Lot 1 of Hamel Acres Subdivision

SECTION 15

CORRESPONDENCE AND COMMENTS
Neighborhood Meeting for Public Comment on
Hamel Acres Lot 1 – Proposed 13 Lot Major Subdivision
February 26, 2019
Frenchtown Rural Fire District Station 1
16863 Marion St, Frenchtown, MT 59834

Attendees:
Joshua Phillips, PLS – Eli & Associates
Tom Anderson, PE – Eli & Associates
Kate and Dana Cotnoir – Applicants
Mary Alexander
Casey Drayton – Missoula County Community and Planning Services (CAPS)
Susan Petersen
Eileen Herbert
Carl Hoyer
Eric Durham

Meeting began at 7:02pm

After the presentation of the proposed subdivision by Joshua (Eli & Assoc.), comments were made by Carl Hoyer concerning the current County requirements for infrastructure in proposed subdivisions. Carl expressed surprise and exasperation at the seemingly unfair difference in requirements from 10 years ago and the prohibitive costs he encountered in attempting a subdivision of his own. Carl’s comments were not critical of the proposed project.

Casey responded to these comments and offered to meet with Carl to discuss his property’s potential.

Carl also expressed concern that Beckwith Street is in poor condition and that it is not currently suitable for handling additional traffic.

Joshua offered that the proposed subdivision could be a catalyst for action to be taken by MDT or County Public Works to improve the road. Casey noted that the Beckwith right-of-way ownership is still in discussion between Missoula County and MDT. Casey noted that it would not be the applicant’s responsibility to improve the public road.

At another point in the meeting, Carl also asked where snow would be placed during removal. Tom (Eli & Assoc.) noted that there would be adequate room within the 60’ road easement and borrow ditches to accommodate snow volumes.

Eric Durham offered comments of concern at the individual drainfields proposed for each of the 13 lots. Eric expressed concern for the potential of wastewater contaminating the very shallow well serving his residence at 17552 Mullan Rd. Carl reported that Eric’s well is only 13 feet deep.
Tom responded with details of how the wastewater systems design and DEQ submittal would include adequate mitigation of nitrates and attenuation of viruses and will be designed to the current DEQ and EPA standards.

Eric asked what was being proposed for fire suppression; if water tanks were going to be built as part of the infrastructure.

Joshua responded that houses would be required to have sprinklers, but would run off of individual lot wells.

Eric asked how the wastewater mixing zones and well isolation zones would all fit within the subdivision; if overlap onto other lots/parcels would be allowed.

Tom responded to this question with an assurance that all mixing zones and well isolation zones would remain within the proposed subdivision, but overlap onto other lots within the proposed subdivision would be provided through the use of easements.

Joshua asked for any further comments and assured the attendees that their comments were the reason for the meeting. No further comments were offered.

Meeting was adjourned at 7:48pm.
To Casey Drayton:

Thank you for the opportunity to offer comment on the Lot 1 of Hamel Acres Subdivision at this earliest phase of review. At one time, land encompassed by the proposed development was valuable grassland wildlife habitat. However, the importance of any such habitat has been reduced by human activity in the area, existing development on adjoining land and the proximity of Interstate 90. Accordingly, lacking the environment critical to species we wish to maintain in the Missoula Valley, we do not see where this proposed subdivision would be in conflict with our resource protection objectives.

We appreciate the opportunity to comment at this early stage.

Jim Brown

On 1/16/2019 4:17 PM, Casey Drayton wrote:

Good Afternoon,

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When a formal application for the subdivision is submitted, you will have additional opportunity to comment. Please let me know if you have any questions at this time. If you would like to attend the preapplication meeting, please let me know and I will share the meeting details when they are finalized.

Thanks for the time,
Casey Drayton
Missoula County Community & Planning Services  
(406) 258-3799  |  cdrayton@missoulacounty.us

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Project will require sanitation review per 76-4 MCA.

James Erven, R.S.
Environmental Health Specialist II
Missoula City/County Health Department
301 West Alder
Missoula, MT 59802
Office - 406-258-4755
Fax - 406-258-4781

For comment

Chris Moreno, R.S.
Environmental Health Specialist
Missoula County Health Department
406-258-3367
Jeri –

I know there is some back and forth between the County and the MDT regarding responsibility. You are certainly welcome to discuss these issues with Steve Felix, the MDT Missoula Maintenance Chief, outside this email chain. Steve can be reached at 406-523-5803 or sfelix@mt.gov

There have also been recent revisions to the Welcome To sign policy. Please contact Pat Hurley in the Helena OAC office at 406-444-6068 or phurely@mt.gov

Thanks
glen
stretch of road came up in a West Valley Community Council meeting. The WVCC would like to see if MDT does have Beckwith Street, if there is a possibility that Missoula County would be able to take that road over.

Appreciate your help.

Casey,

I will submit my comments in another email.

Jeri

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From: Cameron, Glen [mailto:gcameron@mt.gov]
Sent: Thursday, January 17, 2019 3:10 PM
To: Casey Drayton; envhealth; Nicole Whyte; Brent O'Connor; Erik Dickson; Deborah Bell; Adriane Beck; Todd Klietz; Steve Niday; Louise Adams; Travis Ross; waterquality; Juniper Davis; Garrick Swanson; Rose, Sharon; jcalnan@frenchtownfire.org; gmk@bresnan.net; brownjs2@bresnan.net; jeri@centric.net; bonnie@missoulacfac.org; cfacinfo@missoulacfac.org; cliner@ftsd.org; Kylie Paul
Cc: Tim Worley; tom elisurvey.com; 'Joshua Phillips'; Stack, Shane; Radonich, Joe
Subject: RE: Request for Comment - Major Subdivision Proposal in Frenchtown

Casey –

Beckwith Street west of the Frenchtown Interchange is under Missoula County maintenance authority. There will be no MDT permits required for access to this roadway.

