

STAFF REPORT

Crystal Springs Village Major Subdivision

Preliminary Plat

Case# PRELIM2602-0001

Michael Alvarez
Planner II

Community Development Department
316 North Park Avenue, Room 445
Helena, Montana 59623





City of
Helena

Table of Contents

Section 1 - Project Overview	3
Section 2 - Staff Recommendation	4
Section 3 - General Information	4
Section 4 - Public Process	5
Section 5 – Land Use Plan Analysis	5
Section 6 – Evaluation.....	6
1. Impacts to Agriculture	6
2. Impacts to Agricultural Water User Facilities	7
3. Impact to Local Services	7
Transportation	8
Water	9
Wastewater (Sewer)	9
Stormwater	10
Other Services	10
Parkland Dedication	11
4. Impact to the Natural Environment	13
5. Impacts to Wildlife and Wildlife Habitat	14
6. Impacts to Public Health and Safety	14
7. Survey Requirements	15
8. Helena Subdivision Regulations	16
9. Local Subdivision Review Procedure	17
10. Easements	18
11. Legal and Physical Access	18
12. Post Preliminary Plat Approval	19
Section 7 – Requested Variances and Exceptions	19
Section 8 – Staff Recommendation	20
Appendix A – Vicinity Maps	22
Appendix B – Comments	25
Appendix B – Superseded Helena City Code Provisions	26



Section 1 - Project Overview

The subdivision applicants are Kim Smith Properties, LLC, and Steed Rentals LLC, represented by Morrison-Maierle, Inc., as hired engineers. They have requested three things: annexation into the City of Helena, pre-zoning to B-2 (general commercial) and R-O (residential-office), and preliminary plat approval for the Crystal Springs Village Major Subdivision. The property is Tract A-1-A-2 and Tract B-1-A of Certificate of Survey No. 3370303 and Lot G1-A-2 of the Amended Plat of Tract G1-A, McHugh Subdivision No. 2 (Document No. 3284465). It lies on the west side of McHugh Lane in the West Half of Section 18, Township 10 North, Range 3 West. The land has been used for gravel mining and for Steed's office and contractor yard. The plat's described boundary contains 23.25 acres, including a proposed the parkland tract, within a parent ownership of about 41.68 acres (see Section 5, Survey Requirements). The balance will remain in two unsubdivided remainder tracts, which are not proposed for annexation and would remain in unincorporated Lewis and Clark County.

Due to the fact that the application for this preliminary plat was submitted to City staff prior to the adoption of Montana Land Use Planning Act (MLUPA)-compliant subdivision regulations that came into effect on May 5, 2026, the preliminary plat and all related applications are to be reviewed under Title 76, Chapter 3, Montana Code Annotated, known as the Montana Subdivision and Platting Act. The City Subdivision Regulations to be referenced are contained in Helena City Code Title 12 and predate adoption of Ordinance 3330 on April 6, 2026 (see Appendix C and the attached referenced code sections).

The preliminary plat proposes creating 40 lots in a single phase: 22 multi-family lots, 16 commercial lots, one utility lot, and one park lot. The plat dedicates public streets — Adams Street, Steed Lane, Smith Avenue, the Wolf Road extension, and the Lander Road approach — that connect to McHugh Lane at three approaches. The application proposes 130 multi-family dwelling units and eight additional multi-family dwelling units within a mixed-use lot. Four of the commercial lots (Block 1, Lots 1 through 4) hold the existing Steed operation, and the future development of the remaining 16 commercial lots will be determined at site plan review. All lots will be served by City water and wastewater, and stormwater will be managed and retained on-site.

Under §76-3-621, MCA, parkland dedication is required for this proposed subdivision, either in the form of dedication of parkland, a cash donation made in-lieu of land donation, or a combination of the two. The plat shows a proposed 1.63-acre park tract. At its September 2, 2026 meeting, the City-County Consolidated Parks Board recommended against acceptance of the proposed land dedication. The Board did not reach a recommendation on a cash donation in-lieu of dedication. At the same meeting, the owner stated a preference for a cash donation in-lieu of dedication. Staff recommends that the requirement be satisfied through a cash donation in-lieu of dedication equal to the appraised fair market value of the unsubdivided, unimproved land. The City Commission determines the form of the dedication that will ultimately be formally accepted at the time of final plat.

The applicant's Traffic Impact Study estimates 4,020 average weekday trips (277 AM peak-hour and 332 PM peak-hour trips). However, this figure is for an earlier, larger development concept the study analyzed, which is no longer proposed; this 40-lot plat is the full extent of the project, and the study was not re-run for it alone (see Section 5, Transportation, Finding C).

In addition to the preliminary plat request and action, the applicant is also requesting separate but simultaneous actions:

- Annexation into the City of Helena – ANNX2602-0004

- Pre-Zoning for Crystal Springs Village – ZONE2602-0002

Section 2 - Staff Recommendation

Conditional approval of the preliminary plat for the Crystal Springs Village Major Subdivision, creating 40 lots and street rights-of-way from about 23.25 acres, and adoption of the Findings of Fact and the conditions contained therein for the property described in the Findings of Fact.

Section 3 - General Information

Case Nos.:	ZONE2602-0002 (Pre-Zoning) PRELIM2602-0001 (Preliminary Plat) ANNX2602-0004 (Annexation)
Application Date:	February 18, 2026
Meeting Dates:	Planning Commission – September 15, 2026 City Commission – October 19, 2026 City Commission – November 9, 2026
Applicant/Representative:	Kolter Kukes, P.E. Morrison-Maierle, Inc. 1 Engineering Place Helena, MT 59602
Property Owners:	Kim Smith Properties LLC Attn: Kim Smith 7510 Applegate Drive Helena, MT 59602 Steed Rentals LLC Attn: Josh Steed P.O. Box 6019 Helena, MT 59604
Legal Description:	Tract A-1-A-2 and Tract B-1-A of Certificate of Survey No. 3370303, and Lot G1-A-2 of the Amended Plat of Tract G1-A — McHugh Subdivision No. 2, Document No. 3284465, located within the West One-Half of Section 18, Township 10 North, Range 3 West, P.M.M., Lewis and Clark County, Montana
General location:	Between McHugh Lane and future extensions of Cooney Drive, running north from the current “Helena City Limits” sign to the edge of the Steed property legally described as Tract B-1-A on COS 3370303.

Present Land Use:	Contractor yard and office/gravel pit
Adjacent Land Uses:	North: Residential East: Single dwelling-unit residential South: Multiple dwelling-unit residential West: Vacant
Adjacent zoning:	North: West Valley #2 (County) East: R-3 and R-2 (City of Helena) South: B-2 (City of Helena) West: R-1, R-2, and R-3 (County) (R-O in proximity to the southeast)
Current zoning:	West Valley #2 (County)
Tract/Property Size:	Described exterior boundary of 23.25 acres, proposed for annexation. Two remainder tracts totaling 16.64 acres are not proposed for annexation and remain in unincorporated Lewis and Clark County.
Future Land Use Designation:	Urban Residential
Within Urban Standards Boundary:	Yes

Section 4 - Public Process

Public hearings and the solicitation of public comment are an integral part of the review process. Notice of the September 15, 2026, Planning Commission hearing was published on August 29, 2026, mailed by certified mail postmarked September 3, 2026, and posted on the property on September 3, 2026. As of September 4, 2026, no public comments had been received. Comments received after that date, including at or after the Planning Commission hearing, will be added to the record and forwarded to the City Commission.

Section 5 – Land Use Plan Analysis

The Helena Forward Land Use Plan (LUP), adopted by the City Commission on November 17, 2025, is the applicable planning policy document for this review. The LUP guides the City's land use decisions and the adoption of its land use regulations, and zoning districts implement it. The subject property lies within the Urban Standards Boundary (USB), and the Plan's Future Land Use Map (FLUM) designates the property Urban Residential. The USB is identified in the LUP as the area where the City can most efficiently and cost-effectively provide essential urban services, including water, wastewater, stormwater management, and transportation. Properties within the boundary are prioritized for annexation and for extension of City services. The Plan directs growth to areas that City services can reach rather than to unserved land farther from the city.

The subject property adjoins the City limits along McHugh Lane. The subdivision extends City water,

sewer, streets, and stormwater facilities to a former gravel pit and places 138 multi-family dwelling units and 16 commercial lots on those services. Serving growth with City services reduces the adverse effects of regional population growth in several ways. City water and sewer allow higher densities, so a given number of homes uses less land than the same homes on county-sized lots. Locating homes and businesses next to existing neighborhoods and along an established corridor shortens travel distances. Development on the City's water and sewer systems, rather than on individual wells and septic systems, avoids the cumulative adverse groundwater effects of many on-site systems and places treatment under a single regulated utility. Stormwater is managed to City standards on a site that today has none.

Conclusion:

The subdivision carries out the Land Use Plan's direction to accommodate growth within the Urban Standards Boundary on City services, at urban densities, adjacent to existing development. It is consistent with the Plan for purposes of preliminary plat review.

Section 6 – Evaluation

Findings of Fact

Under §76-3-608(2), MCA, the governing body issues written Findings of Fact that weigh potential subdivision impacts. Prior to this, the Helena Planning Commission will weigh the primary review criteria of §76-3-608(3), MCA. Under §76-3-605(4), MCA, the Planning Commission acts in an advisory capacity and provides a written recommendation to the City Commission on the preliminary plat. The City Commission, as the governing body, approves, conditionally approves, or denies the preliminary plat under Helena City Code §12-2-9(B), as in effect at the time of application.

The change in state law between the Subdivision and Platting Act and the Montana Land Use Planning Act created a new methodology for the analysis of subdivision impacts. The Crystal Springs Village subdivision application was received February 18, 2026, before the MLUPA-compliant amendments to Helena City Code Title 12 took effect and within months of the adoption of the Helena Forward Land Use Plan (LUP). Staff were required to review the application under the subdivision regulations in effect on the application date, which point to and require conformance with the 2019 Growth Policy. The findings and conclusions presented below are based on analysis of impacts required of subdivision review prior to implementation of MLUPA and reflect impacts assessed for subdivisions in conformance with the 2019 City of Helena Growth Policy rather than the newer LUP. The superseded Title 12 provisions cited in this report are included with the packet as reference for analysis purposes (see Appendix C).

The primary review criteria of §76-3-608(3)(a), MCA, are the specific, documentable, and clearly defined impacts on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety, as were considered in the 2019 Growth Policy. The statute excludes any consideration of whether the subdivision will result in a loss of agricultural soils. Section 76-3-608(3)(b) through (d), MCA, add three more criteria: compliance with survey requirements, the local subdivision regulations, and the local review procedure; easements for planned utilities; and legal and physical access to each parcel.

1. Impacts to Agriculture

Findings:

- A. The subject property is not in agricultural use. The north portion is occupied by the Steed construction headquarters (contractor yard and associated office); the remainder is a former scratch gravel pit currently being backfilled with imported fill. According to the Environmental Assessment (EA), the property consists mainly of mine tailings and exposed subsurface gravels left by historic mining and gravel operations. That activity altered the natural landforms.
- B. The NRCS maps 94.6% of the property as a “Dumps, mine” unit, indicating native soils have been highly disturbed or removed, and the surface consists of transported tailings and rock. The balance is Thess loam (4.0%) and Musselshell-Crago complex (0.6%). NRCS classifies the property as primarily not prime farmland. Standard NRCS ratings for erosion hazard, erodibility, fire hazard, and soil puddling are not available because the site is so heavily disturbed.
- C. Historic aerial imagery indicates the site has not supported agricultural production for at least the past 30 years. Agricultural uses on adjacent properties, such as hay production, declined between 2006 and 2009 as the area shifted to residential and commercial development. Agricultural land remains more common to the north. The Lewis and Clark County Fairgrounds lie about one mile southwest of the subject property, and the proposed development would not impede its operations.
- D. The property is within the Urban Standards Boundary and is designated Urban Residential on the Future Land Use Map. That designation plans the area for urban development served by municipal services, not for agriculture.

Conclusion:

The proposed subdivision will not convert active farmland or interfere with ongoing agricultural operations. This major subdivision will not significantly impact agriculture.

2. Impacts to Agricultural Water User Facilities**Findings:**

- A. The property contains no natural surface water. The EA identifies no on-site irrigation or agricultural water facilities: no reservoirs, ponds, ditches, headgates, pipes, or stock-watering facilities. The field investigation observed highly disturbed conditions with exposed subsurface gravels, little soil cover, and sparse vegetation.
- B. Nearby off-site waterways include Tenmile Creek, the Helena Valley Canal, and a ditch lateral that flows to the canal. None traverse or serve the subject property, and the subdivision proposes no alteration, relocation, or interruption of any of them.
- C. The subdivision will be served by City of Helena water and wastewater. It does not rely on, divert, or affect any agricultural water user facility.

Conclusion:

No agricultural water user facilities exist on or are served by the subject property. This major subdivision will not impact agricultural water user facilities.

3. Impact to Local Services

- A. Local services provision with the proposed subdivision will be reviewed subject to the following evaluation guidelines:

1. Subdivision review should consider the recommendations of existing service and facility plans and compliance with other service needs assessments.
 2. Subdivision review could include the impact of the development on the levels of service, proximity of services, response times, and the subdivider's responsibility in the extension of services.
 3. The capacity and capability of local services is limited, and all developments should equitably participate in providing adequate services for, including replacement of consumed reserve capacity, to meet levels of service and facility design standards.
 4. General design of local services within proposed subdivisions should be addressed during the preliminary plat review.
 5. Lack of adequate service capacity and capability within local services is adequate grounds for denial of subdivision approval when impacts of proposed subdivisions are not mitigated.
 6. Subdivision review shall include review of easements for the provision and maintenance of services.
 7. Subdivision review may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding or other reasonable security for purposes of filing a final plat. An evaluation of the timing of infrastructure installation should be included in the subdivision review.
- B. Helena City Code §12-2-15 requires public improvements be installed in conformance with plans, specifications, and a construction schedule approved by the city.

Transportation

Findings:

- A. The applicant's Traffic Impact Study (Morrison-Maierle, February 2025) was included with the transportation submittal and reviewed by TSD. It estimates 4,020 average weekday trips (2,010 entering and 2,010 exiting), with 277 AM peak-hour and 332 PM peak-hour trips. The estimate uses ITE Trip Generation Manual (11th Edition) rates. The TIS models full buildout in 2035 of an earlier, larger development concept: 21 single-family homes, 254 multi-family dwelling units, 66,470 square feet of business-park use, and an industrial park with about 100 employees. That concept is no longer proposed. This 40-lot preliminary plat is the full extent of the project, and its program is smaller than the one the TIS analyzed. The TIS is the development-specific traffic forecast of record for this application.
- B. The City of Helena Transportation Systems Department (TSD) reviews the traffic impact analysis and transportation design for proposed subdivisions. The applicant's Traffic Impact Study includes a supplemental memo on combined traffic from the adjacent Aero Vistas development and Crystal Springs Village, and on traffic control at the McHugh Lane/Road Runner Street intersection. The findings below reflect TSD's review.
- C. Access comes from three approaches on McHugh Lane. The Lander Road approach (north) is an existing segment serving the Steed property. The Wolf Road extension is in the middle. The new Smith Avenue approach (south) forms a new three-way intersection with McHugh Lane. Interior north-south local roads are Steed Lane and Adams Street. Interior roads are classified local with 60-foot rights-of-way; the Lander Road approach carries a varying 80-foot right-of-way. The Lander Road/McHugh Lane approach has one right-turn-only exit lane and one entry lane. No left

turn onto McHugh Lane is allowed. This protects safety at the Yuhas Avenue approach immediately to the north. The Lander Road approach is an existing access, and its offset from Yuhas Avenue does not meet the City's intersection-spacing standard. TSD requires a formal deviation request, paired with the right-turn-only egress, to document that existing condition, and has advised staff that the deviation approval is the remaining step.

