



NOTICE OF PUBLIC MEETING

The Lewis and Clark County Commissioners Public Meeting will be held on Tuesday, December 17, 2024, at 9:00 AM in Commission Chambers, Rm 330.

It is the policy of the Board of County Commissioners to render a decision at a later date after they have had ample time to consider all oral and written public testimony. The BoCC may render a final decision on the same date if substantial new information is not received. Public comment must be limited to matters under the jurisdiction of the Commission.

1. **Pledge of Allegiance**
2. **Consent Action Items**
3. **Bid Opening, Grizzly Gulch Placer Mine Reclamation Project. (Casey Hayes)**
The Commissioners will consider opening the bids.
4. **Grant Application from the City of Helena to the U.S. Environmental Protection Agency. (Jenny Chambers)**
The Commissioners will consider a partnership with the City of Helena on the Solid Waste Infrastructure for Recycling (SWIFR) Grant application to the U.S. Environmental Protection Agency. The City of Helena is requesting \$4,577,605 with no match required.
5. **Preliminary Plat Application for Wade Minor Subdivision and Variance Requests, SUBD2004-006. (Tabled 12-10-24) (Applicant: Kim Smith) (Planner: Phil Gonzalez)**
The Commissioners will consider the application for preliminary approval of the Wade Minor Subdivision, a five (5) lot minor subdivision and three (3) variances from the Subdivision Regulations.
6. **Board Appointment. (Roger Baltz)**
 - Lewis and Clark Library Board
7. **Public comment on any public matter within the jurisdiction of the Commission that is not on the agenda above.**
8. **Adjourn**

ADA NOTICE

Lewis and Clark County is committed to providing access to persons with disabilities for its meetings, in compliance with Title II of the Americans with Disabilities Act and the Montana Human Rights Act. The County will not exclude persons with disabilities from participation at its meetings or otherwise deny them County's services, programs, or activities. Persons with disabilities requiring accommodations to participate

in the County's meetings, services, programs, or activities should contact Keni Grose, as soon as possible to allow sufficient time to arrange for the requested accommodation, at any of the following:

- (406)-447-8316
- kgrose@cccountymt.gov
- TTY Relay Service 1-800-253-4091 or 711
- 316 N Park, Room 303



Bid Opening, Grizzly Gulch Placer Mine Reclamation Project. (Casey Hayes)

Presented By:

Summary:

The Commissioners will consider opening the bids.

Legal Review Required:

ATTACHMENTS:

Description	Type
📎 Grizzly Gulch Placer Mine Reclamation Project - Invitation for Bid	Attachment

Lewis and Clark County is soliciting competitive bids from interested parties for the construction of the Lewis & Clark County – Grizzly Gulch Placer Mine Reclamation Project, located five miles southwest of Helena, Montana near Grizzly Gulch Drive. The project generally consists of site excavation and grading, installing two culverts, constructing a stream channel with drop structures and a pedestrian trail, installing guardrail, revegetating the site by seeding and containerized plantings, and installing an impermeable HDPE floodplain liner. Project work will begin in late winter and conclude in spring of 2025.

All Bids must be in accordance with the contract documents on file at the Lewis and Clark County – Water Quality Protection District Office, 1930 9th Ave, Helena MT 59601. For additional project information, please reach out to the designated point of contact at RESPEC, Matthew Johnson, at Matthew.Johnson@respec.com or by phone at 406-284-2528. A cone of silence is established for this solicitation which prohibits any bidder, or entity with financial interest in the bid award, from communicating regarding the solicitation with any Lewis and Clark County elected official, employee, or agent other than the designated point of contact. Copies of the contract documents used for preparing a bid may be obtained by going to the Lewis and Clark County webpage at: <https://www.lccountymt.gov/Government/Grants-and-Purchasing/Bids-and-Proposals-Current>. Contractors are encouraged to check for any addenda issued at: <https://www.lccountymt.gov/Government/Grants-and-Purchasing/Bids-and-Proposals-Current> prior to submitting a bid.

A pre-bid conference will be held on Tuesday, December 3rd at 10:00 a.m. local time in the City County Building Room 226, located at 316 N. Park Avenue, Helena, MT 59623. Lewis and Clark County strongly urges interested bidders to attend.

Each bid or proposal must be accompanied by a Certified Check, Cashier's Check or Bid Bond payable to Lewis and Clark County, in an amount not less than ten percent of the total amount of the bid.

Bids will be considered based on the most responsible bid submitted and the following criteria: purchase price, product availability, and specifications.

Sealed bids must be received at the Office of the Board of County Commissioners, Room 345, City-County Building, 316 N. Park Avenue, Helena, MT 59623 no later than 4:00 p.m. local time on Monday, December 16th, 2024. The envelope containing the sealed bid will be labeled with the bidder's name, address, and "Grizzly Gulch Placer Mine Reclamation Project".

Bids will be opened and read aloud at the public meeting of the County Commissioners on Tuesday, December 17th at 9:00 a.m. local time in Room 330 of the City-County Building, 316 N. Park Avenue, Helena, MT.

All laborers and mechanics employed by the Contractor or Subcontractors in the performance of the construction work shall be paid wages at rates as required by Federal Davis Bacon Wage Rates. The Contractor must ensure that employees and applicants for employment are not discriminated against because of their race, color, religion, sex or national origin.

Successful Bidders shall furnish an approved Performance Bond and a Labor and Materials Payment Bond, each in the amount of one hundred percent (100%) of the contract amount. Insurance, as required, shall be provided by the successful Bidder(s) and a certificate(s) of that insurance shall be provided.

The right is reserved to reject any or all proposals received, to waive informalities, to postpone the award of the contract for a period not to exceed sixty (60) days, and to accept the lowest responsive and responsible bid that is in the best interest of the Owner.

Lewis and Clark County reserves the right to reject any or all bids, to waive irregularities or to accept any bid deemed to be for the public good.

Legal Ad: Independent Record

Published: Saturday, November 23, 2024
Saturday, November 30, 2024



Grant Application from the City of Helena to the U.S. Environmental Protection Agency. (Jenny Chambers)

Presented By:

Summary:

The Commissioners will consider a partnership with the City of Helena on the Solid Waste Infrastructure for Recycling (SWIFR) Grant application to the U.S. Environmental Protection Agency. The City of Helena is requesting \$4,577,605 with no match required.

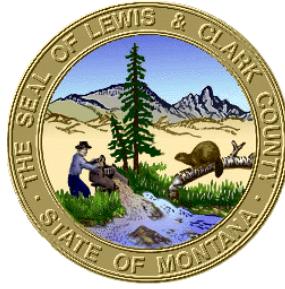
Legal Review Required:

ATTACHMENTS:

Description	Type
☐ Memo	Staff Report
☐ SWIFR Grant Summary	Attachment
☐ SWIFR Budget Summary	Attachment

Jenny Chambers
Public Works Director

(406) 447-8036 Desk



3402 Cooney Drive
Helena, Montana 59602

jchambers@lccountymt.gov

LEWIS AND CLARK COUNTY

Public Works Department

DATE: December 17, 2024

TO: Board of County Commissioners

FROM: Jenny Chambers, Director

RE: Grant Application from the City of Helena to the U.S. Environmental Protection Agency

The City of Helena (City) is submitting a Solid Waste Infrastructure for Recycling (SWIFR) Grant application to the U.S. Environmental Protection Agency requesting \$4,577,605 to construct and install new equipment and processes at the City Transfer Station and would like to partner with Lewis and Clark County (County) to include funding to support enhancing recycling for the Scratchgravel District and for the City and County composting operations. No match will be required with this grant.

The components that benefit the composting operation total \$847,606 and will include one 40-yard roll off container, a trommel screen to process organic material into compost, temperature probes, and professional engineering and construction inspection services for the addition of a recycling drop-off site at Deal Lane.

As an integrated solid waste management system, in partnership the County will be listed as a subrecipient in the grant application and if the grant is awarded will sign an agreement with the City to implement components of the grant to benefit the City and County's composting operations located on Deal Lane. BO

Staff recommendation is to approve supporting the City of Helena's Grant Application to the U.S. Environmental Protection Agency as a continued integrated solid waste management partnership for the greater Helena area.

Summary Information Cover Letter

**ENVIRONMENTAL PROTECTION AGENCY (EPA)
Solid Waste Infrastructure for Recycling (SWIFR) Grants for Political
Subdivisions of States and Territories
EPA-I-OLEM-ORCR-24-05**

- i. **Project Title.** *Helena Community Recycling Improvement Project*

- ii. **Applicant Name.** *City of Helena, Montana*

- iii. **Eligible Entity Type.** *Local Government (City)*

- iv. **Qualification for Program Track.** *Tract 1 – EPA's EJ Climate and Economic Justice Screening Tool indicates an extensive area of the City considered disproportionately impacted by social, health and environmental inequities located near the City Transfer Station that will be most positively affected by the proposed infrastructure improvements.*

- v. **Unique Entity Identification (UEI) Number.** *TLA1ZVLJ2M15*

- vi. **Project Summary.** *The City of Helena is requesting \$4.58 million to construct and install new equipment and processes at the City's Transfer Station and the Lewis and Clark County Facility to improve the recycling capabilities of the City through state-of-the-art composting and bailing equipment. The goal of this project is to increase the City's recycling rates and divert larger amounts of materials from the landfill located at the County Facility.*

- vii. **Contact Information.**
 - a. *City of Helena Public Works Department: 316 N. Park Avenue, Helena, MT 59601*

 - i. *Leea Anderson, Environmental Regulation Pretreatment Manager,
landerson@helenamt.gov; 406-447-8096*

 - ii. *Amanda OptizOpitz, Grants Administrator, aopitz@helenamt.gov; 406-447-8401*

viii. **Project Location.** City of Helena Transfer Station (1975 N. Benton Ave, Helena, MT 59601)

Lewis and Clark County Facility (4075 Deal Lane, Helena, MT 59601)

City of Helena Property (S17, T10 N, R03 W, C.O.S. 3312918, Tract B, SE4NE4)

ix. **EPA Funding Requested.** \$4,577,000

x. **Project Period.** *December 2025 – December 2026* (1-year from award)

xi. **Program Objective Elements**

Establish, increase, expand, or optimize collection and improve materials management infrastructure;

Establish, increase, expand, and optimize capacity for materials management; and

Demonstrate a significant and measurable increase in the diversion, recycling rate, and quality of materials collected for municipal solid waste.

xii. **Award of Grant from Previous Rounds of Funding.** *The City of Helena does not currently have an open EPA SWIFR grant.*

xiii. **Cooperative Partners.**

i. Lewis and Clark County. Local governmental entity. UEI: LV3VYFCZSK88. Proposed subrecipient eligible for a federal subaward in compliance with 2 CFR 200.331.

a. Jenny Chambers, Lewis and Clark County Public Works Directors, jchambers@lccountymt.gov, 406-447-8036

b. Ann McCauley, Lewis and Clark County Grants and Purchasing Director, amccauley@lccountymt.gov, 406-447-8383

Instructions and Summary

EPA has provided this optional budget spreadsheet as a resource for SWIFR applicants. Use of this spreadsheet is optional. Applicants that do not use this resource will not be penalized.

Project Title: Helena Community Recycling Improvements Program **Date of Submission:** 20-Dec-24

Applicant Name: City of Helena

Please read the instructions on each worksheet tab before starting. If you have any questions, please email SWIFR@epa.gov or SWIFR@epa.gov!

1. On each tab, fill in the descriptive/comments sections next to each line item and the "Additional Explanation" section at the bottom with narrative descriptions of each budget item and how they support the proposed project.
2. Fill out the blank white cells in workbook tabs a. through i. with total project costs.
3. Blue colored cells contain instructions, headers, or summary calculations and should not be modified. Only blank white cells should be populated.
4. Enter detailed support for the project costs identified for each Category line item within each worksheet tab to autopopulate the summary tab.
5. Ensure all entered costs are allowable, allocable, and reasonable in accordance with the administrative requirements prescribed in 2 CFR 200.
6. Add rows as needed throughout tabs a. through i. If rows are added, formulas/calculations may need to be adjusted by the preparer. Do not add rows to the Instructions and summary tab.
7. All budget period cost categories are rounded to the nearest dollar.
8. Below the Summary table, describe the approach, procedures, and controls for ensuring that awarded grant funds will be expended in a timely and efficient manner. (See Section V.A.6.c of the NOFO.)
9. Voluntary committed cost share is not required under this competition, nor will it be accepted. Please do not include any cost share amounts in your proposed project.

SUMMARY OF BUDGET CATEGORY COSTS PROPOSED					
The values in this summary table are from entries made in subsequent tabs. Only blank white cells require data entry.					
CATEGORY	Year 1	Year 2	Year 3	Total Costs	Comments (as needed)
a. Personnel	\$0	\$0	\$0	\$0	
b. Fringe Benefits	\$0	\$0	\$0	\$0	
c. Travel	\$0	\$0	\$0	\$0	
d. Equipment	\$1,265,000	\$0	\$0	\$1,265,000	
e. Supplies	\$0	\$0	\$0	\$0	
f. Contractual	\$355,000	\$0	\$0	\$355,000	
g. Construction	\$2,110,000	\$0	\$0	\$2,110,000	
h. Other Direct Costs	\$847,606	\$0	\$0	\$847,606	
TOTAL DIRECT COSTS	\$4,577,606	\$0	\$0	\$4,577,606	
i. Indirect Charges	\$0	\$0	\$0	\$0	
TOTAL COST	\$4,577,606	\$0	\$0	\$4,577,606	

Describe the approach, procedures, and controls for ensuring that awarded grant funds will be expended in a timely and efficient manner.

Additional Explanation (as needed):

h. Other

INSTRUCTIONS - PLEASE READ!!!

1. This category must include only those types of direct costs that do not fit in any of the specific budget categories. Examples of costs that may be in this category are: insurance; telephone services and utilities; occasional document reproduction at local copying centers; rental/lease of equipment, office space, and meeting facilities; participant support costs; subawards; and land acquisition costs when authorized under the financial assistance program. Please refer to the EPA Guidance on Participant Support Costs (<https://www.epa.gov/sites/default/files/2020-11/documents/epa-guidance-on-participant-support-costs.pdf>) and the Interim General Budget Development Guidance for Applicants and Recipients of EPA Financial Assistance (<https://www.epa.gov/sites/default/files/2019-05/documents/applicant-budget-development-guidance.pdf>).
2. Basis of cost are items such as vendor quotes, prior purchases of similar or like items, published price list, etc.
3. Please fill out the "Description and Justification" column with a detailed description of "Other" cost items and how they will be used in the project. Please be sure to tag any expenses/items (in the "Description" column) that may go to subawardees with "Subaward," and any participant support costs (such as stipends/incentives/rebates) with "PSC." Provide detail (or reference to your Narrative Proposal) such as how much each participant will receive, merit to receive item or money, and how many participants will get the incentive.
4. Each budget period is rounded to the nearest dollar.

Item	Unit Cost	Quantity	Total Cost	Basis of Cost	Description and Justification
Year 1					
EXAMPLE!!! Monetary subsidies to households for the purchases of household	\$ 50.00	320	\$16,000	Vendor quotes	[Insert description of need, as it applies to the Narrative Proposal activities.]
40 Yard Roll Off Container	\$ 22,000.00	6	\$132,000	Vendor quotes	Container placed at Z-Wall for customers to place organics and post-consumer materials for recycling
Trommel Screen	\$ 643,500.00	1	\$643,500	Vendor quotes	Rotating screen that separates material by size to produce a uniform final composting product
Temperature Probe	\$ 7,106.00	1	\$7,106	Vendor quotes	Temperature probes are placed in the compost to relay information to the computer system to maintain optimal process conditions
Engineering Design	\$ 32,500.00	1	\$32,500	Engineers Estimate	Engineering Design of the Z-Wall at the County Facility
Construction Inspection Services	\$ 32,500.00	1	\$32,500	Engineers Estimate	Inspection during the construction of the Z-Wall at the County Facility
			\$0		
Year 1 Total			\$847,606		
Year 2					
			\$0		
			\$0		
			\$0		
			\$0		
			\$0		
			\$0		
Year 2 Total			\$0		
Year 3					
			\$0		
			\$0		
			\$0		
			\$0		
			\$0		
			\$0		
Year 3 Total			\$0		
PROJECT TOTAL			\$847,606		

Additional Explanation (as needed):
 Equipment listed above will be owned by Lewis and Clark County and utilized at the County Facility. Engineering Design will include the development of project plans and specifications for the construction of the Z-Wall to be installed at the County Facility. Construction Inspection Services includes the bidding of the project, submittal review, and inspection services during construction of the project to ensure compliance with the project construction documents. These services are estimated at 10% of the construction cost of the Z-Wall at the County Facility.



Preliminary Plat Application for Wade Minor Subdivision and Variance Requests, SUBD2004-006. (Tabled 12-10-24) (Applicant: Kim Smith) (Planner: Phil Gonzalez)

Presented By:

Summary:

The Commissioners will consider the application for preliminary approval of the Wade Minor Subdivision, a five (5) lot minor subdivision and three (3) variances from the Subdivision Regulations.

Legal Review Required:

ATTACHMENTS:

Description	Type
☐ Staff Report	Staff Report



Community Development and Planning
Lewis and Clark County

316 N. Park Ave. Room 230 Helena, MT 59623
Phone: 406-447-8374 Fax: 406-447-8398
e-mail: planning@lccountymt.gov



STAFF REPORT

Date: December 5, 2024

To: Board of County Commissioners

From: Phil Gonzalez, Planner II

RE: WADE MINOR SUBDIVISION, SUBD2024-006 and Variance Requests

Owners/Applicant:

Larry Smith
7510 Applegate Drive
Helena, MT 59602

Representative:

Casne & Associates, Inc.
PO BOX 1123
Helena, MT 59624

County Commission Meeting:

9:00 a.m., Tuesday, December 10, 2024

I. EXECUTIVE SUMMARY:

A proposed first minor subdivision, to be known as the Wade Minor Subdivision, has been submitted to Lewis and Clark County for review. If approved, the existing 6.75-acre tract of land will be divided into 5 lots: four (4) single-family dwelling lots and one (1) commercial lot. The commercial lot proposal is to construct a storage unit facility. The lots will be between 1.0 to 2.75 acres in size. All lots are proposed to be served by individual wells, individual on-site wastewater treatment systems, and utilities. The Applicant seeks three (3) variances from the Subdivision Regulations including 1) a requirement for connectivity to surrounding lots, 2) a requirement for an off-site fire protection system to be within 1 mile and 3) a requirement for the Fire Protection Agency Having Jurisdiction (FPAHJ) not be required to cross an arterial or major collector road to get to an offsite fire protection system.

II. REQUEST:

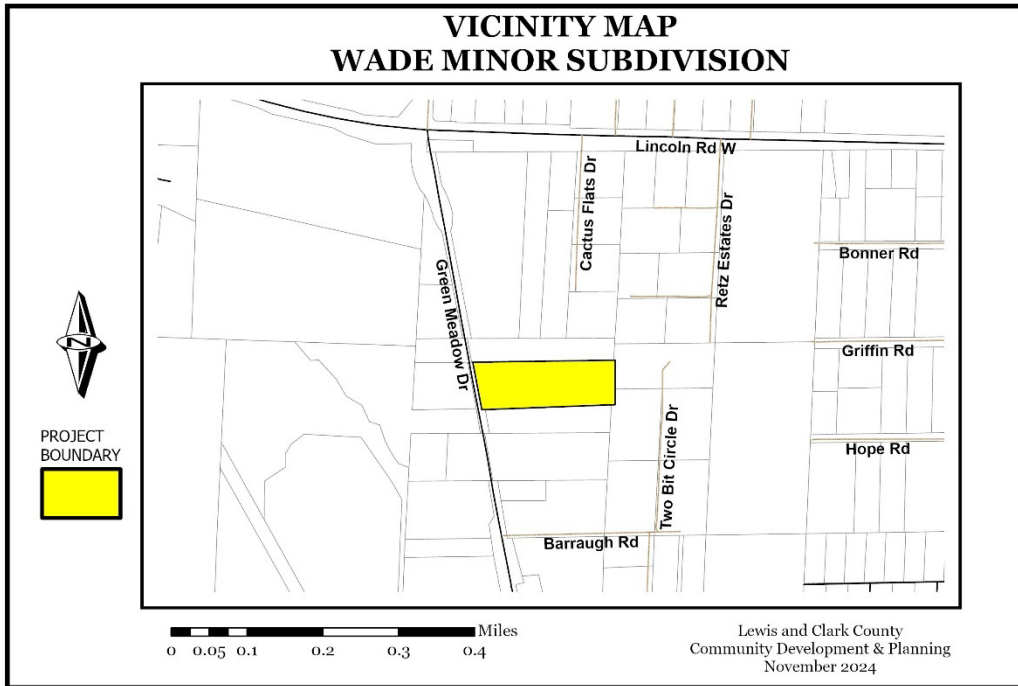
The Applicant has requested approval of the Wade Minor Subdivision. Furthermore, the Applicant has requested variances from Section XI.H.4 and Section XI.S, Appendix K, Section 18-4.6(4) and Appendix K, Section 18-4.6(5) of the Subdivision Regulations.

