trees will be planted in Phase 1 along with landscaping in CA1 per a landscaping and planting plan approved by City Parks prior to the filing of Phase 1. (Other recreational amenities may also be installed outside of subdivision review but in coordination with City Parks). Roads, including the temporary turnaround on Lot 16, and sidewalks and street lights within Phase 1 will be installed. The mailbox cluster for the subdivision will be installed along the north side of CA 1 next to Elk Hills Drive. Lot corner monuments will be set. Off-site improvements to include the traffic circle, crosswalk, and pedestrian signage at Clearview Way/ Garland Drive/ Elk Hills Drive will be installed, as well as a 50-foot continuation of the sidewalk from the south side of Garland Drive to a proposed concrete pad at the existing bus stop on 23<sup>rd</sup> Avenue.

**Phases 2-5** will be built and filed in order, to include grading within the phasing areas and outside as needed. All graded common areas will be seeded in eco-grass. Infrastructure will be installed within each phase to include utilities and service line stub outs to each lot, as well as the streets, sidewalks, street trees, street lights, and drainage facilities. In Phase 2 the Tonkin Trail in CA3 will be regraded from Hillview Way to the west boundary of Phase 4. Short trails will be constructed between Lots 37 & 38 and 44 & 45 that will connect to the Tonkin Trail. Property corners will be set for all lots in each phase.

## Natural Environment

**Slope-** The slope of the land is between level and up to about 25 per cent. The ground is steeper closer to Hillview Way, then becomes less steep and nearly level in the area of the existing home and corral. Toward the northwest, on the 4-acre parcel, there becomes a steeper downward slope. In general, the further north of the site on this hillside toward Wapikiya Park, the steeper the slope.

Grading on site was done many years ago to build the corral surface and home building site, which resulted in very small non-natural slope areas over 25% in the buildable area.

**Vegetation-** There are a few trees scattered about the site, most of which will be removed along with the home and outbuildings so as to carefully grade most of the entire site. Many new trees and shrubs will be planted throughout the development- in the boulevards, common areas, and on the lots. The existing ground cover consists mainly of pasture and lawn grasses with some areas of weed infestation. A Weed Control and Revegetation Plan for Disturbed Sites is within the packet and covenants and will be implemented with grading and development.

**Soils-** In general, most of the property is underlain by the Minesinger-Bigarm complex soil unit. The soil textures of the unit include the following horizons with depth: gravelly loam, cobbly loam, very gravelly clay, and very gravelly clay loam. The Minesinger-Bigarm complex unit is described as well drained. Soil types underlying the steeper area of the property is chiefly comprised of the Bigarm gravelly loam unit, which contains more gravelly materials than the rest of the property and is considered somewhat excessively drained.

The Geotechnical Report in the packet contains a short summary of recommendations, which states, "In general, Lorenzen Soil Mechanics (LSM) believes the granular soils encountered across the western portion of the site are considered excellent for street and building construction. The clay layers encountered at the subgrade elevations will require some stabilization such as the use of geosynthetics and the inclusion of a subbase course within the street typical section. The recommendations that follow are generic to the test pit investigations completed thus far. LSM recommends including a more in-depth geotechnical for individual structures, or at the very least, a geotechnical review during the residential foundation excavations to verify the soils are consistent with what is provided in this general report. Some locations can expect to encounter perched groundwater zones that may develop into springs upon excavation. French drains and sumps may be necessary in some locations." A statement to this effect is in the covenants.

**Storm Drainage-** Drainage will be handled on site through a series of inlets, pipes, detention basins and underground tanks for temporary storage. Please refer to the Storm Drainage and Geotechnical Report.

## Streets and Access

**Interior Streets-** The subdivision will connect to Clearview Way/ Garland Drive at the western end and to Elk Hills Court at the southeast corner of the subdivision. The main east-west connector within the subdivision is proposed to take the name of Elk Hills Drive because it connects to the end of Elk Hills Court and will be a through street, connecting to Clearview Way/ Garland Drive.

The name change from Elk Hills Court to Elk Hills Drive will follow Missoula County road naming procedures to include approval by existing lot owners on Elk Hills Court. (A "Drive" is a normally

through street, while a "Court" always denotes a dead-end or cul-de-sac street). Princess Lane, Velvet Place, and Serenade Drive will connect with the other interior streets within the subdivision.

Per the regulations, the streets within the subdivision are classified as Low Density Urban Local Streets. The proposed street sections for driving lanes and on-street parking closely meet or exceed requirements of the subdivision regulations and the City of Missoula Public Works Manual. The sidewalks will be 5 feet in width where they are separated by a 7-foot boulevard. The vast majority of the sidewalks, or about 88 per cent, will be boulevard except where necessary they be curbside due to grade factors. Where curbside, the sidewalks will be 6 feet wide.

Except where parking is deleted on a side of the street there will be a full 34 feet of pavement from face of curb to face of curb, thereby allowing adequate space for driving and parking lanes. The 60-foot rights-of-way plus the 5-foot utility easements to either side add up to 70 feet.

The City Public Works Manual requires a 60-foot right-of-way and the subdivision regulations require 70 feet. Technically though, in this case a variance is required for the proposed 60-foot right-of-way width (not including the two 5-foot easements to either side) and that request is in this packet.

**Turnarounds-** A temporary emergency vehicle Type 2 turnaround meeting City of Missoula and International Fire Code (IFC) standards will be located on proposed Lot 16 at the east edge of Phase 1. The distance from this turnaround to the intersection with Elk Hills Drive is less than 600 feet. At the time Princess Lane is extended to the east into Phase 5, the temporary turnaround and easement on Lot 16 will be vacated and a new, more permanent 120-foot Type 1 turnaround will be constructed at the east end of Phase 5 on Lots 13 and 14. The purpose of the proposed T-type turnarounds in both cases is to greatly lower the amount of hillside cut and fill needed, as opposed to constructing a full cul-de-sac of over a 100-foot diameter plus about another 100 feet grading from top to toe of slope. When Princess Lane is extended eastward it would be useless and less safe to have a large round cul-de-sac at its midpoint. Because any turnaround requires a variance to the regulations, such a request is within this submittal.

The proposed "Type 1 120' Hammerhead" turnaround at the very end of Princess Lane at Lots 13 and 14 is more suitable as a permanent turnaround and would only be constructed in the event Princess Lane is not planned to go through prior to the time Phase 5 is filed. If or when Princess Lane does go through to the east, then again the easements would be lifted on Lots 13 and 14. If the 120' turnaround has been constructed by that time it will be removed. We have had meetings and have concurrence on this turnaround plan with City Fire, and such is the reason for the configuration of the phasing plan on Princess Lane.

#### **Notes for Street Sections- See Also Plan Sheet 15 in Tab 1**

- Typical section (most of the development) – 60' r/w containing two 10' driving lanes, two 7' parking lanes (34 feet face-to-face of curb), 7' boulevards and 5' sidewalks both sides.
- Of approximately 12000 lf of walkways, only about 1500 lf, or some 12%, is to be curbside. All residential lots will front to a 5' sidewalk and 7' boulevard.