- D. Non-motorized facilities proposed with the subdivision include sidewalks and ADA pedestrian ramps at intersections along the interior roads, and boulevard sidewalks the full length of McHugh Lane.
- E. TSD's review comments on the subdivision's transportation design and off-site impacts are included in Appendix B. Staff has evaluated those comments. Where warranted, they are addressed through the conditions of preliminary plat approval in Section 8 and, separately, through the conditions of annexation. Remaining items are addressed during infrastructure and design review.

Conclusion:

Impacts to the transportation system have been identified. These impacts can be mitigated through the applicant's proposed improvements, subsequent infrastructure and design review, and the conditions of preliminary plat approval set out in this report.

Water**Findings:**

- A. The subdivision will be served by the City of Helena Public Water System. The system is supplied by the Tenmile Water Treatment Plant (8.9 MGD peak capacity), the Missouri River Water Treatment Plant (9 MGD), and the Eureka groundwater well (about 1 MGD). The property is served by the existing Malben Low pressure zone; storage in the Malben High zone (15 MG) supplies the Low zone through pressure-reducing valves.
- B. Water will be distributed by extending the existing 8-inch mains in the McHugh Lane right-of-way along the proposed streets. The new mains will loop back to the existing system at two points in McHugh Lane. End caps at the west subdivision boundary allow future extension.
- C. A WaterCAD hydraulic model was prepared with a node at each proposed lot and demands assigned under the City Engineering and Design Standards. It was run for average-day, peak-hour, and maximum-day-plus-fire-flow conditions. The model found the existing City system flows and pressures adequate to serve the subdivision's demands (about 88 gpm average day, 212 gpm maximum day, and 308 gpm peak hour).
- D. The City tested two hydrants on McHugh Lane. Fire flows were about 3,004 gpm (Hydrant #1416) and 4,938 gpm (Hydrant #1358), both above the required minimum of 1,750 gpm. The applicant's model indicates required fire flows will be met upon extension of the water mains; the new hydrants will be flow-tested by the City upon completion of construction.

Conclusion:

The subdivision can be adequately served by the City of Helena water system, with no off-site water improvements identified.

Wastewater (Sewer)**Findings:**

- A. Wastewater collection will be provided by gravity sewer mains and individual services to all lots. Mains are generally 8 inches, with a 10-inch main along Wolf Road; the system connects to an existing 48-inch manhole at the intersection of Wolf Road and McHugh Lane.
- B. The controlling segment inside the subdivision is the 10-inch outfall from Wolf Road to the existing sewer in McHugh Lane. It will run at about 29% of capacity at peak hour and under 8.5% at average daily flow, within the City's design standards.
- C. The Aero Vistas development to the south connects directly to the McHugh Lane sewer at the same existing 48-inch manhole. It adds no flow to the sewers proposed inside this subdivision. The remainder tracts are not expected to require future sanitary sewer service, and the Wolf Road right-of-way terminates at the west remainder tract, preventing connection by properties farther west.
- D. Sufficiency Review completed on March 18, 2026, required a downstream capacity analysis (PER Appendix E). That analysis found the existing 8-inch gravity main from McHugh Lane to Jade Street exceeds allowable capacity and surcharges at full buildout. Upsizing that segment to 10 inches is estimated to produce a 57% capacity condition, and to 12 inches a 46% condition. The existing 12-inch main from Jade Street to Amber Court is estimated at 70% capacity at buildout. The Golden Estates lift station (recently upgraded to 946 gpm peak-hour capacity), its force main, and the downstream trunk sewer are estimated to have adequate capacity.
- E. The development's estimated average flow is about 0.074 MGD. That is about 2.2% of the Helena Wastewater Treatment Plant's current average flow (3.4 MGD) and 1.3% of its projected 2043 flow (5.9 MGD). The Wastewater Master Plan indicates adequate treatment capacity for the development.

Conclusion:

The subdivision can be served by the City wastewater system. A downstream improvement — upsizing of the existing 8-inch McHugh Lane main between Wolf Road and Jade Street — has been identified to accommodate buildout flows.

Stormwater**Findings:**

- A. Stormwater has been analyzed under the 2013 City of Helena Engineering and Design Standards. Street runoff is collected in curb and gutter, enters curb inlets and storm sewer, and flows to an on-site retention and infiltration pond. The pond sits in a utility lot on the west boundary of the subdivision.
- B. Runoff was modeled using the SCS Curve Number method across ten sub-basins for the 2-, 10-, 25-, and 100-year, 24-hour design storms. Storm inlets and pipes are sized for the 25-year storm. The retention pond is sized for the 100-year storm. The 0.5-inch water-quality storm (about 25,170 cubic feet) is retained and infiltrated on site.
- C. A geotechnical percolation test at the proposed pond location returned an infiltration rate of 7.3 inches per hour, reduced by half (3.65 in/hr) for design. The pond is designed to retain and infiltrate runoff on site, with no off-site stormwater discharge.

Conclusion:

Stormwater from the subdivision is designed to be collected, retained, and infiltrated on site under the 2013 City of Helena Engineering and Design Standards.

Other Services

Findings:

- A. The applicant's emergency services narrative identifies the following providers, distances, and estimated response times: fire protection from the West Valley Fire Rescue District (Station 1 Headquarters, about 2.5 miles, estimated 5-minute response), using fire hydrants proposed within the subdivision; law enforcement from the Lewis and Clark County Sheriff's Office (about 3.0 miles, estimated 9-minute response); ambulance service from the St. Peter's EMS North Station (about 1.3 miles, estimated 3-minute response); and medical services from St. Peter's Health (about 4.4 miles, estimated 12-minute response).
- B. The narrative identifies no on-site constraints impeding emergency service delivery. It notes that law enforcement and medical responders would cross active BNSF Railway tracks en route to the site, which may impede response.
- C. The applicant has submitted a solid waste collection plan identifying solid waste collection locations serving the commercial and multi-dwelling lots. Solid waste collection will be provided consistent with City of Helena requirements.
- D. The subdivision lies within the Helena School District. The applicant applies a multiplier of 0.24 school-age children per multi-family dwelling unit (Econsult Solutions, "Who Moves Into Montana Housing? 2015 Residential Demographic Multipliers"). On that basis, the applicant estimates about 35 school-age children at full build-out, counting the multi-family lots and the eight multi-family dwelling units in the mixed-use commercial lot. Students would attend Four Georgians Elementary School (about 1.0 mile), C.R. Anderson Middle School (about 3.1 miles), and Capital High School (about 1.7 miles). No school bus stops are proposed.
- E. NorthWestern Energy (NWE) will extend its natural gas and electric facilities to serve the subdivision. The new gas and electric lines will be installed in the public right-of-way and designed to NWE standards. Existing NWE power and gas currently serve the existing buildings on the property from a 20-foot utility easement along the northeast boundary and from the McHugh Lane right-of-way.
- F. A recorded 40-foot NWE gas-line easement crosses the central part of the subdivision. It holds two 8-inch HDPE gas lines (30–50 psi) and a 10-inch welded-steel gas line operating at about 1,000 psi. The applicant is coordinating protective design provisions with NWE, as discussed at a February 5, 2026, meeting. The provisions include maximum ground cover of 8 to 9 feet at road crossings, a 2-foot vertical clearance for utilities crossing the gas lines, placement of buildings away from the easement, and NWE personnel on site during construction. (See also Easements and Public Health & Safety.)
- G. CenturyLink provides buried communication service to the existing buildings and is expected to serve the subdivision. Backbone communication lines will be installed in the public right-of-way in coordination with CenturyLink and NWE.
- H. Upon annexation, fire protection and law enforcement will be provided by the Helena Fire Department and the Helena Police Department. Both departments reviewed the application, and their comments are included in Appendix B.

Parkland Dedication

Section 76-3-621, MCA, requires parkland dedication for this subdivision and establishes the amount and permitted forms of dedication. The calculated requirement for parkland dedication with this subdivision is 1.63 acres. The preliminary plat shows a 1.63-acre park tract. At its September 2, 2026, meeting, the City-County Consolidated Parks Board recommended against accepting the proposed land dedication and did not make a recommendation on a cash donation in-lieu of dedication. The

owner stated a preference for satisfying the requirement through a cash donation in-lieu of dedication.

Findings:

- A. Under §76-3-621(1), MCA, the subdivider dedicates a cash or land donation equal to the statutory schedule. A cash donation is to be the fair market value of the unsubdivided, unimproved land [§76-3-621(10)(a), MCA]. If the subdivider does not choose a cash donation only, the governing body determines whether the dedication will be land or a combination of land and cash, in consultation with the subdivider and the park board and giving due weight to the subdivider's preference [§76-3-621(4), MCA].
- B. The applicant applied the §76-3-621(1), MCA, parkland dedication schedule to the 18.90-acre subdivision area, counting all utility, commercial, and residential lots. The result is a required dedication of about 1.63 acres, calculated as follows:

Lot Size Range	Total Area	Percent Required	Park Dedication Requirement
0.5 acres or smaller	10.07 acres	11.00%	1.11 acres
Larger than 0.5 to 1 acre	3.04 acres	7.50%	0.23 acres
Larger than 1 to 3 acres	5.79 acres	5.00%	0.29 acres
Total	18.90 acres	—	1.63 acres

- C. At the time of application submission, the applicant proposed a cash donation in-lieu at \$5,000 per acre (\$8,150 total), although this valuation was not based on the statutorily required fair market value of the unsubdivided, unimproved land, as stated in §76-3-621(10)(a), MCA as no such supporting documentation was provided by the applicant. The applicant withdrew the cash proposal and substituted the land dedication during Sufficiency Review. The applicant then proposed to satisfy the requirement through a 1.63-acre land dedication, shown as the park tract on the plat.
- D. At the September 2, 2026, City-County Consolidated Parks Board meeting, the Board voted to recommend against accepting the applicant's proposed 1.63-acre land dedication. A separate motion to recommend a cash donation in-lieu of dedication did not carry. The Board's recommendation is appended to this report.
- E. City staff recommends against accepting the proposed 1.63-acre land dedication and recommends a cash donation in-lieu of dedication equal to the fair market value of the unsubdivided, unimproved land. That recommendation matches the preference the owner expressed in the course of the September 2, 2026 Consolidated City-County Parks Board meeting. A market-based appraisal to establish that value, at the applicant's expense, is anticipated on or around September 18, 2026. This valuation will be presented to the City Commission in the course of their consideration of the preliminary plat.
- F. The Transportation Systems Division has identified that, if the park tract is dedicated as platted, Cooney Drive must be extended along the western boundary and right-of-way dedicated to the City. The owner is responsible for the costs of survey, installation to City standards, and dedication. The park tract is the only portion of the platted subdivision that extends to Cooney Drive. If the requirement is instead met with a cash donation in-lieu and the park tract is removed

from the plat, no part of the subdivision would reach Cooney Drive; therefore, no Cooney Drive extension would be required with this plat.

Conclusion:

Staff recommends that the parkland requirement be satisfied through a cash donation in-lieu of dedication equal to the appraised fair market value of the unsubdivided, unimproved land. The City Commission ultimately determines the form of the dedication under §76-3-621(4), MCA.

Local Services — Overall Conclusion:

Impacts to Local Services have been identified. They include traffic on McHugh Lane and at the intersections in the Traffic Impact Study, added demand on the City's water and wastewater systems, stormwater management on a former gravel-mining site, the extension of fire, law enforcement, and other services upon annexation, and the parkland dedication requirement. These impacts can be mitigated through the applicant's proposed improvements, infrastructure and design review, the conditions of preliminary plat approval, and satisfaction of the parkland requirement in the form the City Commission determines.

4. Impact to the Natural Environment**Findings:**

- A. The site is long-disturbed industrial land. Historic tailings storage and ongoing gravel-mining operations have altered the natural landforms and greatly diminished the property's natural environmental functions. Soils are almost entirely (94%) classified as "Dumps, mine," per the NRCS soil report provided by the applicant. Vegetation is sparse and fragmented and is mostly comprised of weedy grasses and a few young trees, with no unique species and little habitat or forage value.
- B. The property contains no natural surface water features, and no water-body setbacks are required. Nearby off-site waterways include Tenmile Creek, the Helena Valley Canal, and a ditch lateral to the canal. The National Wetland Inventory (NWI) and Montana Natural Heritage Program (MNHP) mapped one small man-made pond in the northeast corner, which field investigation and aerial imagery confirm no longer exists (a mapping artifact of past mining conditions). Surface drainage generally flows north.
- C. The site lacks hydrophytic vegetation, hydric soils, and indicators of wetland hydrology. On that basis, no formal wetland delineation was warranted as no wetlands are present.
- D. Groundwater static levels near the property are generally 10 to 40 feet below ground surface (averaging about 28 feet, with 80% of nearby readings deeper than 15 feet). No on-site wells or wastewater disposal are proposed. The subdivision will use City water and sewer. Gravity mains will be buried about 4 to 8 feet and built watertight to DEQ and City standards. No measurable impacts to groundwater levels or quality are anticipated.
- E. The State Historic Preservation Office determined the project is not likely to affect cultural or historic properties, provided no structure over 50 years old is disturbed. No such disturbance is proposed.
- F. FEMA maps the property outside the regulatory floodway and flood fringe (FIRM panels 30049C2143E and 30049C2306E). The nearest mapped flood hazard boundary is about 1,600 feet north, along Tenmile Creek. Flooding at the property is not expected. (See also Public Health & Safety.)
- G. Stormwater will be managed through an on-site collection and retention system compliant with City standards that maintains post-development runoff at or below pre-development rates and

prevents off-site impacts. Construction will create temporary noise, dust, and soil disturbance, mitigated through standard best management practices. FWP-recommended measures are proposed by the applicant to be incorporated through subdivision covenants (ex: pet-control provisions, native landscaping, and discouraging wildlife attraction).

Conclusion:

This major subdivision will have limited impact on the natural environment. The site is already heavily disturbed and has no wetlands, surface water, intact native vegetation, or sensitive resources. The identified impacts can be mitigated through the applicant's proposed measures and applicable design standards, as supplemented by the conditions of approval.

5. Impacts to Wildlife and Wildlife Habitat**Findings:**

- A. MNHP land-cover records classify the parcel as primarily developed. The site is a former open-pit gravel mine and tailings storage area. It lacks the vegetation and structure needed for foraging, nesting, or shelter. Similar land surrounds it to the east, west, and south; agricultural land is more common to the north.
- B. A USFWS Information for Planning and Consulting (IPaC) query identified four ESA-listed or proposed species whose ranges overlap the site: Canada lynx and grizzly bear (Threatened), monarch butterfly (Proposed Threatened), and Suckley's cuckoo bumble bee (Proposed Endangered). Each is unlikely to be present because the site lacks suitable habitat. No designated critical habitat occurs on the property.
- C. MNHP records document 20 species occurrences within an approximately one-mile radius (primarily bats, birds, and two invertebrates). Most are unlikely to occur on the property due to the absence of suitable habitat. No sage-grouse habitat is present, and no known critical or key wildlife areas occur within the project boundary.
- D. The applicant's consultant conducted a site visit on January 9, 2026, reported in the Environmental Assessment, and observed only common, disturbance-tolerant species (chipmunk, raccoon, striped skunk, red fox, and widespread migratory birds). Ungulates such as deer, elk, and moose may move through the area intermittently but are unlikely to use the site for foraging, breeding, or shelter. None of the IPaC- or MNHP-listed species were observed.
- E. Montana Fish, Wildlife & Parks commented on January 29, 2026. FWP noted the subdivision lies in a wildlife-rich part of the Helena Valley where white-tailed and mule deer are common. FWP recommended design and covenant measures to reduce impacts: open space and movement corridors, wildlife-friendly fencing, pet control, no wildlife feeding or attractants, and wildlife-conscious landscaping. The applicant proposes to respond through compliance with City open-space and zoning fencing standards and through subdivision covenants addressing pet control, wildlife attraction, and native landscaping.