III. STAFF RECOMMENDATION:

Staff recommends **APPROVAL** of the proposed Preliminary Plat application and Variance requests subject to the conditions of approval based on the recommended findings of fact included in this Staff Report.

IV. LOCATION:

The proposed subdivision lies in the Section 24, T11N, R4W, P.M.M., Lewis and Clark County, Montana. The proposed subdivision is located along Green Meadow Drive South of Lincoln Road. 7373 Green Meadow Road. A vicinity map showing the location of the proposed Subdivision is shown below.



V. EXISTING DEVELOPMENT AND USES:

The property is currently developed with a single-family residence.

- North: Residential
- South: Commercial
- East: Residential
- West: Residential

VI. PUBLIC COMMENT:

Staff received public comments regarding the subdivision application: A) one (1) letter of support of the application from neighboring property resident Wyatt Duthie. B) one (1) letter against the subdivision application signed by thirty-six (36) neighboring residents. C) The Applicant submitted a letter of support, as part of the application, signed by the five (5) adjacent residents in support of the variances request for Section XI.H.4 of the Subdivision regulations, requirement to provide connectivity to surrounding properties.

VII. PROJECT BACKGROUND:

The Wade Minor Subdivision if approved, the subject property being 6.75-acre tract of land will be divided into 5 lots, four (4) single-family dwelling lots and one (1) commercial lot. The lots will be between 1.0 to 2.75 acres in size. All lots are proposed to be served by individual wells, individual on-site wastewater treatment systems, and utilities. An existing Department of Environmental Quality COSA (EQ#07-2709) exists and is approved to serve this project. Direct access to the lots is proposed off a 60-foot-wide public access road which will terminate in a cul-de-sac. The Applicant proposes to utilize the existing fire suppression water source located within the Frontier Village Estates Subdivision approximately 2 miles to the east of the subject property to meet fire protection requirements. The Applicant has requested three variances from the Subdivision Regulations: (1) Lewis and Clark County Subdivision Regulations Chapter XI: H.4 which requires connectivity to adjacent parcels, (2) Appendix K, Section 18-4.6(5) which requires the Fire Protection Agency Having Jurisdiction (FPAHJ) not have to cross an arterial or major collector road to get to an off-site water supply systems for fire suppression. (3) Appendix K, Section 18-4.6(4) Which states the off-site water supply system is located no longer than one county road mile from an existing or proposed internal access road for the subdivision. The proposed subdivision will be accessed from Green Meadow Drive, a State Highway. Because this is a first minor subdivision, there is no requirement to dedicate parkland.

The Applicant is proposing to use an off-site fire suppression water source via an existing water source located within the Frontier Village Estates Subdivision. This fire protection water source consists of a well, water line and a fire hydrant within a Public Access Easement. An RID currently maintains the fire suppression infrastructure. To use this off-site fire suppression water source to meet the fire protection system requirement in the Wade Minor Subdivision, the Applicant is requesting two variances to Section XI.S, Appendix K, 18-4.6(4) and 18-4.6(5).

The Wade Minor subdivision was initially approved by the Board of County Commissioners on February 24, 2005. Preliminary approval was granted for one year. At the request of the Applicant, the Board of County Commissioners could extend the approval up to four years. The preliminary approval did expire. The property did receive DEQ approval for the proposed development on April 6, 2007.

VIII. STAFF ANALYSIS:

Compliance:

The proposed Subdivision is located within the Suburban Residential Mixed-Use District of the Helena Valley Zoning Regulations. The Subdivision will not violate the zoning regulations if the proposed single family residential use is compliant with the existing zoning regulations; the commercial use of storage facilities will not violate the zoning regulations if structures are sited in conformance with applicable standards and a Conditional Use Permit is approved by the Board of Adjustment.

On March 3, 2016, the County Commission adopted an update to the Lewis and Clark County

Growth Policy with two volumes: Volume 1 – Key Issues Report (Key Issues Report) and Volume 2 - Helena Valley Area Plan (Helena Valley Area Plan). The Key Issues Report explores the five development constraints in the Helena Valley (water, wastewater, roads, fire, and flooding) and the policy options for addressing them. The Helena Valley Area Plan takes a more in-depth look at these policy options and makes specific recommendations for pursuing a balanced mix of public investment, density controls, improved regulations, and public education for designated Urban, Rural, and Transitional Growth Areas.

The proposed Subdivision lies within the Transitional Growth Area (TGA). The Transitional Growth area was established through consideration of lands identified by their proximity to the City of Helena and City of East Helena, and the possibility of City services being extended to accommodate future development at higher densities. According to the Volume 2- Helena Valley Area Plan, the three primary constraints within the TGA include the road network, capacity of rural fire districts, and wastewater treatment in areas with shallow ground water. The proposed development will adhere to the intent of the Growth Policy because access to the property exists via Green Meadow Drive, a State secondary highway with capacity for additional vehicle trips; the Applicant proposes to use an existing off-site fire suppression water source within 2 road miles and the West Valley Fire District has indicated they can serve the property with that fire suppression water source.

IX. CRITERIA FOR REVIEW:

In accordance with 76-3-608(3), MCA, a subdivision proposal must undergo review for impacts on the following primary criteria: 1. agriculture; 2. agricultural water user facilities; 3. local services (water, wastewater, solid waste, utilities, roads, traffic, schools, emergency services, and parkland); 4. the natural environment; 5. wildlife; 6. wildlife habitat; 7. public health and safety; 8. compliance with the County’s Subdivision Regulations; 9. compliance with survey requirements; 10. the provision of easements within and to the proposed subdivision for the location and installation of any planned utilities; and 11. the provision of legal and physical access to each parcel within the proposed subdivision. Listed below are the Findings of Fact and Conclusions regarding each primary criterion.

FINDINGS OF FACT AND CONCLUSIONS:

IMPACTS ON AGRICULTURE

FINDINGS OF FACT:

1. Per Chapter XI.A of the County Subdivision Regulations, all subdivisions must be designed and developed by the Applicant to provide satisfactory building sites that properly relate to topography and must avoid or mitigate any significant adverse impacts on agriculture.

The subject property consists of 7 acres of relatively flat land. The NRCS designates the soil within the boundary of the Subdivision as “Scravo gravelly Loam, 0-2 percent slopes”, The entire property is classified as “Not prime farmland”. The property is not located in adjacent

proximity to properties that are utilized for agricultural purposes, though surrounding lots could be utilized in agricultural pursuits. The development will result in a no reduction in agricultural production within the Helena Valley.

2. Per Chapter XI.T of the County Subdivision Regulations, to mitigate impacts of residential uses in an agricultural area, the subject property though not immediately surrounded by parcels with agricultural uses those parcels remain available to be used for agriculture.

The subdivider shall provide restrictive covenants addressing agriculture-related issues that will accompany the final plat. Issues addressed in the covenants shall include the following: the presence of nearby agricultural operations (and a listing of potential impacts such as odors and noise); existence of irrigation facilities and easements; protection of existing water rights; rights of the irrigation facility operator to perform maintenance; control of domestic pets; weed management responsibilities; and other agriculture-related factors that may be present.

Conditions of Approval for the proposed Subdivision will require a Five Year Weed Management Plan to be completed to mitigate noxious weeds; a Montana Pollutant Discharge Elimination System (MPDES) permit for stormwater and erosion control; and restrictive covenants providing notice about agricultural operations in the area; that the property should be maintained in weed-free manner; the use of best management practices for erosion control during construction; and restraining domestic pets on the property.

3. Per Chapter XI.T of the County Subdivision Regulations, all subdivisions must be designed to avoid or mitigate any significant adverse impacts on agriculture.

Conditions of Approval for the proposed Subdivision will require a Five Year Weed Management Plan to be completed to mitigate noxious weeds; a Montana Pollutant Discharge Elimination System (MPDES) permit for stormwater and erosion control; and restrictive covenants providing notice about agricultural operations in the area; that the property should be maintained in weed-free manner; the use of best management practices for erosion control during construction; and restraining domestic pets on the property. Other Conditions of Approval will provide the opportunity to financially guarantee any improvements required by the MPDES permit or weed management plan.

Conditions of Approval Nos. 2, 8.g, 8.h, 8.i, 8.m, 8.q, 9, and 13a are required to mitigate impacts to Agriculture. (A full list of the Conditions of Approval is found starting on Page No. 36.)

Condition of Approval No. 2 mitigates impacts under Findings No. 2 & 3.

Condition of Approval No. 8.g, 8.h, 8.i, 8.m, 8.q mitigates impacts under Findings No. 2 & 3.

Condition of Approval No. 9 mitigates impacts under Findings No. 2 & 3.

Condition of Approval No. 13a mitigates impacts under Findings No. 2 & 3.

CONCLUSION: The Wade Minor Subdivision will have adverse impacts on agriculture. The impacts to agriculture, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

IMPACTS ON AGRICULTURAL WATER USERS

FINDINGS OF FACT:

1. Per Chapter XI.L.13 of the County Subdivision Regulations, where a subdivision is traversed by a watercourse, drainage way, channel, ditch, or stream, easements or rights-of-way may be required to parallel the lines of such watercourse at a sufficient width to allow for maintenance or to protect natural drainage. Setbacks on each side of irrigation canals or ditches may be required for maintenance purposes.

According to the preliminary plat application, the subdivision is not traversed by a watercourse, drainage way, channel, ditch, or stream, easements or rights-of-ways.

2. Per Chapter XI.BB.a, irrigation ditch easements must be, “in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or below ground pipelines for the deliver of water for irrigation to persons and land legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots.” Chapter XI.BB.b requires that ditch easements are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance and inspection of the ditch. A minimum of 10 feet is required on each side of irrigation canals and ditches for maintenance purposes.

According to the preliminary plat application no irrigation ditch easement traverses the subject property.

3. Per Chapter XI.T of the County Subdivision Regulations, “where a subdivision is traversed or bordered by an irrigation ditch, the subdivider may be required to fence or otherwise restrict access to the ditch to protect public health and safety. Determining the type of access restriction shall be based on consideration of the size of the ditch, seasons of flow, type of subdivision, other safety factors, and comments from the irrigation district or water users association, if any.”

According to the preliminary plat application no irrigation ditch easement traverses the subject property.

4. Per Chapter XI.T of the County Subdivision Regulations, all subdivisions must be designed to avoid or mitigate any significant adverse impacts on agricultural water users or agricultural water facilities.

According to the application, no impacts from the Subdivision on agricultural water user facilities will occur as no parcels surrounding the proposed subdivision have agricultural uses.

CONCLUSION: The Wade Minor Subdivision will not have adverse impacts on agricultural water user facilities.

IMPACTS ON LOCAL SERVICES

FINDINGS OF FACT REGARDING WATER & WASTEWATER:

1. Per Chapter I.C.7, 8, 9, 10, and 11 of the County Subdivision Regulations, the purposes of these regulations are to promote the public health, safety, and general welfare and to provide for the provision of potable water; the protection and rights of all citizens; the avoidance of subdivisions that would involve unnecessary environmental degradation; the avoidance of subdivisions that would cause danger or injury to public health, safety and general welfare by reason of the lack of adequate or sufficient water; and the avoidance of subdivisions that would require an excessive expenditure of public funds for the supply of public services.

Water is proposed to be provided to each lot via individual on-site wells. Well log data from the Montana Bureau of Mines and Geology (MBMG) Ground Water Information Center (GWIC) from the closest wells to the subject property indicate an average total well depth between 73.2 and 93.5 feet with an average static water level of 81.1 feet.

The Water Quality Protection District (WQPD) provided a comment indicating, “the WQPD has groundwater level data from four wells near the development site (GWIC: 189417, 197571, 246101, and 258300). Well 246101 is located northwest of the development, adjacent to Silver Creek. The groundwater levels have remained around 30 to 40 feet below ground level over the past 14 years. Wells 197571 and 258300 are located south of the development along Silver Creek. The groundwater levels in both wells have maintained around 60 to 70 feet below ground level over the past 5 years. Well 189417 is located east of the development and the groundwater levels have remained stable around 80 to 90 feet below ground level. All well data in the WQPD database indicate local groundwater levels have been stable in the past; however seasonal fluctuations do occur and can account for 10 to 20 feet of variability. Wells should be drilled based on the seasonal low groundwater level.

The area of the development is underlain by the Helena Valley-Fill Aquifer. This aquifer is composed of quaternary cobbles, gravels, sands, silts, and clays exhibiting a high degree of horizontal hydraulic conductivity. The potentiometric surface portrays groundwater flow east, towards Lake Helena. Aquifer recharge is achieved through infiltration of streams, irrigation canal leakage, and bedrock fractures.

WQPD recommends that individual groundwater wells be drilled to depths well below the water table at its seasonal lowest. Groundwater levels are typically at their highest in late spring when snowmelt is recharging the local aquifers and their lowest in late summer/ fall due to increased water demand during irrigation season.”

A condition of approval will require a restrictive covenant providing notice to the property owner regarding the WQPD recommendation that groundwater wells should be drilled to depths well below the water table at its seasonal lowest.

2. Per Chapter XI.M.1 of the County Subdivision Regulations, all water supply systems (including individual wells, shared wells, multi-user, and public water supply systems) shall meet applicable regulations and design standards of the Montana Department of Environmental Quality (DEQ) and the Department of Public Health and Human Services (DPHHS) and comply with existing water rights and water rights regulations. The proposed method of supplying domestic water to each lot in the subdivision must comply with the applicable current Administrative Rules of Montana (ARM). By this reference these DEQ standards are incorporated into and made a part of these regulations. Unless defined elsewhere in these regulations, the terms used in these standards will have the meanings assigned to them in ARM.

The application included a letter dated March 28, 2024 from the Montana Department of Environmental Quality, Jackie Kuhl, PE, PWS Section Supervisor, relating to water right review of the proposed Subdivision. According to the letter, “The McMahan decision is only applicable to new projects submitted after 2/14/2024. All projects submitted prior to that date or approved prior to that date are not subject to that decision. This project was reviewed and approved prior to McMahan decision, if no changes are to be made, we wouldn’t re-reviewed the COSA and it wouldn’t be subject to that decision.”

The Applicant has submitted along with their application materials a letter stating the subject property holds a water right General Abstract #41-127797-00. The abstract reflects a maximum volume of 13-Acre Feet that would be divided between the proposed subdivided lots. Additionally, no other certificates of water right are on file.

On February 14, 2024, Montana’s First Judicial District Court issued an order in *Upper Missouri Waterkeeper, et al v. DNRC*, in which it ruled that DNRC incorrectly applied the law when it determined that a developer was entitled to appropriate up to 10 acre-feet of water for each phase of a four-phased subdivision under the permit exception. In the wake of the Court's order, DEQ and DNRC terminated the Memorandum of Understanding between the two agencies that formally set forth the predetermination process for water rights. Additionally, the DNRC rescinded the March 22, 2023 Combined Appropriation Guidance and replaced this with a new guidance document on June 26, 2024. Based on best available information at the time of preliminary plat review, the proposed division of water will likely adhere to the most recently adopted Guidance on Combined Appropriations

(Update 6/26/2024) provided utilization of water adheres to the volume and flow rate listed in the predetermination letter.

3. Per Chapter XI.M.2 of the County Subdivision Regulations, the water supply system shall be subject to approval by the governing body, which may require that any proposed public water supply system provide adequate and accessible water for fire protection.

The application indicates that an existing off-site fire protection system located on Bootlegger Drive within the Frontier Village Estates Subdivision will be used to provide a fire protection water supply for the five new lots and is not connected to a public water supply system.

4. Per Chapter XI.M.3 of the County Subdivision Regulations, where the subdivision is within the service area of a public water supply system, the subdivider shall submit plans and specifications for the proposed water system to the water district involved and Montana Department of Environmental Quality (DEQ) and shall obtain their approval prior to undertaking any construction to install such facilities. In cases when the proposed development is within 500 feet of an existing public system, the Applicant must provide evidence that the public water supplier has been contacted and the Applicant can meet the appropriate standards. If connection to an existing public system is denied, then the landowner must submit plans and specification for the proposed water systems to the County for review and approval.

The subject property is not located within 500 feet of an existing public water or wastewater treatment system.

5. Per Chapter XI.M.5 of the County Subdivision Regulations, all pump tests for ground water wells must comply with all applicable requirements and standards set by Montana Department of Environmental Quality (DEQ).

Pump tests will not be required for the proposed Subdivision application but may be required by DEQ as part of the Certificate of Subdivision Approval for the Subdivision.

6. Per Chapter XI.N.1 of the County Subdivision Regulations, all sewage wastewater treatment systems shall meet the regulations and design standards of the Montana State Department of Environmental Quality (DEQ), the Public Health - Environmental Services Division (PHESD), and applicable zoning regulations. The proposed method of disposing of sewage from each lot in the subdivision must comply with the Administrative Rules of Montana (ARM) 17.36.301, 17.36.302, 17.36.312, and 17.36.320 through 17.36.326 or subsequent amendments as applicable. By this reference these DEQ standards are incorporated into and made a part of these regulations. Unless defined elsewhere in these regulations, the terms used in these standards will have the meanings assigned to them in ARM 17.36.101.

Wastewater treatment is proposed to be provided by individual onsite systems. Ground water monitoring was not required as a result of a test hole conducted in 2005 indicate the area is not subject to high groundwater.

7. Per Chapter XI.N.2 of the County Subdivision Regulations, the means of wastewater treatment shall be subject to approval by the governing body.
8. Per Chapter XI.N.5 of the County Subdivision Regulations, before the governing body will approve the final plat of a subdivision containing lots of less than 20 acres in size, the subdivision must have been approved by Montana Department of Environmental Quality (DEQ) or other authorized reviewing authority under the Sanitation in Subdivisions Act Sections 76-4-101 *et seq.*, MCA. This approval applies to the development of the lots at the time of the approval and is no guarantee that the location for a septic system will be available when the lots are actually developed. The Application contains a fully approved COSA (EQ#07-2709) by Montana Department of Environmental Quality.

The individual on-site wastewater treatment systems are subject to review and approval by Montana Department of Environmental Quality (DEQ), the Lewis and Clark Public Health - Environmental Services Division and the County Commission.

A condition of approval will require a restrictive covenant providing notice to the property owner that all individual wastewater treatment systems are required to be reviewed and approved by the Lewis and Clark County Public Health.

9. Per Chapter XI.I.10 of the County Subdivision Regulations, a governing body may require a restrictive covenant on the property, waiving the right to protest a district to fund the installation and/or maintenance of capital improvements such as water supply systems, wastewater treatment systems. This waiver will be required for the Subdivision.

Conditions of Approval Nos. 1 8.p, 8.t and 8.u are required to mitigate impacts to water and wastewater under local services. (A full list of the Conditions of Approval is found starting on Page No. 36.)

Condition of Approval No. 1 mitigates impacts under Findings No. 1, 2, 6, and 8.

Condition of Approval No. 8.p mitigates impacts under Finding No. 9.

Condition of Approval No. 8.t mitigates impacts under Finding No. 1.

Condition of Approval No. 8.u mitigates impacts under Finding No. 8.

FINDINGS OF FACT REGARDING SOLID WASTE:

1. Requirements for solid waste collection and disposal must be in compliance with Chapter XI.O of the County Subdivision Regulations.

The subject property is within the Scratch Gravel Solid Waste District and a solid waste fee will be assessed for each lot. Contract collection and disposal of solid waste is available from Tri-County Disposal and contracting with a solid waste provider will be the responsibility of the property owners. Property owners may transport and dispose of solid waste at the Helena Transfer Station.

No conditions of approval are required to mitigate impacts to solid waste under local services.

FINDINGS OF FACT REGARDING MAIL DELIVERY:

1. Mail collection and delivery shall be in compliance with Chapter XI.J of the County Subdivision Regulations.

According to the application, the Applicant proposes to utilize mail collection boxes onsite. Any new mailbox facilities shall be installed approved by the United States Postal Service and in accordance with Postal Service specifications. All requirements and specifications of the permit shall be met prior to final plat approval unless the subdivider financially guarantees the completion of the permit.