- 5' Utility and Sidewalk Maintenance Easements to be located on both sides of the streets (outside the r/w, exclusive of common areas) to allow for dry utilities. Fences are not allowed in the front yard/ beyond the front house corner. All common areas are utility easements.
- Elk Hills Court (existing offsite portion) 0+00 to 0+75 coming into the subdivision in SE corner area- existing 54-foot r/w. For the transition of grading to match with existing road and narrower 54' r/w we must go 5' curbside sidewalks both sides and no parking here. (Existing Elk Hills Drive has 5' curbside sidewalks on both sides).
- Elk Hills Drive 0+90 to 4+00 (transition from 0+75)- 6' curbside sidewalk and no parking on downhill side adjacent to CA6 to Princess Lane, 7' boulevard and 5' sidewalk adjacent to lots.
- Princess Lane 100+00 to 102+00, around the curve from Elk Hills Drive- no parking either side, 7' boulevard and 5' sidewalk lot side, 6' curbside sidewalk downhill (CA2) side.
- Princess Lane 102+50 to 105+20, 7' boulevard and 5' sidewalk lot side, 6' curbside sidewalk downhill (CA2) side to Serenade Drive.
- Elk Hills Drive 9+20 to 12+80, around the main curve- 7' boulevards and 5' sidewalks both sides, no parking on inside (west) lane, 7' parking lane on outside of curve adjacent to lots
- Clearview Way/ Elk Hills Drive 23+10 to 25+83 (offsite, coming in at west end) existing 60' r/w, adding 10' PAE along east side/ CA7 to create 70 feet- (steep, plus mature trees next to condos), no parking either side, 6' curbside sidewalks both sides to Princess Lane intersection.
- Princess Lane in the area where it crosses the Tonkin Trail will be narrowed to not allow for parking but will have boulevard sidewalks. Signage and striping for the crossing will be done.
- All house/ garage front elevations will be a minimum 20.5 feet from the back of sidewalk, and therefore the minimum front yard setback requirement of 20 feet from the r/w will be met. This will also allow plenty of room for parking in the driveway in front of the garage without blocking any part of the sidewalk.

#### **Exterior Streets**

- Elk Hills Court- 54' r/w, 34' wide paved, curb & gutter (c&g), 5' curbside sidewalk
- Clearview Way/ Garland Drive- 60' r/w, 44' wide paved, (c&g), 5' curbside sidewalk

Other nearby streets in the vicinity of the subject property-

- Elk View Court- 54' r/w, 34' paved, c&g, 5' curbside sidewalk
- 23<sup>rd</sup> Street- 50'+ r/w, 32' wide paved, no c&g, no sidewalk
- Hillview Way- 60' r/w, 34' wide, c&g, 5' curbside sidewalk on uphill side.

The subject property has legal access to both Clearview Way/ Garland Drive and to Elk Hills Court. Both streets are public rights-of-way that abut the property, and both were contemplated to extend into and serve the subject property at the time those streets were platted. The applicants have commissioned a Traffic Impact Study by HDR, Inc. and the study is included in the packet.

## **Landscaping**

The vision is to create a development with a diversity of desirable street tree species in the boulevards and tree and shrub species on individual lots and in the common areas. Research will go into selecting eco-type grass species that are efficient for water use, grow well, are durable and weed resistant. The common areas and boulevards will be seeded in such grasses by the applicant.

Street trees will be placed in the boulevard at intersections as shown. The following note is on the Street Tree and Lighting Plan (Plan Sheet 15, Tab 2) and is within the covenants: "A boulevard street tree planting plan shall be approved by Missoula Parks and Recreation prior to the filing of each phase. Street trees must meet standards found in the Missoula Parks and Recreation Design Manual and the approved street tree list, with a minimum of one tree per lot, and a linear spacing between 25 and 35 feet. Plantings must account for sight distance and visibility triangles for both driveways and streets per City of Missoula Public Works Manual Standard Drawing 711, City of Missoula Municipal Code 12.28.110 and Chapter 9.5, Intersection Sight Distance, of the AASHTO Policy on Geometric Design of Highways and Streets." In addition, the covenants also require, in addition to conceptual house plans approval, that a landscaping plan for trees, shrubs and ground cover be approved by the HOA's Architectural Control Committee for each lot. Tree species for each lot must also be on the City's approved list.

## **Parks, Greenways, and Trails**

**Common Areas**- A total of 7 common areas are proposed, to be owned and maintained by the Meadow View Homeowners Association. These will also be dedicated as Public Non-Motorized Access, Utility, and Maintenance Easements. The City of Missoula may drive work vehicles anywhere as needed in the common areas for maintenance, namely and including use of the maintenance track and pedestrian trail in CA5 to reach the sewer manhole north of Lot 13, and/or other City sewer, water, or drainage facilities located in common areas.

The total amount of common area to be dedicated is 6.71 acres. The amount of common area to be dedicated that is reasonably deemed useful for recreational purposes comes to 3.29 acres. The required amount of common area meeting parkland criteria is 1.9 acres. Another 3.42 acres, which does not meet parkland criteria, in common area open space is also dedicated. (See also diagram in Tab 3 titled, "Parkland/ Common Area Requirements and Dedications Per Phase.")

**Common Area 1**- A central common area of 0.82 acres, shown on the plat as CA1, will serve as a small but very useful recreational park for the residents and public alike. About 0.42 acre of CA1, or just over half, will be at 2 per cent grade or less. The existing grade where the park will be located is about 8%, so to create a level-ish park it must be constructed by digging into the slope. The side slopes will be about 20% grade, which (for visualization) is 2 feet of rise in 10 feet of run. CA1 will not be a retention basin for drainage although storm water will move through in a westerly direction. CA1 will be seeded in eco-lawn (water efficient) grass and planted with a small number of trees and shrubs per a landscaping and planting plan approved by City Parks prior to the filing of Phase 1. The developer may install play equipment and other amenities and landscaping in CA1 in consultation with City Parks with Phase 1, but is not proposing such at this time because park development (beyond grading and seeding) is not a requirement. More importantly, park development and amenities installation require detailed planning and collaboration processes that are more appropriate for a later time, i.e. after preliminary plat approval.

**Tonkin Trail-** The trail is part of the Tonkin family's legacy to the people of Missoula. The 12-foot-wide easement was dedicated to the city in 2006. The trail is about 2000 feet in length; it starts at the west side of Clearview Way heading into the property and goes north to the northwest corner of the main parcel (C.O.S. 4969) and continues eastward all the way to Hillview Way. The trail is gravel to about 3 feet in width. With this subdivision, the trail will remain as located in the eastern  $\frac{3}{4}$  of the trail but with some work done in the area of Princess Lane to include a right-angle crossing at the street and a more contour-following trail in the northwest corner of C.O.S. 4969 to lessen grade. Therefore, the grade of the trail will be similar or less steep (see also Tonkin Trail Plan & Profile Map, Plan Sheet 12 and Tonkin Trail Photos, Tab 3).

The 12-foot Tonkin Trail easement will remain in place but will be included within the wider greenway common areas. All such common areas will be Public Pedestrian (Non-Motorized) Access, Utility and Maintenance Easements. Therefore, the 12-foot open width currently enjoyed by public pedestrians will be expanded to a minimum 30-foot width. A high, sturdy fence along the south and west lines of the 12-foot easement was constructed by the City at the request of the family when the easement was dedicated. The fence was intended to keep horses from leaving the property. The fence will no longer be needed and it is certainly a hard obstacle to the movement of deer. The fence is located right next to the trail and detracts from the enjoyable experience of hikers. Therefore, the fence is planned for removal. The trail will still be the same type of approximately 3-foot-wide gravel trail but it will contain a swale along at least one side to contain water runoff. We anticipate working closely with City Parks to ensure the quality and walkability of the trail as well as the drainage plans for along the trail.

**Other Proposed Trails and Connections-** In consultation with city staff we are proposing four 20-foot wide Public Pedestrian Easements- between 1) Lots 30 & 31, 2) Lots 37 & 38, 3) Lots 44 & 45, and 5) 73 & 74. It would not be a good idea to build a trail between Lots 73 and 74 because of steep grade there. It would only connect to CA 6 which is also steep and does not count toward parkland dedication. CA 6 does abut to the Elk Hills HOA Common Area which is private property. There could possibly later be an inter-access agreement with the Elk Hills HOA whereby the MVH HOA could build stairs to connect. The other three greenways between lots will contain 5-foot-wide concrete sidewalks up to the common area, then gravel trails in the common area will connect with the Tonkin Trail. The adjacent lot owners will be required to maintain their side (7 $\frac{1}{2}$  feet) of the PPE for mowing, weed control and general landscape maintenance.