Conclusion:

Although the development will permanently convert the disturbed industrial parcel to residential and commercial use, it will not remove important intact native habitat or disrupt major wildlife movement corridors. Impacts to wildlife and wildlife habitat will be minimal.

6. Impacts to Public Health and Safety**Findings:**

- A. The subdivision will be served entirely by City of Helena water and wastewater systems, with no individual wells or on-site wastewater disposal proposed. Gravity sewer mains will be built watertight to DEQ and City standards. Stormwater will be collected and retained on-site in a system designed to City standards (25-year conveyance; 100-year retention), with no off-site discharge. Public health risks associated with private water supplies, septic systems, and uncontrolled runoff are thereby avoided.
- B. Fire-protection water supply is adequate. The water system will extend and loop the existing 8-inch mains in McHugh Lane. Flow tests on the existing hydrants produced 3,004 gpm (hydrant #1416) and 4,938 gpm (hydrant #1358), both above the required minimum of 1,750 gpm. New hydrants within the subdivision will be flow-tested by the City following construction.
- C. The Helena Fire Department reviewed the application and identified the fire-code requirements that apply. Fire department access and fire service features must meet the currently adopted fire code (2021 International Fire Code, Chapter 5 and Appendix C). Fire-protection water supply must meet 2021 IFC Chapter 5, Section 507 and Appendices B, C, and D. Buildings will be reviewed under the currently adopted fire code, with third-party review of fire and life-safety systems. All other adopted codes apply, in coordination with the HFD Fire Marshal. These requirements are applied through the building-permit and fire-plan-review processes.
- D. FEMA maps the property outside the regulatory floodway and flood fringe. The nearest mapped flood hazard boundary is about 1,600 feet north, along Tenmile Creek. Flood hazard at the site is minimal. (See Impact to the Natural Environment, Finding F.)
- E. A recorded 40-foot NWE gas-line easement crosses the central part of the site. It holds a 10-inch welded-steel gas transmission line operating at about 1,000 psi and two 8-inch HDPE distribution lines (30–50 psi). The applicant has coordinated protective design provisions with NorthWestern Energy, as discussed at a February 5, 2026, meeting. They include limits on ground cover at road crossings, vertical clearance for crossing utilities, placement of buildings away from the easement, and NWE personnel on site during construction over the easement. (See Other Services — Utilities, and Easements.)
- F. The site is a former scratch gravel pit that is being backfilled with imported fill material rather than topsoil. Building foundations and structures will be reviewed for compliance with the currently adopted building codes at the building-permit stage.
- G. Fire, law enforcement, ambulance, and hospital services are available to the property, as described under Impact to Local Services, Other Services. Upon annexation, fire protection and law enforcement are provided by the Helena Fire Department and the Helena Police Department.

Conclusion:

The subdivision is not expected to create significant adverse impacts to public health and safety. City water, sewer, and stormwater service avoids the risks of on-site systems. Fire flows exceed the required minimum, and fire-code compliance will be verified through building-permit and fire-plan review. Flood hazards are minimal. The high-pressure gas line is addressed through protective design provisions coordinated with NorthWestern Energy. Remaining items are addressed through applicable design standards and code review, as supplemented by the conditions of approval.

7. Survey Requirements**Findings:**

- A. Under § 76-3-608(3)(b)(i), MCA, the basis for the decision on the preliminary plat includes compliance with the survey requirements of Title 76, chapter 3, part 4, MCA. The preliminary plat

was prepared under the responsible charge of a Montana professional land surveyor (Nicholas C. Fish, PLS Registration No. 33886LS, Morrison-Maierle; survey date March 2025) and carries the certificates of the professional land surveyor and the examining land surveyor. The surveyor certifies that monuments disturbed by the installation of improvements will be reset within 240 days of filing under ARM 24.183.1101(d). Full verification of survey compliance, including monumentation and required certificates, occurs at final plat review under § 76-3-611, MCA.

- B. The plat's exterior-boundary description contains 23.25 acres, made up of the 38 lots (17.67 acres), the utility lot (1.22 acres), the park tract (1.63 acres), and about 2.73 acres of internal street right-of-way. The plat's Area Table lists 4.52 acres of right-of-way, so about 1.79 acres of tabulated right-of-way lies outside the described boundary. The Area Table's 41.68-acre total is the full parent ownership, including the two remainder tracts (16.64 acres).
- C. The final plat must reconcile the Area Table with the exterior-boundary description and identify what makes up the right-of-way acreage shown outside the described boundary. Staff proposes annexation of the described 23.25-acre boundary, which includes the park tract. If the parkland requirement is satisfied in cash and the park tract is removed, the final plat and the annexation description are revised accordingly.

Conclusion:

The preliminary plat demonstrates compliance with applicable survey requirements for purposes of preliminary plat review. Final verification of survey compliance occurs at final plat review under § 76-3-611, MCA.

8. Helena Subdivision Regulations

Findings:

- A. Helena City Code §12-1-5, as enforced at the time of application (see Appendix C), requires that newly subdivided lands conform to the requirements and provisions of the underlying zoning district under Title 11 of the City Code. The applicant proposes pre-zoning to B-2 (general commercial) and R-O (residential-office) before annexation. In the companion pre-zoning report, staff recommends CLM (commercial light manufacturing) for Block 1, Lots 1 through 4, which hold the existing Steed operation. That district allows the existing use by right upon annexation. Lots must conform to the districts the City Commission adopts. Conformance of individual lots with district standards — setbacks, lot coverage, parking, landscaping, and signage — is verified through site plan review and building permits.
- B. The plat creates 40 lots and dedicated street rights-of-way. The lots are 22 multi-family lots, 16 commercial lots, one utility lot (Block 1, Lot 12), and one park lot. Four of the commercial lots (Block 1, Lots 1 through 4) hold the existing Steed operation. Lot sizes range from approximately 0.22 acre to 2.92 acres.
- C. Helena City Code §12-4-2(C) provides that blocks may not exceed 600 feet in length except where a longer length is needed to meet grade limitations, the existing built environment, water bodies or railroad crossings, or industrial uses. The south side of Smith Avenue (Block 3) is a single block face of 693 feet. A cross-street cannot break it on that side, because the land to the south is an unsubdivided parcel outside the subdivision. The north side of Smith Avenue is broken by the Adams Street and Steed Lane intersections about every 340 feet. Those intersections provide street crossings, corner hydrant locations, and block-based addressing along this segment. Staff has evaluated the configuration and finds it consistent with the purpose of the block-length standard; no exception is requested.

- D. Helena City Code §12-4-2(D)(1) requires a minimum of two public accesses for ingress and egress connecting to existing streets for any subdivision with projected trip generation exceeding 200 vehicle trips per day. The subdivision provides three approaches to McHugh Lane — the Lander Road approach, the Wolf Road extension, and the new Smith Avenue approach — satisfying the requirement. (See Impact to Local Services — Transportation.)

Conclusion:

The proposed subdivision complies with the Helena Subdivision Regulations. Detailed compliance with design standards is verified through the City's infrastructure review, site plan review, and building-permit processes.

9. Local Subdivision Review Procedure**Findings:**

- A. The application was received February 18, 2026, and deemed complete February 25, 2026. The application was received before a change in subdivision law. For consistent handling, sufficiency review followed the now-superseded process of §76-3-604(2)(a)–(b), MCA. After resubmittals, the application was deemed sufficient on August 5, 2026, and entered General Review the same day. For a major subdivision creating fewer than 50 lots, §76-3-604, MCA, requires the City Commission to act on the preliminary plat within 60 working days of entering General Review.
- B. Notice of the Planning Commission's September 15, 2026, hearing on the pre-zoning (Case ZONE2602-0002) and the preliminary plat (Case PRELIM2602-0001) was published in the Helena Independent Record on August 29, 2026, mailed by certified mail postmarked September 3, 2026, to the subdivider and to owners of record of surrounding property, as well as posted on the property on September 3, 2026. The City Commission will also hold a public hearing on the preliminary plat on October 19, 2026. Notice of that hearing will be published and mailed by certified mail postmarked not less than 15 business days before the hearing, and the property will be posted.
- C. The Helena Planning Commission will hold a public hearing on the preliminary plat at 6:00 p.m. on Tuesday, September 15, 2026, as a hybrid in-person and online meeting, in the Commission Chambers of the City/County Building, Room 330, 316 N. Park Avenue, and will make recommendation votes on both the pre-zoning and the preliminary plat. On October 19, 2026, the City Commission will hold a public hearing on the Resolution of Intention to Annex the property, a public hearing on the preliminary plat, and a public meeting on first passage of the pre-zoning. A public hearing on final passage of the pre-zoning is scheduled for November 9, 2026. The Consolidated City-County Parks Board considered the parkland proposal on September 2, 2026. Scheduled dates are subject to change.
- D. The City Commission is the governing body for subdivision review. The Planning Commission holds the public hearing as the agent the governing body designated. Under §76-3-605(4), MCA, it acts in an advisory capacity and submits a written recommendation of approval, conditional approval, or denial to the governing body within 10 working days after the hearing. The Planning Commission's recommendation on this preliminary plat will accordingly be forwarded to the City Commission for final action.

Conclusion:

The preliminary plat is proceeding through the public notice, hearing, and review procedure described above. The Planning Commission's recommendation will be forwarded to the City Commission, which, as the governing body, takes final action on the preliminary plat.

10. Easements

Findings:

- A. Helena City Code requires City infrastructure to be in public right-of-way, on City property, or in easements granted to the City. Helena City Code §12-4-7 requires easements for utilities, drainage, and pedestrian access that are not in public right-of-way. All water, sewer, storm drainage, and street infrastructure the City will own and maintain will be in the street rights-of-way dedicated by this plat or in easements or tracts conveyed to the City. Final easement locations are confirmed at infrastructure plan review.
- B. The plat carries forward the recorded easements on the parent tracts. They are: the 40-foot NWE gas-line easement (COS No. 3132177) across the central part of the site, which holds the high-pressure gas transmission line and distribution lines addressed under Other Services and Public Health and Safety; a 38-foot public access easement (COS No. 3132177) along the west boundary; the 60-foot public access and utility easement and the 30-foot by 40-foot sewer and water easement created by COS No. 3370303; 10-foot and 20-foot utility easements and a 30-foot fire protection and utility easement along the McHugh Lane frontage (Document No. 3284465); and the mixing-zone easement benefiting Lot G1-A-1 (Document No. 3284465). Development within and adjacent to the NWE gas-line easement is subject to the protective design provisions coordinated with NorthWestern Energy.
- C. New utility easements shown on the plat, together with the dedicated street rights-of-way, provide for the extension of water, sewer, stormwater, gas, electric, and communication facilities to serve the subdivision. Backbone communication infrastructure will be installed within the public right-of-way in coordination with CenturyLink and NWE. (See Impact to Local Services — Other Services.)

Conclusion:

The proposed subdivision, with the conditions of approval, complies with §76-3-608(3)(c), MCA. That section requires easements within and to the subdivision for the location and installation of planned utilities.

11. Legal and Physical Access

Findings:

- A. Under §76-3-608(3)(d), MCA, the subdivision is reviewed for legal and physical access to each parcel. The statute also requires access to be noted on the plat and on any instrument of transfer for the parcel.
- B. The plat states that Adams Street, Lander Road, Smith Avenue, Steed Lane, and Wolf Road provide physical access to every lot and tract from McHugh Lane. McHugh Lane is a 100-foot public right-of-way. The subdivision connects to McHugh Lane at three approaches — the Lander Road approach, the Wolf Road extension, and the new Smith Avenue approach. (See Impact to Local Services — Transportation.) Lots will be assigned addresses from the streets from which they take access following final plat approval.
- C. The unsubdivided remainder tracts (Tract A-1-A2-1 and Tract G1-A-2-A) keep legal and physical access through the adjoining public rights-of-way and the recorded public access easements shown on the plat. Those easements include the 60-foot public access and utility easement created by COS No. 3370303 and the 38-foot public access easement of COS No. 3132177.

Conclusion:

The proposal provides legal and physical access to each lot and tract within the proposed subdivision, noted on the face of the plat as required.

12. Post Preliminary Plat Approval

Findings:

Final plat approval may be granted if:

- A. The applicant develops the property under the preliminary plat application as approved, including any modifications required by the conditions of approval;
- B. The applicant satisfies the conditions of preliminary plat approval;
- C. Under §§ 76-3-507 and 18-2-122, MCA, the plans for the public improvements are complete and meet the standards of the City of Helena and the State of Montana. The plans bear the seal of a professional engineer for the engineering, a professional land surveyor for the surveying, and a licensed architect for any architectural work; and
- D. The improvements are built and accepted by the City before the final plat is approved. If they are not, §76-3-507, MCA gives the applicant two alternatives. The applicant may provide a bond or other security acceptable to the City Commission that guarantees construction of the improvements within 18 months of final plat approval. The Commission may extend that period if the security is extended with it, and it reduces the security amount as portions of the work are completed and accepted. Alternatively, the applicant may apply for, and the Commission may approve, an incremental payment or guarantee plan.

Conclusion:

After preliminary plat approval, the final plat may be approved once the property is developed under the approved preliminary plat, the conditions of approval are met, and the public improvements are completed or secured under §76-3-507, MCA.

Section 7 – Requested Variances and Exceptions

Subdivision Regulation Variances

The applicant is not requesting any variances from the Helena Subdivision Regulations. A variance is relief from a regulatory standard granted through a public process upon required findings. All design standards of the Subdivision Regulations will be met without a variance from the City Commission.

Exceptions

The applicant is not requesting any exceptions under the Subdivision Regulations. The block-length standard of Helena City Code §12-4-2(C) is addressed in Section 5, Helena Subdivision Regulations, Finding C. Staff finds the Smith Avenue block configuration consistent with the purpose of the standard, without an exception.

Design Deviation

One design deviation under the City's Engineering Standards is associated with the subdivision. The Lander Road approach to McHugh Lane is an existing access whose offset from Yuhas Avenue does not meet the intersection-spacing standard. The Transportation Systems Division, which approves design deviations administratively, requires the applicant to submit a deviation request documenting the existing condition together with the right-turn-only egress at Lander Road (Section 5, Transportation, Finding B; Appendix B). Condition 2 in Section 8 requires the request to be submitted for approval with the infrastructure plans.

Conclusion:

No variances or exceptions are requested. The Lander Road intersection-spacing deviation is addressed by the Transportation Systems Division as part of the subdivision's transportation design.

Section 8 – Staff Recommendation

Staff recommends conditional approval of the preliminary plat for the Crystal Springs Village Major Subdivision, creating 40 lots and street rights-of-way from about 23.25 acres, and adoption of the Findings of Fact and the conditions in this report for the property described in Section 3.

The applicant may receive final plat approval upon completion of the applicant's proposal as set forth in the preliminary plat application as accepted and modified by these conditions. This approval is in force for three (3) calendar years, except when extended as provided by law, consistent with §76-3-610, MCA.

This preliminary plat approval by itself does not constitute approval and acceptance of the design and plans for construction and installation of any public infrastructure for the subdivision. The City's approval and acceptance of public infrastructure is subject to future review and approval of the detailed design, plans, and final construction of that infrastructure in accordance with city standards.

Detailed public infrastructure design remains subject to City infrastructure review and approval under City standards.