Conditions of Approval Nos. 6, 4, 7.c, and 13.b are required to mitigate impacts on mail delivery under local services.

Condition of Approval No. 6 mitigates impacts under Finding No. 1.
Condition of Approval No. 4 mitigates impacts under Finding No. 1.
Condition of Approval No. 7.c mitigates impacts under Finding No. 1.
Condition of Approval No. 13.b mitigates impacts under Finding No. 1.

FINDINGS OF FACT REGARDING UTILITIES:

1. The installation of utilities shall be in compliance with Chapter XI.P of the County Subdivision Regulations.

According to the application, the Subdivision will be served with electrical power, natural gas, and internet service, which will be extended underground into the proposed Subdivision. Electrical power and Natural Gas lie adjacent to the West property boundary. A letter from Kyle Woodlief Construction Engineer from Northwestern Energy stated in a letter dated, October 24, 2024, " I've reviewed the location of your proposed subdivision on Green Meadow Dr (S13, T11N, R4W) in Helena, Montana and determined that Northwestern Energy currently has electric and gas facilities available in the immediate area. The projected 5 lots will require that some additional distribution infrastructure will need to be installed before new electric and or natural gas service can be connected to NorthWestern Energy's distribution system. Please complete a new service application and deliver it to our new construction desk. Once received the signed application, a Northwestern Energy engineer will begin working on a solution to extend electric primary

and or natural gas to the main project lots. All electric and natural gas facilities shall be; installed according to Northwestern standards, subject to our standard terms and conditions for adding new buildings to our system.”

2. The installation of utility easements shall be in compliance with Chapter XI.Q of the County Subdivision Regulations.

Prior to final plat approval, utility easements will have to be provided in accordance with the Lewis and Clark County Subdivision Regulations where utilities are, or will be, installed and where necessary for the future extension of services. This may require more or less utility easements to be dedicated than proposed, depending on the needs of the utility providers.

3. Per Chapter XI.H.17 of the County Subdivision Regulations, if utilities are to be installed after an access road is constructed, the subdivider shall install conduit prior to road construction per the requirements of the utility providers to ensure that utilities can be installed without disturbing the roadbed.

Conditions of Approval Nos. 4, 7.a, 8.d and 13.c are required to mitigate impacts on utilities under local services. (A full list of the Conditions of Approval is found starting on Page No. 36.)

Condition of Approval No. 4 mitigates impacts under Findings No. 1, 2, and 3.

Condition of Approval No. 7.a mitigates impacts under Findings No. 1, 2, and 3.

Condition of Approval No. 8.d mitigates impacts under Findings No. 1, 2, and 3.

Condition of Approval No. 13.c mitigates impacts under Findings No. 1, 2, and 3.

FINDINGS OF FACT REGARDING ROADS AND TRAFFIC:

1. Per Chapter XI.H.1 of the County Subdivision Regulations, roads located within a subdivision, shall meet appropriate County design specifications in the Lewis and Clark County Public Works Manual. The appropriate road classification standard shall be determined through a traffic impact study by a professional engineer registered in the State of Montana.

Direct access to the Subdivision lots will be off of the proposed public access easement which is proposed to terminate in a cul-de-sac. The Applicant will construct proposed public access easement to a Local Road Section No. 2 (paved) standard with roadside ditches from the approach with Green Meadow Drive. The proposed length of Internal access easement will not exceed the maximum dead end road length of 700 feet. Prior to the construction of the internal access easement or the installation of any utilities, plans for the subject road and utilities shall be submitted to Public Works for review and approval. An approach

permit from the Montana Department of Transportation must be obtained before construction of the approach to Green Meadow Drive, a State secondary highway.

The Applicant is requesting a variance to Chapter XI.H.4 which states, *“Whenever physically feasible, all roads shall connect to other roads within the neighborhood or development and connect to existing or projected through streets and provide access to adjacent parcels, as part of an interconnected road network, outside of the development.”*

The subject property is located with an existing Storage Unit facility to the south, and residential uses along the north and east. Green Meadow Drive borders the property to west.

Given the developmental and topographic constraints to the west and existing development to the east and north, no road connections are proposed to connect to these lots.

2. Per Chapter XI.H.2 of the County Subdivision Regulations, the arrangement, type, extent, width, grade, and location of all streets shall be assessed in respect to existing and planned streets, topographical conditions, public convenience, and safety, and to proposed uses of the land to be served by them.

Direct access to the Subdivision lots will be off-of the existing Green Meadow Drive, a State Highway. The proposed internal access easement which will be constructed to a Local Road Section No. 2 (paved) with roadside ditches. The subject property and surrounding area is relatively flat with no intersection visibility constraints due to topography. As stated in the Traffic Impact Study, “Visibility from the proposed approach location is unrestricted.”

The application states that the existing parcel has two existing approaches off Green Meadow Dr, those approaches will be removed as part of this application. A new approach will be applied for from Montana Department of Transportation directly across from an existing approach on the west side of Green Meadow Drive.

Each property owner will be responsible to apply for an approach permit from Lewis and Clark County Public Works Department for access onto the County road.

3. The proposed Subdivision shall be in compliance with Chapter XI.H.3 of the County Subdivision Regulations to address impacts to adjacent and offsite roads.

The Applicant has submitted a Traffic Impact Study (TIS) prepared by Robert Abelin, P.E. from Abelin Traffic Services (February, 2022), which evaluated potential traffic generation and trip distribution. According to the TIS, the project will generate an estimated 74 additional vehicle trips per day onto Green Meadow Drive which has 1,900 vehicles per day. The additional vehicle trips will not impact the Level of Service of Green Meadow Drive will not be impacted by the proposed development. Because Green Meadow Drive is an MDT-

maintained State secondary highway, no proportionate share of impact requirements outlined in Chapter XI.H.3 will be required.

4. Per Chapter XI.H.4 of the County Subdivision Regulations, whenever physically feasible, all roads shall connect to other roads within the neighborhood or development and connect to existing or projected through streets and provide access to adjacent parcels, as part of an interconnected road network, outside of the development.

The Applicant is requesting a variance to Chapter XI.H.4 which requires connections to adjacent parcels for the purpose of developing an interconnected road network. Proposed public access easement will terminate in a cul-de-sac terminating connectivity to adjoining parcels. The subject property is located with an existing storage unit facility to the south, and residential uses along the north and east. Green Meadow Drive borders the property to west.

Given the developmental and topographic constraints to the west and existing development to the east and north, no road connections are proposed to connect to these lots.

5. Per Chapter XI.H.5 of the County Subdivision Regulations, all streets and roads shall be designed and developed in accordance with the Greater Helena Area Transportation Plan. The developer shall develop arterials and collector roads in accordance with the transportation plan or provide and develop right-of-way for such roads in accordance with these plans.

The proposed internal public access road within the Subdivision will be classified as a County road. Green Meadow Drive, a major collector road, is located within a 60-FT wide right-of-way along the subject property. No additional right-of-way or improvements will be required as part of this proposal.

6. Per Chapter XI.H.6, all roads shall be designated as County road easements, and shall be shown and described as such on the final plat.

A condition of approval for the proposed Subdivision will require that the Public Access & Utility Easement be dedicated as County road easement on the final plat.

7. Per Chapter XI.H.7 of the County Subdivision Regulations, all internal roads and streets within subdivisions shall be maintained by creating and properly funding a rural improvement district. In all subdivisions, property owners shall sign a waiver of right to protest joining a rural improvement district. A waiver of the right to protest may not be valid for a time period longer than twenty (20) years after the date that the final subdivision plat is filed with the County Clerk and Recorder. Where a rural improvement district exists, the subdivider shall enter into said district. At a minimum, rural improvement districts shall provide for road maintenance, dust control, weed control, and maintenance of turnouts, traffic control signs, and drainage facilities.

The internal roads for the Subdivision will be included in a new Rural Improvement District (RID) for the maintenance of the road. Yearly road maintenance will include plowing of snow/sanding, weed control, storm drain cleaning, dust control, and grading.

8. Per Chapter XI.H.8, local roads and residential driveways shall not have direct access onto roads that are functionally classified as state highways, arterial roads or major collectors. Where there is no other reasonable alternative to a local road or residential driveway accessing a state highway, arterial road or major collector, an approach permit must be obtained from the appropriate agency (Montana Department of Transportation, City of East Helena, City of Helena, Lewis and Clark County) before approval can be granted for the proposed road or driveway.

The proposed Public Access & Utility Easement, a proposed local road serving lots within the proposed Subdivision will have direct access to Green Meadow Drive, a State secondary highway, as no other access exists to the property. An approach permit will be applied for the access to Green Meadow. In order to reduce access along the state highway, a “no access” restriction will be placed on the face of the final plat along Green Meadow Drive on Lots 1 and 5.

9. Per Chapter XI.H.9 of the County Subdivision Regulations, unless designed as part of an integrated road network, or identified as an important traffic corridor, or public health and safety would be enhanced by a through connection, local streets should be designed to discourage through traffic.

The proposed Public Access & Utility Easement will terminate within the proposed subdivision, not providing for through traffic.

10. Per Chapter XI.H.10 of the County Subdivision Regulations, whenever a subdivision abuts or contains an existing or proposed collector, arterial highway, or other major thoroughfare, the governing body may require the following: frontage roads; a reservation prohibiting access along certain property lines; deep lots; building setbacks; County road easements or reservations for additional right-of-way; and/or other treatment as necessary for adequate protection of residential properties, and to separate collector or arterial traffic from local traffic.

A condition of approval will require a 50-FT “No Build” setback along the western boundary of the lot, prohibiting the construction of all new structures, wells, drainfields, replacement drainfields to facilitate any future widening of the road. This setback begins at the edge of the right-of-way/ easement for Green Meadow Drive

The proposed internal Public Access & Utility Easement, a proposed local road serving lots within the proposed Subdivision will have direct access to Green Meadow Drive a State

secondary highway, as no other access exists to the property. An approach permit will be applied to MDT for the access to Green Meadow Drive.

In order to reduce access along the state highway, a “No Access” restriction will be placed on the face of the final plat along Green Meadow drive on proposed Lots 1 and 5.

11. Per Chapter XI.H.11 of the County Subdivision Regulations, a dead-end street must include a cul-de-sac or hammerhead turnaround unless the dead-end road is proposed as part of a future road connection pursuant to XI.H.16 and the road connection does not serve as access to any lots in the subdivision. All aspects of a dead-end street shall meet the design and construction standards of Section 4 of the Lewis and Clark County Public Works Manual.

A condition of approval will require the proposed hammerhead turnaround on the proposed Public Access & Utility Easement to meet the design and construction standards of the County Public Works Manual (Typical Section No. 2).

12. Per Chapter XI.H.12 of the County Subdivision Regulations, the County only accepts the dedication of full width County road easements unless: 1) a subdivision abuts an existing County road easement that is less than the required width, and the remaining portion of the County road easement can be dedicated within such subdivision; 2) the dedication of a partial width County road easement provides, or could provide, for interconnectivity of a road network in accordance with the Greater Helena Area Transportation Plan; and/or 3) the dedication of a partial width County road easement provides, or could provide, for the interconnectivity of roads when the adjoining property is subdivided.

A condition of approval for the proposed Subdivision will require the Applicant to dedicate a 60-foot-wide County road easement for the proposed internal Public Access & Utility Easement.

13. Per Chapter XI.H.13 of the County Subdivision regulations, horizontal and vertical alignment of streets shall conform to the requirements of the Lewis and Clark County Public Works Manual.

A condition of approval will require the proposed Public Access & Utility Easement be certified as meeting County road standards by a professional engineer registered in the State of Montana with concurrence by Public Works.

14. Per Chapter XI.H.14 of the County Subdivision Regulations, intersections shall conform to the requirements of the Lewis and Clark County Public Works Manual.

A condition of approval for the Subdivision will require that intersections conform to the requirements of the County Public Works Manual.

15. Per Chapter XI.H.16 of the County Subdivision Regulations, when County road easements are extended to exterior property boundaries within a subdivision for a future road connection as provided in Section XI.H.4, the roadway shall be constructed in accordance with the County Road Standards in the Lewis and Clark County Public Works Manual.

The Applicant is requesting a variance to Chapter XI.H.4 which states, "*Whenever physically feasible, all roads shall connect to other roads within the neighborhood or development and connect to existing or projected through streets and provide access to adjacent parcels, as part of an interconnected road network, outside of the development.*" The cul-de-sac at the terminus of the 60-FT Public Access and Utility Easement will not provide connectivity.

16. Per Chapter XI.H.18 of the County Subdivision Regulations, no subdivision shall be designed in such a way that prevents or inhibits public access by a gate or other method of obstruction on any road within or accessing the subdivisions.

No gates or obstructions are proposed for use within the Subdivision.

17. Per Chapter XI.H.19 of the County Subdivision Regulations, any property accessing a County or public road must have an approach permit. The following items shall also be incorporated into design and construction: (a) all driveway approaches shall conform to the road approach permit requirements of the Lewis and Clark County Public Works Manual; (b) driveway turns shall have a turning radius no less than thirty (30 ft.) feet; (c) a driveway's traveled way, including bridges and cattle guards, shall be a minimum of twelve (12 ft.) feet in width and have a vertical clearance of at least fourteen and one-half (14.5 ft.) feet over its full width; (d) driveway bridges and cattle guards need to meet HS20 load rating standards; (e) all driveway gates shall be located a minimum of thirty (30 ft.) feet from the public right-of-way and shall open inward. Gate openings shall provide a clear opening of not less than twelve (12 ft.) feet; (f) fire department personnel shall have ready access to locking mechanisms, on any gate restricting access on a driveway; (g) driveway rights-of-way shall be a minimum of twenty (20 ft.) feet wide to accommodate the traveled way, vegetation modification, and other local requirements; (h) driveway grades shall be no greater than eleven (11%) percent; (i) every dead-end driveway more than three hundred (300 ft.) feet in length shall be provided with a turnaround at the terminus having a minimum radius of fifty (50 ft.) feet to the center line or a "hammerhead-T" turnaround to provide emergency vehicles with a three-point turnaround ability; (j) driveway access shall be located at least fifteen (15 ft.) feet from the closest edge of turnouts and shall not be located on a turnout; and (k) driveway access shall be at a location that does not conflict with the requirements of XI.F.5, XI.F.6, XI.F.10, and XI.H.10 in these regulations.

A condition of approval for the proposed Subdivision will require the Applicant to apply for an approach permit from MDT for the development of Wade Minor Subdivision. The Developer must supply information to MDT concerning the anticipated types of vehicles using the approach, this is due to the proposed commercial lot. A covenant will also provide notification to future property owners that an approach permit is required from the County

Public Works Department for all driveway accesses onto the proposed internal public road easement.

18. Per Chapter XI.I.1 of the County Subdivision Regulations, all roads within subdivisions shall be dedicated as County roads, except within mobile home and recreational vehicle parks.

A condition of approval will require all roads within the Subdivision to be dedicated as County road easements.

19. Per Chapter XI.I.2 of the County Subdivision Regulations, all roadway improvements required by the governing body, including pavement, curbs, gutters, sidewalks, driveway approaches and drainage shall be constructed in accordance with the specifications and standards prescribed in these regulations, and the Lewis and Clark County Public Works Manual, using materials approved by the governing body.

A condition of approval for the proposed Subdivision will require that the proposed Public Access & Utility Easement and the proposed cul-de-sac will be certified by a professional engineer registered in the State of Montana as meeting the design and construction standards of the County Public Works Manual (Typical Section No. 2) with concurrence by Public Works. A covenant will also provide notification to future property owners that an approach permit is required from the County Public Works Department for all driveway accesses onto the proposed internal road network.

20. Per Chapter XI.I.3 of the County Subdivision Regulations, the subdivider must provide proof that all easements are County road easements.

A condition of approval will require roads within the Subdivision be dedicated as County road easements and shown on the final plat as County road easements.

21. Per Chapter XI.I.4 of the County Subdivision Regulations, existing trees and other vegetation shall be preserved where possible. Plantings may be required for buffering, screening, weed control, or soil erosion protection and are subject to approval by the governing body.

A condition of approval requiring the revegetation of areas disturbed by road construction and utility installation will be required for the Subdivision.

22. Per Chapter XI.I.6 of the County Subdivision Regulations, street or road signs and traffic control devices, when appropriate, shall be placed at all intersections by the developer or included as part of the public improvement's agreement. Traffic control devices and placement shall be consistent with the Manual on Uniform Traffic Control Devices, available from the County Public Works Department.

A condition of approval will require road names for any new roads be submitted to the City-County Address Coordinator for review and approval, and road names be shown on the final

plat and all other documents of the proposed Subdivision. A signing plan for traffic control and street identification signs must be submitted to the County Public Works Department and the Montana Department of Transportation for review and approval and all signs installed in accordance with MUTCD and MDT standards and guidance. Addresses assignments for each lot must be obtained prior to final plat approval by the Address Coordinator.

23. Per Chapter XI.I.8 of the County Subdivision Regulations, prior to construction of any public improvements, and after receiving preliminary approval, County Planning must review and approve all plans for public improvements required to be submitted by the subdivider, and the subdivider must obtain all necessary permits, which may include but are not limited to: a weed management plan, approach permits, encroachment permits, provisional permits for water supply systems, and floodplain development permits, as well as any permits required by state and federal agencies.

Conditions of approval will require that plans for new public improvements required by the Subdivider be submitted to the County Planning Department and Public Works Department for review. In addition, conditions of approval will require that all permits, including the MDT approach permit, must be obtained by the subdivider and must be submitted to the County Planning Department and County Public Works Department for review.

24. Per Chapter XI.H.7 of the County Subdivision Regulations, all internal roads and streets within subdivisions shall be maintained by creating and properly funding a rural improvement district.

A condition of approval will require the creation of a rural improvement district to maintain the roads in the Subdivision.

25. Per Chapter XI.I.10 of the County Subdivision Regulations, the governing body may require a restrictive covenant on the property, waiving the right to protest a district to fund the installation and/or maintenance of capital improvements such as water supply systems, wastewater treatment systems, solid waste, parks, open space, conservation areas, roads, sidewalks, non-motorized trails, fire protection, grading and drainage, erosion and sediment control, weed control, vegetation management, mailboxes, outdoor lighting, and other utilities. The waiver of a right to protest must identify the capital improvements for which protest is being waived. A waiver of a right to protest may not be valid for a time period longer than 20 years after the date that the final subdivision plat is filed with the County Clerk and Recorder.

A covenant is included in the Conditions of Approval that will provide notification to property owners of the waiver to the right to protest the joining or creation of an RID or special district to fund the installation and/or maintenance of roads providing access to the proposed Subdivision.

Conditions of Approval Nos. 4, 5, 7.b, 7.d, 7.e, 8.b, 8.f, 8.r, 8.s, 9, 10, 11, 12, and 14 are required to mitigate impacts on roads and traffic under local services. (A full list of the Conditions of Approval is found starting on Page No. 36.)

Condition of Approval No. 4 mitigates impacts under Findings No. 1, 11, 12, 13, 14, 18, 19, 20 and 23.

Condition of Approval No. 5 mitigates impacts under Finding No. 1, 8, 10, 17, and 23.

Condition of Approval No. 7.b mitigates impacts under Finding No. 5, 6, 12, 18, and 20.

Condition of Approval No. 7.d and 8.r mitigates impacts under Finding No. 2, 8, and 10.

Condition of Approval No. 7.e mitigates impacts under Finding No. 10.

Condition of Approval No. 8.b mitigates impacts under Findings No. 17 and 19.

Condition of Approval No. 8.f mitigates impacts under Findings No. 7 and 25.

Condition of Approval No. 8.s mitigates impacts under Findings No. 10.

Condition of Approval No. 9 mitigates impacts under Finding No. 21 & 23.

Condition of Approval No. 10 mitigates impacts under Finding No. 21 & 23.

Condition of Approval No. 11 mitigates impacts under Finding No. 22.

Condition of Approval No. 12 mitigates impacts under Finding No. 22.

Condition of Approval No. 14 mitigates impacts under Finding No. 7 and 24.

FINDINGS OF FACT REGARDING SCHOOLS:

1. The proposed Subdivision is located in the Helena School District and will be served by Jim Darcy Elementary School, CR Anderson Middle School and Capital High School. The Applicant states that there are currently no known capacity restraints. The impacts of the proposed 5 lot Subdivision are not anticipated to significantly impact the Helena School District as a whole.