Also in coordination with city staff we are proposing a hiker trail connecting from the trail in the northeast corner (behind Lot 13) through (the steep, 23% slope) Homestead Park to (the nearly level) Wapikiya Park (See Sheet 20). We are also proposing a 400-foot-long, 8-foot wide asphalt path along the west edge of Wapikiya Park from the Briggs Court pedestrian connection to the toe of the hill slope/ future sewer manhole location. The gravel utility corridor/ public pedestrian way will also be improved for about 300 feet, from north of the Briggs Court pedestrian connection to the sewer easement heading toward 21<sup>st</sup> Avenue.

**Existing Area Parks and Trails-** Several public parks, greenways and walking trails are located within the general area to include the Moose Can Gully Trail, Peery Park and Trail, and Garland Park. To the north are the Homestead Park and Trail, Wapikiya Park, Meadow Hill and Briarwood Trails, and Honeysuckle Park and trails. This development will add to, preserve, and connect into the area network of parks and trails.

## **Mailbox Cluster**

A mailbox cluster meeting U.S. Post Office standards will be placed along the north side of CA1 on Elk Hills Drive. The cluster will be on a concrete pad covering the boulevard for this distance, with curb ramps on either end and a minimum of 5 feet of width in front of the boxes. There is no need for a turnout because vehicles can temporarily park in front of the cluster. Three temporary parking spaces (60 feet in length total) will be centered on the cluster pad with a sign, "Mail Pickup Parking Only" to be located at the western end of these spaces. (See Mailbox Cluster Conceptual Detail, Plan Sheet 14).

## **Water & Sewer Service, Dry Utilities, Solid Waste Disposal**

**Water** - City of Missoula Water will provide service to the subdivision off the existing main in Clearview Way at the western entry into the subdivision, within the Skyview Pressure Zone and installing a Pressure Reducing Valve (PRV) at that location. As requested by City Public Works, the system will then connect just beyond the northeast corner of the property near Hillview Way to the southern end of the existing water main next to Hillview Way, in the High Park Pressure Zone. Therefore, the Skyview and High Park pressure zones will be connected. Public Works' requirement is also to include a statement in the covenants that individual properties experiencing pressure greater than 80 psi must have a pressure regulating valve installed and this note is in the covenants. The main at the current terminus of Princess Lane at the east boundary will have a blow-off valve and the main will likely later be extended east. This information, and the proposed fire hydrant locations, are shown on Plan Sheet 7, Utility Layout.

**Sewer** – City of Missoula sewer will serve the property. The proposed route, so as to avoid lift stations, would be to gravity the sewer to the northeast corner of the 4-acre parcel (north of Lot 13) in 8-inch mains. The main will then head north, downhill through the east end of the Homesteads Park city-owned property and through the Meadow Hill/ Briarwood Trail to a public sewer easement located between 4314 and 4316 21<sup>st</sup> Avenue, to the existing 8" main in 21<sup>st</sup> Avenue which then flows to the existing 15" sewer main in SW 39<sup>th</sup> Avenue. (We have been in cordial contact with the owners of 4314 and 4316 21<sup>st</sup> Avenue). There is an established, existing utility corridor with overhead power and underground gas from the northeast corner of the 4-acre parcel (near the east end of Princess Lane) all the way to 39<sup>th</sup> Street. (See Existing Utility Corridor For Sewer Main Graphic in Tab 3.) Per City Parks, we must obtain permission or an easement from the Park Board as the sewer main will go through City property.

**Dry Utilities**- The area is served by Northwestern Energy gas and power, Blackfoot Telephone, and various internet and phone providers. These types of dry utilities could be placed anywhere within the 60-foot public access and utility easements, most likely placed in conduit. We are adding a 5-foot utility easement outside of the right-of-way adjacent to property lines along the frontages of all lots, to allow a very good option for the installation of dry utilities. In some cases the street fronts to common area, and all common area is utility easement. Utility companies normally prefer to lay dry utilities, and be able to work on them, under grass as opposed to under pavement or concrete.

**Solid Waste Disposal**- Republic Services and Grizzly Disposal provide solid waste disposal.

## **Existing Easements**

According to the title report there are the following easements that encumber the property: 1) an undefined width water service and gas line along the south and east boundaries of the 4-acre parcel as filed in Book 19, Page 382 (does not have a water line), 2) a gas line easement filed in Book 19, Page 1242 (for same gas line) 2) a 10-foot wide communications line easement along the southwestern boundary; 3) the 12-foot wide Tonkin Trail easement along the north boundary of C.O.S. 4969 and the west boundary of C.O.S. 4969 to the Clearview Way entrance, and 4) a triangular shaped easement of 0.25 acres across the far eastern tip of C.O.S. 4969 granted to the Hillview Crossing property for a possible future access to Hillview Way for that property.

## **Public Transportation and Off-Site Pedestrian Facilities**

Mountain Line's Bus #12 runs down 23<sup>rd</sup> Street hourly, with eight stops along the street. The nearest stop is at 23<sup>rd</sup> Street and Garland Drive, about 900 feet from the west entry of the property. The existing stop is just a sign on a pole located in a grassy area. There are no sidewalks on 23<sup>rd</sup> Avenue in this area, and so the Traffic Study recommends that the existing sidewalk at the curb return on the south side of Garland Drive be extended from the curb return on 23<sup>rd</sup> Avenue, along 23<sup>rd</sup> Avenue for a distance of about 50 feet to a proposed concrete pad at the existing stop. (See Off-Site Pedestrian Facilities graphic in Tab 3.) The study also recommends bulb outs at Clearview Way/ Garland Drive, a painted crosswalk, and pedestrian crossing signage. We are amenable to constructing what City Public Works requires for the pedestrian crossing and traffic calming needs here. There are curbside sidewalks existing on both sides of Clearview Way and Garland Drive.

## **Agriculture and Agricultural Water Use**

The property is currently not under agricultural production, although it has been used for the raising of horses and other farm animals in the past. There are no irrigation ditches on the property nor are there associated agricultural water rights. The Bigarm and Minesinger-Bigarm complex soils are not considered to be prime agricultural soils.

## **Wildlife and Wildlife Habitat**

White tailed deer abound on the property, as they do all over the south hills area. Other smaller mammals and birds also visit the property. There are no known sensitive species of wildlife that inhabit the property. The land is mainly open with scattered Ponderosa pine and there are no areas of critical wildlife habitat. To the southwest 500 feet or so is the northern end of Moose Can Gully, an incised, wooded ravine where many mammals such as bear, fox, and mountain lion have been sighted over the years.

The northern portion of the property in the area of the Tonkin Trail is designed to serve as an east-west wildlife movement corridor. This green space also connects to the currently open Habitat property to the north and to Homestead park to the north and west. A tall, sturdy fence is located along the south edge of the 12-foot Tonkin Trail easement. This fence is a severe impediment to wildlife movement and will be removed with development of the property. To reduce the potential of human-wildlife conflicts, the covenants will contain a comprehensive list of measures as complied and recommended by Montana Fish, Wildlife and Parks (MT FWP).

## **Schools**

The subdivision is located within the service boundaries of four schools within the Missoula County Public School District (MCPS), those being (all numbers are approximate):

**Russell Elementary**- grades K-5- 406 students in attendance, 500 capacity, located approx. 1½ miles away

**Chief Charlo Elementary**- grades K-5, 415 students in attendance, 500 capacity, located approx. ½ mile away

**Meadow Hill Middle School**- grades 6-8- 464 students enrolled, 600 capacity, located approx. ¾ mile away

**Sentinel High School**- grades 9-12- 1351 students enrolled, near capacity, located approx. 2 miles away

There is no school bus service to the property for either of these schools, due to short distances.