Conditions of Preliminary Plat Approval

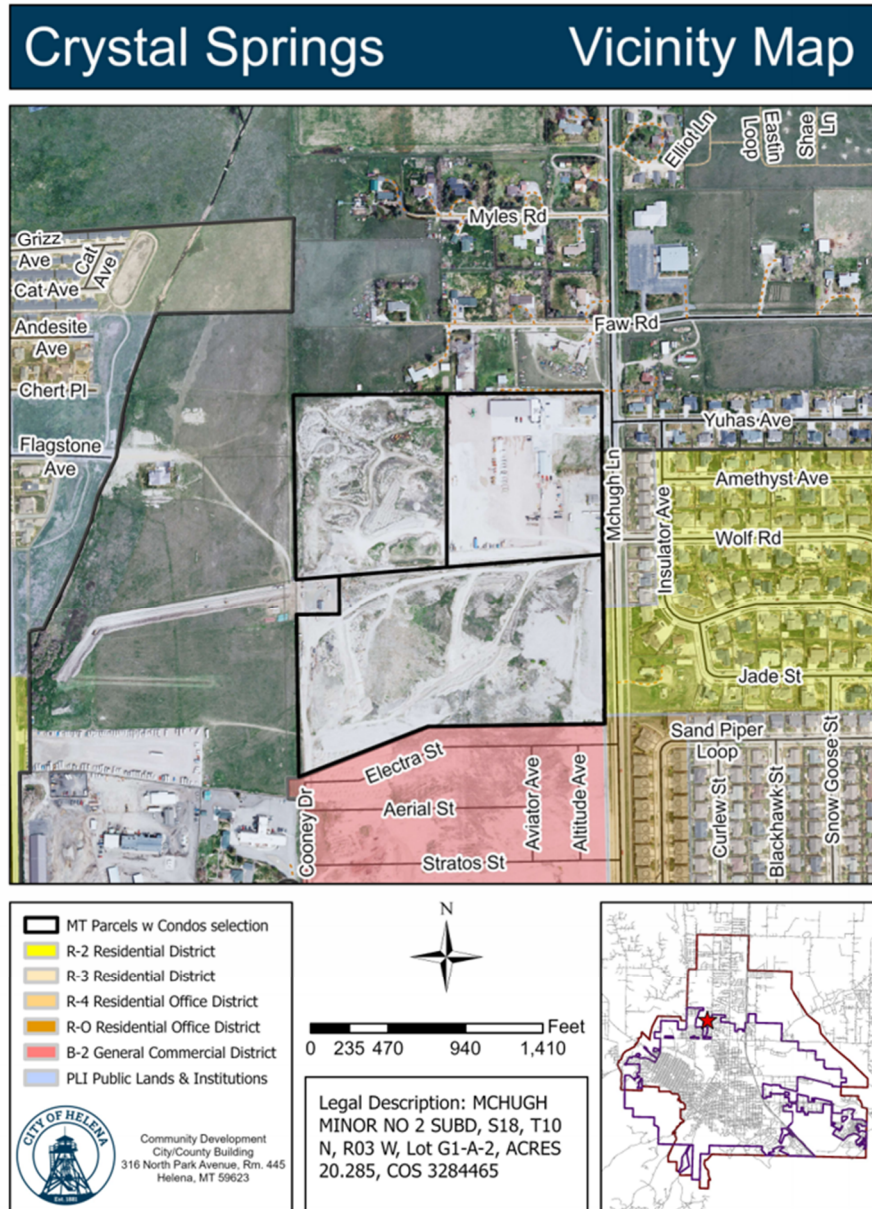
The following conditions apply to the preliminary plat approval and must be satisfied before the final plat may be approved:

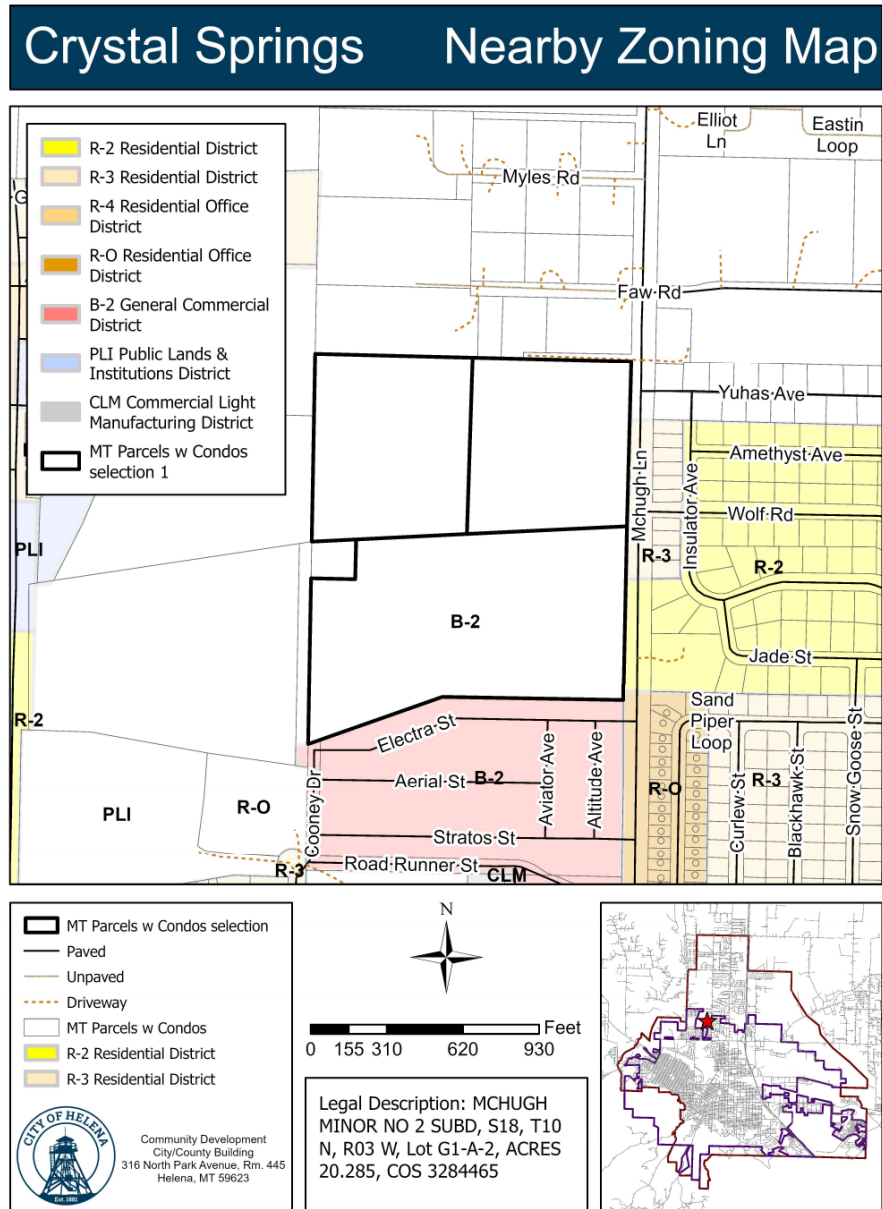
1. All public infrastructure serving the subdivision must be designed and built to City of Helena Engineering Standards under approved infrastructure plans and must be completed and accepted by the City or secured under §76-3-507, MCA, before final plat approval. This includes streets with an all-weather surface, curb and gutter, boulevard sidewalks with ADA-compliant ramps, street signs, and street lighting; water mains, water services, and fire hydrants; sanitary sewer mains and services; and stormwater facilities that retain runoff on site as proposed. Boulevard sidewalks are required along the subdivision's full McHugh Lane frontage.
2. The Lander Road approach to McHugh Lane must be built as a right-turn-only egress with one entry lane, as shown in the application. The specific method of enforcing the right-turn-only movement is deferred to infrastructure review and must be approved by the Transportation Systems Division. Because the approach's offset from Yuhas Avenue does not meet the City's intersection-spacing standard, the applicant must submit a deviation request to the Transportation Systems Division, to be approved with the infrastructure plans.
3. The Smith Avenue approach must include a turnaround at its western end designed to Transportation Systems Division requirements.
4. Infrastructure plans and building plans must include the protective design provisions for the 40-foot NorthWestern Energy gas-line easement coordinated with NorthWestern Energy. These include maximum ground cover at road crossings, vertical clearance for crossing utilities, no structures in the easement, and NorthWestern Energy personnel on site during construction in the easement.

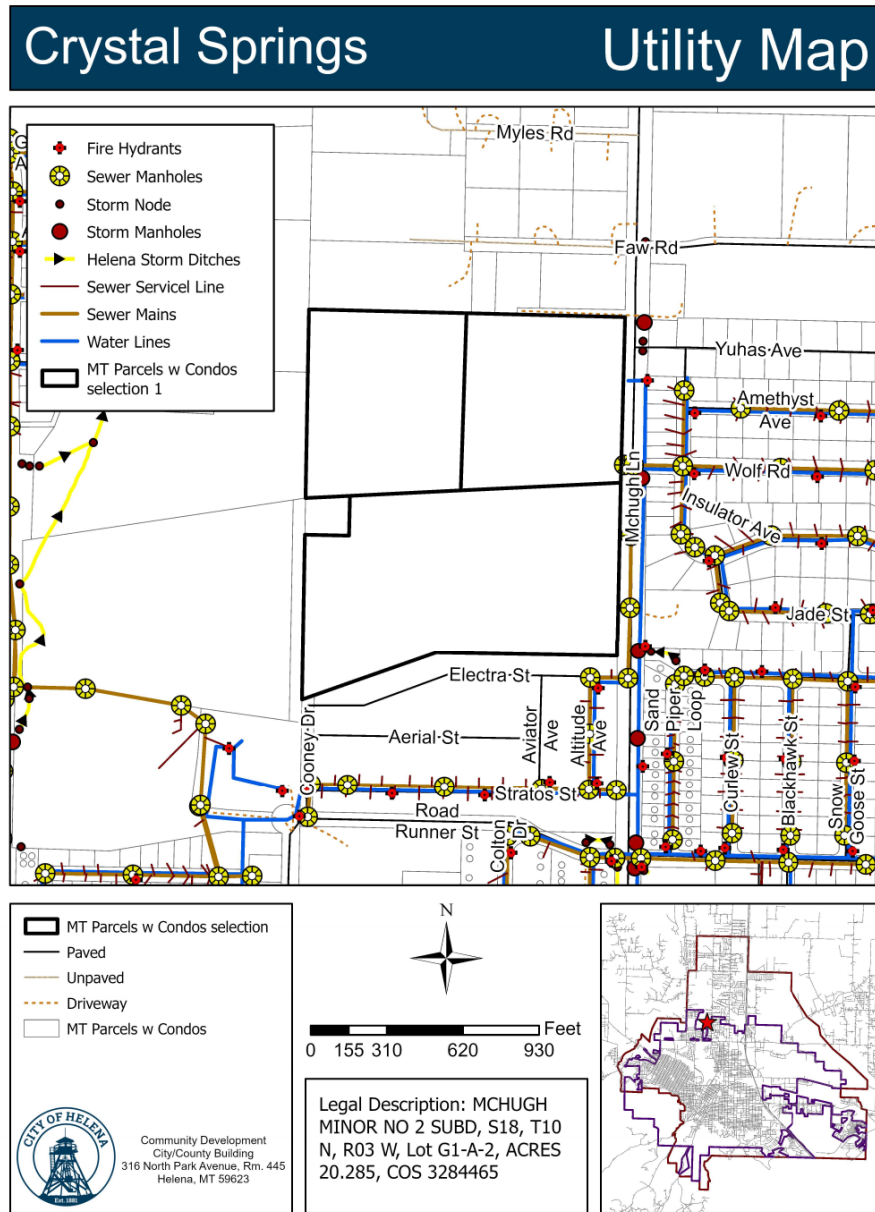
5. The parkland dedication requirement of § 76-3-621, MCA (about 1.63 acres) must be satisfied before final plat approval in one of two ways:
 1. If the City Commission determines that the requirement is satisfied through a cash donation in-lieu of parkland dedication, the applicant must pay the City a cash donation equal to the fair market value of 1.63 acres of the unsubdivided, unimproved land, as established by the appraisal the City accepts. The final plat must then be revised to remove the park tract and add that area to the adjoining remainder tract or lots. In such an event, no Cooney Drive extension is required with this plat.
 2. If the City Commission determines that the requirement is satisfied through the parkland dedication shown on the preliminary plat, the park tract must be dedicated to the City on the final plat. The Cooney Drive extension along the western boundary, with dedication of 50 feet of right-of-way to the City, must then be constructed or secured under §76-3-507, MCA, at the owner's expense and to Transportation Systems Division requirements.
6. The final plat must reconcile the Area Table with the exterior-boundary description, identifying what makes up all right-of-way acreage shown, including any right-of-way outside the described boundary, to the satisfaction of the City Engineer. The final plat must bear all certificates required by §76-3-611, MCA and the Uniform Standards for Monumentation and Final Subdivision Plats.

The applicant's proposals in the application, including the covenant measures responding to Montana Fish, Wildlife & Parks, are part of the approved preliminary plat.

Appendix A – Vicinity Maps







Appendix B – Comments

Appendix B contains the agency review comments and public comments on the application: the Plan Corrections Report for PRELIM2602-0001 (June 26, 2026), including the Engineering and Transportation Systems Division comments and the Helena Fire Department and Transportation Systems Division conditions; the sufficiency letter of August 10, 2026; the Montana Fish, Wildlife & Parks comment of January 29, 2026; the NorthWestern Energy coordination record of February 5, 2026; the City-County Consolidated Parks Board recommendation; and public comments received.

Appendix B – Superseded Helena City Code Provisions

The Helena Subdivision Regulations cited in this report are those of Title 12, Helena City Code, as in effect on the application date of February 18, 2026. Those provisions were superseded by the City's Montana Land Use Planning Act amendments to Titles 11 and 12 adopted April 6, 2026, and no longer appear in the published City Code. The following sections, as in effect February 18, 2026, are included with the packet: § 12-1-5 (relationship to zoning), § 12-2-9 (Planning Commission review), § 12-4-2 (blocks and access), § 12-4-7 (easements), and § 12-4-12 (parkland). Montana Code Annotated provisions cited in this report are available at mca.legmt.gov.