No Conditions of Approval are required to mitigate any impacts to schools under local services, as there are no known capacity constraints within the School District to accommodate the additional students generated by the proposed Subdivision.

FINDINGS OF FACT REGARDING EMERGENCY SERVICES:

1. Per Chapter XI.S of the County Subdivision Regulations, all subdivisions shall be planned, designed, constructed, and maintained in compliance with the fire protection standards described in Appendix K to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property, and forested areas.

Per Appendix K.18-4, Fire protection options for new subdivision are grouped into two categories, Class 1 and Class2. The determination of what Class the subdivision would fall under is based on density of the subdivision. Class II subdivision based on less than 20 lots with a density of 1 to 4.9 acres per dwelling unit.

Class II subdivisions require a water supply system of sufficient volume, pressure and water distribution system to fight fire on site according to the following schedule:

1. One-and Two-Family Dwellings

a. 250 gpm for two hours

- i. Water shall be supplied by a well and pump with required volume and minimum pressure of 20 PSI. An overhead fill may be required in order to fill tanker. The fill site must be useable year-round and the FPAHJ must have legal in perpetuity.
- ii. Water shall be supplied by a tank/ pressurized hydrant combination. The tank may be constructed from plastic, concrete, fiberglass or other materials capable of holding and maintaining the required water supply. The tank must be built and installed so as to last a minimum of 30 years. The pump must be capable of delivering the required gpm at a minimum of 20 psi from approved fire hydrant. The system shall be inspected and certified by a Professional Engineer and approved by the FPAHJ.

Or

- iii. 30,000-gallon storage with dry hydrant. Dry hydrant applications may be used for ponds, streams, and lakes. The system must be designed to be useable and accessible year-round. All pipes must be a minimum of 6-inch diameter and the threads at the outlet must be 6-inch male NST.

The Applicant is requesting a variance to Section XI.S, Appendix K, Section 18-4.6(4) which requires the an off-site water supply system to be located no longer than one county road mile from an existing or proposed internal access road for the subdivision. The Applicant is requesting to utilize an existing off-site fire protection water source on Bootlegger Drive within the Frontier Village Estates Subdivision to provide a water source for fire protection, approximately 2 miles. The Bootlegger Drive well, water line and hydrant are located within a Public Access & Utility Easement. The Fire protection System was established when the Frontier Village Estates Subdivision was platted in 2011. The West Valley Fire District, the Fire Protection Agency Having Jurisdiction (FPAHJ), maintains the system for area-wide use. While this system is located off-site of the proposed Subdivision, Email correspondence dated November 25, 2024 from David Hamilton, Fire Chief of the West Valley Fire District, notes his support in using the Frontier Village Estates Subdivision fire protection system for the proposed Subdivision.

2. The Applicant is requesting a variance to Section XI.S, Appendix K, Section 18-4.6(5) which requires the Fire Protection Agency Having Jurisdiction (FPAHJ) not have to cross an arterial or major collector road to get to an off-site water supply systems for fire suppression. Because Bootlegger Drive is located north of Green Meadow Drive, a collector road, a

variance must be granted if the Applicant wishes to satisfy the requirements of Section XI.S, Appendix K, Section 18-4.6(5).

3. The Subdivision application materials indicate this fire system can produce in excess of 750 GPM for two hours at 20 PSI. In order to satisfy requirement Section XI.S, Appendix K, Section 18-4.6(3). Use of an existing off-site water supply system does not diminish the fire protection provided to the subdivision(s) it was originally built to serve or it is upgraded and/or expanded to provide volume, pressure, and distribution in accordance with these regulations for all subdivisions utilizing the system for fire protection in accordance with these Subdivision Regulations.

The proposed offsite fire system currently serves a total of 102 single family lots within the Frontier Village Estates, Buckboard Meadows and Garden Valley developments. With the addition of the lots in the Wade Minor subdivision, the system will be proposed to serve a total of 105 lots, with an average size/ dwelling of more than 1-acre and less than 5-acres. This makes the system a "Class 1", and the density requires the system to produce 750 GPM at 20 PSI. The system is capable of more than 750 GPM for two hours at 20 PSI and therefore meets the requirements without diminishing fire protection in the developments currently being served.

4. A condition of approval will require the subdivider to provide a certification from an engineer, licensed in the State of Montana, stating that any existing, new, or improved fire protection water supplies serving the Subdivision comply with the requirements of preliminary approval. The subdivider shall also submit a written verification from the Fire Protection Authority Having Jurisdiction (FPAHJ) stating that the FPAHJ has inspected and tested the fire protection water supplies serving the subdivision.

Address assignments for each lot must be obtained prior to final plat approval in accordance with the Lewis and Clark County Site Address and Road Naming Conventions manual.

5. Per Appendix K 18-4.3 of the County Subdivision Regulations, an easement for unrestricted use by the fire department, in perpetuity, of the water supply system shall be recorded and noted on the plat.

No easements are necessary unless a fire protection system is installed onsite.

6. Per Appendix K 18-4.3(2) of the County Subdivision Regulations, the subdivider shall establish or join a Rural Improvement District (RID) for the maintenance of the off-site water supply system that includes the subdivision is established prior to the final plat approval unless the off-site water supply is maintained by the FPAHJ or public water system that provides adequate funding to maintain the system.

Currently the Frontier Village Estates Fire System Rural Improvement District No. 2016-4 funds the maintenance of the fire protection system located within the Frontier Village Estates Subdivision. Additional Subdivisions within that RID include Buckboard Meadows and Garden Valley subdivision.

A condition of approval will require the Applicant to request to join the Frontier Village Fire System Rural Improvement District No.2016-004.

7. Per Chapter XI.M.2 of the County Subdivision Regulations, the water supply system shall be subject to approval by the governing body, which may require that any proposed public water supply system provide adequate and accessible water for fire protection.

The Applicant is not proposing a water supply system on site.

8. Per Chapter XI.M.11 of the County Subdivision Regulations, any public water supply system must provide adequate and accessible water for fire protection, unless an alternative fire-fighting water supply system is approved for use by the governing body and recommended for use by the Fire Protection Authority Having Jurisdiction (FPAHJ).

The Applicant is not proposing a water supply system on site.

9. Per Chapter XI.C.1.I of the County Subdivision Regulations, the governing body may find land to be unsuitable for subdivision because of natural or human caused hazards identified during the subdivision review process. These lands must not be subdivided for building or residential purposes unless the hazards are eliminated or will be overcome by approved design and construction techniques. Examples of hazards that could render property unsuitable for subdivision or require mitigation include (but are not limited to) the following: high-risk fire areas (see fire standards).

A vegetation management plan will be prepared for the property as a requirement of the Subdivision Regulations. A copy of this plan shall also be filed with the Clerk and Recorder's Office upon final approval of the proposed Subdivision and a restrictive covenant shall provide notice to property owners of the vegetation management plan and that the plan is on file with the Lewis and Clark County Clerk and Recorder.

The Lewis and Clark County Sheriff's Department will provide law enforcement services for the proposed Subdivision. Emergency medical and ambulance services are provided by Saint Peters Hospital for the proposed Subdivision. Fire protection services are currently provided by the West Valley Fire District.

10. Per Chapter XI.C.5 of the County Subdivision Regulations, the governing body may find land to be unsuitable for subdivision because of natural or human caused hazards identified during the subdivision review process. These lands must not be subdivided for building or

residential purposes unless the hazards are eliminated or will be overcome by approved design and construction techniques. Building sites shall be prohibited on slopes greater than thirty percent (30) and at the apex of "fire chimneys" (topographic features, usually drainage ways or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes), head of draws designated high fire hazard areas, or severe fire hazard areas. The governing body may require a minimum lot size and building envelopes for development in areas of steep slopes greater than thirty (30) percent.

A vegetation management plan will be prepared for the property as a requirement of the Subdivision Regulations. A copy of this plan shall also be filed with the Clerk and Recorder's Office upon final approval of the proposed Subdivision and a restrictive covenant shall provide notice to property owners of the vegetation management plan and that the plan is on file with the Lewis and Clark County Clerk and Recorder.

Conditions of Approval Nos. 3, 7.g, 8.o, 15, and 16 are required to mitigate impacts on emergency services under local services. (A full list of the Conditions of Approval is found starting on Page No. 36.)

Condition of Approval No. 3 mitigates impacts under Findings No. 1, 2, 3, 6 and 7.

Condition of Approval No. 8.o mitigates impacts under Finding No. 1.

Condition of Approval No. 15 mitigates impacts under Findings No. 3.

Condition of Approval No. 16 mitigates impacts under Finding No. 1.

Condition of Approval No. 7.g mitigates impacts under Finding No. 5.

FINDINGS OF FACT REGARDING PARKLAND:

1. The proposed Subdivision shall be in compliance with the parkland requirements under Chapter XI.R of the County Subdivision Regulations.

In accordance with MCA 76-3-621(3)(e) and Chapter XI.R.3.e of the County Subdivision Regulations, the proposed first minor subdivision is not required to dedicate parkland.

No Conditions of Approval are required to mitigate any impacts to parkland under local services, as first minor subdivisions are not required to provide parkland dedication.

CONCLUSION: The impacts to local services (water, wastewater, solid waste, utilities, roads, traffic, schools, emergency services, and parkland), as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

IMPACTS ON THE NATURAL ENVIRONMENT

FINDINGS OF FACT:

1. Per Chapter XI.A of the County Subdivision Regulations, all subdivisions must be designed and developed by the Applicant to provide satisfactory building sites that properly relate to topography and must avoid or mitigate any significant adverse impacts on the natural environment.

The subject property is level and thus provides good building sites that will minimize the flow of stormwater and therefore minimize soil erosion that might occur due to the construction of homes and associated infrastructure which could negatively affect the natural environment.

2. Per Chapter XI.C.2 of the County Subdivision Regulations, the governing body may find land to be unsuitable for subdivision because of natural or human caused hazards identified during the subdivision review process. These lands must not be subdivided for building or residential purposes unless the hazards are eliminated or will be overcome by approved design and construction techniques. In addition to specific hazards, there may be cases where a subdivision proposal has potential to place unreasonable burdens on the general public because of environmental degradation, critical fish and wildlife habitat, vegetation listed as rare or threatened, or other factors that may require an excessive expenditure of public funds. In other cases, a proposal may, for a variety of reasons, be detrimental to the health, safety, or general welfare of existing or future residents. In these cases, the governing body has the authority to deny a subdivision request, based on its analysis of impacts, and the inability to mitigate the impacts.

The subject property does not contain hazards associated with steep slopes or areas prone to rock falls, landslides, or avalanches; flooding, high groundwater, high voltage power lines, high pressure gas lines; contaminated soils; or toxic waste.

There are no known geologic hazards on this property that has a very gradual slope to the east. There are no tree or plant species of concern on this most barren parcel.

The WQPD provided comments indicating water quality concerns regarding nitrate which is common contaminant in the Helena Valley due to the numerous potential sources such as septic systems, agricultural products, and animal manure. Residential water quality data submitted to the WQPD indicate elevated nitrate concentrations to the east of the development, near Applegate Road. Local and surrounding land use, past present, can lead to elevated concentrations in the groundwater.

The WQPD recommends future property owners test for nitrate on an annual basis. The WQPD has water quality test kit for nitrates and total coliform bacteria.

A condition of approval will require a restrict covenant providing notice to the property owner that wells should be tested for nitrates on an annual basis.

The Montana Natural Heritage Program Environmental Summary for the proposed project indicates the following after a survey of a 1-mile radius and found 17 Special Occurrences animals. There was (1) one Special Status species, Bald Eagle. No special notes or additional items of concern were given. The Applicant states no habitat on the parcel exists to support Bald Eagles.

3. Per Chapter XI.C.3 of the County Subdivision Regulations, in cases where a subdivision is proposed in areas where mining has historically occurred, the Applicant must contact the Department of Environmental Quality (DEQ) for a file search of their records, to help determine the extent, nature, and impacts of the mining. The DEQ response to the file search request must be included as part of the preliminary plat application. Other related requirements are as follows: a. Unless specifically allowed by the DEQ (and documented through a letter), construction on top of reclaimed lands in which waste materials have been buried and capped is prohibited. In some cases, such areas could potentially be used as open space providing the mine waste repository cap is not disturbed. b. If the subdivision is located in areas where there are safety and/or subsidence issues associated with tunnels or mine shafts, the Applicant must indicate the location and demonstrate how the potential adverse impacts of these features can be mitigated. c. If mining waste or other potentially hazardous materials are present or believed to occur on the property, the Applicant must demonstrate how the potential hazard can be mitigated to protect human health and safety.

Based on research by the applicant, no known mineral rights exist with this property. No mining activities are visible at the or around the parcel.

4. Per Chapter XI.Z of the County Subdivision Regulations, all outdoor lighting fixtures shall be designed and constructed in a manner to ensure that any exterior lighting shall be arranged and directed downward to minimize illumination beyond the property lines.

A condition of approval requires a restrictive covenant providing notice that any exterior lighting shall be arranged and directed downward to minimize illumination beyond the property lines.

5. All proposed/required grading, drainage, and erosion control shall be in compliance with Chapter XI.L of the County Subdivision Regulations.

Stormwater runoff associated with development of the residential & commercial lot will be contained in one detention pond located on proposed Lot 3 as referenced in Department of Environmental Quality Certificate of Subdivision Approval E.Q. #07-2709.

Property owners within the Subdivision will be responsible for maintaining the individual stormwater detention pond. Maintenance of roadside drainage facilities will be accommodated through the internal road RID to be created for the Subdivision at the time of final plat approval.

6. Per Chapter XI.V of the County Subdivision Regulations any subdivider causing one or more acres of ground disturbance is required to contact the Department of Environmental Quality (DEQ) to obtain a Montana Pollution Discharge Elimination System (MPDES) permit. All requirements and specifications of the permit shall be met prior to final plat approval unless the subdivider financially guarantees the completion of the permit.

A Montana Pollution Discharge Elimination System (MPDES) permit is required as a condition of approval if disturbance activity includes the disturbance of less than one acre of total land area that is a part of a larger common plan of subdivision if the larger common plan will ultimately disturb one acre or more; and a restrictive covenant providing notice about the use of best management practices for erosion control during construction. Another condition of approval will provide the opportunity to financially guarantee any improvements required by the MPDES permit.

7. Per Chapter XI.U of the County Subdivision Regulations and pursuant to Section 7-22-2121, MCA of the County Weed Law, anyone significantly disturbing soil must submit a written weed management and re-vegetation plan to the County Weed District. The plan shall be approved and certified by the County Weed District prior to any soil disturbance. All requirements and specifications of an approved plan shall be met prior to approval of the final subdivision plat. An approved weed management plan shall remain in effect for the five-year management period, regardless of any changes in property ownership.

A Five-Year Weed Management Plan is required as a condition of approval for all subdivisions in the County to prevent the propagation of noxious weeds as a result of ground disturbance; and a restrictive covenant providing notice about maintaining the property in a weed-free manner. Another condition of approval will provide the opportunity to financially guarantee any improvements required by the Weed Management Plan.

Conditions of Approval Nos. 2, 7.f, 8.e, 8.g, 8.i, 8.l, 8.t, 9, 10, and 13 are required to mitigate impacts on the natural environment. (A full list of the Conditions of Approval is found starting on Page No. 36.)

Condition of Approval No. 2 mitigates impacts under Findings No. 5 and 7.

Condition of Approval No. 7.f mitigates impacts under Finding No. 5.

Condition of Approval No. 8.e mitigates impacts under Finding No. 4.

Condition of Approval No. 8.g mitigates impacts under Findings No. 6 and 7.

Condition of Approval No. 8.i mitigates impacts under Finding No. 7

Condition of Approval No. 8.l mitigates impacts under Finding No. 2

Condition of Approval No. 8.t mitigates impacts under Finding No. 2

Condition of Approval No. 9 mitigates impacts under Finding No. 6.

Condition of Approval No. 10 mitigates impacts under Finding No. 5.

Condition of Approval No. 13 mitigates impacts under Findings No. 5 and 7.

CONCLUSION: The impacts to the natural environment, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

IMPACTS ON WILDLIFE

FINDINGS OF FACT:

1. Per Chapter XI.L.3.d of the County Subdivision Regulations, it is recommended that the use of native vegetation acknowledge certain plant species' relative attractiveness to wildlife when revegetating an area to stabilize a slope after grading.

A Five-Year Weed Management Plan is required as a condition of approval for all subdivisions in the County to prevent the propagation of noxious weeds as a result of ground disturbance which would negatively impact wildlife; and a restrictive covenant providing notice about maintaining the property in a weed-free manner. Another condition of approval will provide the opportunity to financially guarantee any improvements required by the Weed Management Plan.

2. Per Chapter XI.X of the County Subdivision Regulations, depending on wildlife issues raised during their review of the preliminary plat application, the Board of County Commissioners may require "wildlife friendly" fencing as a condition of approval. While not applicable in all situations, hedges or other vegetative barriers are preferable from a wildlife perspective.

To the north, south and east are developed parcels with residential and commercial uses. The proposed subdivision will remove 6.75 acres that could potentially be utilized by wildlife. Due to the amount of existing nearby development and the small size of the proposed subdivision, the proposed subdivision will have minimal impact on wildlife, however future property owners will be notified of that Montana Fish, Wildlife and Parks can provide information on fencing standards and about living with wildlife in general.

A condition of approval required a restrictive covenant providing notice the property owners should contact Fish, Wildlife and Parks for fencing standards and about living with wildlife in general.

Condition of Approval Nos. 2, 8.i, 8.m, and 8.n are required to mitigate impacts on wildlife. (A full list of the Conditions of Approval is found starting on Page No. 36.)

Condition of Approval No. 2 and 8.i mitigates impacts under Finding No. 1.

Condition of Approval No. 8.m and 8.n mitigates impacts under Finding No. 2.

CONCLUSION: The impacts to wildlife, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

IMPACTS ON WILDLIFE HABITAT

FINDINGS OF FACT:

1. Per Chapter XI.X of the County Subdivision Regulations, depending on wildlife issues raised during their review of the preliminary plat application, the Board of County Commissioners may require “wildlife friendly” fencing as a condition of approval. While not applicable in all situations, hedges or other vegetative barriers are preferable from a wildlife perspective.

To the north, south and east are developed parcels with residential and commercial uses. The proposed subdivision will remove 6.75 acres that could potentially be utilized by wildlife. Due to the amount of existing nearby development and the small size of the proposed subdivision, the proposed subdivision will have minimal impact on wildlife, however future property owners will be notified of that Montana Fish, Wildlife and Parks can provide information on fencing standards and about living with wildlife in general.

A condition of approval required a restrictive covenant providing notice the property owners should contact Fish, Wildlife and Parks for fencing standards and about living with wildlife in general.

2. Per Chapter XI.L.3.d of the County Subdivision Regulations, it is recommended that the use of native vegetation acknowledge certain plant species’ relative attractiveness to wildlife when revegetating an area to stabilize a slope after grading.

A Five-Year Weed Management Plan is required as a condition of approval for all subdivisions in the County to prevent the propagation of noxious weeds as a result of ground disturbance which would negatively impact wildlife; and a restrictive covenant providing notice about maintaining the property in a weed-free manner. Another condition of approval will provide the opportunity to financially guarantee any improvements required by the Weed Management Plan.

Condition of Approval Nos. 2, 8.i, 8.m, and 8.n are required to mitigate impacts on wildlife. (A full list of the Conditions of Approval is found starting on Page No. 36.)

Condition of Approval No. 8.m and 8.n mitigates impacts under Finding No. 1.

Condition of Approval No. 2 and 8.i mitigates impacts under Finding No. 2.

CONCLUSION: The impacts to wildlife habitat, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

IMPACTS ON PUBLIC HEALTH AND SAFETY

FINDINGS OF FACT:

1. Per Chapter XI.C.1 of the County Subdivision Regulations, the governing body may find land to be unsuitable for subdivision because of natural or human caused hazards identified during the subdivision review process. These lands must not be subdivided for building or residential purposes unless the hazards are eliminated or will be overcome by approved design and construction techniques. Examples of hazards that could render property unsuitable for subdivision or require mitigation include (but are not limited to) the following: earthquake fault zones; irrigation ditches and canals; steep slopes and/or areas prone to rock falls, landslides, or avalanches; radon/radiation; mine tailings, contaminated soils, toxic waste, etc.; flooding; high water table, as defined by the Sanitation in Subdivisions Act; polluted or non-potable water supplies; high voltage power lines; high pressure gas lines; air or vehicular traffic hazards or congestion; and/or high-risk fire areas.