## **Public Health and Safety**

The subdivision is near to, and within the jurisdictions/ service areas of emergency service providers.

**Law Enforcement**- The City of Missoula Police Department serves the property and the entire city. The main office/ station is located downtown at 435 Ryman and the Catlin Street Station is located at 101 North Catlin Street. Units are also on patrol city-wide at any given time.

**Fire**- The City of Missoula Fire Department's main Station #1 is located at 625 E. Pine Street downtown. Station #3 is located at the corner of SW 39<sup>th</sup> Street and Hillview Way, less than a mile away. The subdivision will provide fire hydrants meeting regulatory requirements.

**Medical**- Community Medical Center is located at 2827 Fort Missoula Road, about three miles away. Providence St. Patrick Hospital is located at 500 West Broadway, about four miles away. Both have ambulance service and medical and emergency care facilities. Missoula Emergency Services Inc., which provides ambulance and emergency medical treatment services, is located at 2680 Palmer Street, about four miles away.

## **Probable Community Impacts and Avoidance of Adverse Impacts**

Impacts to the community with these 97 new homes will be incremental to the existing overall impacts created over time by all the other existing homes and neighborhoods in the area.

The Missoula Police Department, Fire Department, hospitals and ambulance services are readily available to serve the new residents, as they are for all existing area residents. City of Missoula water and sewer mains are on hand to extend into the property. Utilities including natural gas, electric, phone, and cable are adjacent to or within the property and can also be extended and expanded. Solid waste disposal by Republic Services and Grizzly Disposal is available.

Due to location, design, and all its planning elements, the subdivision will avoid any unnecessary environmental degradation and danger of injury to the public health, safety, or welfare that would necessitate an excessive expenditure of public funds for the supply of services.

## **Housing Needs**

There is a critical need for more housing at all price points in Missoula and across Missoula County. In such a high-demand environment, the most effective way to help stabilize home prices and make costs more affordable for everyone is to increase the overall supply of housing. This should be done in locations without severe resource constraints such as floodplains, critical wildlife habitat, or other ecologically sensitive areas. New homes should be located where infrastructure, utilities, jobs, shopping centers, parks and pedestrian trails, public transportation, and community services and institutions such as schools that readily exist to serve the residents. In this case, everything people need is located near to, or right in the vicinity of the proposal.

There must also be an acceptable economy of scale for a developer to take financial risks and invest significant personal funds to create homes for people. The high and rising costs of infrastructure, governmental fees, engineering, and the significant amounts of time involved make it difficult to provide housing and meet the critical housing needs we collectively face as a community. So, too are the steeply increasing costs of land- and the steadily decreasing availability of suitable land in the Missoula urban area- upon which to build new homes.

## VARIANCE REQUESTS

- 1) To Section 3-020.5.A, for the cul-de-sac portion of Princess Lane;
- 2) To Section 3-030.2(2), for block length exceeding 480 feet of Elk Hills Drive;
- 3) To Section 3-020 Table .2A for internal street right-of-way width of urban local streets
- 4) To Section 3-020.15 D for curbside sidewalks
- 5) To Section 3-020.13.A for the external street right-of-way width of Elk Hills Court (54' r/w)
- 6) To Section 3-140.6.C, under Hillside Protection, for some portions of interior streets exceeding an 8% grade (although all grades will be 10% or less).

### **1) To Section 3-020.5.A, for the cul-de-sac portion of Princess Lane;**

The applicant requests a variance to Section 3-020.5A, which states:

*Dead-End Streets, Cul-de-Sacs, and Circle and Loop Streets*

*A. Cul-de-sacs, loop and circle streets, and turnarounds, are prohibited. Dead-end streets are prohibited.*

**The northern portion of Princess Lane will end temporarily on Phase 1 at Lot 16 with a Type 2 turnaround meeting International Fire Code standards (IFC) standards; these are also standards adopted by the City of Missoula Fire and Public Works Departments. The distance from this turnaround on Princess Lane to the intersection with Elk Hills Drive is less than 600 feet. At the time Princess Lane is extended to the east into Phase 5, the temporary turnaround easement on Lot 16 will be vacated. The purpose of the turnaround, as opposed to a full-blown circular cul-de-sac, is to greatly lower the amount of hillside cut and fill needed as opposed to constructing a cul-de-sac of over a 100-foot diameter plus another 100 feet for slope grading. When Princess Lane is extended it would be useless and less safe to have a large, round cul-de-sac at its midpoint. The turnaround is also for public use but parking will be prohibited in the turnaround and this is stated in the covenants. There will be No Parking signage and the curb will be painted yellow.**

**We are also proposing a turnaround meeting IFC standards at the very end of Princess Lane in Phase 5 on Lots 13 and 14, called a “Type 1 120’ Hammerhead”. This type of turnaround is more suitable as a permanent turnaround and would only be constructed in the event Princess Lane is not planned to go through prior to Phase 5. If and when Princess Lane does go through then again the easements would be lifted on Lots 13 and 14. We have had meetings and have concurrence on this turnaround plan with City Fire, and it is the reason for the configuration of the phasing plan on Princess Lane.**

B. If approved by variance, the following standards apply:

**(1) Where additional future street extension is proposed, a temporary turnaround or cul-de-sac must be provided. The turnaround on Lot 16 will be temporary until Princess Lane is extended to the east. The turnaround on Lots 13 and 14 will be permanent unless Princess Lane is extended into the property to the east.**

**(2) Cul-de-sacs and turnarounds must meet the requirements of the City Engineer and Fire Chief. The proposed turnarounds meet IFC standards t requirements of the City Engineer and Fire Chief. Section 7.4.2.A. of the City Public Works Manual states “If approved, turnarounds shall be per IFC (International Fire Code), Appendix D.” (See drawing at end of this request).**

(3) Permanent cul-de-sac streets may not represent more than 15% of the total roadway miles in a subdivision unless the Director of CPDI, and the City Engineer determines that a practical difficulty exists due to the presence of streams, steep slopes, other natural resources or significant physical constraints. Connections must be made with existing roads or streets or planned roads or streets. **Of nearly 6000 linear feet of roadway in the subdivision, the street length of Princess Lane from its intersection with Elk Hills Drive to the east boundary is 750 feet, representing less than 15 per cent the total roadway lengths in the subdivision**

(4) The maximum length of a cul-de-sac street must not be more than 600 feet. **The total length of Princess Lane to the temporary turnaround on Lot 16 is less than 600 feet. The total length of the street to the more permanent turnaround on Lots 13 and 14 is 750 feet, but Princess Lane will very likely continue into property to the east. The turnaround on Lot 16 will remain until such time as it is not longer needed.**

(5) The minimum right-of-way of the turn-around or cul-de-sac radius is 50 feet. **There is no cul-de-sac radius although the curb radii entering the turnaround will be a minimum of 28 feet, per the IFC standard drawing.**

(6) The minimum pavement width of the turn-around or cul-de-sac radius is 45 feet. **There is no cul-de-sac radius although the pavement width of the turnaround, exclusive of curbs, will be 20 feet.**

(7) Cul-de-sacs over 45 feet in radius must include a water permeable center island. **N/A**

(8) Developments with cul-de-sacs, circle and loop streets, or turnarounds must provide non-motorized access easements that connect the ends of these streets with each other or provide non-motorized access to existing or reasonably expected future streets, schools, shopping, parks, trails, or open space, bus stops and community facilities. **Princess Lane will fully abut the property to the east upon filing of Phase 5. A 10-foot trail will come off Princess Lane at the Tonkin Trail to connect with City-owned property and the adjacent private property to the north.**