I provide the following comments regarding the location next to the I-90 right of way / corridor:

- No structures of any kind are allowed in the I-90 right of way including wells, septic systems, septic drain fields, out buildings, etc.
- Mixing zones from septic systems are allowed to extend into the right of way.
- I provide the below comments regarding noise and proximity to the I-90 travel way:
  - Based on published existing traffic volumes and the large number of trucks that use the I-90 corridor, we predict noise levels in the vicinity of this subdivision to be quite high. The predictions we have made for potential noise impacts should not be a substitute for a detailed noise analysis, which would take into consideration site specific conditions, traffic volumes, average travel speeds and topography.

Anytime you shield residential homes from highway traffic, you improve the quality of life for those who must live near busy highways. If the elevation of a highway is greater than the residences nearby, noise will be less than our predicted levels for homes located closest to the interstate, and in it’s shadow zone. For homes outside the shadow zone, however, noise levels will be higher than predicted because traffic noise is propagating through air and not across ground, where much of the attenuation occurs.

Unless a berm or barrier can be constructed to shield the residences from noise by breaking the line of sight between roadway and receiver, there will be annoying and severe noise impacts at these residential lots. If it not possible to break the line of sight between first or second floor levels and the highway, then acoustical architectural measures should be considered when designing the homes and laying out the neighborhood. For example, use carports, garages or storage areas as shielding for houses. Place rooms that are less sensitive to noise (e.g., kitchens, bathrooms, laundry rooms) closer to the highway. Other options include reducing the number of windows...
and doors facing the highway; installing triple paned glass windows and solid core doors; installing air conditioning; and increasing the rigidity of materials used in construction, such as brick or concrete instead of wood.

For more information, refer to the publication, *Growing Neighborhoods in Growing Corridors – Land Use Planning for Traffic Noise* available on our website at [https://www.mdt.mt.gov/other/webdata/external/research/docs/research_proj/noise_plan/final_report.pdf](https://www.mdt.mt.gov/other/webdata/external/research/docs/research_proj/noise_plan/final_report.pdf). There are also a number of related references in this report, including websites. You can also contact our noise specialist directly (Joe Radonich, at 444-9204 or [jradonich@mt.gov](mailto:jradonich@mt.gov)).

Thanks for the opportunity to comment.
Glen Cameron
MDT - Missoula

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**From:** Casey Drayton <cdrayton@missoulacounty.us>
**Sent:** Wednesday, January 16, 2019 4:18 PM
**To:** envhealth <envhealth@missoulacounty.us>; Nicole Whyte <nwhyte@missoulacounty.us>; Brent O'Connor <boconnor@missoulacounty.us>; Erik Dickson <edickson@missoulacounty.us>; Deborah Bell <dbell@missoulacounty.us>; Adriane Beck <abeck@missoulacounty.us>; Todd Klietz <tklietz@missoulacounty.us>; Steve Niday <sniday@missoulacounty.us>; Louise Adams <ladams@missoulacounty.us>; Travis Ross <tross@missoulacounty.us>; waterquality <waterquality@missoulacounty.us>; Juniper Davis <jmdavis@missoulacounty.us>; Garrick Swanson <gswanson@missoulacounty.us>; Rose, Sharon <shrose@mt.gov>; jcalnan@frenchtownfire.org; gmk@bresnan.net; brownjs2@bresnan.net; jeri@centric.net; bonnie@missoulacfac.org; cfacinfo@missoulacfac.org; cliner@ftsd.org; Cameron, Glen <gcameron@mt.gov>; Kylie Paul <kpaul@missoulacounty.us>
**Cc:** Tim Worley <tworley@missoulacounty.us>; tom elisurvey.com <tom@elisurvey.com>; 'Joshua Phillips' <joshua@elisurvey.com>
**Subject:** Request for Comment - Major Subdivision Proposal in Frenchtown

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When a formal application for the subdivision is submitted, you will have additional opportunity to comment. Please let me know if you have any questions at this time. If you would like to attend the preapplication meeting, please let me know and I will share the meeting details when they are finalized.
Thanks Casey,
At a future dates, the developers or their representatives will need to provide detail on how fire standards will be met.

Adriane Beck
Fire Warden, County Fire Inspector
Office of Emergency Management
Office 406-258-3632
Cell 406-830-0974
abeck@missoulacounty.us

From: Casey Drayton
Sent: Wednesday, January 16, 2019 4:18 PM
To: envhealth <envhealth@missoulacounty.us>; Nicole Whyte <nwhyte@missoulacounty.us>; Brent O'Connor <boconnor@missoulacounty.us>; Erik Dickson <edickson@missoulacounty.us>; Deborah Bell <dbell@missoulacounty.us>; Adriane Beck <abeck@missoulacounty.us>; Todd Klietz <tklietz@missoulacounty.us>; Steve Niday <sniday@missoulacounty.us>; Louise Adams <ladams@missoulacounty.us>; Travis Ross <tross@missoulacounty.us>; waterquality <waterquality@missoulacounty.us>; Juniper Davis <jdavis@missoulacounty.us>; Garrick Swanson <gswanson@missoulacounty.us>; Rose, Sharon <shrose@mt.gov>; jcalnan@frenchtownfire.org; gmk@bresnan.net; brownjs2@bresnan.net; jeri@centric.net; bonnie@missoulacfac.org; cfacinfo@missoulacfac.org; cliner@ftsd.org; Cameron, Glen <gcameron@mt.gov>; Kylie Paul <kpaull@missoulacounty.us>
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Further comment:
While this is right on the highway, it is also near the floodplain/riparian landscape where wildlife are more likely to move around. It’s also relatively close to undeveloped lands to the north and south, thus likely acting as one of the few remaining less-developed pathways for wildlife to move across the valley. Since wildlife likely move about the area and we’d like them to not get attracted to home sites, I’d recommend Living with Wildlife considerations such as indoor (garage etc) storage of trash and freezers/fridges.