The proposed subdivision is within 0.2 miles of a fault line within the Helena Valley. All new buildings in Lewis and Clark County are required to meet the Uniform Building Code, which classifies this area as Seismic Zone 3. A restrictive covenant notifying homeowners they should construct to seismic building codes will be required as a condition of approval.

No seismic rock falls or slides; land, mud, or snow slides; steep slopes or unstable or expansive soil conditions are present within or near the project area.

Lewis and Clark County is rated as a Zone 1 County (the highest designation), which means that it may have predicted average indoor radon screening levels greater than 4 picocuries per liter (4 pCi/L). A Report on Radon in Drinking Water released by the National Academy of Sciences in 1998 concluded that radon is the second leading cause of lung cancer in the United States and a serious public health concern. A condition of approval shall require a restrictive covenant providing notice of design alternatives for radon gas.

According to the Tri-County Community Wildfire Protection Plan, the property has a low fuel hazard rating. A vegetation management plan will be prepared for the property as a requirement of the Subdivision Regulations. A copy of this plan shall also be filed with the Clerk and Recorder's Office upon final approval of the proposed Subdivision and a restrictive covenant shall provide notice to property owners of the vegetation management plan and that the plan is on file with the Lewis and Clark County Clerk and Recorder. All requirements and specifications of the vegetation management plan shall be met prior to final plat approval unless the subdivider financially guarantees the completion of the plan.

The WQPD provided comments indicating water quality concerns regarding nitrate which is common contaminant in the Helena Valley due to the numerous potential sources such as septic systems, agricultural products, and animal manure. Residential water quality data submitted to the WQPD indicate elevated nitrate concentrations to the east of the development, near Applegate Road. Local and surrounding land use, past present, can lead to elevated concentrations in the groundwater.

The WQPD recommends property owners test for nitrate on an annual basis. The WQPD has water quality test kit for nitrates and total coliform bacteria.

A condition of approval will require a restrictive covenant will be added recommending future property owners to test annually for nitrates.

There are no other known natural or man-made hazards that should preclude the subdivision of the property.

2. Per Chapter XI.S. of the County Subdivision Regulations, all subdivisions shall be planned, designed, constructed, and maintained in compliance with the fire protection standards described in Appendix K to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property, and forested areas.

The Applicant is requesting a variance to Section XI.S, Appendix K, Section 18-4.6(4) which requires an off-site water supply system to be located no longer than one county road mile from an existing or proposed internal access road for the subdivision. The Applicant is requesting to utilize an existing off-site fire protection water source on Bootlegger Drive within the Frontier Village Estates Subdivision to provide a water source for fire protection, approximately 2 miles. The Bootlegger Drive well, water line and hydrant are located within a Public Access & Utility Easement. The Fire protection System was established when the Frontier Village Estates Subdivision was platted in 2011. The West Valley Fire District, the Fire Protection Agency Having Jurisdiction (FPAHJ), maintains the system for area-wide use. While this system is located off-site of the proposed Subdivision, Email correspondence dated November 25, 2024 from David Hamilton, Fire Chief of the West Valley Fire District, notes his support in using the Frontier Village Estates Subdivision fire protection system for the proposed Subdivision.

The Applicant is requesting a variance to Section XI.S, Appendix K, Section 18-4.6(5) which requires the Fire Protection Agency Having Jurisdiction (FPAHJ) not have to cross an arterial or major collector road to get to an off-site water supply systems for fire suppression. Because Bootlegger Drive is located north of Green Meadow Drive, a collector road, a variance must be granted if the Applicant wishes to satisfy the requirements of Section XI.S, Appendix K, Section 18-4.6(5).

The Subdivision application materials indicate this fire system can produce in excess of 750 GPM for two hours at 20 PSI. In order to satisfy requirement Section XI.S, Appendix K, Section 18-4.6(3). Use of an existing off-site water supply system does not diminish the fire protection provided to the subdivision(s) it was originally built to serve or it is upgraded and/or expanded to provide volume, pressure, and distribution in accordance with these regulations for all subdivisions utilizing the system for fire protection in accordance with these Subdivision Regulations.

The proposed offsite fire system currently serves a total of 102 single family lots within the Frontier Village Estates, Buckboard Meadows and Garden Valley developments. With the addition of the lots in the Wade Minor subdivision, the system will be proposed to serve a total of 105 lots, with an average size/ dwelling of more than 1-acre and less than 5-acres. This makes the system a “Class 1”, and the density requires the system to produce 750 GPM at 20 PSI. The system is capable of more than 750 GPM for two hours at 20 PSI and therefore meets the requirements without diminishing fire protection in the developments currently being served.

A condition of approval will require the subdivider to provide a certification from an engineer, licensed in the State of Montana, stating that any existing, new, or improved fire protection water supplies serving the Subdivision comply with the requirements of preliminary approval. The subdivider shall also submit a written verification from the Fire Protection Authority Having Jurisdiction (FPAHJ) stating that the FPAHJ has inspected and tested the fire protection water supplies serving the subdivision.

Conditions of Approval Nos. 3, 8.f, 8.h, 8.j, 8.k, 8.l, and 8.o are required to mitigate impacts on public health and safety. (A full list of the Conditions of Approval is found starting on Page No. 36.)

Condition of Approval Nos. 8.h, 8.j, 8.k, and 8.l mitigates impacts under Finding No. 1.
Condition of Approval No. 3, 8.f, and 8.o mitigates impacts under Finding No. 2.

CONCLUSION: The impacts to public health and safety, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

COMPLIANCE WITH SUBDIVISION REGULATIONS

FINDINGS OF FACT:

1. Per Chapter XI.A.2 of the County Subdivision Regulations, all subdivision applications must also be in compliance with these Subdivision Regulations and the review procedures contained in these Subdivision Regulations.

The proposed Subdivision meets all Subdivision Regulations, and it will remain in compliance with these Regulations if all conditions of approval are satisfied and the required Variances are approved.

2. Per Chapter XI.A.5 of the County Subdivision Regulations, all subdivisions approved by the governing body shall comply with the provisions of this chapter, except where granted a variance pursuant to Chapter II, Section B.

The Applicant is requesting approval of variances to Chapter XI.H.4 which requires access to adjacent properties for future road connections and Section XI.S, Appendix K, Section 18-4.6(5) which require the Fire Protection Agency Having Jurisdiction (FPAHJ) not have to cross an arterial or major collector road to get to an off-site water supply systems for fire suppression and Section XI.S, Appendix K, Section 18-4.6(4) which requires the utilization of an off-site water supply located no longer than one county road mile from an existing or proposed internal access road for the subdivision.

Approval of the variance and all conditions of approval are required to address compliance with the Subdivision Regulations. (A full list of the Conditions of Approval is found starting on Page No. 36.)

CONCLUSION: Compliance with Subdivision Regulations, as set forth in the Findings of Fact, will be addressed by the imposed Condition of Approval, based upon the record, when satisfactorily completed.

COMPLIANCE WITH SURVEY REQUIREMENTS

FINDINGS OF FACT:

1. Per Chapter XI.A.2 of the County Subdivision Regulations, all subdivision applications must also be in compliance with survey requirements of the Montana Subdivision and Platting Act.

A land survey and plat completed by a registered land surveyor in the State of Montana will need to be prepared. A review of the plat by the Community Development and Planning Department, the Lewis and Clark County Survey Review Committee, and the Examining Land Surveyor at the time the final plat application is submitted to the Community Development and Planning Department will ensure the plat conforms to all conditions of approval, plat rules, and regulations.

Condition of Approval No. 7 is required to address compliance with survey requirements. (A full list of the Conditions of Approval is found starting on Page No. 36.)

Condition of Approval No. 7 mitigates impacts under Finding No. 1.

CONCLUSION: Compliance with survey requirements, as set forth in the Findings of Fact, will be addressed by the imposed Condition of Approval, based upon the record, when satisfactorily completed.

THE PROVISION OF EASEMENTS WITHIN AND TO THE PROPOSED SUBDIVISION FOR THE LOCATION AND INSTALLATION OF ANY PLANNED UTILITIES

FINDINGS OF FACT:

1. Per Chapter XI.A.3 of the County Subdivision Regulations, all subdivisions must provide easements within and to the subdivision for the location and installation of any planned utilities.

Utility easements will have to be shown and described on the plat, in accordance with the Subdivision Regulations and in consultation with the utility providers, where utilities are or will be installed, and where necessary for the future extension of services.

Conditions of Approval Nos. 7.a, 7.b and 8.d are required to address the provision of easements within and to the proposed Subdivision for the location and installation of planned utilities. (A full list of the Conditions of Approval is found starting on Page No. 36.)

Condition of Approval Nos. 7.a, 7.b and 8.d mitigates impacts under Finding No. 1.

CONCLUSION: The provision of easements within and to the proposed Subdivision for the location and installation of any planned utilities, as set forth in the Findings of Fact, will be addressed by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

THE PROVISION OF LEGAL AND PHYSICAL ACCESS TO EACH PARCEL WITHIN THE PROPOSED SUBDIVISION

FINDINGS OF FACT:

1. Per Chapter XI.A.4 of the County Subdivision Regulations, all subdivisions must provide legal and physical access to each parcel within the subdivision with notation of that access on the plat and any instrument of transfer concerning each parcel.

Legal and physical access to all lots within the Subdivision will be via the proposed county road easement. The Applicant is requesting a variance to Chapter XI.H.4 to forgo road connections to the properties to the north, east and south given existing residential and commercial development and. A “no-access” restriction will be placed along Green Meadow Drive on proposed Lots 1 and 5 to ensure access to those lots is obtained from the internal subdivision road rather than Green Meadow Drive, a major collector.

All roads within the Subdivision will have to be dedicated as County Road easements and shown on the final plat as County road easements.

2. Per Chapter XI.H.19 of the County Subdivision Regulations, any property accessing a County or public road must have an approach permit. The following items shall also be incorporated into design and construction: (a) all driveway approaches shall conform to the road approach permit requirements of the Lewis and Clark County Public Works Manual; (b) driveway turns shall have a turning radius no less than thirty (30 ft.) feet; (c) a driveway's

traveled way, including bridges and cattle guards, shall be a minimum of twelve (12 ft.) feet in width and have a vertical clearance of at least fourteen and one-half (14.5 ft.) feet over its full width; (d) driveway bridges and cattle guards need to meet HS20 load rating standards; (e) all driveway gates shall be located a minimum of thirty (30 ft.) feet from the public right-of-way and shall open inward. Gate openings shall provide a clear opening of not less than twelve (12 ft.) feet; (f) fire department personnel shall have ready access to locking mechanisms, on any gate restricting access on a driveway; (g) driveway rights-of-way shall be a minimum of twenty (20 ft.) feet wide to accommodate the traveled way, vegetation modification, and other local requirements; (h) driveway grades shall be no greater than eleven (11%) percent; (i) every dead-end driveway more than three hundred (300 ft.) feet in length shall be provided with a turnaround at the terminus having a minimum radius of fifty (50 ft.) feet to the center line or a "hammerhead-T" turnaround to provide emergency vehicles with a three-point turnaround ability; (j) driveway access shall be located at least fifteen (15 ft.) feet from the closest edge of turnouts and shall not be located on a turnout; and (k) driveway access shall be at a location that does not conflict with the requirements of XI.F.5, XI.F.6, XI.F.10, and XI.H.10 in these regulations.

A condition of approval for the proposed Subdivision will require the Applicant to obtain and adhere to provisions of an approach permit from MDT for access to Green Meadow Drive. A restrictive covenant will also provide notification to future property owners that an approach permit is required from the County Public Works Department for all driveway accesses onto the proposed county road easement.

Conditions of Approval Nos. 4, 5, 7.b, 7.d, 8.b, 8.r and 8.s are required to address the provision of legal and physical access to each parcel within the proposed Subdivision. (A full list of the Conditions of Approval is found starting on Page No. 36.)

Condition of Approval Nos. 4, 7.b, 7.d, 8.r and 8.s mitigates impacts under Finding No. 1.
Condition of Approval Nos. 5 and 8.b mitigates impacts under Finding No. 2.

CONCLUSION: The provision of legal and physical access to each parcel within the proposed Subdivision, as set forth in the Findings of Fact, will be addressed by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

Based on these findings of fact and conclusions for each criterion, the Commission concludes that the proposed Subdivision is supported under the criteria and standards of the Lewis and Clark County Subdivision Regulations.

In view of these findings of fact and conclusions, the Commission voted (x-y) to approve the Wade Minor Subdivision. If a party is aggrieved by this decision, they may appeal the decision to the district court in Lewis and Clark County; such appeal must be filed within thirty (30) days of the Commissions' written decision.

The preliminary approval is for five (5) lots, four (4) for one single family dwelling and one (1) for the commercial development of a storage facility. The Subdivision is located in Section 24, T11N, R4W, P.M.M., Lewis and Clark County, Montana. In order to mitigate identified adverse impacts, this approval is subject to the following conditions:

**WADE MINOR SUBDIVISION
CONDITIONS OF APPROVAL
December 17, 2024**

On December 17, 2024, the Lewis and Clark County Board of Commissioners held public meetings regarding the proposed Wade Minor Subdivision located in the NW 1/4, Section 24, Township 11N, Range 4W, P.M.M., Lewis and Clark County, Montana.

The preliminary approval is for four (4) lots for single-family residential uses and one (1) lot for the commercial development of a storage unit facility. To mitigate identified adverse impacts, this approval is subject to the following conditions:

1. Prior to submitting a Final Subdivision Plat application, the Applicant, its successors, and assigns, shall submit plans for wastewater treatment and water supply systems to the Montana Department of Environmental Quality (DEQ), Lewis and Clark County Public Works Department (Public Works), and Lewis and Clark County Public Health - Environmental Services Division (PHESD) for review and approval. The Applicant, its successors, and assigns, shall submit documentation to the Lewis and Clark County Community Development and Planning Department (CDP) from DEQ, Public Works, and PHESD verifying their review and approval. All specifications and requirements of the approved plans that are required to be completed prior to final plat approval, shall be met at the cost of the Applicant, its successors, and assigns. **(Mitigates Findings of Fact under “Impacts on Water and Wastewater under Local Services”)** (Sections 76-4-101, et. seq., MCA; Sections 17.36.101, et. seq., ARM; Sections 76-3-102(4), 501(a and g), 504(1)(g)(iii), and 608(3)(a), MCA; Chapters I.C.7, 8, 9, 10, 11. and XI.M. and N., County Subdivision Regulations)
2. Prior to any development and/or soil disturbance, the Applicant, its successors, and assigns, shall submit a Five-Year Weed Management Plan and Revegetation Plan for the proposed Subdivision to the Lewis and Clark County Weed District (Weed District) for review and approval and all specifications and requirements of the approved plan shall be met at the cost of the Applicant, its successors and assigns. The Applicant, its successors, and assigns, shall submit documentation to the County Community Development and Planning Department from the Weed District verifying their review and approval. **(Mitigates Findings of Fact under “Impacts on Agriculture, Impacts on Natural Environment, and Impacts on Wildlife and Wildlife Habitat”)** (Section 7-22-2121, County Weed Law; Sections 76-3-102(5 and 6), 501(1), and 608(3)(a), MCA; Chapters I.C.9. and XI.U., County Subdivision Regulations)

3. Prior to submitting the Final Subdivision Plat application, the Applicant, its successors, and assigns, shall complete all improvements and requirements listed below (in accordance with the County Subdivision Regulations) for the purpose of furthering fire protection. The Applicant, its successors, and assigns, shall be responsible for all costs in completing and demonstrating completion of the following improvements and requirements: **Mitigates Findings of Fact under “Impacts on Emergency Services under Local Services and Impacts on Public Health and Safety”** (Sections 76-3-102, 501, 504, and 608(3), MCA; Chapter XI.S. and Appendix K, County Subdivision Regulations)
 - a. The Applicant, its successors, and assigns, shall have a vegetation management plan prepared for the property. A qualified fire management specialist shall draft the plan and all specifications of the approved plan shall be met prior to final platting. The Applicant, its successors, and assigns, shall submit documentation to the County Community Development and Planning Department verifying compliance with the vegetation management plan. In addition, a copy of this plan shall be filed with the Clerk and Recorder’s Office upon final approval of the proposed Final Subdivision Plat application. The Book and Page reference to the vegetation management plan (filed with the Clerk and Recorder’s Office) shall be indicated on the face of the plat.
 - b. The Applicant shall utilize an existing off-site water supply or provide an on-site water supply of sufficient volume, pressure, and distribution to fight fire on-site according to the following schedule:
 - i 250 GPM for two hours
 1. Water shall be supplied by a well and pump with required volume and minimum pressure of 20 PSI. An overhead fill may be required in order to fill tankers. The fill site must be useable year round and the FPAHJ must have legal access in perpetuity.

OR
 2. Water shall be supplied by a tank/pressurized hydrant combination. The tank may be constructed from plastic, concrete, fiberglass or other materials capable of holding and maintaining the required water supply. The tank must be built and installed so as to last a minimum of 30 years. The pump must be capable of delivering the required g.p.m. at a minimum of 20 PSI from an approved fire hydrant. The system shall be inspected and certified by a Professional Engineer and approved by the FPAHJ.

OR
 3. 30,000 gallon storage with dry hydrant. Dry hydrant applications may be used for ponds, streams, and lakes. The system must be designed to be useable and accessible year round. All pipe must be a minimum of 6 inch diameter and the threads at the outlet must be 6 inch male NST.