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; **The proposed 34-foot face-to-face of curb street width allows for 7-foot parking lanes on both sides of the street and for two 10-foot drive lanes. The turnarounds will meet City Engineering and IFC standards. Therefore, granting of this variance request will not result in a threat to the public safety, health, or welfare, nor is it injurious to other persons or property.**

.2 The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property; **The conditions are unique because this 4-acre parcel (upon which the northern part of Princess Lane is situated) is fragmented, so to speak, from the bigger parcel and can only be feasibly served by a temporary turnaround if the parcel is to contain any lots.**

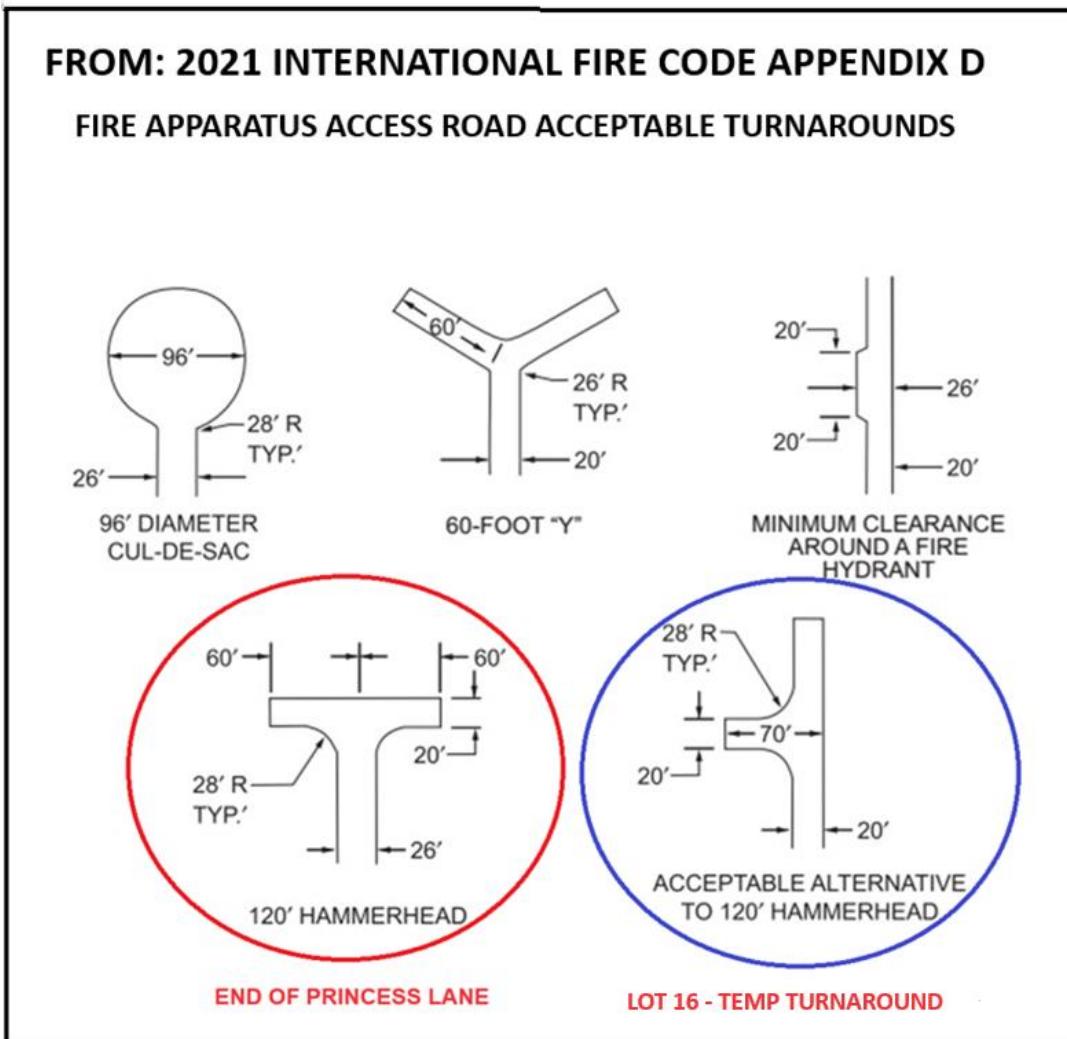
.3 Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, undue hardship to the owner would result if the strict requirements of these regulations are enforced; **The particular shape and location of the 4-acre parcel, which is more or less disjointed from the main 27-acre parcel, is such that it can only be**

served by a temporary turnaround until such time the road goes east to serve a development there. Due to existing grade, if a standard round 100-foot diameter cul-de-sac were built on this 18% slope there would be about a 200-foot swath of cut and fill on this very visible hillside.

.4 The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula City Growth Policy; **Granting of this variance request will not violate provisions of the City zoning ordinance or the Growth Policy. The Growth Policy encourages development of housing where it is safe to do so.**

.5 The variance will not cause an increase in public costs; **Granting of this variance request will not cause an increase in public costs. The street and turnarounds will be maintained in the same manner as are other streets and turnarounds in Missoula.**

.6 The hardship has not been created by the applicant or the applicant's agent or assigns; **This 4-acre parcel is a leftover aliquot part from all the previous divisions out of this land section over the past several decades. To feasibly create lots on this parcel, a turnaround on the street is necessary.**



2) To Section 3-030.2(2), for block lengths exceeding 480 feet:

The applicant requests a variance to Section 3-030.2(2), which states, “*Blocks may not exceed a maximum length of 480 feet in urban-suburban subdivisions.*”

First off, “block length” in this case is not definitive. The City subdivision regulations define a block as, “A group of lots, tracts, or parcels within well-defined and fixed boundaries.” In a grid-street style development on level ground, a “block” is definitive. The regulation is likely meant for flatter grid-type subdivisions, for example, as those having eight 60-foot wide lots in between cross streets. Such a grid pattern is not possible on hillsides, as is evident by looking at any development in the south hills area. For purposes of this variance request, the block length will be the distance between a “grouping” of lots between intersections along the streets.

Using this definition of length between intersections and/ or groupings of lots, there are five “blocks” over 480 feet in length. (See “Block Length Diagram” at the end of this variance request, which lists the five blocks in order that are over 480 feet in length).

- 1- Elk Hills Drive from its intersection with Serenade Lane to the eastern intersection with Princess Lane: 1000' (Lengths are approximate)
- 2- Elk Hills Drive from its western intersection with Princess Lane to Serenade Drive: 850'
- 3- Princess Lane from its eastern intersection with Elk Hills Drive to Serenade Drive: 575'
- 4- Velvet Place: 550'
- 5- Princess Lane from the Tonkin Trail and the pedestrian/ maintenance trail intersection and including the grouping of lots in the 4-acre parcel: 500'

This property has an elongated and pointed shape and has considerable grade in some locations. Both the shape and slope were carefully considered in many different prior design efforts of the subdivision. If this property were on flatter ground, and even more squarish, then it would be possible to design a subdivision with 480-foot block lengths or less.

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; **The street will be 34 feet wide from face to face of curb with parking on both side and boulevard sidewalks, aside from the noted exceptions.** The regulation was likely meant to insure street connections, drivability, and walkability. This will be a very walkable development, and all streets will connect with intersections aside from the east end of Princess Lane which will likely extend in the future.