Thanks,
Kylie

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Garrick Swanson
<gsanson@missoulacounty.us>

Sent: Friday, January 18, 2019 12:41 PM
To: Casey Drayton <cdrayton@missoulacounty.us>; Juniper Davis <jdavis@missoulacounty.us>; Kylie Paul <kpaul@missoulacounty.us>
Subject: RE: Request for Comment - Major Subdivision Proposal in Frenchtown

Casey,

Initial pre-application comments from Parks, Trails, and Open Lands:
- Consideration of current school bus route should a school bus drive through the sub-division to make sure the proposed internal path is on the correct side of the road to limit kids crossing the street.
- Noise level mitigation efforts from the I-90 travel corridor
- Proposed improvements to the common area
- Concern about pedestrian safety on Beckwith, which provides connectivity to local services and the elementary school (~.5 miles). This might be an opportunity to use some of the parkland
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Thanks for the time,
Casey Drayton

Missoula County Community & Planning Services
From: Louise Adams
Sent: Thursday, January 17, 2019 8:02 AM
To: Casey Drayton
Subject: RE: Request for Comment - Major Subdivision Proposal in Frenchtown

The Surveyors Office has no comments or concerns regarding this project. The ownership and legal description are correct according to the CAMA data.

Thank you,

Louise Adams, PLS
Examining Land Surveyor
Missoula County Surveyor’s Office
199 W. Pine St.
Missoula, MT 59802
406-258-4813

From: Casey Drayton <cdrayton@missoulacounty.us>
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Casey,

Thank you for the opportunity to comment on the proposed subdivision.

For the past 9 years, the West Valley Community Council has been trying to erect simple ‘Welcome to Frenchtown’ signs. We have struggled with location. The signs have been designed for years, money has been raised, the Key club is ready to maintain the signs and the industrial ed class is ready to build the signs. We have hit road block after road block in getting the nod on a location. I was fairly surprised to see a proposed 13 lot subdivision in such close proximity to the same I-90 right of way/corridor that we have been told no to putting our much needed 4’ by 3’ Welcome to Frenchtown signs in.

There is little doubt Frenchtown is growing. With that, there is much more traffic on our roads that are in need of significant improvements. We are grateful for the Frontage Road reconstruction, which took almost ten years to get on the docket. Beckwith Street in front of the proposed subdivision is a mess. It is riddled with potholes and at this point, no amount of patching the road will help. It’s difficult to think about a new subdivision on a road that is narrow, with no shoulder that is in horrible condition and thinking it could take ten years for significant improvements to happen. At this point given recent conversations I have had with Missoula County Public Works, it is unclear who is responsible for Beckwith Street. Benny’s tavern is a short distance from the proposed subdivision. Beckwith Street is so narrow, that when full size pickup trucks are parked in front of Benny’s, the truck bed juts out into the street. Vehicles have to wind around the truck beds in order to not hit them. I think about children who would live in the new subdivision riding their bike on Beckwith Street and how incredibly unsafe the conditions are. Certainly with increased traffic, the conditions become even more unsafe.

Could you please provide what the traffic volume might be for the proposed subdivision? Are the homes going to be stick built, or mobiles? It is not clear on the map how the homes will be accessed and oriented. What is the traffic flow going to look like?

The Alexanders are a long-time Frenchtown family, who continue to own a significant amount of land in Frenchtown. It is not a surprise to see a proposed subdivision on some of the land the family owns. It is unfortunate the road in front of the land in question is in such poor shape with very limited access that it makes it such a huge deterrent and a distraction to making this subdivision palatable and ultimately safe for the people who may call it home and others that will continue to travel on Beckwith Street.

Thank you in advance for answering the questions I have asked. I would like to be notified of the preapplication meeting.

Best,

Jeri

From: Jeri Delys <Jeri@Centric.net>
Sent: Thursday, January 17, 2019 7:08 PM
To: 'Cameron, Glen'; Casey Drayton; envhealth; Nicole Whyte; Brent O'Connor; Erik Dickson; Deborah Bell; Adriane Beck; Todd Klietz; Steve Niday; Louise Adams; Travis Ross; waterquality; Juniper Davis; Garrick Swanson; 'Rose, Sharon'; jcalnan@frenchtownfire.org; gmk@bresnan.net; brownjs2@bresnan.net; bonnie@missoulacfac.org; cfacinfo@missoulacfac.org; cliner@ftsd.org; Kylie Paul
Cc: Tim Worley; 'Stack, Shane'; 'Radonich, Joe'; tom@elisurvey.com; joshua@elisurvey.com
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Casey –

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For more information, refer to the publication, *Growing Neighborhoods in Growing Corridors – Land Use Planning for Traffic Noise* available on our website at [https://www.mdt.mt.gov/other/webdata/external/research/docs/research_proj/noise_plan/final_report.pdf](https://www.mdt.mt.gov/other/webdata/external/research/docs/research_proj/noise_plan/final_report.pdf). There are also a number of related references in this report, including websites. You can also contact our noise specialist directly (Joe Radonich, at 444-9204 or jradonich@mt.gov).
Thanks for the opportunity to comment.
Glen Cameron
MDT - Missoula

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Casey Drayton

Missoula County Community & Planning Services
(406) 258-3799 | cdrayton@missoulacounty.us

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Hi Casey,

Region 2 FWP has reviewed the preapp/draft information you provided for this proposed major subdivision at Frenchtown.

- FWP has no fisheries, wildlife or recreational resource issues with this parcel’s development—even if it were to be proposed with more units and/or at a higher density.
- We would recommend requiring Living with Wildlife covenants, to enable residents to avoid potential problems with any area wildlife.

Thank you for including us in this preapp proposal; we really appreciate the opportunity to hear about subdivisions and developments early on.