TITLE 12

SUBDIVISION REGULATIONS

CHAPTER 1

TITLE, PURPOSE, DEFINITIONS

SECTION:

12-1-1: Title

12-1-2: Purpose Of The Subdivision Review Process

12-1-3: Authority

12-1-4: Jurisdiction

12-1-5: Relationship To Zoning

12-1-6: Lands Unsuitable For Subdivision Development

12-1-7: Subdivisions For Building Purposes Prohibited

12-1-8: Definitions

12-1-1: TITLE:

This title shall be known as the *CITY OF HELENA SUBDIVISION ORDINANCE* (Ord. 2913, 8-13-2001)

12-1-2: PURPOSE OF THE SUBDIVISION REVIEW PROCESS:

A. The purpose of this title is to establish a subdivision review process that is designed to achieve the objectives of the Montana Subdivision and Platting Act, title 76, chapter 3, Montana Code Annotated. The process of dividing land into parcels is a necessary and important function in the growth of a community. When, where, and how development occurs establishes land division patterns for the community that will last for generations. The subdivision review process allows the community to take a close look at proposed developments before final action by the Governing Body. Subdivision reviews should be guided by the City growth policy. (Ord. 3164, 9-23-2013)

B. The subdivision review process is also designed to:

1. Provide a forum for developers, citizens and City officials to jointly identify and resolve issues related to proposed subdivisions;
2. Promote agreement among the applicant, City staff and the City Commission on proposed subdivisions;
3. Generate information that allows City officials to make informed decisions on subdivision applications;
4. Allow developers, citizens and City officials adequate time to review information and to identify and resolve issues;
5. Have subdivisions reviewed in a timely and cost efficient manner; and
6. Have subdivisions comply with existing State laws and local ordinances. (Ord. 2913, 8-13-2001)

12-1-3: AUTHORITY:

The Community Development Department, and the Planning Board if applicable, is charged with the duty of making investigations of all proposed plats, subdivisions and certificates of survey and is directed to make recommendations to the Governing Body for approval, conditional approval or disapproval of the proposed divisions of land coming before the City Commission. Authorization for this title is contained in the Montana Subdivision and Platting Act, title 76, chapter 3, Montana Code Annotated. (Ord. 3244, 10-29-2018)

12-1-4: JURISDICTION:

The title contained herein shall apply within the City and all areas under its jurisdiction. Where at variance with other regulations or resolutions, the more restrictive requirements shall apply. (Ord. 2913, 8-13-2001)

12-1-5: RELATIONSHIP TO ZONING:

Newly subdivided or replatted lands must conform to the requirements and provisions of the underlying zone as provided in the zoning ordinance, title 11 of this Code, as amended. This title shall apply to any and all areas under the jurisdiction of the City. (Ord. 3164, 9-23-2013)

12-1-6: LANDS UNSUITABLE FOR SUBDIVISION DEVELOPMENT:

The following areas, due to natural or human caused hazards, are unsuitable for subdivision development and may not be subdivided unless the hazards can be eliminated or overcome by approved construction techniques or other mitigation measures authorized by State law:

- A. Areas subject to flooding or that have high groundwater.
- B. Areas that have geological hazards, such as rockslides, faults, cliffs, and landslides.
- C. High fire risk areas.
- D. Subsidence associated with tunnels or mineshafts.
- E. Areas with high voltage power lines or high pressure gas lines.
- F. Areas containing toxic or hazardous waste. (Ord. 3164, 9-23-2013)

12-1-7: SUBDIVISIONS FOR BUILDING PURPOSES PROHIBITED:

Subdivisions for building purposes located within the floodway of a flood of 100-year frequency as defined by title 76, chapter 5, Montana Code Annotated, are prohibited. (Ord. 3164, 9-23-2013)

12-1-8: DEFINITIONS:

Whenever the following words or phrases appear in this title, they shall be given the meanings attributed to them by this section. Unless otherwise specified, the definitions in section 76-3-103, Montana Code Annotated, apply to this title.

ALLEY: A public right-of-way which provides only a secondary means of access to property and is not intended for general travel.

BOARD OR PLANNING BOARD: The official appointed consolidated Planning Board.

DEAD END STREET: A street in which both ingress and egress to an area are restricted to the use of one street.

EASEMENT: An interest in land owned by another person, consisting of the right to use or control the land, or an area above or below it, for a specific limited purpose.

INTERMITTENT STREAM: A stream or part of a stream that is below the water table for at least some part of the year and that obtains its flow from both groundwater discharge and surface runoff.

LOT: A single parcel or plot of land shown on a plat and intended for individual ownership.

PERENNIAL STREAM: A stream or part of a stream that, under normal precipitation conditions, flows throughout the year. Streams that are dewatered during part of the year by withdrawals, but would otherwise flow throughout the year without the withdrawals, are perennial streams.

PHASED DEVELOPMENT: A subdivision application and preliminary plat that at the time of submission consist of independently platted development phases that are scheduled for review on a schedule proposed by the subdivider.

RIGHT-OF-WAY: A strip of land dedicated or reserved for use as a public way.

STREET: A public thoroughfare or right-of-way which affords the principal means of access to property.

VICINITY MAP: A small scale map showing the location of a tract of land in relation to a larger land area. (Ord. 3164, 9-23-2013; amd. Ord. 3244, 10-29-2018)

CHAPTER 2

PROCEDURES

SECTION:

12-2-1: Applicability

12-2-2: Preapplication Consultation

12-2-3: Subdivision Application

12-2-4: Conformance With Regulations; Variances

12-2-5: Subdivision Application Review

12-2-6: Community Development Department Review

12-2-7: City-County Parks Board Recommendation

12-2-8: Public Notice

12-2-9: Planning Board Public Hearing And Recommendation For Subdivisions

12-2-10: Planning Board Report

12-2-11: City Commission Review

12-2-12: Amended Applications

12-2-13: Amended Subdivisions

12-2-14: Material Changes

12-2-15: Public Improvements To Be Installed

12-2-16: Public Improvements Installation Options

12-2-17: Final Plat Review

12-2-18: Divisions Of Land Exempt From Subdivision Review

12-2-19: Expedited Subdivision Review

12-2-1: APPLICABILITY:

The requirements of this title apply to all subdivisions proposed to be created within the subdivision review jurisdiction of the City. (Ord. 3166, 9-23-2013)

12-2-2: PREAPPLICATION CONSULTATION:

A. Prior to submitting a subdivision application, a subdivider must consult with the Community Development Department to become familiar with the City's subdivision application requirements and review process. The subdivider must attend a preapplication consultation prior to submitting a subdivision application or resubmitting a previously submitted subdivision application that has material changes or amendments made by the subdivider after the original application has been determined by the City to contain required elements and sufficient information. (Ord. 3166, 9-23-2013)

B. In order to make the preapplication consultation productive, the subdivider should provide as much of the following information as possible:

1. Names and addresses of the subdivider and the owner of the tract proposed to be subdivided;
2. Name of proposed subdivision;
3. Location of tract to be subdivided;
4. Existing zoning of the tract to be subdivided;
5. Number and size of proposed subdivided lots; if a phased development, each phase should include this data per phase;
6. Size of the proposed subdivision; if a phased development, the size of each phase should be shown;
7. State the name and contact information for any engineer or surveyor that has been retained;
8. Proposed water system;
9. Proposed wastewater system;
10. Proposed streets;
11. Whether the subdivider intends to apply for a zone change, zoning variance, or subdivision regulation variance;
12. Description of any physical and environmental site conditions affecting development;
13. Stormwater drainage provisions;
14. Proposed special improvement or maintenance districts;
15. Proposed park land dedication; if a phased development, each phase should include this data per phase; (Ord. 3245, 10-29-2018)
16. Legible drawing of the proposed subdivision showing layout of existing streets in relationship to proposed improvements and topography of the tract, if possible; drawing does not need to be to scale;
17. A general vicinity map showing existing streets and north arrow;
18. Existing structures on the property;
19. Existing easements and rights-of-way on the property;
20. Existing and proposed covenants or deed restrictions;
21. Water rights, including the name of owner(s), amount of water by flow rate or volume, date of priority of the right, purpose of use, place of use, and place and means of diversion;

22. Types and locations of agricultural water facilities; and

23. Analysis on how the proposed subdivision complies with the City growth policy.

C. The City will make available to the subdivider, before or at the preapplication consultation, a list of public utilities, local, State, and Federal agencies, and any other entities that may have a substantial interest in the proposed subdivision and that may be contacted for comment on the subdivision application and the time frames that the utilities, agencies, and entities are given to respond.

D. For informational purposes only, the State laws, local regulations, and growth policy provisions that may apply to the subdivision review process will be identified prior to or at the preapplication consultation.

E. The preapplication meeting will be scheduled within thirty (30) days after the subdivider submits a written request for a preapplication consultation and submits the preapplication materials to the City.

F. To be considered for review, a subdivision application must be submitted within one hundred eighty (180) days of the preapplication meeting consultation. If an application is not submitted within that time frame, the subdivider must request a new preapplication consultation prior to submitting the subdivision application. (Ord. 3166, 9-23-2013)

12-2-3: SUBDIVISION APPLICATION:

A. The subdivider must provide one electronic PDF copy of a complete and sufficient application that contains all the elements listed in this section.

B. The application must contain: (Ord. 3245, 10-29-2018)

1. Analysis of how the proposed subdivision complies with the growth policy;
2. An aerial photograph or a vicinity map with an outline of the subdivision clearly indicated thereon; showing:
 - a. The names of adjoining platted subdivisions and numbers of adjoining certificates of survey previously recorded;
 - b. Proposed or present rights-of-way to the subject subdivision;
 - c. Location of utilities and railroad rights-of-way; and
 - d. Any existing or proposed zoning covering the area proposed for subdivision and adjacent properties.
3. A site plan showing the following information to determine compliance with zoning:
 - a. The location of all existing structures, including dimensions and size;
 - b. A description of land uses proposed for the subject property and adjacent properties;
 - c. The distance of any existing structure from proposed lot lines (setbacks);
 - d. Location and number of any required parking spaces for existing uses; and
 - e. Location and size of any required landscaping areas for existing uses.
4. A legal description of the subject property, a copy of the currently filed plat or certificate of survey, and the last recorded deed for the subject property;
5. The names and addresses of owners of record of adjacent property and each purchaser under contract for deed of property immediately adjoining the land proposed to be subdivided;
6. Written permission for the subdivider's designated agent to represent the property owner and subdivider and to receive correspondence regarding the subdivision;
7. A copy of any existing deed restrictions and covenants associated with the subject property;
8. A copy of any existing conservation easements;
9. Completed zoning and subdivision variance applications, if applicable;
10. Any ordinances or resolutions, such as alley or street closures, that specifically impact the plat;
11. A description of any existing or proposed stream bank or water channel alteration, and any proposed construction or modification of water channels, including information about location, extent, type, and purpose of alteration;
12. A description of the location and amount of any proposed cut or fill more than three feet (3') in depth from original grade, and identify each on a plat overlay or sketch map;
13. A soil survey map and the most recent interpretations of soil suitability for the proposed land uses;
14. A description of any mineral rights associated with the subject property and the proposed disposition of those rights;
15. A description of any water rights associated with the subject property, including ownership, volume or flow rate, source of water, point and means of diversion, period of diversion, type of beneficial use, and place of beneficial use;

16. A preliminary engineering report that contains:

- a. Location and size of existing and proposed water and wastewater mains, and fire hydrants that will serve the subdivision;
- b. Location of nearest water and wastewater mains if none are located on or adjacent to the tract;
- c. Type, size and location of existing wastewater treatment facilities including septic systems;
- d. The location and capacity of any new wastewater lift stations, water pump stations, and water reservoirs that may be required to provide service to the proposed subdivision;
- e. The location of any existing lift stations, water pump stations, and water reservoirs that will be used to provide service to the subdivision;
- f. The anticipated fire flow requirements of the subdivision and fire flows from existing hydrants; and
- g. The anticipated volumes and flow rates of water and wastewater use resulting from the subdivision based on uses permitted by the applicable zoning district. (Ord. 3166, 9-23-2013)

17. Transportation information that includes, at a minimum:

- a. All existing and proposed streets, alleys, sidewalks, bike or pedestrian trails, and rights-of-way located on or adjacent to the subject property;
- b. A description of how proposed transportation infrastructure will provide connectivity to the existing or planned transportation network and how the street designs are in compliance with the complete street policy;
- c. Layout information and profiles for proposed rights-of-way including cross sections grade and curvatures, right-of-way width, and street names;
- d. Proposed modification or relocation of existing rights-of-way;
- e. An estimate of the daily traffic the subdivision will generate when fully developed based on uses and densities permitted by the property's zoning and the estimated traffic generation standards of the Institute of Transportation Engineers;
- f. A traffic impact study whenever the subdivision is projected to generate two hundred (200) or more new vehicle trips per day based on the estimated standards of the Institute of Transportation Engineers. The traffic impact study must:
 - (1) Provide current and anticipated traffic counts;
 - (2) Provide anticipated traffic distribution within the transportation network;
 - (3) Identify the current traffic level of service (LOS) and future LOS of streets and intersections in accordance with engineering standards;
 - (4) If the subdivision will reduce the service of any intersection below level of service 'C' as defined by the Greater Helena Area transportation plan, the study must identify improvements or proposed mitigation needed to alleviate that decrease in service, or if the existing conditions are currently below level of service 'C', the study must identify improvements or proposed mitigation needed to maintain the existing level of service;
 - (5) Explain how the proposed transportation system and improvements will affect existing facilities; and
 - (6) Identify impacts to all modes of transportation and the proposed mitigation of those impacts.
- g. For subdivisions that are projected to generate less than two hundred (200) new trips per day, submit information showing the capability of existing and proposed streets and nonmotorized facilities to safely accommodate the increased traffic associated with the subdivision and describe proposed mitigation of any impacts;
- h. Provide information on any accommodation proposed to facilitate public transportation, including school buses;
- i. Any existing or proposed easement documents that would provide legal access to the subdivision;
- j. Identify the location and describe the facilities for stream or drainage crossings, and provide the design and weight capacity of any existing or proposed crossings that would be a part of the transportation system;
- k. Provide a narrative explaining how the subdivision conforms to the long range transportation system identified in the officially adopted transportation plan; and
- l. If a street or alley created by the plat will intersect and access a State or Federal right-of-way, a copy of the notification to that entity of the anticipated access and the State or Federal response. (Ord. 3245, 10-29-2018)

18. A description of the emergency services available to the residents of the proposed subdivision, street distance to the subdivision for all emergency services and estimated response times, and any site constraints that may impede the delivery of emergency services;

19. A site plan showing access to a solid waste collection location for lots with zoning that permit commercial, industrial, or multi-dwelling development;

20. If park land is required, an indication of the subdivider's preference for a land donation or cash in lieu and submit the following:

- a. Submit calculations used to determine required park land dedication;
- b. If park land is proposed, describe any park land or open space to be dedicated with this subdivision, to determine the appropriateness of the dedication, include a plan for the park land indicating anticipated function, improvements, and the estimated cost of installation and maintenance of those improvements;
- c. Identify existing recreational facilities that will serve the subdivision;
- d. Indicate if a special district will be established to finance park improvements;
- e. Indicate how the park land will be protected during infrastructure installation;
- f. If the park land is proposed to provide multiple uses, such as part of the stormwater system, submit a plan describing the improvements to be installed to accommodate the additional uses of the park land;
- g. Indicate if any of the proposed park land is critical wildlife habitat; cultural, historical, or natural resources; agricultural interests or aesthetic values; and submit documentation verifying the area's importance and the ability to provide for long term protection; and
- h. If a land donation to a school district is proposed that is equal to the required park land amount, submit documentation verifying the land is adequate to be used for school facilities or buildings and showing acceptance of the land by the school district trustees.

21. A fire mitigation plan for any portion of the subdivision located in a high fire risk area, including identification of any access constraints;

22. A grading and stormwater or drainage plan that at a minimum includes:

- a. Contours with intervals of five feet (5') or less, and proposed drainage pattern;
- b. How stormwater will flow from lots and be controlled and treated;
- c. Whether stormwater will enter State waters and describe any proposed control measures, and acknowledgment that a stormwater discharge permit may be required;
- d. Location of stormwater drains, existing drainage, and proposed drainage patterns prepared by a licensed engineer, showing calculations; and
- e. Location of stormwater detention and retention ponds or treatment facilities, including who will maintain these facilities.