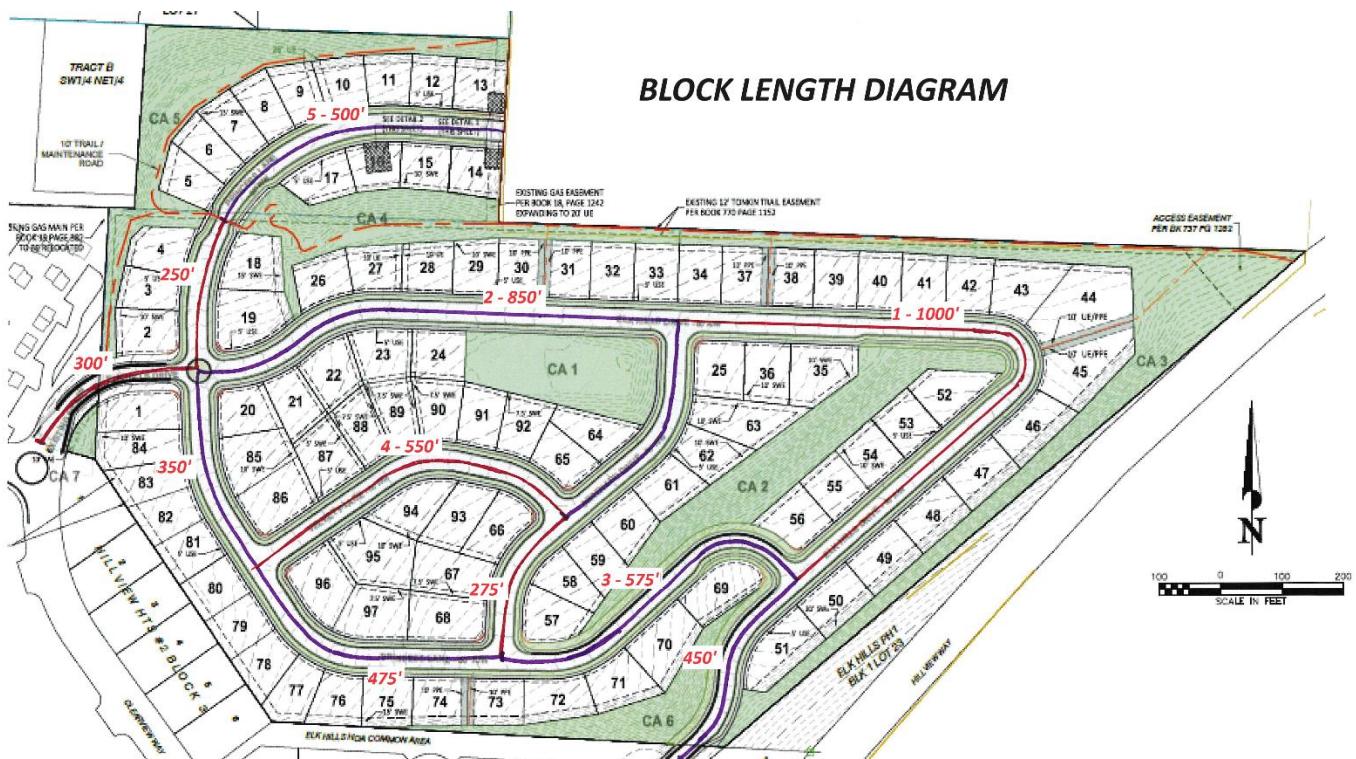
.2 The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property; **Because of shape and grade, the proposed configuration of the streets and intersections is what we came up with after several designs. This property is certainly unique from flatter, more square-ish properties.** The regulation applies well to properties and neighborhoods across the Missoula Valley bottomland but does not apply well (in practice) to development on hillsides. The road has to go east-west then northeast to southwest as shown. We looked at several ways to design the subdivision to make the project work and this is the most optimal street layout for this particular site.

.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; **Due to the unique shape of the property and topographic slope there is not a feasible way to come up with 480-foot block lengths.**

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

.5 The variance will not cause an increase in public costs; **Granting of this variance request 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; **This property presents challenges due to its unique shape and the overall grade, which were not created by the applicant but we are doing our best to make a good, interconnecting design work with the existing shape and grade.**



3) To Section 3-020 Table .2A for internal street right-of-way width of urban local streets

The applicant requests a variance to the internal street right-of-way width for a low density urban local street per Section 3-020 Table .2A., which requires a 70-foot right-of-way. The proposed right-of-way is 60 feet plus 5 feet of utility and sidewalk maintenance easement on either side, for a full 70-foot easement width including the right-of-way. The proposed typical section works well and provides everything a full 70-foot right of way would provide. The typical section meets all the City Public Works and City Subdivision Regulations, excepting the 70-foot right-of-way width in the subdivision regulations. The Public Works Manual requires 60'

From the City Public Works Manual:

**Table 7-5 – Street Design Widths**

	<b>Arterial (feet)(6)</b>	<b>Collector (feet)(6)</b>	<b>Local (feet)(6)</b>	<b>Alley (feet)(7)</b>
Right of way width(1)	100	80	60	20
Drive/Turn Lane(2)	10	10	10	12
Bike Lane(3)	6	6	-	-
Parking Lane(4)	8	7.5	7	-
Boulevard (min)(5)	10	8	7	-
Sidewalk (min)	6	5	5	-
Utility Easement (8)	5	5	5	-

From subdivision regs:

<b>Table .2 A Standards for Geometric Design of Roads and Streets</b>			
<b>Roadway Designation</b> - City Functional Classification Map link	Urban Local Street Commercial/Industrial	Urban Local Street	<b>Low Density Urban Local Street</b> (less than 12 dwelling units /acre or greater than 80 feet average frontage)
Functional Classification	Local Street	Local Street	Local Street
Purpose	Access	Access	Access
Daily Traffic Volumes	0 - 3,500	0 - 2,500	0 - 2,500
<b>Roadway</b>			
Right-of-way (Minimum)	80'	80'	70'
Street Width (Back of Curb to Back of Curb) (minimum)	37'	47' with turn lane 37' without turn lane	35'
Number of Travel Lanes (typical)	2	2+optional left turn lane	2
Lane Width (minimum)	10'	10'	10'
Parking Lane Width (parallel)	8'	8'	7'
<b>Street Side</b>			
Sidewalk Width (minimum)	5'	5'	5'
Boulevard Width (minimum)	7'	7'	7'
Bike Lanes	-	-	-
Trails	Trails are considered alternatives to sidewalks in common areas and connectors between cul-de-sacs and may be located outside the established street and road right of way corridor if they satisfy the Parks and Open Space trails criteria in 3-080.		
Buses	When development is adjacent to or within 1/4 mile of an established public transit or school bus route, subdivider may be required by the City Engineer to construct bus stop facilities along with accessible routes, meeting ADA standards, to those facilities. Subdividers are encouraged to consult with the Missoula Urban Transportation District and Missoula County Public Schools early in the planning and design process.		
Landscaping	Streetside landscaping may include shrubs, ground cover, mulch, and irrigation and should incorporate xeriscape methods in accordance with Title 12, Chapter 12.32 Comprehensive Tree and Shrub Planting, Pruning, and Maintenance Regulations.		
Streetside Accessories	The City Engineer and subdivider will determine specific streetside accessory locations, types, and numbers during the design and permitting process.		

The overall slope of the property is such that a narrower right-of-way as proposed is needed in order to make the design of the lots and homesites work well. The proposed right-of-way for all interior streets is 60 feet, plus 5 feet of easement on either side for the total 70-foot width. Where adjacent to common area there is no need for the extra 5-foot easement because all common areas are utility easements. There will be deviations from the typical section as explained herein.