Sharon

Sharon Rose
Comments Coordinator, Region 2
Montana Fish, Wildlife & Parks

3201 Spurgin Rd
Missoula, MT 59804
Ph: (406) 542-5540
shrose@mt.gov
Montana FWP
Joshua,

Thank you for reaching out to Missoula County Parks, Trails and Open Lands Program regarding the proposed layout of Hamel Acres, Plat Drawn April 27, 2018/Plot Date February 27, 2019. In addition, I appreciated the phone conversation to openly discuss concepts for common area and interstate 90 noise mitigation. Below are comments for consideration as the project develops related to parkland dedication, non-motorized facilities and interstate noise levels:

- Common area with limited access and visibility tends to become an extension of the adjacent property owner’s backyard, thus losing value as common area.
- Residents in the duplexes will have the highest need for common area/green space as they will not have a dedicated outdoor space.
- It is unclear what Park Design Standard in section 3.10.7 of the County Subdivision Regulations is intended to be satisfied with the proposed common area.
- County Subdivision Regulation 3.10.5.2 allows for a developer to propose Cash-in-Lieu to satisfy parkland dedication requirements.
- A sound study could prove beneficial to determine adequate setbacks or inform on-site improvements to mitigate sound from the interstate such as an earthen berm, wall, or vegetative screen (less effective). An earthen berm could be a way to manage onsite excavated material, but quantities could be small. To maximize height and minimize soil, a fence and trees could be planted atop the berm.

For more information, refer to the publication, *Growing Neighborhoods in Growing Corridors – Land Use Planning for Traffic Noise* available on the MDT website https://www.mdt.mt.gov/other/webdata/external/research/docs/research_proj/noise_plan/final_report.pdf. There are also a number of related references in this report, including websites. Joe Radonich, with MDT at 444-9204 or jradonich@mt.gov will be a good contact.

- Missoula County Subdivision regulations 3.4.9.2.B.1 states: Rural major subdivisions shall include a trail on at least one side of all roads internal to the subdivision that is constructed pursuant to the standards established in Table 3.4.9.4, Non-Motorized Standards. The current trail layout does not meet regulation 3.4.9.2.B.1

As discussed on the phone, a loose concept layout is attached on how a centralized common area might be integrated into the layout while hopefully maintaining the purposed sanitation drain fields. Pending how drain fields are sited, it can limit common area improvements, such as built structures.

Thank you for the opportunity to comment.

**Garrick Swanson**, Parks & Trails Planner II, MLA  
(406) 258-4719 / gswanson@missoulacounty.us

**Parks, Trails & Open Lands**  
MISSOULA COUNTY  
Community and Planning Services  
Parks, Trails & Open Lands  
127 East Main Street, Suite 2  
Missoula, Montana 59802-4292
Garrick-
Thank you for your call. I enjoyed brainstorming with you on how to best utilize Common Area within this proposed subdivision.
Thank you for your comments too. We will definitely consider them as we move forward.
Cheers,

Joshua G. Phillips, PLS - Vice President
March 14, 2019

Mr. Jim Nave  
DNRC Regional Office  
PO Box 5004  
Missoula, MT 59806-5004

RE: Revision 2 to the Determination Regarding Groundwater Water Right Requirements for the Subdivision of Lot 1 of Hamel Acres in the NE ¼, S34, T15N, R21W, P.M.M., Missoula County, Montana

Jim:

Please review this letter and attachments to make a determination in regard to water rights for the aforementioned proposed project. This project was previously reviewed on January 18, 2019 (see attached letter). We are proposing to adjust irrigation to allow Lot 13 to irrigate lawn with groundwater. Please re-review this proposal.

Kate and Dana Cotnoir would like to divide the 20.35 acres of Lot 1 of Hamel Acres in Sec 34, T15N, R21W, PMM, Missoula County, MT. through a Major Subdivision. The land is currently undeveloped with highway access and an irrigation ditch. The property has a geocode of 04-2428-34-1-02-02-0000 and has no address. There have been no previous sanitation reviews of this property (it was exempt from Hamel Acres) and no water or septic systems exist or have been approved on the property. The owners intend to split the property into 13 Lots, 1-13, with a Common Area, with lots varying in size from 1.0 to 5.0 acres. Three of the Lots, 1, 2, & 3 will have a duplex with a shared well and a shared septic. The other Lots (4-13) will be single family dwellings with individual wells and septic systems. The 5.0-acre lot will be used for small scale agriculture. There is an existing surface water right associated with the property (76M 12713-00), which will be used for the agricultural lot and some landscaping, but the domestic use for the dwellings and some landscaping will need to be looked at regarding groundwater. We do not anticipate a beneficial use permit because the combined proposed well use will be less than 35 gpm and less than 10 acre-feet/year.

Site Map

See attached.

Flow Rate

The wells will use a pump that will draw at a rate of less than the 35gpm criteria for a beneficial use permit.

Volume

According to the DNRC “DNRC Water Right inquiry Instructions” the DEQ domestic standard is 0.28 AF/YR per household. The 3 duplexes (6 households) and the 10 dwellings (16 total) will use this volume. A total of 4.48 AF/YR will be used by the combined households for domestic use.
The proposed dwellings on Lots 1-13 are proposed to use xeriscaping for the front lawns but may have irrigated lawn and garden in the back yards. Through subdivision covenants these lots will be suggested to limit irrigated area to 7,185 SF (0.16 acres). Water meters will be required for all wells to track usage per household. According to the DNRC “Planning Guide for Water Use” an acre of irrigation should use 2.5 AF/season, so each lot may be expected to use 0.4 AF/season for irrigation. The agriculture needs for Lot 13 will be covered by surface water rights from the on-site irrigation ditch. Any landscaping of the Common Area and any required tree barriers will be watered via the irrigation ditch as needed. These areas will not be considered for groundwater water use.

<table>
<thead>
<tr>
<th>Description</th>
<th>Volume (acre-feet/year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Households – 16 = (0.28 x 16)</td>
<td>4.48</td>
</tr>
<tr>
<td>Lawn &amp; Garden (13 x 0.4 AF)</td>
<td>5.2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>9.68</strong></td>
</tr>
</tbody>
</table>

The wells may possibly need to produce a combined 9.68 acre-feet/year, which does not exceed the 10 acre-feet/year criteria for a beneficial use permit. The additional volume will be distributed between the lots.

**Existing Water Rights**

The surface water right #76M-12713-00 is associated with the geocode: 04-2428-34-1-02-02-0000. This will continue to be used for some irrigation and agriculture.

**Conclusion**

The aforementioned project is anticipated to use under 35 gpm and not exceed 10 acre-feet for the appropriation of the project. We appreciate your review of this project. If there is any additional information required, please contact me at either (406) 549-5022 or tom@elisurvey.com.