23. A stormwater pollution prevention plan that describes measures to minimize stormwater impacts during construction;

24. Base flood elevation data for subdivisions that have or will have more than fifty (50) lots or involve five (5) acres or more;

25. An estimate of the number of schoolchildren that will be added by the proposed subdivision, describing the educational facilities that would serve this subdivision and the distance to each; indicate if bus stops will be provided and, if so, where;

26. A description of the utility companies that will serve the subdivision and any existing and proposed utilities located on and adjacent to the property, including the location of gas, electric, and telecommunication lines and streetlights;

27. A description of where postal boxes will be located and how they will be accessed; (Ord. 3166, 9-23-2013)

28. When ownership of infrastructure improvements that are intended to be transferred to the City affect a third party easement, a copy of notification to that entity of the potential work within their easement;

29. When a tract of land is subdivided in phases, an overall development plan indicating the subdivider's intentions for development of the entire tract, including incremental provisions for utilities and estimated timing of construction; a subdivider applying for a phased development shall submit with the subdivision application an overall phased development preliminary plat on which independent platted development phases must be shown. Each phase must include a minimum of six (6) lots and the date of completion of each phase. Each phase must include:

- a. A separate preliminary plat with the number of lots in that phase;
- b. The location of proposed water and wastewater infrastructure needed to serve that phase and demonstrate how these systems can function independently and will provide for future connectivity;
- c. The location of proposed stormwater infrastructure needed to serve that phase and demonstration how these facilities can function independently and will provide for future connectivity;
- d. The location of proposed streets and non-motorized infrastructure needed to serve that phase and demonstration how the proposed motorized and non-motorized transportation network can function independently and will provide for future

connectivity; and

- e. The proposed park land dedication and demonstration how the dedicated park land can function independently.

30. An environmental assessment that contains the information required by section 76-3-603, Montana Code Annotated. The summary of probable impacts must contain a detailed analysis of each of the primary review criteria described in section 76-3-608, Montana Code Annotated, and as defined by the growth policy. The analysis must explain the reasoning behind all conclusions relative to the primary review criteria. (Ord. 3245, 10-29-2018)

C. The following information must be shown on the preliminary plat:

1. Title block that includes:
 - a. Name of subdivision;
 - b. Location;
 - c. A scale not exceeding one hundred feet per inch (100' per 1");
 - d. North arrow;
 - e. Date of preparation; and
 - f. Name of preparer.
2. The exterior boundaries of the platted tract;
3. The location of all section corners or legal subdivision corners of sections pertinent to the subdivision's boundaries;
4. A perimeter survey, including gross acreage and net acreage;
5. All lots, blocks, and applicable tracts of land, designated by numbers and the approximate dimensions and area of each lot;
6. Amended subdivision plats must cite the subdivision and the blocks and lots being amended;
7. Legal and physical access to the subdivision and to each lot therein, including all existing and proposed streets and alleys, the width of rights-of-way of each with existing and proposed street names, and existing and proposed locations of intersections or other access points;
8. The location, width, and purpose of all existing and proposed easements and rights-of-way and proposed public and private easements;
9. The location, boundaries, dimensions, and areas of all parks and other grounds dedicated for public use;
10. The boundaries of applicable water body setbacks;
11. All portions of the subdivision where the slope exceeds twenty five percent (25%), including areas where the slope may exceed twenty five percent (25%) due to the installation of streets, utilities, or other earthwork, as measured in five foot (5') intervals, as special development areas. All lots in special development areas must show a building site, possible access to the site, and the length and grade of the access;
12. The location of any known or possible objects of historic, archaeological, or aesthetic significance, or cultural sites or structures that may be affected by the proposed subdivision; and
13. The location of any known hazards that could affect the development of the subdivision such as, but not limited to:
 - a. Geological hazards such as any rock outcroppings, cliffs, dropoffs, or faults;
 - b. High fire risk areas;
 - c. Areas of high to moderate risk of liquefaction;
 - d. Waterways, ditches, or canals;
 - e. Toxic or hazardous waste storage or disposal;
 - f. Mining activity;
 - g. High voltage power lines and high pressure gas lines; and
 - h. If site location or previous use of the property may have resulted in soil contamination, a soil analysis must be provided, including lead levels, and if soil contamination exists, indicate proposed mitigation measures. (Ord. 3166, 9-23-2013)

12-2-4: CONFORMANCE WITH REGULATIONS; VARIANCES:

- A. Conformance to these regulations and related laws of the State of Montana is the responsibility of the subdivider.
- B. Variances from these subdivision regulations may be granted when the subdivider meets the burden of proving:

1. Granting of the variance will not be detrimental to the public health, safety, or general welfare, or injurious to other adjacent properties;

2. Literal enforcement of the provisions of these regulations will result in unnecessary hardship due to particular physical surroundings, shape, or topographical conditions that are unique to the specific property involved and that cannot be reasonably resolved by redesigning the subdivision proposal;

3. The variance will not cause a substantial increase in public costs; and

4. The variance conforms to the growth policy and this Code.

C. To request a variance, the subdivider must submit a written statement describing the requested variance and relevant facts showing why the variance should be granted. The City Commission and, if applicable, the Planning Board, will consider requested variances at the respective meetings on the preliminary plat.

D. When granting variances, the City Commission may impose conditions that, in its judgment, will substantially secure the objectives of these regulations. (Ord. 3166, 9-23-2013)

E. When a subdivider requests a variance from this title, the City Commission will first consider whether or not to grant any requested variance, then whether the subdivision application should be approved, conditionally approved, or denied.

F. A subdivision variance request is independent from the determination on the subdivision application and must be reviewed at a City Commission public hearing that has been noticed according to subsection 12-2-8A of this chapter. A division of land or aggregation of land exempt from subdivision review and a first minor subdivision as defined by State law is not subject to the public hearing requirement of this section. Approval or conditional approval of a subdivision application and the preliminary plat does not constitute approval of requested variances. (Ord. 3245, 10-29-2018)

12-2-5: SUBDIVISION APPLICATION REVIEW:

A. The City may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by the subdivider and to subsequently monitor compliance with any conditions imposed on the preliminary plat. The submission of a subdivision application constitutes a grant of permission by the property owner for the City and affected agencies to enter the subject property. Visible flagging on the property adequate to determine exterior boundaries of the proposed subdivision, park land dedication, and legal access may be required.

B. Review and approval, conditional approval, or denial of a subdivision under this chapter may occur only under those regulations in effect at the time that a subdivision application is determined to contain sufficient information for review as provided in this section.

C. If regulations change during the period that the application is reviewed for completeness and sufficient information, the determination of whether the application is complete and sufficient must be based on the new regulations. The completeness and sufficiency review time will start from the time of the adoption of the new regulations.

D. Within five (5) full working days of receipt of a subdivision application and fee, submitted in accordance with the application deadlines, the City shall determine whether the application contains all of the listed materials required by section 12-2-3 of this chapter and shall give written notice to the subdivider, or subdivider's designated agent, of the determination.

1. If the City determines that materials are missing from the application, the City will identify those materials that are not in the application by written notification to the subdivider, or subdivider's designated agent. The City will take no further action on the application until the missing materials are submitted.

2. In the event the missing materials are not provided by the subdivider or subdivider's designated agent within one year of notification to the subdivider of the incomplete application, all submitted application materials will be returned to the subdivider or subdivider's designated agent. Subsequent resubmittal of the subdivision application requires payment of a new application fee.

3. If the subdivider resubmits the application to correct deficiencies, the City has five (5) full working days to notify the subdivider, or subdivider's designated agent, whether the resubmitted application contains the listed materials that were missing from the initial application.

4. This process will be repeated until the subdivider submits an application that contains the elements initially identified as missing or the application is withdrawn.

E. Within fifteen (15) full working days after the City notifies the subdivider or subdivider's designated agent that the application contains all of the required materials, the City will determine whether the application and required materials contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under the provisions of this title and State law and must notify the subdivider or subdivider's designated agent of the City's determination.

1. If the City determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the City must identify the specific required information in its notification and the City will take no further action on the application until material is resubmitted to correct the insufficiency.

2. In the event sufficient information is not received by the City within one year of notification to the subdivider or subdivider's designated agent of any insufficiency, all application materials will be returned to the subdivider or subdivider's

designated agent. Subsequent resubmittal of the subdivision application requires payment of a new application fee.

3. If the subdivider resubmits the application to correct any insufficiencies, the City has fifteen (15) full working days to notify the subdivider or subdivider's designated agent whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under provisions of the Montana Subdivision and Platting Act and these regulations.

4. This process will be repeated until the subdivider submits an application that contains detailed, supporting information that is sufficient for review of the proposed subdivision under the provisions of State law and this chapter, or the application is withdrawn.

5. A determination that an application contains sufficient information for review does not ensure that the proposed subdivision will be approved or conditionally approved by the City Commission and does not limit the ability of City staff, the Parks Board, the consolidated Planning Board, or the City Commission to request additional information during the review process.

6. After the City has notified the subdivider or subdivider's designated agent that an application contains sufficient information as provided in this section, the Governing Body shall approve, conditionally approve, or deny a minor subdivision within thirty five (35) working days, or a major subdivision containing less than fifty (50) lots within sixty (60) working days, or a major subdivision containing fifty (50) or more lots within eighty (80) working days unless:

a. The subdivider and City Commission agree to an extension or suspension of the review period, not to exceed one year; or

b. A subsequent public hearing is scheduled and held in accordance with State law.

F. If the subdivider disagrees with the City's determination that the application is insufficient, the subdivider may appeal to the City Manager, providing the subdivider agrees in writing to an extension of the time limitations of section 76-3-604, Montana Code Annotated, and this chapter. The appeal must be made in writing. The City Manager or the Manager's designee shall render a written decision after receipt of the written appeal.

G. The City will make comments by public agencies or utilities available to the subdivider and to the general public upon request. (Ord. 3166, 9-23-2013)

H. A subdivider applying for phased development review shall submit with the phased development application an overall phased development preliminary plat on which independent platted development phases must be presented. The phased development application must contain the information required pursuant to section 12-2-3 of this chapter for all phases of a development and a schedule for when the subdivider plans to submit for review each phase of the development.

I. Except as otherwise provided by this section, the phased development application must be reviewed in conformity with this Code.

J. The subdivider may change the schedule for review of each phase of the development upon approval of the City Commission, after a public hearing, if the change does not negate conditions of approval or otherwise adversely affect public health, safety, and welfare.

K. Prior to submission of infrastructure plans for review for each phase, the subdivider shall provide written notice to the City Commission. The notice shall include any changes to the preliminary plat and an analysis of the phase as it relates to the primary review criteria and City regulations and standards. The City Commission must hold a public hearing pursuant to 76-3-605(3), Montana Code Annotated within thirty (30) working days after receipt of the written notice from the subdivider. After the hearing, the City Commission shall determine whether that phase contains any changes to primary criteria impacts or contains new information that create new potentially significant adverse impacts for the phase or phases.

L. Notwithstanding the provisions of 76-3-610(2), Montana Code Annotated, the City Commission must issue supplemental written findings of fact within twenty (20) working days of the hearing and may impose necessary, additional conditions to minimize potentially significant adverse impacts identified in the review of each phase of the development for changed primary criteria impacts or new information.

M. Any additional conditions must be met before final plat approval for each particular phase and the approval in accordance with 76-3-611, Montana Code Annotated, is in force for not more than three (3) calendar years or less than one calendar year unless the City Commission approves phased developments that extend beyond the time limits set forth in 76-3-610, Montana Code Annotated, but all phases of the phased development must be submitted for review and approved, conditionally approved, or denied within twenty (20) years of the date the overall phased development preliminary plat is approved by the City Commission. (Ord. 3245, 10-29-2018)

12-2-6: COMMUNITY DEVELOPMENT DEPARTMENT REVIEW:

A. The Community Development Department may distribute a copy of the subdivision application to potentially affected entities including, but not limited to, City departments, State agencies such as the Montana Departments of Transportation and Environmental Quality, utility companies, the public library, and the school district.

B. The Community Development Department may consult with the subdivider or subdivider's designated agent after presentation of the completed subdivision application on issues and questions that emerge regarding the preliminary plat application.

C. The Community Development Department shall complete and distribute its report to the subdivider or subdivider's designated agent, the Planning Board, and the City Commission, and make it publicly available. The report shall:

1. Include relevant subdivision application information;
2. Evaluate whether the subdivision application satisfies the requirements of State law and this Code;
3. Discuss how the subdivision application relates to the City growth policy;
4. Identify disputed issues and questions; and
5. Recommend approval, conditional approval, or disapproval. (Ord. 3166, 9-23-2013)

12-2-7: CITY-COUNTY PARKS BOARD RECOMMENDATION:

A. When a major subdivision includes the donation of land that may become the maintenance responsibility of the City Parks Department or when there is a requirement for park land dedication, the Parks Department will review the proposal and submit an evaluation to the consolidated City-County Parks Board for a recommendation on the disposition of the proposal. The Parks Board recommendation will be submitted to the Planning Board for review with the subdivision application.

B. When a minor subdivision includes the donation of land that may become the maintenance responsibility of the City Parks Department or when there is a requirement for park land dedication, the Parks Department will review the proposal and submit an evaluation to the consolidated City-County Parks Board for a recommendation on the disposition of the proposal. The Parks Board recommendation will be submitted to the City Commission for review with the subdivision application. (Ord. 3166, 9-23-2013)

12-2-8: PUBLIC NOTICE:

A. When a public hearing is required, the Community Development Department shall cause notice of the public hearing on the subdivision to be given by publication in a newspaper of general circulation in Lewis and Clark County not less than fifteen (15) days prior to the date of hearing as required by law. The notice must include a summary of the application, including the location and size of the proposed subdivision, and specify where additional information can be obtained.

B. The Community Development Department shall send a notice conforming to subsection A of this section to each property owner of record, and each purchaser under contract for deed of property immediately adjoining the land included in the plat, not less than fifteen (15) days prior to the date of the hearing. (Ord. 3166, 9-23-2013)

12-2-9: PLANNING BOARD PUBLIC HEARING AND RECOMMENDATION FOR SUBDIVISIONS:

A. The Planning Board shall hold a public hearing on all proposed major subdivisions.

B. The subdivider will be given first opportunity at the Planning Board meeting to present information and evidence in support of the application, after the informational presentation by the Community Development Department. The meeting will then be open to public comment. After the public has concluded giving comments and information, the subdivider will be allowed an opportunity to provide additional information that explains or rebuts questions and issues raised during public comment. At the close of the public hearing, the Planning Board may discuss the subdivision application and, in weighing the review criteria in the Montana Subdivision and Platting Act, consider the following:

Relevant evidence that is in the record relating to the primary review criteria in section 76-3-608(3), Montana Code Annotated, whether the proposed subdivision substantially complies with the growth policy, and whether the subdivision conforms to the provisions of:

1. State law;
2. Title 11 of this Code;
3. This title; and
4. Other rules and regulations in effect for the area to be subdivided.

C. The board shall then:

1. Discuss the factors supporting approval, conditional approval, or disapproval; and
2. Recommend approval, conditional approval, or disapproval to the City Commission. (Ord. 3166, 9-23-2013)

12-2-10: PLANNING BOARD REPORT:

A. Within ten (10) working days, the Planning Board shall prepare a written report with the assistance of the Community Development Department. The report must include:

1. The recommendation of the Planning Board for approval, conditional approval, including any recommended conditions, or disapproval of the subdivision;
2. A recommendation for approval or disapproval of any requested variances; and
3. A summary of its public hearing.

B. The Planning Board report must be distributed to the City Commission, the presiding member of the Planning Board, and the subdivider, and must be made available to the public prior to the City Commission meeting. (Ord. 3166, 9-23-2013)

12-2-11: CITY COMMISSION REVIEW:

A. The City Commission shall review the subdivision application within the time provided by law unless the subdivider consents to an extension of the review period. The review must be done at a public hearing held by the City Commission on the subdivision unless the subdivision is exempt from the requirement to hold a public hearing.

B. The subdivider will be given first opportunity to present information and evidence in support of the subdivision at the start of the public hearing, after the informational presentation by the Community Development Department. After the public has concluded giving comments and information, the subdivider must be allowed an opportunity to provide additional information that explains or rebuts questions and issues raised previously by the public.