Per the subdivision regulations, the streets within the subdivision are classified as Low Density Urban Local Streets. The section will allow safe vehicular and pedestrian traffic flow and will allow the proposed layout for this particular topography. Essentially, the section will provide a full 34 feet of street width from face of curb to face of curb (except where no parking is allowed on one side), thereby providing adequate space for driving and parking lanes and 5-foot boulevard sidewalks, with 6-foot sidewalks in the few instances where the sidewalks are proposed to be curbside for topographic reasons. The total 70-foot width, which includes the 60-foot right-of-way and the 5-foot utility and sidewalk maintenance easements to either side, is wider than that required by the City Public Works Manual (60 feet) but is the width required by the subdivision regulations (70 feet).

The covenants will prohibit front yard fences- this will allow for plenty of clear space and will not allow the 5-foot utility and sidewalk maintenance easements to be fenced in. The covenants state that no part of the front yards will be fenced in. By law they cannot fence in the 5-foot easement.

Dry utilities can be installed anywhere within the 60-foot right-of-way but may also (and will likely) be placed in conduit within the 5-foot easement next to the right-of-way on the lot.

All garage front elevations will be a minimum 20.5' from the back of sidewalk, and therefore the minimum front yard setback requirement of 20' from the right-of-way/ property line to the garage front will be met. This will allow room for parking in the driveway in front of the garage without blocking part of the sidewalk.

#### 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; **The street will be 35 feet wide back of curb to back of curb, meeting the letter of the subdivision regulations and the 60-foot right-of-way meets the letter of the City Public Works Manual.** The section creates a full 70-foot width easement although 5 feet of easement is on either side of the 60-foot right-of-way for dry utilities and sidewalk maintenance. The 60-foot right-of-way allows adequate room for sidewalks and boulevards. The 60-foot right-of-way is basically the going standard width for rights-of-way on Low Density Urban Streets. For all these reasons, granting of this variance request will not result in a threat to the public safety, health, or welfare, nor is it injurious to other persons or property.

.2 The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property; **This situation is unique because of topography. The overall design would be more difficult and there would be steeper grades in the front yards of the lots with a 70-foot right-of-way.** If this were on flatter land, creation of 70-foot rights-of-way would not be such an issue.

**Easement widths of 60 feet and even 54 feet are common and are quite the norm across Missoula and Missoula County for local streets, even where there are not additional easements on either side, and where lot owners can fence right up to the edge of their front property line. This section allows for everything that is needed.**

.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; **Due to the topographical conditions of the property, if the full 70-foot right-of-way were required then the optimal design and usability of the lots would be lessened a great deal. Buildable areas on these sloped lots would be reduced to the point where we would need to lose more lots.**

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

.5 The variance will not cause an increase in public costs; **Granting of this variance request 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; **This property presents challenges due to topography, and the hardship was not created by the applicant.**

#### **4) To Section 3-020.15 D for curbside sidewalks**

**The applicant requests a variance to Section 3-020.15 D which states,**

**D. Sidewalks and Boulevards**

**(1) Sidewalks and boulevards must be provided in all subdivisions and adjacent to all streets in accordance with Table 2 A. The table from the regulations requires 5-foot sidewalks and 7-foot boulevards. Of approximately 12000 lf of walkways, only about 1500 lf, or some 12% of the total, is to be 6-foot curbside. The reason for this is due to slope on non-lot frontages. All lots will front to a 5-foot sidewalk and 7-foot boulevard. (See Street, Sidewalk and Trail Plan Sheet in Tab 1).**

**The City Subdivision Regulations, Section 3-020 .15 D. States, “(2) Sidewalks and boulevards must comply with the standards in Table .2 A and the following: (a) If the City Council approves a variance to allow sidewalks combined with the curb, the minimum clear space for the sidewalk must be 7 feet on local streets... and (3) If the City Council approves a PUD Subdivision or a variance according to Article 6 narrower boulevards to a minimum of 6 feet may be allowed in some cases including: (a) When insufficient existing right-of-way or easement is available for boulevard sidewalks; or (b) On hillsides...”**

**Criteria a) to c) of Section 3-020 .15 D. 20**

**(a) If the City Council approves a variance to allow sidewalks combined with the curb, the minimum clear space for the sidewalk must be 7 feet on local streets and 9 feet on collectors and arterial streets, exclusive of the curb. Wider sidewalks may be required in commercial areas based on use as determined by City Engineering. The clear space will be 5 feet of easement located next to the sidewalk on the lot, plus the additional clear space for the 20-foot**

**front yard setback which will not be fenced. There are greater distances of clear space behind the sidewalks where fronting common areas.**

**(b) Where active transportation facilities meet roadways, adequate sight distance must be maintained. Adequate sight distance for pedestrians and motorists will be maintained throughout the subdivision. A site plan for each lot will be required for Architectural Review Committee review and approval showing the locations of buildings, trees and shrubs to ensure all site visibility triangles are clear, per city regulations.**

**(c) In areas where sidewalks are required, mailboxes and utilities may not obstruct or be located on the sidewalk. In no case will mailboxes and utilities obstruct or be located on the sidewalk. Street lights will be installed in the edge of the right-of-way in the boulevard where they do not obstruct the sidewalk. Dry utilities will likely be placed in the 5-foot easements behind the sidewalk or in the common areas alongside the boulevard sidewalks. Mailboxes will be provided by a Collection Box Unit (CBU) on Common Area 1. The parking lane in front of the CBU will be signed for no parking except to pick up mail. There will no need, then for a pullout. The CBU concrete pad will be in the boulevard directly in front of the boulevard sidewalk in a manner so as not to obstruct the sidewalk.**

**Notes:**

- The City Public Works manual, in 7.4.12.J. states, “If new curbside sidewalks are approved, the sidewalk width must be 6 feet in predominantly residential areas...”
- The covenants will prohibit front yard fences- this will allow for plenty of clear space and will not allow the 5' easement to be fenced in- nor any part of the front yard.
- These streets, classified as Low Density Urban Local Streets, will also be low-speed type neighborhood streets.
- This project has been carefully designed and redesigned to provide for boulevard sidewalks along about 88% of each side of the roadway frontages. Curbside sidewalks are the complete norm for this area in the south hills. Existing sidewalks along streets in this general area are curbside to include those along Hillview Way (and just one side), along Elk Hills Court, Elk View Court, and the off-site Clearview Way/ Garland Drive and 23<sup>rd</sup> Avenue- as well as most if not all sidewalks in the south hills area, where sidewalks even exist.

**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; **The 6-foot curbside sidewalks, representing only about 12% of the total, add an extra foot of width for pedestrian usage and separation from traffic with plenty of clear space along these Low Density Urban Local Streets. All lot frontages will have a boulevard sidewalk. Therefore, granting of this variance mitigates any potential public safety, health, or welfare concerns.**

.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; **This situation is unique because of topography, especially coming into the subdivision in the western end**

off Clearview Way at about a 9% grade and coming in from the southeast corner from Elk Hills Court on a 9% grade.