This letter is intended to amend and supersede the previous review of this project.

Sincerely,

Tom Anderson, PE  
Project Engineer  
(406)549-5022  
tom@elisurvey.com
March 18, 2019

Tom Anderson, PE
Eli & Associates, Inc.
PO Box 16462
Missoula, MT 59808

Re: Revised Cotnoir Subdivision of Lot 1 Hammel Acres – Missoula County

Dear Tom:

This letter is in response to your revised inquiry into the water right requirements for the proposed subdivision of Lot 1 Hammel Acres in Missoula County.

The proposal now calls for subdividing an existing 20.35-acre parcel into 13 lots and a 1-acre common area lots. The 13 residential lots range in size from 1.00 acre to 5.00 acres, with duplexes planned for lots 1 – 3 and single-family dwellings planned for lots 4 – 13. Each lot will have its own individual well with the duplexes sharing a well. There will be 16 residential dwellings requiring an annual volume of 0.28 acre-feet per dwelling, for a total annual domestic requirement of 4.48 acre-feet. Each of the 13 residential lots will have up to 0.16 acres of irrigated lawn and garden requiring 0.4 acre-feet of water per lot, for a total irrigation demand of 5.20 acre-feet. The total groundwater requirement, to be supplied water via individual wells, is 9.68 acre-feet.

All new groundwater developments on the 13 subdivided lots will be considered a combined appropriation and cannot exceed 10 acre-feet total between the lots. Per the information provided, the proposed groundwater use falls under the exception to permitting found in MCA 85-2-306(ii).

In Clark Fork Coalition, et. al. v. DNRC, et. al., 2016 MT 229, 384 Mont. 503, 380 P.3d 771, the Montana Supreme Court concluded that the definition of “combined appropriation” in Admin. R. Mont. 36.12.101(13) was invalid. The Court reinstated the Department’s 1987 Rule defining “combined appropriation” as: “An appropriation of water from the same source aquifer by means of two or more groundwater developments, the purpose of which, in the department’s judgment, could have been accomplished by a single appropriation. Groundwater developments need not be physically connected nor have a common distribution system to be considered a “combined appropriation.” They can be separate developed springs or wells to separate parts of a project or development. Such wells and springs need not be developed simultaneously. They can be developed gradually or in increments. The amount of water appropriated from the entire project or development from these groundwater developments in the same source aquifer is the “combined appropriation.”

Under this Rule, the Department interprets subdivisions that are pending before the Department of Environmental Quality for approval on October 17, 2014 or filed after that date to be a single project that can be accomplished by a single appropriation. Consequently, all wells in such a subdivision will be considered a “combined appropriation” for the purposes of Mont. Code Ann. 85-2-306. The only
exception to this interpretation is that a subdivision which has received preliminary plat approval prior to October 17, 2014 will not be considered a project under the “combined appropriation” 1987 Rule; individual lots will still be evaluated under the 1987 Rule at the time of an application to the Department. 2015 Mont. Laws § 1, Ch. 221.

This letter does not serve as a pre-approval for a water right. The information above is based upon the information provided in your request. Prior to issuance of any water right, the owner must first make an application or notice to DNRC for a water right. A copy of this letter and your request for DNRC review will be provided to DEQ. You may also revise your plans to reduce or alter your proposed water use and resubmit a new proposal to DNRC.

Sincerely,

[Signature]

Jim Nave
Regional Manager

cc: Leata English, DEQ
June 14, 2019

Eli & Associates, Inc.
Attn: Joshua Phillips
P.O. Box 16462
Missoula, MT 59808

Re: Lot 1 Hamel Acres Subdivision

Dear Joshua:

Missoula County Community and Planning Services received your application packet for Lot 1 Hamel Acres 1st Element Review on June 10, 2017. Overall, your application contains many of the required items for subdivision review; however, at this time, the Planning Office cannot certify your subdivision application as containing all the necessary elements. Please include any additional changes as mentioned below. Once these items are addressed, please resubmit the application to the Planning Office for a 2nd Element Review.

For Element Review
1. Please describe how perpetual legal access will be provided to Lot 13 considering potential ownership changes on Lot 2 Hamel acres per Subdivision Regulations Section 7.6.11.
2. Please provide a preliminary title report for the subdivision per Subdivision Regulations Section 7.4.2.
3. Please revise the Riparian Resources Management Plan per Subdivision Regulations Section 7.6.4. The Plan should contain all the elements of this section (see Section 7.6.4.1 through 7.6.4.6). Please clarify compliance with the common area dedication requirement in Section 3.2.4.2.
4. Please provide the March 18, 2019 letter from DNRC confirming an applicable water right exemption in accordance with Missoula County Subdivision Regulations Section 3.6.2.5.
5. Please explain the “suggested” lawn size maximum of 7,185 square feet when the March 18, 2019 DNRC letter assumes “…up to 0.16 acres of irrigated lawn and water gardening requiring 0.4 acre feet of water per lot…” Please also describe any irrigation need for the common area.
6. Please confirm that estimates for lawn size (based on lawn irrigation limitations) are consistent with lawn and landscaping area estimates in your drainage calculations.
7. Please address offsite agricultural runoff impacts per Subdivision Regulations Section 3.1.4.2.B.1.
8. Please clarify your answer under Agricultural Water User Facilities, Pages 8 and 9 of the Subdivision application, as access to irrigation water is effectively being severed from the remaining lots in the subdivision and directed to a single lot.

9. Please include all the elements of an Irrigation Improvements Plan per Subdivision Regulations Section 7.6.13.

10. Please waive the right to protest connecting to a municipal water system in accordance with Subdivision Regulations Section 3.5.11.

11. Please update your Fire Hazard Assessment in accordance with Resolution 2019-096. The following is a link to the document: https://gis.missoulacounty.us/ResearchAPI/Handlers/Documents.ashx?did=2y8tl1SvBoTtJC6zUq7yxw%3D%3D.

OTHER ISSUES

1. The offsite portion of the 20' wide irrigation easement will likely require the recording of a separate document. This may be required as a condition of approval.