Prior to approval of the final plat, the on-site or off-site system shall be inspected and certified as complying with the requirements of preliminary approval by a Professional

- Engineer licensed in the State of Montana, and a copy of the inspection and certification will be provided to the fire protection authority having jurisdiction (FPAHJ) and County Planning. After the certification by a Professional Engineer has been submitted to the FPAHJ, the Applicant shall provide written verification from the FPAHJ stating that the FPAHJ has inspected and tested the system.
- c. All necessary easements and agreements shall be secured and submitted to County Community Development and Planning Department by the Applicant, its successors, and assigns, for the water source prior to submitting the Final Subdivision Plat application.
4. The Applicant, its successors and assigns, shall complete the following to construct the internal access road with a cul-de-sac turnaround & turnout for mailbox and fire protection system if required. **Mitigates Findings of Fact under “Impacts on Utilities, Mail Delivery and Impacts on Roads and Traffic under Local Services and the Provision of Legal and Physical Access to each Parcel within the proposed Subdivision”**:
 - a. Prior to the construction of any roads or the installation of any utilities, three (3) copies of the plans for the subject roads and utilities shall be submitted to the County Community Development and Planning Department. The County Community Development and Planning Department shall submit the plans to Public Works for review and approval. Said plans shall meet the requirements of the County Public Works Manual and the County Subdivision Regulations, XI.H, XI.P, XI.Q.
 - b. Prior to submitting the Final Subdivision Plat application, the Applicant, its successors, and assigns, shall improve all roads providing legal and physical access to all lots to the specifications required by the County Subdivision Regulations (*Typical Road Section No. 2*).
 - c. All roads are to be built in accordance with the reviewed and approved plans submitted to the County Community Development and Planning Department and Public Works. An engineer registered in the State of Montana shall certify all road improvements as meeting County Standards Typical Section 2, with concurrence by Public Works. The Applicant, its successors, and assigns, shall be responsible for all costs associated with meeting this condition of approval. (*Sections 76-3-102(3 and 4), 501(1), 504(1)(g)(i), and 608(3), MCA; Chapters I.C.2-5, XI.E., H. I. K., L., P., Q., County Subdivision Regulations; Lewis and Clark County Public Works Manual*)
 5. Prior to any road construction, the Applicant, its successors, and assigns, shall obtain an approach permit from the Montana Department of Transportation for the proposed internal access road. Installation of the approach shall be completed in accordance with the approved permit. **Mitigates Findings of Fact under “Impacts on Roads and Traffic under Local Services and the Provision of Legal and Physical Access to each Parcel within the Proposed Subdivision”** (*Sections 76-3-102(3 and 4), 501(1), 504(1)(g)(i), and 608(3)(a), MCA; Chapters I.C.2-5, 10, XI.H., County Subdivision Regulations*)

6. Prior to submitting the Final Subdivision Plat application, the Applicant, its successors, and assigns, shall have plans for the location and installation of additional mailbox units reviewed and approved by the United States Postal Service prior to installation. The Applicant shall submit documentation from the United States Postal Service verifying their review and approval. The Applicant shall install the mailbox units as indicated by the approved plans. The Applicant, its successors, and assigns, shall be responsible for all costs associated with meeting this condition of approval. **(Mitigates Findings of Fact under “Impacts on Mail Delivery under Local Services”)** (Sections 76-3-102(4), 501(1), and 608(3)(a and b), MCA; Sections I.C.1, and XI.J., County Subdivision Regulations)
7. The Applicant, its successors and assigns, shall, at the Applicant’s expense, have a Final Subdivision Plat prepared in accordance with the applicable State survey requirements and the County Subdivision Regulations; in addition, the final plat shall show and describe the following: **(Impacts on Mail Delivery, Utilities, Roads and Traffic , and Emergency Services under Local Services; Impacts on Natural Environment”, “Compliance with Survey Requirements”, “Provision of Easements within and to the Proposed Subdivision for the Location and Installation of any Planned Utilities”, and “Provision of Legal and Physical Access to each Parcel within the Proposed Subdivision”)** Sections 76-3-102, 402, 501, 504, and 608(3), MCA; Section 8.94.3003, ARM; Chapters I.C., III.C., and Appendix D, County Subdivision Regulations)
- a. all existing access and utility easements adjacent to the subject property;
 - b. adjacent and proposed County Road, Public Access and utility easements;
 - c. mailbox locations and easements, if on-site;
 - d. “No access” restriction along Green Meadow Drive, with the exception of the access for the internal access road;
 - e. 50-foot “No Build” setback along the Western boundary of the Subdivision.
 - f. stormwater detention pond easement;
 - g. easements for fire protection access and maintenance, if onsite.
8. The Book and Page reference to the restrictive covenants (filed with the Clerk and Recorder’s Office) shall be indicated on the face of the plat. In addition, restrictive covenants, revocable or alterable only with the consent of the Board of County Commissioners, shall be placed upon the property at the time of filing the plat and shall provide for the following: **(Mitigates Findings of Fact under all of the Review Criteria Listed in this Staff Report)** (Section 76-3-608(3)(a), MCA; Chapters I.C. and III.B., and XI., County Subdivision Regulations)
- a. Notice is hereby given that all structures and uses on all lots must be in conformance with the applicable zoning regulations. **(Mitigates Findings of Fact under “Compliance with Subdivision Regulations”)** (Chapters I.C.1. and XI.B., County Subdivision Regulations)
 - b. Notice is hereby given that all property owners are required to receive an approach

permit from the Lewis and Clark County Public Works Department prior to the construction of the driveway approach to their lots. **(Mitigates Findings of Fact under “Impacts on Roads and Traffic under Local Services and the Provision of Legal and Physical Access to each Parcel within the Proposed Subdivision”)** (Sections 76-3-102(3 and 4), 501(1), 504(1)(g)(i), and 608(3)(a), MCA; Chapters I.C.2-5, 10- 11, XI.H., County Subdivision Regulations; Lewis and Clark County Public Works Manual)

- c. Notice is hereby given that prior to building construction, the owner should contact the Lewis and Clark County Community Development and Planning Department to determine whether any zoning regulations are applicable. **(Mitigates Findings of Fact under “Compliance with Subdivision Regulations”)** (Chapters I.C and XI.B., County Subdivision Regulations)
- d. Notice is hereby given that any additional, replacement, or relocated utility lines shall be installed underground, in accordance with the Lewis and Clark County Subdivision Regulations, unless otherwise determined by utility providers. **(Mitigates Findings of Fact under “Impacts on Utilities under Local Services and The Provision of Easements within and to the Proposed Subdivision for the Location and Installation of any Planned Utilities”)** (Section 76-3-608(3)(a), MCA; Chapters I.C.3., 9.-10., and III.B., and XI.P. and Q., County Subdivision Regulations)
- e. Notice is hereby given that any exterior lighting shall be directed downward to minimize visibility beyond the property lines. **(Mitigates Findings of Fact under “Impacts on the Natural Environment”)** (Section 76-3-608(3)(a), MCA; Chapters I.C., and III.B., and XI.Z., County Subdivision Regulations)
- f. Notice is hereby given that each owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, waives the right to protest joining or the amendment of a Rural Improvements District and/or Special District for the installation, maintenance, preservation, and repair of the following: roads that provide access within or to the Subdivision and fire protection improvements for the Subdivision. **(Mitigates Findings of Fact under “Impacts on Roads and Traffic under Local Services and Public Health and Safety”)** (Section 7-12-2102, 76-3-102(4), 501, and 504, MCA; Chapter I.C. and XI.I.10, County Subdivision Regulations)
- g. Notice is hereby given that all construction activity shall comply with Best Management Practices to control erosion. **(Mitigates Findings of Fact under “Impacts on Agriculture, and Impacts on the Natural Environment”)** (Section 76-3-608(3)(a), MCA; Chapters I.C.9., and III.B., and XI.L., County Subdivision Regulations)
- h. Notice is hereby given that a vegetation management plan has been prepared for the Subdivision and that the plan is on file with the Lewis and Clark County Clerk and Recorder. **(Mitigates Findings of Fact under “Impacts on Agriculture and Impacts on the Public Health and Safety”)** (Section 76-3-608(3)(a), MCA; Chapters XI.S. and Appendix K, County Subdivision Regulations)
- i. Notice is hereby given that each lot shall be maintained in a weed-free manner. Noxious weeds must be pulled, sprayed, or cut. **(Mitigates Findings of Fact under “Impacts on**

Agriculture, Impacts on the Natural Environment, and Impacts on Wildlife and Wildlife Habitat) (Section 7-22-2121, County Weed Law; Sections 76-3-102(5 and 6), 501(1), and 608(3)(a), MCA; Chapters I.C.9. and XI.U., County Subdivision Regulations)

- j. Notice is hereby given of the potential health risk from radon concentrations and that such risk can be evaluated through soil tests and mitigated through radon abatement techniques incorporated into structures. **(Mitigates Findings of Fact under "Impacts on Public Health and Safety")** (Section 76-3-608(3)(a), MCA; Chapters I.C.10., and III.B., and XI.C., County Subdivision Regulations)
- k. Notice is hereby given that all dwelling units within the Subdivision should be constructed to specifications which meet or exceed equivalent provisions in the applicable State building code for this seismic zone (Zone 3). **(Mitigates Findings of Fact under "Impacts on Public Health and Safety")** (Section 76-3-608(3)(a), MCA; Chapters I.C., III.B., and XI.C., County Subdivision Regulations)
- l. Notice is hereby given of a restrictive covenant, binding the landowner, any heirs, successors and assigns, and all future owners of property within the Subdivision, agreeing therein to hold Lewis and Clark County harmless and indemnify Lewis and Clark County from all claims, demands, obligations, suits, causes of action, damages, and liability, including the County's costs and attorney's fees, arising in any manner whatsoever out of, or relating to, the existence, use, operation, repair, and/or maintenance of the following: **(Mitigates Findings of Fact under "Impacts on Public Health and Safety, and Natural Environment")** (76-3-608(1) and (4), MCA; I.C.10., County Subdivision Regulations)
 - i. Exposure to radon;
 - ii. Earthquake fault zone and any seismic activity;
 - iii. Water quality and/or availability; and
 - iv. Variances granted from Section XI.H.4 and Section XI.S, Appendix K, Section 18-4.6(4) & Section 18-4.6.(5) of the Lewis and Clark County Subdivision Regulations.
- m. Notice is hereby given that domestic pets should be restrained on the property at all times. **(Mitigates Findings of Fact under "Impacts on Agriculture, Impacts on Wildlife and Wildlife Habitat")** (Section 76-3-608(3)(a), MCA; Chapters I.C., III.B., XI. T, and XI.X., County Subdivision Regulations)
- n. Notice is hereby given that property owners should contact the Montana Department of Fish, Wildlife, and Parks for fencing standards and learning about living with wildlife in general. **(Mitigates Findings of Fact under "Impacts on Wildlife and Wildlife Habitat")** (Section 76-3-608(3)(a), MCA; Sections I.C.9., III.B., and XI.X., County Subdivision Regulations)
- o. Notice is hereby given that the components of the water supply system used for fire protection are to be utilized solely for the purposes of fire protection, maintenance, and testing. NOTE: This restrictive covenant is only required if a water supply system for fire protection is installed on-site. **(Mitigates Findings of Fact under "Impacts on Emergency**

Services under Local Services and Impacts on Public Health and Safety” (Section 76-3-608(3), MCA; Chapters XI.S. and Appendix K, County Subdivision Regulations)

- p. Notice is hereby given that the lot owner has waived the right to protest joining a special district for the purpose of providing community water and/or wastewater treatment system improvements and/or maintenance. **(Mitigates Findings of Fact under “Water and Wastewater under Local Services”)** (Section 76-3-608(3)(a), MCA; Chapters I.C.10., and III.B, and XI.M.4. and N.4., County Subdivision Regulations)
- q. Notice is hereby given of the presence of agricultural operations in the vicinity and that such operations may occur at varying times and seasons and include, but are not limited to, the noises and odors due to the operation of machinery, the pasturing and feeding of livestock, irrigation, and the application of fertilizers, herbicides, and pesticides to fields. **(Mitigates Findings of Fact under “Impacts on Agriculture”)** (Section 76-3-608(3)(a), MCA; Chapters I.C.9. and 10., and III.B., and XI.T., County Subdivision Regulations);
- r. Notice is hereby given of a “no access” restriction along the western boundary of the Subdivision prohibiting direct access onto Green Meadow Drive, with the exception of the access from the public access easement. **(Mitigates Findings of Fact under “Impacts on Roads and Traffic under Local Services and the Provision of Legal and Physical Access to each Parcel within the Proposed Subdivision”)** (Sections 76-3-102(3 and 4), 501(1), 504(1)(g)(i), and 608(3)(a), MCA; Chapters I.C.2-5, 10, XI.F.5, XI.H..8, County Subdivision Regulations; Lewis and Clark County Public Works Manual)
- s. Notice is hereby given of a 50-foot “no build” setback restriction along the western boundary of the Subdivision prohibiting the construction of all new structures, wells, drainfields, replacement drainfields to facilitate any future widening of the road. This setback begins at the edge of the right-of-way/ easement for Green Meadow Drive. **(Mitigates Findings of Fact under “Impacts on Roads and Traffic under Local Services and the Provision of Legal and Physical Access to each Parcel within the Proposed Subdivision”)** (Sections 76-3-102(3 and 4), 501(1), 504(1)(g)(i), and 608(3)(a), MCA; Chapters I.C.2-5, 10, XI.F.5, XI.H..8, County Subdivision Regulations; Lewis and Clark County Public Works Manual)
- t. Notice is hereby given that the Water Quality Protection District recommends that groundwater wells should be drilled to depths well below the water table at its seasonal lowest and that wells should be tested for nitrates on an annual basis. **(Mitigates Findings of Fact under “Impacts on Water and Wastewater under Local Services”)** (Sections 76-3-608(3), MCA; Chapter I.C, XI.M, County Subdivision Regulations)
- u. Notice is hereby given that all individual wastewater treatment systems are required to be reviewed and approved by the Lewis and Clark County Public Health Department. **(Mitigates Findings of Fact under “Impacts on Water and Wastewater under Local Services”)** (Sections 76-3-608(3), MCA; Chapter XI.N, County Subdivision Regulations)
9. If one or more acres of ground disturbance is planned, the Applicant, its successors, and assigns, shall, at the Applicant’s expense, contact Montana Department of Environmental

Quality (DEQ) to obtain a Montana Pollutant Discharge Elimination System (MPDES) permit. Disturbance activity includes the disturbance of less than one acre of total land area that is a part of a larger common plan of subdivision, if the larger common plan will disturb one acre or more. All requirements and specifications of the permit shall be met by the Applicant, its successors, and assigns, prior to final plat approval. **(Mitigates Findings of Fact under “Impacts on Agriculture, Impacts of Roads and Traffic under Local Services, and Impacts on the Natural Environment”)** (ARM 17.30.1102(28); Sections 76-3-102, 501, and 608(3), MCA; Chapters I.C. and XI.V., County Subdivision Regulations)

10. Prior to submitting the Final Subdivision Plat application, the Applicant, its successors and assigns, shall submit a storm water drainage plan, meeting the requirements of the County Subdivision Regulations and Montana Department of Environmental Quality (DEQ), and drafted by an engineer registered in the State of Montana, to the County Community Development and Planning Department, Public Works, and DEQ (if required by DEQ) for review and approval. All specifications and requirements of the approved plan shall be met prior to submitting the Final Subdivision Plat application. An engineer registered in the State of Montana shall certify all storm water improvements as meeting the approved storm water drainage plan, with approval by Public Works and DEQ (if required by DEQ). The Applicant, its successors and assigns shall be responsible for all costs associated with this condition. **(Mitigates Findings of Fact under “Impacts on the Natural Environment and Impacts on Roads and Traffic under Local Services”)** (Sections 76-3-102, 501, 504(1)(g)(ii) and 76-3-608(3), MCA; Chapters I.C. and XI.L., County Subdivision Regulations)
11. The Applicant, its successors, and assigns, shall submit a signing plan for traffic control and street identification signs, which meets the applicable County or State regulations, for the internal access roads that provide legal and physical access to all lots within the Subdivision to the County Community Development and Planning Department and Public Works for review and approval. All specifications and requirements of the approved plan shall be met at the cost of the Applicant, its successors, and assigns. **(Mitigates Findings of Fact under “Impacts on Roads and Traffic under Local Services”)** (Section 76-3-608(3), MCA; Chapters I.C., XI.I. County Subdivision Regulations, Lewis and Clark County Public Works Manual)
12. Proposed road names for all roads within the Wade Minor Subdivision shall be submitted to the City-County Address Coordinator for review and approval. Approved road names shall be shown on the final plat and reflected in all documents of the Subdivision (covenants, road easements, etc.). **(Mitigates Findings of Fact under “Impacts on Roads and Traffic under Local Services”)** (Sections 76-3-102, 501, 504, and 608(3), MCA; Chapters I.C. and XI.H. XI.K., County Subdivision Regulations, Lewis and Clark County Public Works Manual)
13. Prior to submitting the Final Subdivision Plat application, the Applicant, its successors and assigns, shall, at the Applicant’s expense, complete the following improvements or otherwise financially guarantee the following improvements: **(Mitigates Findings of Fact under “Impacts on Agriculture, Impacts on Mail Delivery, Impacts on Utilities under Local Services, and Impacts on the Natural Environment”)** (Sections 76-3-507 and 608(3)(a),

MCA; Chapters I.C., III.C., Appendix D and Appendix E, County Subdivision Regulations)

- a. necessary improvements required by the storm water drainage plan, Montana Pollutant Discharge Elimination System (MPDES) permit; vegetation management plan and weed management plan;
- b. mail delivery facilities; and
- c. utilities abutting and available to each lot

OR

The installation of conduit to each lot that will allow for the extension of utilities without negatively impacting other improvements and a signed agreement with each utility provider to ensure the utilities will be extended to each lot.

If said improvements are not installed, then the Applicant shall enter into a written subdivision improvements agreement with Lewis and Clark County, guaranteeing the construction and installation of such improvements and shall provide an acceptable financial security guarantee, in accordance with Chapter III.C.4. and Appendix E of the County Subdivision Regulations.

14. In cooperation with the County, the Applicant, its successors and assigns, shall create a Rural Improvement District to address the maintenance, preservation, and repair of the internal road network within the Wade Minor Subdivision. **(Mitigates Findings of Fact under "Impacts on Roads and Traffic under Local Services")** *(Sections 7-11-1003, 76-3-102, 501, 504, and 608(3), MCA; Chapters I.C. and XI.H., and L., County Subdivision Regulations; Lewis and Clark County Public Works Manual)*
15. In cooperation with the County, the Applicant shall create or amend a Rural Improvement District(s) for the maintenance, preservation, and repair of the fire protection system and its improvements for the proposed Subdivision unless the fire protection system is maintained by the Fire Protection Authority Having Jurisdiction (FPAHJ) or public water supply system that provides adequate funding to maintain the system. **(Mitigates Findings of Fact under "Impacts on Emergency Services under Local Services")** *(Sections (7-11-1003, 76-3-102, 501, 504, and 608(3), MCA; Chapters I.C., XI.S., and Appendix K, County Subdivision Regulations; Lewis and Clark County Public Works Manual)*
16. In cooperation with the County, the Applicant, its successors and assigns, shall, at the Applicant's expense, apply for address assignments with the City-County Address Coordinator for all lots in the Subdivision prior to final plat approval. **(Mitigates Findings of Fact under "Impacts on Emergency Services under Local Services")** *(County Subdivision Regulations, Chapter XI.K)*
17. Prior to submitting the Final Subdivision Plat application, the Applicant, its successors, and assigns, shall, at the Applicant's expense:

- a. Provide proof that all real property taxes and special assessments assessed and levied on the property are paid for the current tax year; including any past delinquencies, and **(Mitigates Findings of Fact under “Compliance with the Subdivision Regulations”)** *(Section 76-3-611(1)(b), MCA; Chapter III.C. and Appendix D, County Subdivision Regulations)*
 - b. Provide documentation showing that the Applicant is the lawful owner of the property with the apparent authority to subdivide the same and showing the names of lien holders or claimants of record. **(Mitigates Findings of Fact under “Compliance with the Subdivision Regulations”)** *(Section 76-3-612, MCA; Chapters III.C. and Appendix D., County Subdivision Regulations)*
18. This preliminary approval shall be in force for three (3) calendar years. At the end of this approval period, the Board of County Commissioners may, at the request of the Applicant, its successors, and assigns, extend its approval if that approval period is included as a specific condition of a written agreement between the Board of County Commissioners and the Applicant, its successors and assigns. **(Mitigates Findings of Fact under “Compliance with the Subdivision Regulations”)** *(Section 76-3-617, 610 and 507, MCA; Chapter III.B.15, County Subdivision Regulations)*

X. REFERRAL AGENCY COMMENTS:

Requests for comments were sent to the following agencies:

DEQ, Water Quality Division
DEQ, Subdivision Review
MT Dept. of Fish, Wildlife and Parks, Helena Resource Office
U.S. Geological Survey, Water Resources Division
Montana Department of Transportation, Butte Maintenance Division
DNRC, Central Land Office
DNRC, Water Resources Division
United States Post Office
Montana Internet
NorthWestern Energy
Century Link
Charter
Address Coordinator
Road Supervisor
Environmental Health Department
School District No. 1 Transportation
Floodplain Administrator
Special Districts Coordinator
Historic Preservation Officer
Sheriff's Department
Lewis & Clark Conservation District
Water Quality Protection District
Public Works Construction Coordinator
Weed District
Public Works Engineer
West Valley Fire District

Agency Comments are included in **Exhibit C**.

XI. GENERAL INFORMATION:

Statutory Timeframes

Review Timeline Requirements.

Date Application Submitted: June 6, 2024

Date Application Deemed Complete: July 8, 2024

Date Application Deemed Sufficient: November 4, 2024

Date Review Period Ends: December 26, 2024

Public Notice Requirements:

All public notices have been provided in compliance with MCA, as more particularly defined below.

Legal notice of the public meeting has been published in the Independent Record, letters have been sent to all property owners adjacent to the proposed Subdivision within a 500FT radius, a public notice sign has been posted on-site in the Wade Minor Subdivision.

Received Public Comment Summary: Received public comments include 1) one (1) letter of support from neighboring property resident Wyatt Duthie. 2) Additionally, a petition critical of the project was submitted along with thirty-six (36) signatures of residents of the surrounding area. 3) The Applicant submitted letters of support, as part of the application, signed by the five (5) adjacent residents in support of the variance request from Section XI.H.4 of the Subdivision regulations, requirement to provide connectivity to surrounding properties.

ATTACHMENTS:

- Exhibit A: Preliminary Plat
- Exhibit B: Variance Requests
- Exhibit C: Agency Comments
- Exhibit D: Public Comments

Exhibit B: Variance Requests
Variance Request from Section XI.H.4

Section XI.H.4, which states:

“Whenever physically feasible, all roads shall connect to other roads within the neighborhood or development and connect to existing or projected through streets and provide access to adjacent parcels, as part of an interconnected road network, outside of the development.”