C. Upon an objection made at the hearing, the City Commission shall determine whether public comments or documents presented to the City Commission at a public hearing regarding a subdivision application constitute new information requiring a subsequent hearing in compliance with section 76-3-615, Montana Code Annotated.

D. If the City Commission desires additional information and research before rendering its decision, it may postpone its decision and request the additional information and research so long as the decision will be rendered within the times provided by law, including extensions of time agreed to by the subdivider.

E. The City Commission may only rely on information on the record and shall consider the primary review criteria in section 76-3-608(3), Montana Code Annotated, and whether the proposed subdivision complies with State law, this title, title 11 of this Code, other rules and regulations in effect for the property being subdivided, and whether the proposed subdivision substantially complies with the City growth policy.

F. Following any decision by the City Commission to approve, conditionally approve, or deny the proposed subdivision, it shall prepare written findings of fact that discuss the proposed subdivision's compliance with these regulations and State law and send the subdivider a letter, with the appropriate signature, and make the letter available to the public within thirty (30) working days following the City Commission decision. The letter shall:

1. Contain information regarding the appeal process for the denial or imposition of conditions;
2. Identify the regulations and statutes that were used in reaching the decision to deny or impose conditions and explain how they apply to the decision;
3. Provide the facts and conclusions that the Governing Body relied upon in making its decision, and reference documents, testimony, or other materials that form the basis of the decision;
4. Provide the conditions that apply to the subdivision approval and that must be satisfied before the final plat may be approved; and
5. Include a copy of the approved preliminary plat. (Ord. 3166, 9-23-2013)

G. The City Commission preliminary plat approval must be in force for at least one year, but no more than three (3) calendar years. No earlier than six (6) months but no less than sixty (60) days prior to the expiration of the preliminary plat approval the subdivider may request the City Commission extend its approval of the preliminary plat for a mutually agreed-upon period of time. Any preliminary plat approval extension requests in excess of three (3) years must be reviewed following a public hearing. The City Commission may issue more than one extension.

1. At least sixty (60) days prior to the expiration of the preliminary plat approval, but no earlier than six (6) months prior to the expiration of the preliminary plat approval, the subdivider may submit a written request for an extension of that approval. The subdivider must include:

- a. The reasons for requesting an extension;
- b. A description of the extenuating circumstances beyond the control of the subdivider that delayed the completion of the conditions of approval;
- c. A description of what progress has been made toward meeting the conditions of approval;
- d. An agreement that the infrastructure design and installation will comply with the design standards in place at the time of plan submittal; and
- e. An evaluation of the provision of services and public facilities in the area of the subdivision that may be disrupted by the extension of the preliminary plat approval.

2. After determining that the subdivider has submitted bona fide grounds for the extension, the City Commission may grant an extension of the preliminary plat approval for a mutually agreed upon period of time established in writing and signed by the members of the City Commission.

3. The criteria to be considered by the City Commission in deciding whether to grant an extension of the preliminary plat approval include, but are not limited to, the following:

- a. Changes in the subdivision regulations since preliminary plat approval and whether the subdivision is substantially

compliant with the new regulations;

b. Phasing of the subdivision and the ability for existing development to be served by City services independent of future improvements;

c. Dependence on other development on any public infrastructure to be installed with the subdivision; and

d. Whether or not any changes to the primary criteria impacts identified in the original preliminary plat approval or any new information not previously considered exists that creates any new potentially significant adverse impacts that would support denial of the subdivision extension request. Additional conditions may not be imposed as a condition of extension of the preliminary plat approval. (Ord. 3245, 10-29-2018)

12-2-12: AMENDED APPLICATIONS:

A. If the subdivider changes the subdivision application after the City makes a determination of sufficiency pursuant to this chapter, the subdivider shall submit an amended application to the City for review and submit a written request for suspension of the subdivision review period.

B. The City will review the amended application and determine whether the changes to the subdivision application are material.

1. If the City determines the changes are not material, the subdivision review period resumes when the City mails notice of the determination to the subdivider.

2. If the City determines the changes are material, the City may either:

a. Require the subdivider to begin the subdivision review process again, starting with the preapplication consultation, and require payment of a new application fee; or

b. If the amended application was submitted after a public hearing was held on the original subdivision application before either the Planning Board or the City Commission, schedule a new public hearing before any body having considered the original application. A supplemental staff report must be prepared to address the changes to the original application. If a new public hearing is held pursuant to this chapter, the subdivision review period is suspended for the time period between notice of the City's determination of a material change to the application and ten (10) working days after the date of the hearing to review the amended application. (Ord. 3166, 9-23-2013)

12-2-13: AMENDED SUBDIVISIONS:

A. If the subdivider proposes to change the subdivision after City Commission approval or conditional approval, the subdivider shall submit the proposed changes to the City for review.

1. If the City determines the changes are not material, notice of that decision will be mailed to the subdivider.

2. If the City determines the changes are material, the City shall either:

a. Require the subdivider to begin the subdivision review process again, starting with the preapplication consultation, and require payment of a new application fee; or

b. Require the subdivider to submit an amended subdivision application with an evaluation of the impacts the revisions will have based on the review criteria and require payment of a minor subdivision application fee.

(1) A supplemental staff report must be prepared to address the changes to the approved subdivision; and

(2) A new City Commission public hearing must be conducted to take comments on the new subdivision application. The City Commission may require additional conditions that mitigate impacts resulting from the changes to the subdivision.

B. Once the City Commission approves changes to a subdivision, the previous subdivision is superseded. A previously approved subdivision may not be reinstated without City Commission review and approval. (Ord. 3166, 9-23-2013)

12-2-14: MATERIAL CHANGES:

A. The following changes may be considered material:

1. An amendment that may result in a change in the conditions for approval;

2. An increase in the number of lots or an increase in the square footage of the subdivision;

3. Reconfiguration of a lot or lots that could result in an increase in traffic that was not evaluated in the subdivision traffic impact study;

4. Street layout resulting in a change in legal and physical access;

5. Relocation or an increase or decrease in proposed right-of-way dedication used for access to the subdivision;

6. Change in the size or reconfiguration of park land or open space;

7. A change in water, wastewater, or stormwater proposals; or

8. A change in zoning that results in a significant change in uses or density.

B. If the subdivider disagrees on a determination by the Community Development Department that the changes are material, the subdivider may appeal the determination to the City Manager by submitting a written notice of appeal within five (5) working days that sets forth the reasons for the disagreement with the determination. The subdivider must agree in writing to an extension of the time set by law.

C. If the City Manager decides that the evidence and information demonstrate that the changes to the subdivision are material, the City Manager will determine the appropriate disposition of the application.

D. If the City Manager decides that the evidence and information demonstrate that the changes to the subdivision are not material, the review period resumes as of the date of the decision. (Ord. 3166, 9-23-2013)

12-2-15: PUBLIC IMPROVEMENTS TO BE INSTALLED:

The following public improvements must be installed in conformance with plans, specifications and a construction schedule approved by the City. The required improvements must be installed as follows:

A. Streets within and adjacent to the subdivision to City standards.

B. Sidewalks on both sides of the streets must be installed by the owner of the subdivided property concurrent with installation of streets, curbs, and gutters. Boulevard landscaping and trees, including irrigation, must be installed on public rights-of-way abutting private or public parks, open space, common areas, or other areas intended to be used by the public or common owners must be installed by the owner of the subdivided property concurrent with installation of streets, curbs, and gutters.

C. All nonmotorized paths located on public rights-of-way.

D. Curb and gutter must be installed on both sides of the streets.

E. All stormwater facilities.

F. Street name, traffic, and parking control signs must be provided to developer at cost by the City.

G. Except as herein provided, new utility distribution lines must be placed underground. Associated equipment, such as pad mounted transformers, may be placed above the surface if required for reasons of convenience, safety, or economy. This subsection does not apply to a main electric feeder line capable of conveying two thousand (2,000) kVA or more.

H. Water and wastewater mains, fire hydrants, manholes, stormwater lines, and other necessary appurtenances to serve the subdivision. Water and wastewater mains must be installed to the exterior boundary lines of the subdivided property to allow the future connection of adjacent property. (Ord. 3166, 9-23-2013)

12-2-16: PUBLIC IMPROVEMENTS INSTALLATION OPTIONS:

A. The following improvements necessary to protect public health and safety must be installed in accordance with City approved plans and must obtain interim acceptance, as defined in the City of Helena Engineering Standards, prior to City Commission approval of a final plat:

1. Water and wastewater systems and appurtenances serving all lots to be final platted;

2. Streets providing legal and physical access to all lots within the subdivision, including off-site access to the subdivision, installed with a minimum all weather surface that can accommodate emergency access.

B. In addition to the public improvements identified in subsection A of this section, the City Commission may require public improvements listed in section 12-2-15 of this chapter to be installed and completed prior to obtaining final plat approval if there is a finding at the time of preliminary plat review that the installation of those public improvements prior to filing the final plat are necessary to protect public health and safety.

C. In lieu of the completion of the construction of public improvements not identified in subsection A or B of this section, prior to the approval of a final plat, the subdivider may provide a bond or other reasonable security, in an amount and with surety and conditions satisfactory to the City that provide for and secure the construction and installation of the remaining required improvements within eighteen (18) months from the date of final plat approval. Reasonable time extension may be granted by the City Commission provided bonding or other security is also extended. The amount of the bond or security may be reduced in accordance with completion and final City acceptance of portions of the required improvements. (Ord. 3245, 10-29-2018)

12-2-17: FINAL PLAT REVIEW:

A. After approval of the preliminary plat by the City Commission, the subdivider may present a final plat to the City Commission for approval. Portions of an approved preliminary plat will not be approved for final plat unless the portion has been reviewed as a part of a phased development and the portion represents an entire phase.

B. Prior to submitting a final plat application:

1. The applicant must submit a certificate of title, a title insurance policy, or a report from a title insurance company on the condition of title to the property proposed for subdivision that identifies the owners of record of the property, lienholders or claimants of record, encumbrances, easements and restrictions of record, and all other conditions of title of public record,

and accompanied by a guarantee of the accuracy of the report from the title insurance agent or its underwriter;

2. When the park dedication is in the form of a cash donation, the applicant must provide one of the following to verify the fair market value of the unsubdivided, unimproved land:

- a. A comparative market analysis performed by a licensed realtor;
- b. A raw land appraisal by a licensed appraiser; or
- c. The sale price of the property being subdivided if it was purchased within one year of the date of the subdivision final plat application submittal.

3. The applicant must submit documentation verifying park dedication is in compliance with required benefits stated in 76-3-621, Montana Code Annotated, and assures long term protection of lands used for meeting the required park dedication but ownership is not transferred to the City of Helena.

C. The final plat application and all supporting documents must be submitted to the City at least sixty (60) working days prior to the expiration of subdivision approval to allow for review prior to plat expiration. The final plat application must contain the information and be in the format as required by State law and include the following:

1. The final plat application;
2. The final plat review fee;
3. A written summary and supporting documentation verifying how each condition of preliminary plat approval has been satisfied;
4. Written consent to subdivide from lienholders or claimants of record;
5. Approval from the City Public Works Department indicating acceptance of installed infrastructure;
6. Signed public improvements agreement and approved financial guarantee when applicable;
7. A Municipal facilities exemption or subdivision approval from the Department of Environmental Quality;
8. Verification from the Parks and Recreation Department for any required park land dedication and improvements or payment of cash in lieu thereof is in compliance with the preliminary plat as approved by the City Commission;
9. Deeds conveying title to the City for dedicated properties such as parks and stormwater facilities;
10. Show public utility easements within the subdivision with the correct dimensions and location and provide easement agreements to the City for any City utilities not in rights-of-way;
11. When ownership of infrastructure improvements that are intended to be transferred to the City affect a third party easement, documentation from that entity verifying the work within their easement is in compliance with their easement;
12. A copy of MDT access permit or agreement for highway intersection and other required MDT access;
13. A legal description of the subject property and a copy of the last recorded conveyance document for the subject property;
14. Verification that all taxes and assessments on the property have been paid in full; and
15. Verification that an examining land surveyor has reviewed and approved the final plat.
16. Addressing Coordinator approval of street names; and
17. Three (3) copies of the final plat, completed in accordance with the uniform standards for final subdivision plats, and either one (1) eleven inch by seventeen inch (11" x 17") or one (1) eight and one-half inch by eleven inch (8¹/₂" x 11") copy. The subdivider also must submit the final plat and application materials to the City in a PDF format.

D. The City will not accept, begin processing, or schedule any actions on a final plat submittal until a complete application, payment of fee, and copies of the final plat have been received. A final plat is considered to be received on the date of delivery to the Community Development Department when accompanied by the review fee.

E. Within twenty (20) working days of receipt of a final plat, the Community Development Department shall determine whether the final plat contains the information required under subsection C of this section and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of that determination in writing. If the City determines that the final plat does not contain the information required under subsection C of this section the City shall identify the final plat's defects in the notification.

F. The City may review subsequent submissions of the final plat only for information found to be deficient during the original review of the final plat under subsection E of this section.

G. The time limits provided in subsection E of this section apply to each submission of the final plat until a written determination is made that the final plat contains the information required under subsection C of this section and the subdivider or the subdivider's agent is notified.

H. If a determination is made under subsection E of this section that the final plat contains the information required under subsection C of this section, the City Commission shall review and approve or deny the final plat within twenty (20) working days.

I. The subdivider or the subdivider's designated agent and the Community Development Department may mutually agree in writing to extend the review periods provided for in this section and establish the timeframes for the extension and any relevant parameters.

J. If the City determines that the final plat differs materially from the approved or conditionally approved subdivision, the subdivider is required to submit an amended application pursuant to this chapter.

K. The Community Development Department shall review the conditions of approval to see if they have been satisfied and prepare a written recommendation to the City Commission on whether the final plat should be approved for filing.

L. The City Commission shall approve or deny the final plat. After the City Commission's review and action, the original and one copy of the final plat must be returned to the subdivider.

M. The City Commission shall approve the final plat if:

1. It conforms to the conditions set forth in the subdivision approval and the terms of applicable law and regulations promulgated thereunder, including the uniform standards for final subdivision plats; and

2. The Lewis and Clark County Treasurer has certified that all Real Property Taxes and special assessments levied and assessed on the land to be subdivided have been paid.

N. If the final plat is denied, the grounds for denial must be stated in the records of the City Commission and a copy sent to the subdivider. The subdivider may make the necessary corrections and resubmit the final plat for approval.

O. The subdivider shall file the approved and signed final plat with the Lewis and Clark County Clerk and Recorder, and deliver a copy of the final plat to the Community Development Department. Any dedications must be accepted by specific action by the City Commission and noted on the final plat. (Ord. 3245, 10-29-2018)

12-2-18: DIVISIONS OF LAND EXEMPT FROM SUBDIVISION REVIEW:

A. The use of any exemption set forth in sections 76-3-201 and 76-3-207, Montana Code Annotated, for the purposes of evading subdivision review, city zoning regulations, or installation of infrastructure such as access, water, and wastewater, is prohibited. (Ord. 3166, 9-23-2013)

B. Any division or aggregation of land that is exempt from subdivision review must be certified by the Director of Community Development or a designated representative and the City Engineer or a designated representative that the exemption is applicable. The property owners shall submit an electronic copy of the following information to show entitlement to exemption and compliance with this Code:

1. The last recorded deed or other documentation of ownership of all affected property;
2. The most recently filed plat or certificate of survey;
3. A proposed amended plat or certificate of survey showing legal and physical access to each lot, and the proposed configuration of the tracts in compliance with survey requirements;
4. A list of prior divisions of land or reconfiguration of the particular tract in question without local government review and previous exemptions used for the divisions or reconfigurations;
5. A site plan showing access to adequate water and wastewater mains and fire hydrants;
6. A diagram showing that any structures on the subject lots are in compliance with zoning;
7. A document showing the location, width, and purpose of all easements on the subject property or off-site easements that may impact the provision of services, stormwater, and access;
8. For divisions made outside of platted subdivisions for the purpose of a single gift or sale to a member of the property owner's immediate family, verification that the family member is the spouse of the grantor, or whether by blood or adoption a son, daughter, mother, or father of the grantor; and
9. A complete and correct application must be resubmitted within one year of notification of an incomplete application. Resubmittal of the application beyond that time frame requires a new application.