2. The residential/agricultural use lot (13) would benefit from covenants that establish use expectations and limitations. You may want to consider adding these pieces before the subdivision is sufficient for governing body review.

3. The wildlife analysis in the Subdivision Application addresses species that may be found in the same section of the subdivision. You may want to refine this list of potential species based on the context of the property, observations of typical species in the area, etc.

4. County Parks, Trails, and Open Lands will review the common area, as well as the 2' wide Class II trail connections proposed to access the common area.

If you have additional questions please feel free to give me a call at 258-4794 or email me at tworley@missoulacounty.us.

Sincerely,

Tim Worley

Tim Worley, Planner, CAPS
Tim Worley, Planner  
Missoula County Community and Planning Services  
200 W. Broadway  
Missoula, MT 59802-4292

Re: Lot 1 of Hamel Acres Subdivision, Element Review – Response Letter to June 14, 2019

Review Letter

Tim:
The following is in response to your June 14, 2019 letter regarding the insufficiencies of the materials submitted for the 1st Element Review of Lot 1 Hamel Acres Subdivision, Missoula County. A complete revised Major Subdivision Application packet is included with this letter.

1. Legal access to Lot 13 will be provided by a Private Access Easement on and across Lot 2 of Hamel Acres. Please see the revised Preliminary Plat.
2. A preliminary Title Report is included with this packet.
3. A revised Riparian Resources Management Plan has been included as well as a Riparian Resource Map. Please see the Variance Request with regard to the Common Area requirement.
4. The DNRC letter has been included with the packet.
5. This is a simple conversion of 7,185 SF ÷ 43,560 SF/Acre = 0.16 Acres. It has been written as square footage to make it easier for homeowners to understand and utilize. The 0.4 AF is a conversion of 0.16 Acres x 2.5 AF/Acre = 0.4 AF. The common area will be native grasses and will not require irrigation.
6. The landscaped area used in the drainage calculations is 93,405 SF. The suggested lawn size is 7,185 SF. There are 13 lots that will have landscaping.
13 x 7,185 = 93,405 SF
7. The on-site irrigation ditch is elevated relative to the site and will not be impacted by runoff. The site naturally drains away from any nearby agricultural lands. See pages 8 and 10 of the Subdivision Application.
8. The point of diversion of the water right and the immediate point of use is not proposed to change.
9. An Irrigation Improvements Plan has been included.
10. SID/RSID protest waiver language has been included on the Preliminary Plat.
11. The revised Fire Hazard Assessment has been included with this packet.

OTHER ISSUES

1. The offsite portion of the 20’ wide irrigation easement has been provided for and is shown on the recorded plat of Hamel Acres.
2. Additional covenants have been included that address the specified uses of Lot 13.
3. The wildlife analysis has been revised within the Subdivision Application.

Respectfully,
Joshua G. Phillips, PLS
September 3, 2019

Eli & Associates, Inc.
Attn: Joshua Phillips
P.O. Box 16462
Missoula, MT 59808

Re: Lot 1 Hamel Acres Subdivision

Dear Joshua:

Missoula County Community and Planning Services received your application packet for Lot 1 Hamel Acres 2nd Element Review on August 28, 2019. Overall, your application contains many of the required items for subdivision review; however, at this time, the Planning Office cannot certify your subdivision application as containing all the necessary elements. Please include any additional changes as mentioned below. Once these items are addressed, please resubmit the application to the Planning Office for a 2nd Element Review.

For Element Review
1. Please clarify the “Variance requests” section of the application (top of Page 5), as you have requested a variance pertaining to the riparian area.
2. Please clarify the “Private Road Access” section (3A) in the middle of Page 18. While it appears that this tract and the adjacent tract to the east are in family ownership, the actual listed owners differ.
3. Please correct the private roads question (3B) in the middle of Page 18, as it appears that a private road is proposed for the subdivision.

OTHER ISSUES
1. Please consider double-sided printing where possible.

If you have additional questions please feel free to give me a call at 258-4794 or email me at tworley@missoulacounty.us.

Sincerely,

Tim Worley
Tim Worley, Planner, CAPS
September 6, 2019

Eli & Associates, Inc.
Attn: Joshua Phillips
P.O. Box 16462
Missoula, MT 59808

Re: Lot 1 Hamel Acres Subdivision

Dear Joshua:

Missoula County Community and Planning Services received your application packet for the Lot 1 Hamel Acres 3rd Element Review on September 3, 2019. The planning office has reviewed the application and supporting documents submitted for subdivision review and finds that the application contains the required elements under the Missoula County Subdivision Regulations (MCSR).

Information for Beginning Sufficiency Review

Within 15 working days of a complete element determination, CAPS shall determine whether the application contains sufficient information to review the proposed subdivision, which is September 27, 2019 per MCSR Section 5.7.8.

The Element Review packet will become the 1st Agency-Sufficiency Review packet. We are requesting delivery of one hard copy 1st Agency-Sufficiency Review packet and one electronic packet, per A.1 and A.2. of the Subdivision Application. The 1st Agency-Sufficiency Review packet should be identical to the material that passed Element Review, plus this letter.

After you submit your 1st Agency-Sufficiency Review packet, our office will create a link to allow agencies and interested parties to review the digital submission. We will notify you of the link to be sent and provide a list of agencies and interested parties for review. When you receive this link, please send agencies and interested parties an email with the following information:

1. State the date agencies and interested parties are being notified that the packets are available electronically for their review.
2. State the agency review comment deadline, which should be September 24, 2019. This allows three (3) working days for CAPS staff to review agency comments before concluding the Sufficiency Review.
3. You are encouraged to provide CAPS with the 1st Agency Sufficiency Review packet by September 10, 2019 to allow ten (10) working days for agency review.

If you have additional questions, please feel free to give me a call at 258-4795 or email me at tworley@missoulacounty.us.