Findings of Fact:

1. The Applicant is requesting the variance to not extend road connections to the properties to the east, south and north.
2. Given the current lot configuration of the subject property, any road connections to the surrounding properties would abut lots that are currently developed with residential uses to the north and east. The southern property is currently developed with a storage unit and outdoor storage facility.
3. Given the current lot configuration of the adjoining property to the north of subject property (7393 Green Meadow Dr.) a road condition could split a narrow “piano key” shaped lot making development challenging.
4. Given existing DEQ layout, EQ#07-2709, proposed drainfields and mixing zones of lots 2, 3 & 4 could conflict with connecting roads to adjacent properties.
5. Given proposed layout of commercial storage unit development, a through road connection through Lot 3 would be impeded.
6. No agency comments were received regarding the variance request. Applicant provided a signed letter from adjoining property owners in support of the variance.

Conclusions:

1. The granting of the variance WILL NOT be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.
2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner WILL result if these regulations were enforced.
3. The granting of the variance WILL NOT cause a substantial increase in public costs.
4. The approval of the variance WILL NOT place the Subdivision in non-conformance with adopted regulations.



LEWIS AND CLARK COUNTY

SUBDIVISION VARIANCE APPLICATION

City-County Building, 316 North Park Avenue, Helena, MT 59623 (406) 447-4374

The governing body may grant variances from Section XI. DESIGN AND IMPROVEMENT STANDARDS of the Lewis and Clark County Subdivision Regulations when strict compliance would result in an undue hardship and when it is not essential to the public welfare. Such a variance shall not have the effect of nullifying the intent and purpose of these regulations. The governing body may not, by variance permit subdivision for building purposes in areas located within the floodway of a flood of 100-year frequency as defined by Title 76, Chapter 5, MCA. The governing body shall not approve a variance unless it makes findings based upon the evidence in each specific case as defined in the application section below. Please use a separate sheet for each variance requested.

Applicant: _____ Subdivision: WADE MINOR
Subdivision Regulation (i.e. Section XI.Q.1., utility easements): XI.H.4 (ROAD INTERCONNECTIVITY)
Variance Requested: SEE ATTACHED

Please attach any maps, diagrams, or other information that describe the requested variance.

Attach a written statement describing the requested variance and the facts of hardship upon which the request for the variance is based. In addition, describe how the requested variance applies to the following criteria (please attach additional pages if necessary):

a. The granting of the variance will not be detrimental to the public health, safety or general welfare, or injurious to other adjoining properties.

SEE ATTACHED

b. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, an undue hardship to the owner would result if the regulations were enforced.

SEE ATTACHED

c. The variance will not cause a substantial increase in public costs.

SEE ATTACHED

d. The variance will not place the subdivision in nonconformance with any adopted zoning regulations or applicable adopted plans.

SEE ATTACHED

Innovative designs that address energy conservation, transportation efficiency, affordable housing, ADA accessibility or preservation of the natural environment which do not circumvent the purpose of these regulations may be reasons for granting of a variance by the governing body.

I, the above-mentioned Applicant, request review of the subdivision variance application. The information presented with this application is true and accurate to the best of my knowledge.

Signed: Larry King Smith
Applicant

6-5-24
Date

Subdivision Variance Application: Revised March 2010, May 2017

VARIANCE REQUEST – SUPPLEMENTAL INFORMATION
PROPOSED SUBDIVISION: WADE MINOR SUBDIVISION

Variance To: XI.H.4 (Road Interconnectivity)

Variance Requested:

Whenever physically feasible, all roads shall connect to other roads within the neighborhood or development and connect to existing or projected through-streets and provide access to adjacent parcels (that do not already have legal and physical access to/from County or State roadways), as part of an interconnected road network outside of the development.

- a. The granting of the variance will not be detrimental to the public health, safety, or general welfare, or injurious to other adjoining properties. Public health and safety to the adjacent lots would not be enhanced by a through connection to Green Meadow Drive. The subject property adjoins 5 properties.
 1. Property 1 is owned by MDT. The variance creates less traffic and less turning movements onto Green Meadow Drive. This is positive from MDT's perspective of granting a new approach permit. The new MDT approach permit would also include removal of an existing private approach for the existing SFH. This results in a net increase of zero MDT approaches. (The existing approach would essentially be relocated.)
 2. Property 2 (north) is a 3.88ac residential lot with a single-family home. Approach access is provided from Green Meadow Drive. This is a "piano key" lot that is not conducive to further development or division. Of utmost importance is that this Owner does not want a County road running through or to their property. This Owner has signed a form (attached) stating that they do not desire a County road that leads anywhere along their property boundary.
 3. Property 3 (east) is a 5.03 ac lot that has previously been subdivided (Clink Minor Sub.). The existing SF home sits almost dead center in this lot. Two Bit Circle Drive provides legal and physical access to this lot. Of utmost importance is that this Owner does not want another County road running through or to their property. This Owner has signed a form (attached) stating that they do not desire another County road that leads anywhere along their property boundary. Current zoning is Lincoln Road West (#19). Minimum lot size is 2ac with (1) SFD per lot.
 4. Property 4 (east) is a 4.00 ac lot that has previously been subdivided (Clink Minor Sub.). The existing SF home sits near the center of this lot. Two Bit Circle Drive provides legal and physical access to this lot. Of utmost importance is that this Owner does not want

another County road running through or to their property. This Owner has signed a form (attached) stating that they do not desire another County road that leads anywhere along their property boundary. Current zoning is Lincoln Road West (#19). Minimum lot size is 2ac with (1) SFD per lot.

5. Property 5 (south) is an existing 3.71 ac storage unit facility (BLR). Their original lot layout did not anticipate a County road through this property, nor did it plan on any future County roads accessing this property. A lot used for secured storage unit rental is not conducive to new County road interconnectivity. Lastly, the approach to Green Meadow Drive is gated. This lot, As-Is, cannot be considered for new road interconnectivity. Of utmost importance is that this Owner does not want another County road running through or to their property. This Owner has signed a form (attached) stating that they do not desire another County road that leads anywhere along their property boundary.
 - b. An undue hardship to the Applicant would undoubtedly result if this regulation were to be enforced. Extending the right of way to the east property line of proposed Lot C would require an additional 386lf of road. At 60' wide, the right of way would equate to 0.53ac which is a substantial loss of property. The road extension would also run directly through the already DEQ-approved drainfield area. Worse yet, extending the road to the east would bisect the proposed Lot C, which would severely impact its potential uses. The undue hardship would more than likely adversely affect neighboring properties the most. These adjoining property owners do not appear interested in granting the County 60' of deeded right of way.
 - c. This variance request will not cause any increase in public costs. Road extensions and road interconnectivity would in fact create more public costs as this would create additional work for Planning, Survey, Legal, and Public Works staff. Additional roadway and storm water infrastructure would require additional County maintenance.
 - d. To the Applicant's knowledge, this variance will not place the subdivision in nonconformance with any adopted zoning regulations or applicable adopted plans.

PROP. ~~2~~² (NORTH)

Hello,

My Name is Kris Smith. I own the property on 7370 Green Meadow. I am looking into doing a little four lot minor subdivision. I plan on going in and cleaning all the horse corrals and garbage on the property. There will be a single road that will be accessed off the already existing approach going east through our property about half way to the back. Lewis and Clark County likes through roads for future subdivisions. I am requesting a variance not to do that, and getting approval from the adjoining land owners that you do not want a county road built towards the back and sides of the properties.

SHEIN LEROY ETAL

Leroy Shein TRACT

S24, T11 N, R04 W, C.O.S. 321122, ACRES 3.88, TRACT A-2, IN W2NW4

PROP. 3 (EAST)

Hello,

My Name is Kris Smith. I own the property on 7370 Green Meadow. I am looking into doing a little four lot minor subdivision. I plan on going in and cleaning all the horse corrals and garbage on the property. There will be a single road that will be accessed off the already existing approach going east through our property about half way to the back. Lewis and Clark County likes through roads for future subdivisions. I am requesting a variance not to do that, and getting approval from the adjoining land owners that you do not want a county road built towards the back and sides of the properties.

Jessica

Brockmeyer

Jessica Brockmeyer LOT B3

CLINK MINOR, S24, T11 N, R04 W, Lot B3, COS #558546/E

PROP 4 (EAST)

Hello,

My Name is Kris Smith. I own the property on 7370 Green Meadow. I am looking into doing a little four lot minor subdivision. I plan on going in and cleaning all the horse corrals and garbage on the property. There will be a single road that will be accessed off the already existing approach going east through our property about half way to the back. Lewis and Clark County likes through roads for future subdivisions. I am requesting a variance not to do that, and getting approval from the adjoining land owners that you do not want a county road built towards the back and sides of the properties.

Janet Hinkle

Janet Hinkle

LOT B2

CLINK MINOR, S24, T11 N, R04 W, Lot ~~B2~~, COS #558546/E

B2

PROP. 5 (SOUTH)

Hello,

My Name is Kris Smith. I own the property on 7370 Green Meadow. I am looking into doing a little four lot minor subdivision. I plan on going in and cleaning all the horse corrals and garbage on the property. There will be a single road that will be accessed off the already existing approach going east through our property about half way to the back. Lewis and Clark County likes through roads for future subdivisions. I am requesting a variance not to do that, and getting approval from the adjoining land owners that you do not want a county road built towards the back and sides of the properties.

RDS LLC

[Signature]

STORAGE
UNITS

S24, T11 N, R04 W, TRACT B, IN SW4NW4

Variance Request from Chapter XI.S, Appendix K, Section 18-4.6(4)

Chapter XI.S, Appendix K, Section 18-4.6(4), which states:

“The off-site water supply system is located no longer than one county road mile from an existing or proposed internal access road for the subdivision.”

Findings of Fact:

1. The Applicant is proposing to use an off-site water supply system for fire suppression located along Bootlegger Road within the Frontier Village Estates Subdivision, approximately 2.00 miles from the subject property.
2. No one other off-site fire protection water source exists within 1 mile of the subject property that could serve the proposed Subdivision.
3. In lieu of using an off-site fire suppression water source, the Applicant could install a water source on site that meets the requirements of Appendix K, including the requirement that the system be maintained through an RID.
4. Currently an RID, RID 2016-004, exists to maintain the Frontier Village Estates fire system, which the additional subdivision of Buckboard Meadows and Garden Valley are members of the RID.
5. The West Valley Fire District currently utilizes the Frontier Village Estates fire system and has indicated that they support using it to provide fire suppression water for the proposed Subdivision, as was demonstrated in letter from the West Valley Fire Chief dated 11/25/2024.
6. The 2014 Helena Valley Area Plan 2015, Chapter 3-#1d- Fire Protection discusses the need for larger regional fire protection systems as opposed to smaller individual on site fire protection systems as part of mitigation of continued growth in the Helena Valley.

Conclusions:

1. The granting of the variance WILL NOT be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.
2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner WILL result if these regulations were enforced.
3. The granting of the variance WILL NOT cause a substantial increase in public costs.
4. The approval of the variance WILL NOT place the Subdivision in non-conformance with adopted regulations.

VARIANCE REQUEST – 18.4.6.4

PROPOSED SUBDIVISION: WADE MINOR SUBDIVISION

Variance To:

Appendix K, Section 18-4.6.4

Variance Requested:

The BOCC may consider the utilization of an existing off-site water supply system if it is located less than two county road miles from the proposed subdivision. The FPAHU must be willing to show written support of off-site system use. Any future uses that would require a Conditional Use Permit will be evaluated separately (in the future) for Fire Protection requirements during the CUP application and review process.

Review Criteria:

- a. **Based on the Fire Chief's professional experience, review, and written statement, the Applicant believes that granting of the variance will not be detrimental to the public health, safety, or general welfare, or injurious to other adjoining properties.**
- b. **Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, an undue hardship to the owner would result if the regulations were enforced. The hardship to the owner would be paying for design and construction of a private fire protection system (FPS). Based on the Applicant's experience, these systems run between \$40,000 and \$60,000. This initial cost does not include maintenance. The hardship would then extend to the HOA who would be required to maintain and be responsible for a FPS that they know nothing about. And if a FPS does not perform during a fire event, could the HOA be held liable?**
- c. **The variance will not cause a substantial increase in public costs. The variance will likely not result in any increase in public costs as the existing off-site systems are already being maintained. Additional maintenance as a result of this subdivision will not be needed.**
- d. **The variance will not place the subdivision in nonconformance with any known adopted zoning regulations or known applicable adopted plans.**

VARIANCE WRITTEN STATEMENT:

Variance to: Appendix K, Section 18-4.6.4

Statement: The requested variance is to not fully meet this requirement. The Applicant feels that the West Valley Fire Chief is the most qualified professional to be consulted on this public health and safety matter regarding emergency response travel.

It is noted that other minor subdivisions and CUP applications have been granted this variance for similar reasons.

The Applicant is also familiar with the County's Subdivision Regulation Audit Report by OPD, which was distributed in May 2023. The #2 top priority from the audit is to revamp the County's fire protection standards. Page 59 of the report states the following (see italics):

Stakeholder Input: "Of all the topics brought up by stakeholders, fire mitigation requirements were the number one concern. The multiple access requirement as well as the water supply requirement by subdivision were consistently identified as cumbersome and unnecessary by most stakeholder groups, and a desire to modify the regulations to accommodate more variation and flexibility was identified. More than a few stakeholders agreed that the cash-in-lieu option previously allowed was preferable, and indicated local rural fire departments generally agree."

Alignment with Growth Policy: A Fire Protection Master Plan for all Fire Districts and Fire Service Areas is identified in the Growth Policy as an implementation strategy in the County's Action Plan. Through conversations with both staff and stakeholders, a regional approach to fire protection infrastructure is warranted, making this master plan more critical in its execution. Additionally, the growth policy update should focus more policy discussion around implementation of a regional system and the steps necessary to implement this change, further reinforcing this approach against a development-by-development solution currently in place.

The Applicant couldn't agree more that trying to address fire protection on a development-by-development approach is an inefficient use of the private funding being spent on these small fire systems. For this proposed project, the fire chief has stated that he does not see a need for an onsite 30,000gal water supply. Instead, the fire chief would use one of two other established water sites that are within two miles of the proposed subdivision.

Enforcement of this regulation would result in the following hardship:

1. Financial hardship to the Applicant for design and construction of a FPS that would not be used by the FPAHJ in the event of an emergency.

Jason Sorenson

From: Kris Smith <ksmithvalleysand@yahoo.com>
Sent: Thursday, March 28, 2024 8:34 PM
To: Jason Sorenson; ksmithvalley@gmail.com; Ryan Casne
Subject: Fwd: Regards to Wade Minor

Sent from my iPhone

Begin forwarded message:

From: David Hamilton <dhamilton.wvfr@gmail.com>
Date: March 28, 2024 at 8:02:04 PM MDT
To: Ksmithvalleysand@yahoo.com
Subject: Regards to Wade Minor

Kris,

THis email is in regards to the Wade Minor Subdivision that we have visited about. I would just like to recap that West Valley Fire Rescue does not see the need for a 30,000 gallon of water that would need to be drafted out of in order to use the water. The preferred water supply would be a tank of that size that is outfitted with a pump that will pump the water out of the tank into a fire truck. We have 2 other established water sites that are within 2 miles that we will use if there is a fire. These sites allow us to use a pump and I do not have to tie up a fire truck to get out the water from them. I would be happy to answer any other questions you might have.

Thank you

--

David Hamilton - Fire Chief
406-431-1948
dhamilton.wvfr@gmail.com
West Valley Fire Rescue
1165 Forestvale Rd
Helena, MT 59602
Facebook Twitter
www.WestValleyFireMT.gov



Variance Request from Chapter XI.S, Appendix K, Section 18-4.6(5)

Chapter XI.S, Appendix K, Section 18-4.6(5), which states:

“The utilization of the off-site water supply system does not require the Fire Protection Agency Having Jurisdiction (FPAHJ) to travel on arterial or major collector roads, cross railroad crossings, or travel on roads with grades in excess of 11 percent to deliver water from the off-site water supply system to the subdivision.”

Findings of Fact:

1. The Applicant is proposing to use an off-site water supply system for fire suppression located off-of Bootlegger Drive within the Frontier Village Estates subdivision, located approximately 2 miles from the subject property. The location of the fire protection system is location would require the FPAHJ to cross a major collector road to get to the proposed Subdivision.
2. No one other off-site fire protection water source exists within 1 mile of the subject property that could serve the proposed Subdivision.
3. Currently an RID, RID 2016-004, exists to maintain the Frontier Village Estates fire system, which the additional subdivision of Buckboard Meadows and Garden Valley are members of the RID.
4. In lieu of using an off-site fire suppression water source, the Applicant could install a water source on site that meets the requirements of Appendix K, including the requirement that the system be maintained through an RID.
5. The West Valley Fire District currently utilizes the Frontier Village Estates fire system and has indicated that they support using it to provide fire suppression water for the proposed Subdivision, as was demonstrated in letter from the West Valley Fire Chief dated 11/25/2024.

Conclusions:

1. The granting of the variance WILL NOT be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.
2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner WILL result if these regulations were enforced.
3. The granting of the variance WILL NOT cause a substantial increase in public costs.
4. The approval of the variance WILL NOT place the Subdivision in non-conformance with adopted regulations.

VARIANCE REQUEST – 18.4.6.5

PROPOSED SUBDIVISION: WADE MINOR SUBDIVISION

Variance To:

Appendix K, Section 18-4.6.5

Variance Requested:

The BOCC may consider the utilization of an existing off-site water supply system if it requires travel on an arterial or major collector road. The FPAHU who knows the area and emergency response times (batter than most) must be willing to show support. Any future uses that would require a Conditional Use Permit will be evaluated separately (in the future) for Fire Protection requirements during the CUP application and review process.

It is noted that this site cannot be accessed by any vehicle without travelling on a major collector road (Green Meadow Drive).

Review Criteria:

- a. Based on the Fire Chief's professional experience, review, and written statement, the Applicant believes that granting of the variance will not be detrimental to the public health, safety, or general welfare, or, injurious to other adjoining properties.
- b. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, an undue hardship to the owner would result if the regulations were enforced. The hardship to the owner would be paying for design and construction of a private fire protection system (FPS). Based on the Applicant's experience, these systems run between \$40,000 and \$60,000. This initial cost does not include maintenance. The hardship would then extend to the HOA who would be required to maintain and be responsible for a FPS that they know nothing about. And if a FPS does not perform during a fire event, could the HOA be held liable?
- c. The variance will not cause a substantial increase in public costs.
- d. The variance will not place the subdivision in nonconformance with any known adopted zoning regulations or known applicable adopted plans.

VARIANCE WRITTEN STATEMENT:

Variance to: Appendix K, Section 18-4.6.5

Statement: The requested variance is to not fully meet this requirement. The Applicant feels that the West Valley Fire Chief is the most qualified professional to be consulted on this public health and safety matter regarding emergency response travel.

It is noted that other minor subdivisions and CUP applications have been granted this variance for similar reasons.

The Applicant is also familiar with the County's Subdivision Regulation Audit Report by OPD, which was distributed in May 2023. The #2 top priority from the audit is to revamp the County's fire protection standards. Page 59 of the report states the following (see italics):

Stakeholder Input: "Of all the topics brought up by stakeholders, fire mitigation requirements were the number one concern. The multiple access requirement as well as the water supply requirement by subdivision were consistently identified as cumbersome and unnecessary by most stakeholder groups, and a desire to modify the regulations to accommodate more variation and flexibility was identified. More than a few stakeholders agreed that the cash-in-lieu option previously allowed was preferable, and indicated local rural fire departments generally agree."

Alignment with Growth Policy: A Fire Protection Master Plan for all Fire Districts and Fire Service Areas is identified in the Growth Policy as an implementation strategy in the County's Action Plan. Through conversations with both staff and stakeholders, a regional approach to fire protection infrastructure is warranted, making this master plan more critical in its execution. Additionally, the growth policy update should focus more policy discussion around implementation of a regional system and the steps necessary to implement this change, further reinforcing this approach against a development-by-development solution currently in place.

The Applicant couldn't agree more that trying to address fire protection on a development-by-development approach is an inefficient use of the private funding being spent on these small fire systems. For this proposed project, the fire chief has stated that he does not see a need for an onsite 30,000gal water supply. Instead, the fire chief would use one of two other established water sites that are within two miles of the proposed subdivision.

Enforcement of this regulation would result in the following hardship:

1. Financial hardship to the Applicant for design and construction of a FPS that would not be used by the FPAHJ in the event of an emergency.