.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; **Due to the topographical conditions of the property, if the sidewalks were required to be boulevard in the locations proposed there would need to be more cut and fill. On the Clearview end there is not much room to work- a row of mature evergreen trees with the sidewalk dead-ending into them, a narrow drive, then a small hillside (CA7). Coming in from Elk Hills Court, a 54-foot right-of-way with 5-foot curbside sidewalks, there is an existing steep downward slope that must be carefully engineered and will take considerable fill for the transition work. The 5-foot sidewalks will be extended only on the off-site portion then will transition to 6-foot curbside on the downhill (CA5) side, with 5-foot boulevard sidewalks on the uphill (lot side).**

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

.5 The variance will not cause an increase in public costs; **Granting of this variance request 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; **This property presents challenges due to topography and can only be overcome with the proposed sections for only these locations, which again represent only about 12% of the walkways throughout the development.**

5) **To Section 3-020.13.A for the external street right-of-way width of Elk Hills Court (54' r/w)**

The applicant requests a variance to Section 3-020.13.A of the City subdivision regulations which states,

.13 Off-Site Street and Road Standards

*Where primary access to the subdivision is to be provided by a road or roads not contained within the boundaries of the subdivision, access to the nearest publicly maintained paved road must meet the following standards:*

A. Rights-of-way must meet the standards of 3-020.3

Section 3-020.3 states,

.3 Access, Rights-of-Ways, and Easements

A. Legal Access

(1) Access. *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. Where access from a public road to the subdivision will cross properties not owned by the subdivider, the subdivider must obtain easements or rights-of-way (as described in Table .2 A) from each property owner or the appropriate administrator of public lands. Each easement or right-of-way must allow construction and perpetual maintenance of a road across the property and allow vehicular travel on the road. The existing 54-foot Elk*

**Hills Court right-of-way is an established public road and perpetual public access easement abutting the property to which the property has legal public access. This public right-of-way was platted with the filing of Elk Hills Phase 1 and was contemplated to extend into and serve this property. The 1992 City staff report states the developer provided an easement to the north for a future street extension should further subdivision occur. At that time, a 54-foot right-of-way proposal was common.**

*(2) Documentation. Adequate and appropriate easements or rights-of-way must be granted by each property owner through a document that grants the easement or right-of-way in a legally sufficient form acceptable to the City Attorney's Office. The location and existence of any easement or right-of-way must be noted on the face of the final plat and on any deeds or instruments conveying lots within the subdivision. Documentation of existing perpetual legal access must be included with the submittal. N/A because the public right-of-way abuts the property and was intended to extend into and serve the property.*

*(3) Timing. When easements or rights-of-way are unavailable at the time of submittal, the application must include a description of how the perpetual, legal access will be obtained prior to the filing of the final plat. N/A.*

**B. All streets within a subdivision must 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. All streets will be dedicated as public, as is Elk Hills Court.**

**C. Public street and road rights-of-way must meet the standards in Table .2A. Table .2A requires a 70-foot right-of-way, and as such is the substance of this variance request. The existing public right of way of Elk Hills Court cannot be widened or changed. The 54-foot right-of-way of Elk Hills Court contains a 34-foot wide street and 5-foot curbside sidewalks on both sides. Although the Elk Hills Court sidewalks are 5-foot curbside, the transition to a 7-foot curbside sidewalk on the CA5 (downhill) side and 5-foot sidewalks with boulevards on the lot side (uphill) will be transitioned to on the subject property.**

#### 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; **The 54-foot off-site right-of-way and street section of Elk Hills Court, with the transition, will be compatible with the proposed right-of-way and street section on the subject property. Therefore, granting of this variance will not be a threat to the public safety, health, or welfare, and is not injurious to other persons or property.**

.2 The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property; **This situation is unique because this off-site right-of-way is existing and met the regulations in 1992.**

.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; **This adjacent off-site right-of-way is existing. Rights-of-way of 54 feet are very common in Missoula but are no longer allowed per the subdivision regulations. Today a full 70 feet is technically required- although such a width may not be needed in all cases, nor may it be feasible in many cases due to topography.**

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

.5 The variance will not cause an increase in public costs; **Granting of this variance request 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; **The 54-foot off-site right-of-way met the regulations in 1992 and was approved by the City. The situation was not created by the applicant, but by evolving regulations.**

**6. To Section 3-140.6.C, under Hillside Protection, for portions of interior streets exceeding an 8% grade**

The applicant requests a variance to Section 3-140.6.C. of the City subdivision regulations under Hillside Protection which states,

**.6.C. Roads, Driveways and Parking**

*Roads and driveways must substantially follow natural contours within the slope limitations of the city road standards and not exceed a maximum grade of 8%. A maximum grade of up to 10% may be allowed for a length of up to 50 feet if approved by the Fire Department and City Engineer.*

**Street grades of up to 10% are common and are allowed by the IFC, the City of Missoula Public Works Manual, and (for context) the Missoula County Public Works Manual and county subdivision regulations. Municipalities and counties nationwide commonly allow street grades at up to 10%, and they typically defer to the IFC for design requirements.**

Of the nearly 6000 linear feet of roadway within the subdivision, there are nine locations totaling about 1500 feet where the grade is between 8% and 10%

Clearview Way 1) 1+25 to 3+00 = 175', 2) 8+10 to 12+40 = 430', 3) 23+70 to 24+80 = 110'  
Princess Lane 1) 101+10 to 101+90 = 80', 2) 103+90 to 104+60 = 70', 3) 106+75 to 109+50 = 275', 114+10 to 116+90 = 280'

Velvet Place 1) 301+50 to 301+80 = 30', 2) 304+05 to 304+45 = 40'

Serenade Drive – No grades exceed 8%

Approximately 25% of the road grades exceed an 8% grade and no street grades exceed 10% within the proposed subdivision

The City of Missoula Public Works Manual, Section 7.4.1.D.7. states, “Grade. a. Shall substantially follow natural contours. b. Shall not exceed a maximum grade of 10%.”

The International Fire Code, under Section D103.2 states, “Grade. Fire apparatus access roads shall not exceed 10 per cent grade. Exception: Grades steeper than 10 per cent as approved by the local fire official.”

The design of the streets follow contours as best possible and provide safe transportation for vehicles. There will be two ingress/ egresses into and out of the subdivision and the streets will be sufficiently wide, or 34 feet from face of curb to face of curb- except where parking on side is deleted- and in those cases there will still be two regulation driving lanes and parking on the other side.

A street grade of between 8% and 10% is not in itself injurious to the public health, safety, or welfare. The City of Missoula Subdivision regulations do not address street grade throughout the entire document, to include within Section 3-020 Streets, Access, and Transportation, except for this single citation under Section 3-140 Hillside Protection. Therefore, the protection sought by the regulations is seemingly aimed at hillside protection and not necessarily toward protections of public health and safety.

Throughout Missoula are existing street grades exceeding 8% that work fine. To provide an example of an existing and functional 10% street grade, almost the entire length of the offsite Garland Drive/ Clearview Way has an overall grade of over 10 per cent, as shown on the map titled, "Street Grade of Offsite Clearview Way..."

#### 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; **Street grades of 8% to 10% are common all around Missoula and are functional.** The International Fire Code and the City of Missoula Public Works Manual allow street grades up to 10%. The street grades as proposed will have some sections (about 25% of the total) between 8% and 10% for as short a distance as possible. Through use and experience over the years, such a street grade does not pose such threats due to grade alone.

.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; **The unique conditions upon which this request are based on the existing slope of this particular site. The existing and finished slope grades create the need for street grades over 8% in some places. The road grades were carefully designed and redesigned to bring them to as low a grade as possible.**

.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; **Due to the topographical conditions of the property, not all of the street grade sections can be held to an 8% grade or less. Even if there was less density in the proposal, making the two street connections on either end of the property would still require some sections of the street to be over 8%.**

.4 The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula City Growth Policy; **Granting of this request will not violate provisions of the City zoning ordinance or the City Growth Policy. The Growth Policy, while not addressing street grades of 8% to 10%, does encourage housing development at increased densities and located near employment and retail centers and public transit.**

.5 The variance will not cause an increase in public costs; **Granting of this variance request will not cause an increase in public costs. All of the road building costs will be borne by the developer. There is no justification indicating the public will bear additional costs with the granting of this variance.**

.6 The hardship has not been created by the applicant or the applicant's agent or assigns; **This property presents challenges due to topography, and this hardship was not created by the applicant. The applicant is doing their best to keep all road grades to the least degree of slope possible. Up to 10% grades are allowed by Missoula City and County Public Works as well as Missoula City and Rural Fire Departments, per the Uniform Fire Code. This city subdivision regulation has not to do with public health and safety because it is only found in the section under hillside protection.**