Sincerely,

Tim Worley
Tim Worley
Missoula County
Community and Planning Services

Enclosure
Comments: 1st Agency Sufficiency Review

From: Jim Erven <jerven@missoulacounty.us>
Sent: Wednesday, September 11, 2019 4:00 PM
To: envhealth <envhealth@missoulacounty.us>; Tim Worley <tworley@missoulacounty.us>; Dan Fultz <dfultz@missoulacounty.us>
Subject: Re: Subdivision Application - 1st Agency Sufficiency Review

Project requires sanitation review per 76-4 MCA

James Erven, R.S.
Environmental Health Specialist II
Missoula City/County Health Department
301 West Alder
Missoula, MT 59802
Office - 406-258-4755
Fax - 406-258-4781

From: Missoula County, MT <donotreply@missoulacounty.us>
Sent: Friday, September 13, 2019 10:57 AM
To: cmsadmin <cmsadmin@missoulacounty.us>
Subject: Feedback for Missoula County, MT

You have received this feedback from Judy <judy.h_mconcrete@yahoo.com> for the following page:


I think the subdivision is fine, with the exception of putting in duplexes. We have been inundated with duplexes in the last six months, and while they are nice units, being new units they are all pretty high rentals for this area. We have enough of them!

September 13, 2019
Garrick Swanson
2:25 PM
to Juniper, Kylie, Joshua, Tim

Thank you for the opportunity to comment on the proposed Lot 1 of Hamel Acres Subdivision first sufficiency review. Below are comments from Parks, Trails and Open Lands focused on non-motorized and park land requirements.

Variance request from Subdivision Regulation 3.2.4.2
Parks, Trails and Open Lands (PTOL) supports the variance request to not include the riparian resource within the subdivision common area on the easterly boundary of the proposed subdivision. PTOL encourages the riparian area be labeled on the plat as a no-build, no-disturbance zone within the existing 20’ wide utility and irrigation easement per Hamel Acres with an additional 10’ buffer. PTOL discourages pedestrian access to the irrigation ditch for public safety and users of a common area.

The proposed location of the common area is not supported by Parks, Trails and Open Lands program. The proposed location does not support Crime Prevention Through Environmental Design (CPTED) principles. We know that from park/open space management the more open and accessible a park, the more usable and inviting the space. When public spaces are enclosed, they create unusable areas that are commonly used for dumping, encroachments and undesirable activities. PTOL recommends that the proposed common area considers standard 3.10.7.1 Central Green as per the Missoula County Subdivision Regulations.

Parks, Trails & Open Lands recommends that a common area as per design standard 3.10.7.1 be improved to the following recommendations:

- Common Area shall be a continuous parcel of land with slopes not to exceed 3% (strongly support maximum slope of 1.5%) for both active and passive recreation as per Park Design Standard 3.10.7.4
- Developer is encouraged to spread a minimum 12” depth of topsoil over the entire common area
- Developer is encouraged to install a sub-surface irrigation system in the common area
- Developer is encouraged to seed the area with an approved seed mix that can withstand high use
- Developer is encouraged to install park trees
- Common area design and construction shall be approved by the Parks, Trails and Opens Lands Program prior to construction

What is the proposed ground treatment around the proposed duplexes? Residents in the duplexes will have the highest need for common area/green space as the residents will not have a dedicated outdoor space.

PTOL acknowledges the proposal to provide a common area for active recreation as per 3.10.7.4 in the Missoula County Subdivision Regulations with the intent to create a walking loop utilizing the proposed common area to connect the east and west trails. To improve access and user experience of the proposed common area should the above (standard 3.10.7.1) be determined unfeasible due to water restrictions or not supported; PTOL encourages relocation of the walkway to the outside of Westslope Loop with a 3’ wide aggregate trail through the common
area traveling east west. Please see attached concept drawing for reference. We know that from park design and planning that perimeter trails/loops are consistently in the top three requested park design features.

Section 3.10.8.3 of Park Design Recommendations are encouraged to be considered:
- Include linear parks to serve as a pedestrian path or trail system.

Please show all walkways and trails on the preliminary plat.

Please increase the width of the class III trail from 2’ wide to 3’ wide to meet ADA minimum trail widths with a firm and stable surface with a cross slope not to exceed 2% slope.

The summary of non-motorized facilities in the project summary does not align with what is shown on the proposed drainage and road/sidewalk layouts.

Please add maintenance of pedestrian non-motorized walkways and trails to the Hamel Acres Development Covenants to address and not limited to: tread maintenance, trail mowing, weed management and winter snow removal along the walkway adjacent Westslope Loop.

PTOL supports the proposed language or similar be added to the plat, “Acceptance of a Deed For A Lot Within This Subdivision Shall Constitute A Waiver Of The Right to Protest a Future RSID/SID For Improvements to Common Area, Trails and Walkways”.

Thank you,

Garrick Swanson, Parks & Trails Planner II, MLA
(406) 258-4719 / gswanson@missoulacounty.us

Parks, Trails & Open Lands
MISSOULA COUNTY
Community and Planning Services
Parks, Trails & Open Lands
127 East Main Street, Suite 2
Missoula, Montana 59802-4292

September 11, 2019
Stover, Candie

to Joshua

Thank you for the opportunity. There is no comment from the Department of Revenue at this time.

Candie Stover
Cartographer
DOR-Property Assessment Division
September 11, 2019

Louise Adams

to Tim, Joshua

The surveyors Office has no concerns regarding this project
Thank you,

Louise Adams, PLS

Examining Land Surveyor
Missoula County Surveyor’s Office
199 W. Pine St.
Missoula, MT 59802
406-258-4813
September 24, 2019

Joshua Phillips
PO BOX 16462
Missoula MT, 59808

Re: Hamel Acres- 1st sufficiency review

We have reviewed your above noted subdivision for engineering, and development concerns. Based on our review, we have the following comments:

1. While some construction/engineering details are provided in the application, this review does not consider those elements and a thorough review of those elements will be provided during the construction plan review process. Approaches onto Beckwith will be reviewed at that time.