Jason Sorenson

From: Kris Smith <ksmithvalleysand@yahoo.com>
Sent: Thursday, March 28, 2024 8:34 PM
To: Jason Sorenson; ksmithvalley@gmail.com; Ryan Casne
Subject: Fwd: Regards to Wade Minor

Sent from my iPhone

Begin forwarded message:

From: David Hamilton <dhamilton.wvfr@gmail.com>
Date: March 28, 2024 at 8:02:04 PM MDT
To: Ksmithvalleysand@yahoo.com
Subject: Regards to Wade Minor

Kris,

This email is in regards to the Wade Minor Subdivision that we have visited about. I would just like to recap that West Valley Fire Rescue does not see the need for a 30,000 gallon of water that would need to be drafted out of in order to use the water. The preferred water supply would be a tank of that size that is outfitted with a pump that will pump the water out of the tank into a fire truck. We have 2 other established water sites that are within 2 miles that we will use if there is a fire. These sites allow us to use a pump and I do not have to tie up a fire truck to get out the water from them. I would be happy to answer any other questions you might have.

Thank you

--


David Hamilton - Fire Chief
406-431-1948
dhamilton.wvfr@gmail.com
West Valley Fire Rescue
1165 Forestvale Rd
Helena, MT 59602
Facebook Twitter
www.WestValleyFireMT.gov








Exhibit C: Agency Comments


Dan Karlin, County Engineer

Wade Minor

 Dan Karlin
To Phil Gonzalez

 Reply  Reply All  Forward  

Mon 11/18/2024 3:14 PM

 You replied to this message on 11/18/2024 3:15 PM.

We didn't have any comments on Wade.
It appears the road will dead-end into an adjacent property and not be able to join the existing ROW.

Thanks,

Daniel Karlin, PE
County Engineer
Lewis and Clark County Public Works
3402 Cooney Drive
Helena, MT 59602
Office: (406) 447-8034
Fax: (406) 447-8368
dkarlin@lccountymt.gov

Kathy Macefield, L&C County Historic Preservation

December 10, 2024, in Room 330 of the City-County Building, 316 North Park Avenue, Helena, Montana.

Please mail comments or correspondence to the Community Development and Planning Office at 316 North Park Avenue, Helena, MT 59623 or fax them to (406) 447-8398. Comments can also be e-mailed to: planning@lccountymt.gov.

Comment as follows:

No comment unless historic
or prehistoric artifacts are found
during infrastructure construction, then work shall
cease ~~and~~ ^{and SHPO} the City - County Historic Preservation
Officers shall be contacted for inspection.

K. Macefield 11-14-2024

Signature/Date

Jean Riley, Montana Department of Transportation

From: Riley, Jean <jriley@mt.gov>
Sent: Friday, November 22, 2024 2:41 PM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Cc: Pesanti, Jim <jpesanti@mt.gov>; Day, Michael <mday@mt.gov>; Kilts, Kristina <kkilts@mt.gov>
Subject: Wade Minor Subdivision - 7373 Green Meadow Drive - Helena - U-5820 Reference Post (RP) 5.89

You don't often get email from jriley@mt.gov. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To Whom It May Concern.

The Montana Department of Transportation (MDT) staff reviewed the Request for Review and Comments concerning the above referenced subdivision. This subdivision is proposing a new roadway approach at Reference Post (RP) 5.89. The developer must submit a new approach permit for the approach on the MDT Maintenance Permitting system. The new roadway must be aligned with the existing roadway on the westside pf Green Meadow Drive. The Developer must supply information to MDT concerning the anticipated types of vehicles using the approach. This is due to the anticipated commercial lot. Once this information is received, MDT will determine if there are any mitigations necessary for the approach onto Green Meadow Drive.

The existing approach to the north between this property and the property to the north must be reconfigured as a single drive way approach.

If you have any questions concerning the comments please contact me.

Thank you for the opportunity to comment.

Jean

Jean A. Riley, P.E.
Transportation Planning Engineer | Rail, Transit, and Planning Division
Montana Department of Transportation
PO Box 201001
Helena, MT 59620-1001
406-444-9456 | jriley@mt.gov

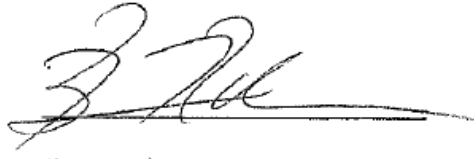
Lewis and Clark County, Sheriff's Department

December 10, 2024, in Room 330 of the City-County Building, 316 North Park Avenue, Helena, Montana.

Please mail comments or correspondence to the Community Development and Planning Office at 316 North Park Avenue, Helena, MT 59623 or fax them to (406) 447-8398. Comments can also be e-mailed to: planning@lccountymt.gov.

Comment as follows:

No comment @ this time



Signature/Date

Kegan McClanahan, Water Quality Protection District



1930 9th Avenue, Helena, MT 59601
(406) 457-8584

MEMORANDUM

Date: November 26, 2024
To: Phil Gonzalez, *Lewis and Clark County Community Development and Planning*
Cc: Jennifer McBroom, *Lewis & Clark County Water Quality Protection District*
From: Kegan McClanahan, *Lewis & Clark County Water Quality Protection District*
Reference: Wade Minor (SUBD2024-006)

Overview of Development

The proposed Wade Minor subdivision (development) will be developed along Green Meadow Drive, south of Lincoln Road, and north of Barraugh Road (see Attachment 1). The development will be 6.75 acres in total which will be divided into 4 residential lots of 1 acre per lot and 1 commercial lot of 2.75 acres. The commercial lot is proposed to be a storage facility. Each lot will be supplied water by individual wells and wastewater will be handled by individual septic systems.

Local Hydrogeology

The area of the development is underlain by the Helena Valley-Fill Aquifer. This aquifer is composed of quaternary cobbles, gravels, sands, silts, and clays exhibiting a high degree of horizontal hydraulic conductivity. The potentiometric surface portrays groundwater flow east, towards Lake Helena. Aquifer recharge is achieved through infiltration of streams, irrigation canal leakage, and bedrock fractures (Brian and Madison, 1992).

Water Quantity Concerns

The Lewis and Clark County Water Quality Protection District (WQPD) has groundwater level data from four wells near the development: GWIC: 189417, 197571, 246101, and 258300. The locations of the wells are noted on Attachment 1. Well 246101 is located northwest of the development, adjacent to Silver Creek. The groundwater levels have remained around 30 to 40 feet below ground level over the past 14 years. Wells 197571 and 258300 are located south of the development along Silver Creek. The groundwater levels in both wells have maintained around 60 to 70 feet below ground level over the past 5 years. Well 189417 is located east of the development and the groundwater levels have remained stable around 80 to 90 feet below ground level. All well data (Attachment 2) in the WQPD database indicate local groundwater levels have been stable in the past; however seasonal fluctuations do occur and can account for 10 to 20 feet of variability. Wells should be drilled based on the seasonal low groundwater level.

Water Quality Concerns

Nitrate is a common contaminant in the Helena Valley due to the numerous potential sources such as septic systems, agricultural products, and animal manure. Residential water quality data submitted to the WQPD indicate elevated nitrate concentrations to the east of the development, near Applegate Road. Local and surrounding land use, past and present, can lead to elevated nitrate concentrations in the groundwater.

Recommendations

- The WQPD recommends that the individual groundwater wells be drilled to depths well below the water table at its seasonal lowest. Groundwater levels are typically at their highest in late spring when snowmelt is recharging the local aquifers and their lowest in late summer/fall due to increased water demand during irrigation season.
- The WQPD recommends testing for nitrate on an annual basis. The WQPD has water quality test kits for nitrates and total coliform bacteria at our offices (1930 9th Avenue, Helena, Montana, 59601). The WQPD also offers a free arsenic and uranium test kit to all Lewis and Clark County residents.

If anyone has any questions regarding groundwater levels or water quality, please contact me at (406) 457-8927 or KMcClanahan@LCCountyMT.gov.

Attachments

Attachment 1: Map of Wade Minor Subdivision and Surrounding Wells

Attachment 2: Hydrograph of Groundwater Levels Near Wade Minor Subdivision

References

Briar, David W. and Madison, James P. 1992. Hydrogeology of the Helena Valley-Fill Aquifer System, West-Central Montana. United States Geological Survey. Water-Resources Investigations Report 92-4023. Helena, Montana.

David Hamilton, Fire Chief West Valley Fire District

December 10, 2024, in Room 330 of the City-County Building, 316 North Park Avenue, Helena, Montana.

Please mail comments or correspondence to the Community Development and Planning Office at 316 North Park Avenue, Helena, MT 59623 or fax them to (406) 447-8398. Comments can also be e-mailed to: planning@lccountymt.gov.

Comment as follows:

West Valley Fire District would be ok with
allowing these variances, we would be able to utilize a
water system that has a pump and fill off a hydrant rather than
tied up a truck to draft out of a buried tank with no pump and
no auto fill to top of the tank, we also would be fine with
Lincoln Rd due to the roundabout at green meadow and Lincoln
Rd.



Signature/Date

11/25/2025

Fire Chief
West Valley Fire District

From: Kris Smith <ksmithvalleysand@yahoo.com>
Sent: Thursday, March 28, 2024 8:34 PM
To: Jason Sorenson; ksmithvalley@gmail.com; Ryan Casne
Subject: Fwd: Regards to Wade Minor

Sent from my iPhone

Begin forwarded message:

From: David Hamilton <dhamilton.wvfr@gmail.com>
Date: March 28, 2024 at 8:02:04 PM MDT
To: Ksmithvalleysand@yahoo.com
Subject: Regards to Wade Minor

Kris,

This email is in regards to the Wade Minor Subdivision that we have visited about. I would just like to recap that West Valley Fire Rescue does not see the need for a 30,000 gallon of water that would need to be drafted out of in order to use the water. The preferred water supply would be a tank of that size that is outfitted with a pump that will pump the water out of the tank into a fire truck. We have 2 other established water sites that are within 2 miles that we will use if there is a fire. These sites allow us to use a pump and I do not have to tie up a fire truck to get out the water from them. I would be happy to answer any other questions you might have.

Thank you

--

David Hamilton - Fire Chief
406-431-1948
dhamilton.wvfr@gmail.com
West Valley Fire Rescue
1165 Forestvale Rd
Helena, MT 59602
Facebook Twitter
www.WestValleyFireMT.gov



Exhibit D: Public Comments

Staff received public comments regarding the subdivision application: A) one (1) letter of support of the application from neighboring property resident Wyatt Duthie. B) one (1) letter against the subdivision application signed by thirty-six (36) neighboring residents. C) The Applicant submitted a letter of support, as part of the application, signed by the five (5) adjacent residents in support of the variances request for Section XI.H.4 of the Subdivision regulations, requirement to provide connectivity to surrounding properties.

1.

-----Original Message-----

From: wyatt duthie <15wyattduthie15@gmail.com>
Sent: Friday, November 29, 2024 1:24 PM
To: County_Planning_Mail <County_Planning_Mail@lccountymt.gov>
Subject: Wade Minor Subdivision

[You don't often get email from 15wyattduthie15@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

My name is Wyatt Duthie. I am a young, quiet, professional living at 7360 Green Meadow Dr. Which is directly across the road from the proposed Wade Minor Subdivision. I, wholeheartedly, SUPPORT the proposed Wade Minor Subdivision.

As it sits now, barren with overgrown weeds, it is an inefficient use of land. Meanwhile, Helena's greatest challenge is housing shortage. I believe we must promote and incentivize efficient use of lands throughout the county. The development of this unused land is a step in the right direction.

In all honesty, this particular spot in the valley is not the Taj Mahal by any means... There is a Junkyard, a solar farm, and an outdoor storage facility within a quarter mile of it's proposed location. Any improvements to the proposed site would be greatly appreciated and welcomed from your neighbor across the street.

I would like to thank the stakeholders involved for granting me the opportunity to participate in public discourse.

Thank you,

Wyatt Duthie
406-439-1795

2.

<p>Community Development & Planning Office 316 North Park Avenue Helena, MT 59623</p>	<p>RECEIVED</p>
	<p>NOV 28 2024</p>
	<p>LEWIS & CLARK COUNTY Community Development & Planning</p>
<p><u>Subject: Opposition to Wade Minor Subdivision</u></p>	
<p>The undersigned residents of the North Helena Valley oppose the proposed Wade Minor Subdivision. We believe that development of the Wade Minor Subdivision will violate the primary purpose for which the Lewis & Clark County Subdivision regulations were promulgated – “The purposes of these regulations are to promote the public health, safety, and general welfare ...”.</p>	
<ol style="list-style-type: none"> 1. As proposed, development of the subdivision will require granting of three variances to the L&C County Subdivision Regulations. All three requested variances relate to safety, transportation, and fire protection issues that will have a direct negative impact on Subdivision residents and Subdivision neighbors up to 2 miles away if the variances are granted. There is no obvious "hardship", other than pecuniary, that can be used to justify granting of all three variances to the regulations. Absent compelling evidence to the contrary granting the variances will adversely affect public health, safety, and general welfare. 2. Despite issuance of the DEQ COSA, the subdivision will pose a direct threat to groundwater quality and especially to the well water used by people that reside downgradient of the dense (1-acre) Subdivision parcels. Groundwater degradation analysis methodology used by DEQ in approving a COSA is seriously flawed as it relies on a single measured, non-conservative, parameter (nitrate) as an indicator of groundwater pollution. Furthermore, the methodology does not adequately account for persistent up-gradient development of subsequent subdivisions, and the resulting ever-increasing risk over time to established down-gradient users. Using nitrate as an indicator of groundwater pollution, ignores the much more dangerous risks to human health and the environment posed by other species in wastewater such as pharmaceuticals (antibiotics, psychoactive drugs, pain medications, chemo therapeutics, etc.), personal care products (acetone, soaps, detergents, lotions, hair dye, peroxides, etc.), and chemicals (pesticides, herbicides, paint thinner, gasoline, lubricants, solvents, etc.) that might find their way into residential drains. Of particular concern is the proposed commercial property in the Subdivision. Commercial properties have great potential to do harm to human health and the environment through both groundwater and air pollution from commercial wastes plus other irritants such as noise and odors. Commercial lots should not be approved absent detailed knowledge of the activities proposed thereon. 3. The Subdivision proposes development at near urban density in an otherwise rural neighborhood. Continued approval of subdivisions having small lot sizes changes the rural character of the North Helena Valley, to the detriment of current residents, through increased burden on infrastructure and services such as roads, schools, law enforcement, and fire protection. 	

For these and other reasons, we urge the Community Development and Planning Office to recommend that the County Commissioners deny approval of the Wade Minor Subdivision.

Respectfully Signed:

Name (Printed)	Signature	Street Address
Vivian Drake	<i>[Signature]</i>	7463 Cactus Flats Dr.
Bon Drake	<i>[Signature]</i>	7463 Cactus Flats Dr.
Darita Polbrad	<i>[Signature]</i>	59 Lincoln Rd W
Chuck Williams	<i>[Signature]</i>	55 Lincoln Rd
Gwen Williams	<i>[Signature]</i>	55 Lincoln Rd.
Jacob Stearns	<i>[Signature]</i>	55 Lincoln Rd
DONALD WELCH	<i>[Signature]</i>	59 LINCOLN RD.
Jonathan Schaefer	<i>[Signature]</i>	61 Lincoln Rd
Dave Wayland	<i>[Signature]</i>	10 Lincoln Rd W
Robert Wayland	<i>[Signature]</i>	10 Lincoln W.
Timothy F. Taylor	<i>[Signature]</i>	40 Lincoln Rd W.
Mary A HAMMOND	<i>[Signature]</i>	30 Lincoln Rd W
Shawn Woods	<i>[Signature]</i>	38 Lincoln Rd W
Michelle Woods	<i>[Signature]</i>	38 Lincoln Rd W.
Earl Mitchell	<i>[Signature]</i>	42 Lincoln Rd W
Kimberly Woods	<i>[Signature]</i>	43 Lincoln Rd W
Joey A. Jorgensen	<i>[Signature]</i>	90 W Lincoln Rd
Dulmar Anderson	<i>[Signature]</i>	7429 Cactus Flats Dr.
David Traufer	<i>[Signature]</i>	7421 Cactus Flats Dr.
Janna Wlekk	<i>[Signature]</i>	61 Lincoln Rd W.

For these and other reasons, we urge the Community Development and Planning Office to recommend that the County Commissioners deny approval of the Wade Minor Subdivision.

Respectfully Signed:

Name (Printed)	Signature	Street Address
Roscoe Nolan	<i>[Signature]</i>	7390 Green meadow Dr Helena
Cynthia Nolan	<i>[Signature]</i>	7390 Green meadow Dr Helena
Jami Stiles	<i>[Signature]</i>	55 Barrrough Rd Helena MT
Drew Stiles	<i>[Signature]</i>	55 Barrrough Rd Helena MT 5902
Nicole Steele	<i>[Signature]</i>	71 Barrrough Rd Helena MT
Rick Steele	<i>[Signature]</i>	71 Barrrough Rd Helena MT
Blake Running	<i>[Signature]</i>	7355 Two Bit Cr Helena
Chris Running	<i>[Signature]</i>	7355 Two Bit Circle Dr
Dan Kroll	<i>[Signature]</i>	125 Susan Ct.
Janna Kroll	<i>[Signature]</i>	125 Susan Ct.
T Jared Fuller	<i>[Signature]</i>	120 Susan Ct
Kathy Curran	<i>[Signature]</i>	100 Susan Ct
Jami Greenberg	<i>[Signature]</i>	100 Susan Ct
Idene Helquist	<i>[Signature]</i>	105 Susan Ct
Ken R. Horn	<i>[Signature]</i>	7440 Fetz Estate Dr

3.

PROP. ~~2~~² (NORTH)

Hello,

My Name is Kris Smith. I own the property on 7370 Green Meadow. I am looking into doing a little four lot minor subdivision. I plan on going in and cleaning all the horse corrals and garbage on the property. There will be a single road that will be accessed off the already existing approach going east through our property about half way to the back. Lewis and Clark County likes through roads for future subdivisions. I am requesting a variance not to do that, and getting approval from the adjoining land owners that you do not want a county road built towards the back and sides of the properties.

SHEIN LEROY ETAL

TRACT

S24, T11 N, R04 W, C.O.S. 3211226, ACRES 3.88, TRACT A-2, IN W2NW4

PROP. 3 (EAST)

Hello,

My Name is Kris Smith. I own the property on 7370 Green Meadow. I am looking into doing a little four lot minor subdivision. I plan on going in and cleaning all the horse corrals and garbage on the property. There will be a single road that will be accessed off the already existing approach going east through our property about half way to the back. Lewis and Clark County likes through roads for future subdivisions. I am requesting a variance not to do that, and getting approval from the adjoining land owners that you do not want a county road built towards the back and sides of the properties.

Jessica

Brockmeyer

LOT B3

CLINK MINOR, S24, T11 N, R04 W, Lot B3, COS #558546/E

PROP 4 (EAST)

Hello,

My Name is Kris Smith. I own the property on 7370 Green Meadow. I am looking into doing a little four lot minor subdivision. I plan on going in and cleaning all the horse corrals and garbage on the property. There will be a single road that will be accessed off the already existing approach going east through our property about half way to the back. Lewis and Clark County likes through roads for future subdivisions. I am requesting a variance not to do that, and getting approval from the adjoining land owners that you do not want a county road built towards the back and sides of the properties.

Janet Hinkle

Janet Hinkle

LOT B2

CLINK MINOR, S24, T11 N, R04 W, Lot ~~B2~~, COS #558546/E

B2

PROP. 5 (SOUTH)

Hello,

My Name is Kris Smith. I own the property on 7370 Green Meadow. I am looking into doing a little four lot minor subdivision. I plan on going in and cleaning all the horse corrals and garbage on the property. There will be a single road that will be accessed off the already existing approach going east through our property about half way to the back. Lewis and Clark County likes through roads for future subdivisions. I am requesting a variance not to do that, and getting approval from the adjoining land owners that you do not want a county road built towards the back and sides of the properties.

RDS LLC

[Signature]

STORAGE
UNITS

S24, T11 N, R04 W, TRACT B, IN SW4NW4



Board Appointment. (Roger Baltz)

Presented By:

Summary:

- Lewis and Clark Library Board

Legal Review Required:

ATTACHMENTS:

Description	Type
📎 Board Appointments Memo	Attachment



TO: BoCC, Roger Baltz
CONTACT: Brandi Spangler
DATE: December 17, 2024
RE: Board Appointment

These candidates meet the qualifications for consideration of each board.

Lewis and Clark Library Board

Judy Meadows applied for a second term on the board that will expire December 31, 2029. There were no other applicants. The City appointed her for the joint position during their regular City Commission meeting held on December 9, 2024.

Action

Staff recommends that the Commissioners consider the applicant and select the candidate for the joint position on the Lewis and Clark Library Board to a term that will expire December 31, 2029.