C. The City shall consider the following in determining whether a proposed plat or certificate of survey using the exemptions provided in 76-3-201, Montana Code Annotated or 76-3-207, Montana Code Annotated is an attempt to evade subdivision review:

1. An exempt plat or certificate of survey may not be certified or approved for filing when the original lots or parcels have legal and physical access to public ways, are served by water and wastewater mains that are built to City Engineering Standards and all required stormwater facilities have been provided and the proposed plat or certificate of survey configuration creates lots or parcels without those services. The installation of required public improvements under this section may be deferred pursuant to this chapter.

2. An amended plat or certificate of survey which includes lots or parcels that do not have legal and physical access to public ways, are not served by water and wastewater mains that are compliant with City standards, and on which all required stormwater facilities are not included must place a development restriction on those lots or parcels on the amended plat or certificate of survey and any instrument transferring title thereto. (Ord. 3245, 10-29-2018)

D. The City shall review evidence submitted by the subdivider requesting an exemption and will determine if the proposal is an attempt to evade subdivision review. The Department of Community Development will notify the subdivider in writing if the exemption is disallowed.

E. Any person whose proposed use of an exemption has been denied by the Director of Community Development because the proposed division of land has been deemed an attempt to evade subdivision regulations may appeal the decision to the City Commission by filing a written appeal with the City Manager within twenty (20) days of the date of written denial. The City Manager will place the requested appeal on the City Commission agenda and notify the subdivider of the meeting.

F. If the City Commission concludes that the evidence and information support that the exemption is not being invoked to evade subdivision regulations, it may authorize the use of the exemption in writing. A certificate of survey claiming an exemption from subdivision review, which otherwise is in proper form, and which the City Commission has found is not an attempt to evade subdivision regulations, may be filed or an instrument of conveyance recorded if it is accompanied by written authorization of the City. (Ord. 3166, 9-23-2013)

12-2-19: EXPEDITED SUBDIVISION REVIEW:

A. An amended plat that does not create any additional lots, but redesigns or rearranges six (6) or more lots in a platted subdivision qualifies for expedited review under this section if:

1. The resulting lots have legal and physical access to public rights-of-way, are served by City water and wastewater mains located in adjacent public rights-of-way or City held easements; and
2. The resulting lots are in compliance with zoning and survey requirements.

B. An application for and review of a subdivision under this section is the same as described in chapter 5 of this title with the following exceptions:

1. The notice of the City Commission meeting does not need to be mailed to owners of adjacent property; and
2. Park land dedication is not required. (Ord. 3166, 9-23-2013)

CHAPTER 3

RESERVED

(Ord. 2844, 6-22-1998)

CHAPTER 4

PUBLIC IMPROVEMENTS

SECTION:

12-4-1: Applicability

12-4-2: General Requirements For Streets

12-4-3: Street Grades

12-4-4: Alleys

12-4-5: Easements

12-4-6: Lots

12-4-7: Water Supply And Wastewater Disposal

12-4-8: Grading And Drainage Facilities

12-4-9: Solid Waste Disposal

12-4-10: Special Development Designation

12-4-11: Watercourses, Water Bodies, And Wetlands

12-4-12: Park Dedication

12-4-1: APPLICABILITY:

The provisions of this chapter apply to public improvements required as a result of the approval or conditional approval of any subdivision. (Ord. 3167, 9-23-2013)

12-4-2: GENERAL REQUIREMENTS FOR STREETS:

A. Streets must be designed according to standards and requirements of the city, including, but not limited to, the city's policy as reflected in resolution 19799, requiring that the planning, design, and construction of streets work toward the goal of making streets in Helena complete streets.

B. Public rights of way that are dedicated to the city must be designed according to the standards and requirements of the city.

C. Blocks may not exceed six hundred feet (600') in length except when a longer length is needed to meet grade limitations, the existing built environment, water bodies or railroad crossings, or industrial uses.

D. Except for dead end streets, public street rights of way must have through public right of way accesses that connect with existing public streets as follows:

1. Each subdivision with a projected trip generation of more than two hundred (200) vehicle trips per day must have a minimum of two (2) public right of way accesses for ingress and egress.

2. Additional public right of way accesses may be required when need is demonstrated for adequate emergency access and evacuation, to accommodate travel distances associated with the size of the property, and to improve connectivity with surrounding properties.

E. Dead end streets are allowed only when the applicant can demonstrate a dead end street is necessary due to compelling circumstances such as enhancement of safety, compliance with the complete streets resolution 19799, topography constraints, mitigating disturbance of existing watercourses, mitigation of access obstructions, or a temporary dead end street intended for future extension. Dead end streets may not exceed six hundred feet (600') in total length. Dead end streets longer than one hundred fifty feet (150') must have an emergency turnaround designed and installed according to the standards and requirements of the city. (Ord. 3167, 9-23-2013)

12-4-3: STREET GRADES:

A. The maximum grade for:

1. Streets is ten percent (10%), except as otherwise provided in this section; and

2. An intersection, the fifty feet (50') of street approach prior to an intersection, and emergency turnaround is four percent (4%). (The measurement of a street approach to an intersection is taken from where the projected curbs intersect.)

B. Variances from the maximum street grade may not be granted by the city commission. (Ord. 3167, 9-23-2013)

12-4-4: ALLEYS:

A. Alleys may be provided for service access, off street loading, solid waste collection, and utility installation.

B. Any alley within a subdivision must be a minimum of twenty feet (20') of dedicated public right of way and designed to avoid alley to alley intersections, sharp changes in alignment, and dead ends.

C. Alley grades are subject to review and approval by the public works department. (Ord. 3167, 9-23-2013)

12-4-5: EASEMENTS:

A. Easements must be granted to the city for city water and wastewater utilities, stormwater facilities, and nonmotorized facilities that are not located in dedicated public rights of way.

B. City utility easements that are not adjacent to dedicated public rights of way must have a minimum width of twenty feet (20'). Easements adjacent to dedicated rights of way must be at least ten feet (10') wide.

C. The subdivider must describe and show all easements that are to be granted and dedicated to the city for the placement and access of utilities on the final plat. (Ord. 3167, 9-23-2013)

12-4-6: LOTS:

A. Every lot must be adjacent to a street public right of way.

B. When there is an existing structure on a proposed lot, the lot must meet district dimensional standards as specified in title 11 of this code to accommodate the existing structure. (Ord. 3167, 9-23-2013)

12-4-7: WATER SUPPLY AND WASTEWATER DISPOSAL:

A. The water distribution system must be designed to connect to the existing city water distribution system and provide each lot with water service. The water system must be designed according to standards and requirements of the city.

B. The wastewater collection system must be designed to connect to the city wastewater treatment plant and to provide each lot with wastewater service. The water system must be designed according to standards and requirements of the city.

(Ord. 3167, 9-23-2013)

12-4-8: GRADING AND DRAINAGE FACILITIES:

A. The subdivider shall include provisions for grading in the subdivision design that meet the minimum requirements of the city.

B. Grading shall be subject to approval by the city public works department. Grading must not proceed on property intended for subdivision until city approval of a grading plan.

C. For earthwork, including cut and fill for installation of public improvements, whether on public or privately owned property, protective slope measures, when required after completion of improvement project, must be used. The protective measures following earthwork must mitigate erosion, stormwater runoff and demonstrate long term soil stabilization to levels equal to or better than what existed prior to the earthwork. (Ord. 3167, 9-23-2013)

12-4-9: SOLID WASTE DISPOSAL:

A. The subdivider shall include provisions for collection and disposal of solid waste in the subdivision design that meet the minimum requirements of the city.

B. The subdivision must be designed to provide access for the collection and disposal of solid waste for city provided solid waste services. (Ord. 3167, 9-23-2013)

12-4-10: SPECIAL DEVELOPMENT DESIGNATION:

Any portion of a lot that has an existing slope of twenty five percent (25%) or more, as measured in five foot (5') contour intervals, must be designated on the final plat as a special development area. (Ord. 3167, 9-23-2013)

12-4-11: WATERCOURSES, WATER BODIES AND WETLANDS:

A. Watercourses, water bodies, and wetlands are a vital natural resource. These water systems provide animal, aquatic and plant habitat and facilitate recharging aquifers.

Vegetative buffers, riparian setback areas, and wetlands are crucial in maintaining these water systems which filter contaminants and sediments to improve water quality, provide wildlife habitat, space for watercourse migration, and natural flood control. Subdivisions adjacent to these features can have an impact on these functions.

B. A minimum of seventy five feet (75') of vegetative buffer is required on each side of a perennial stream as measured from the ordinary high water mark on a horizontal plane. A minimum of fifty feet (50') of vegetative buffer is required on all sides of a wetland, pond, lake, reservoir, or intermittent stream which is tributary to a perennial stream, as measured from the ordinary high water mark on a horizontal plane. Existing vegetation in those areas may not be disturbed or removed, except as needed to control noxious weeds, reduce accumulated fuels for fire protection, to remove individual trees that pose an imminent physical danger to people or property, or to construct city approved public infrastructure.

C. Buildings, structures, or any impervious area may not be placed or constructed within two hundred feet (200') from the ordinary high water mark of a perennial stream as measured on a horizontal plane, or one hundred feet (100') from the ordinary high water mark of a wetland, pond, lake, reservoir, or intermittent stream which is tributary to a perennial stream, as measured on a horizontal plane, except city approved public infrastructure is permitted with these setbacks.

D. Where wetlands are present, the subdivider must retain a qualified wetland professional to determine the wetland's boundary in accordance with the most current wetlands delineation manual sanctioned by the U.S. army corps of engineers - Omaha district. (Ord. 3167, 9-23-2013)

12-4-12: PARK DEDICATION:

A. Park land dedication must be consistent with the city's comprehensive parks, recreation, and open space plan.

B. A subdivider shall provide a park dedication or a cash donation, land donation, or a combination of both to the city in compliance with the Montana subdivision and platting act and this section.

C. Park dedication is required for all subdivisions, including first and subsequent minor subdivisions that create three (3) or more lots, when the land being subdivided is located within a zoning district that allows residential uses by right.

D. Stormwater and drainage facilities may be located within donated park land if site and design plans are approved by the city commission. Such areas count toward the park land dedication requirement if they are designed and installed by the subdivider to serve as an amenity to the park and fit into the planned uses and improvements to the park. (Ord. 3167, 9-23-2013)

CHAPTER 5

MINOR SUBDIVISIONS

SECTION:

12-5-1: City Commission Discretionary Power

12-5-2: Review

12-5-3: Amended Minor Subdivision Applications

12-5-1: CITY COMMISSION DISCRETIONARY POWER:

Subdivisions defined as minor subdivisions by state law will be reviewed pursuant to those requirements established by state law and this chapter. (Ord. 3065, 10-16-2006)

12-5-2: REVIEW:

Except as otherwise provided, the review of a minor subdivision application must comply with all requirements of this title.

A. Unless otherwise extended or suspended by written agreement between the subdivider and the city, the city commission shall approve, conditionally approve, or deny the minor subdivisions within thirty five (35) working days from a determination by the city that the application contains the required elements and sufficient information for review. Extensions or suspensions may not exceed one year. (Ord. 3065, 10-16-2006)

B. The following requirements do not apply to the review of minor subdivisions:

1. The requirement to prepare an environmental assessment;
2. Review by the planning board; and
3. The requirement to hold a public hearing on the subdivision application. (Ord. 3168, 9-23-2013)

C. The minor subdivision application must include a summary of the probable impacts of the proposed subdivision based on the criteria described in section 76-3-608(3), Montana Code Annotated.

D. Notice of the time and place of the city commission meeting for its consideration of proposed subdivision must be mailed to owners of adjacent property by first class mail, postage prepaid, at least ten (10) calendar days prior to the commission meeting.

E. A subdivision application submitted as a subsequent minor subdivision will be reviewed as a major subdivision if the city determines the minor subdivision application was submitted in an effort to evade subdivision regulations. The following conditions, although not an exhaustive list, may be considered an attempt to evade subdivision regulations:

1. Multiple previous divisions of a tract of record by the same property owner;
2. Multiple applications for minor subdivisions of the same tract of record;
3. Adequate legal and physical access is not available to all lots;
4. Adequate water and wastewater is not available to all lots;
5. The proposed subdivision does not comply with zoning requirements; or
6. Any previous division of a tract that did not result in a bona fide use of the resulting tracts as originally represented in the original division. (Ord. 3065, 10-16-2006)

12-5-3: AMENDED MINOR SUBDIVISION APPLICATIONS:

A. If, after the application is reviewed for required elements and sufficient information, the subdivider submits any change to the minor subdivision application, the change will not be considered unless the subdivider first consents in writing to extension or suspension of the city's review period as provided in this section:

1. If the community development director determines the changes are not material, the review period resumes when the subdivider is notified that the changes are not material.

2. If the community development director determines the changes are material, the city may require the subdivider to resubmit the application and preliminary plat as a new application and, if necessary, attend a new preapplication meeting. (Ord. 3065, 10-16-2006)

B. The following changes, although not an exhaustive list, may be considered material:

1. An amendment that may result in a change in the proposed conditions for approval;
2. An increase in the number of lots or an increase in the area of the subdivision;
3. Reconfiguration of a lot that could result in an increase in traffic that was not evaluated in the subdivision traffic study;
4. Street layout resulting in a change in legal and physical access;
5. Relocation or an increase or decrease in proposed right of way dedication used for access to the subdivision;
6. A change in water, wastewater, or stormwater proposals; or

7. A change in zoning that results in a significant change in types of uses permitted or density. (Ord. 3168, 9-23-2013)

C. A subdivider whose subdivision application or preliminary plat has been deemed materially changed by the community development director may appeal the decision to the city manager by submitting a written notice of appeal within five (5) working days that sets forth the reasons for the disagreement with the decision. The subdivider must submit reasons or additional evidence to show that the changes to the preliminary plat are not material. (Ord. 3065, 10-16-2006)

CHAPTER 6

AMENDMENTS; FEES; VIOLATIONS

SECTION:

12-6-1: Amendments; Procedure

12-6-2: Fees

12-6-3: Violations; Validity

12-6-1: AMENDMENTS; PROCEDURE:

Any regulation or provision of this title may be changed and amended by the City Commission after report and recommendations by the Planning Board, provided, however, that such amendment shall not be effective until after a public hearing has been held, legal public notice of which shall have been given in a newspaper of general circulation, or by other legal means, in the City, at least fifteen (15) days prior to such hearing. (Ord. 2913, 8-13-2001)

12-6-2: FEES:

A. A preliminary or final plat may not be accepted by the City until the required fees have been received by the Community Development Department. (Ord. 3169, 9-23-2013)

B. In order to cover costs of reviewing plans, holding hearings, and other expenses incidental to the review of a subdivision, the applicant must pay a fee, as established by the City Commission, at the time of application.

The schedule of fees must be posted in the Community Development Department Office. (Ord. 3246, 10-29-2018)

12-6-3: VIOLATIONS; VALIDITY:

A. Violations And Penalties: Violations shall be punishable in accordance with section 76-3-105, Montana Code Annotated.

B. Validity; General: Should any section, subsection, paragraph, sentence, clause or phrase of this title be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining provisions of this title. (Ord. 2913, 8-13-2001)