2. Please remove the 1’ No Access Strip abutting both entrances of Westslope Loop.

3. Lots 9 & 10 display a well isolation zone encroaching into the road easement. While we do not object to this, Missoula County can neither alter maintenance activities due to this isolation zone nor be held liable for any potential contaminants. The owner of that property should be advised that maintenance activities performed by the Public Works Department (or utility providers authorized to occupy the easement) within that easement may include excavations that may disturb groundwater quality, application of liquid or granular deicing products to the road and application of herbicides. In addition to maintenance activities, the well isolation zone within the public easement may be exposed to items or materials commonly found in public easements, such as potential spills or leaks of fuel, oil, etc.

4. Please be advised that Missoula County requires building and zoning compliance permits on all new construction, please contact the Public Works Office for details.

5. A street signage plan in conformance with the Manual on Uniform Traffic Control Devices, including, but not limited to, provisions for temporary signage during construction, permanent signage, and cost of installation to be responsibility of the subdivider, shall be reviewed and approved by Public Works prior to final plat approval

Sincerely,
Missoula County Public Works

Nicole Whyte

Nicole Whyte
Building & Development Programs Manager

cc: Shane Stack
    Tim Worley
    Erik Dickson
    Brent O’Connor
    Deborah Bell
    File
Deb-
Thank you for advising me this morning on how to proceed with requesting Public Works reconsideration of comments offered in a letter dated September 27, 2019 on Lot 1 of Hamel Acres subdivision Preliminary Plat.

Pursuant to our conversation, I have attached a supplemental PDF file of the Preliminary Plat with a few layers frozen. With careful review, you will note that the 1' No Access Strip does not abut the Westslope Loop approaches to Beckwith Street right-of-way. Additionally, it should be clear that Lot 9 and Lot 10 well isolation zones do not encroach into Beckwith Street right-of-way as noted in the aforementioned letter.

Thank you for your time and consideration,

Joshua G. Phillips, PLS - Vice President
October 17, 2019

Joshua Phillips
PO BOX 16462
Missoula MT, 59808

Re: Hamel Acres- 1st sufficiency 2nd review (requested)

We have reviewed your above noted subdivision for engineering, and development concerns. Based on our review, we have the following comments:

1. While some construction/engineering details are provided in the application, this review does not consider those elements and a thorough review of those elements will be provided during the construction plan review process. Approaches onto Beckwith will be reviewed at that time.

2. Please be advised that Missoula County requires building and zoning compliance permits on all new construction, please contact the Public Works Office for details.

Sincerely,
Missoula County Public Works

[Signature]

Deborah L. Evison Bell, AICP
Assistant Director, Administration

cc: Shane Stack
    Tim Worley
    Erik Dickson
    Brent O'Connor
    Nicole Whyte
    File
Community Food & Agriculture Coalition

CFAC Comments on the Impact on Agriculture of the Proposed Hamel Acres Subdivision
September 24, 2019

Introduction: As the agency assigned by the BCC to review proposed subdivisions for their impact on Agriculture, members of the CFAC Land Use Committee have studied the application proposal and visited the Hamel project site. The review committee included ranchers who are very familiar with the past and present agricultural productivity of the land included in this project. We appreciate the opportunity to submit these comments for your consideration.

1. Assessment of Properties’ Present/Potential Agricultural Values

a) Soils: As noted on the Soils Map included with the application, the entire 20.35 acres of acres has soil identified by the USDA as having agricultural importance. Well over 50% of the north-east portion of the project area is covered with Alberton soil having very fine sandy loam and is one of only four soil types designated as Prime Soil if irrigated of the 137 different soils surveyed in Missoula County. This designation identifies soil having the greatest potential productivity and, as described in the USDA Soil Survey of Missoula County, “Prime farmland is of major importance in meeting the Nation’s short- and long-range needs for food and fiber. The acreage of high-quality farmland is limited—with only 2 percent of the survey area (Missoula County) meeting this requirement.” Moise soil with gravelly loam covers the remaining project acreage is identified as a Soil of Local Importance. USDA estimates suggest that up to a 40% drop in crop productivity can be expected from soils of local importance when compared to that of prime soils. With a consistent supply of irrigation water, land covered with prime soil is ideally suited for growing specialized crops that are part of the fastest growing agricultural operations in Missoula County today. The location of this land provides quick access for transporting the harvested produce to the increasingly large markets for such crops in Missoula.

b) Historic Agricultural Land Use: Recently the land has been used for growing alfalfa hay. In the past, it is probable that Hamel Acres was once much larger and with its soil productivity enhanced by the availability of amble water for irrigation, a variety of crops were likely
harvested from this acreage. For example, until the closure of the Missoula Sugar Beet factory, beets were grown as a highly profitable cash crop by farmers in the Missoula Valley.

c) Availability of Water for Crop Irrigation: A lateral ditch from the main canal of the Frenchtown Irrigation District delivers water to the property. Construction on this ditch was completed in 1936 furnishing water for irrigation to over 5000 acres of fertile land in Grass Valley and the Frenchtown area. This project continues the availability of irrigation water to Hamel Acres.

d) Proposed mitigation for the loss of important farmland: Recognizing that a sizable amount of important farmland will be lost if the project is approved, the application suggests that mitigation for this loss will be satisfied by setting aside 5 acres at the east end of the project for agricultural use. CFAC feels that this proposed mitigation is inadequate.

2. Climate Change Predictions:

- Experts suggest that Western Montana will be less affected by climate change and that the agricultural lands in California will greatly diminish in productivity. It thus becomes our responsibility to conserve the fertile farmland we now have.
- Due in part to the influx of climate refugees, the human population of Missoula County is expected to continue to grow in the future increasing the housing demand.

3. The Problem: How can we resolve these conflicting demands for the use of this land?

- **Option 1:** Deny the project and suggest the developers find building sites on land not identified as important farmland.

- **Option 2:** Subdivisions consisting of one acre lots allow each lot to have their own well and septic system. However, when distributed over important farmland, they are most wasteful of this rare and irreplaceable resource. Subdivisions permitted on important farmland should involve the clustering of houses by decreasing lot size, increasing the number of lots and increasing the acreage reserved for farmland. This would necessitate planning for a common water source and/or a common septic system, whether for the entire project or clusters within it. For example: the small subdivision on the nearby King Ranch features a common water source with individual septic systems resulting in adjoining lots of modest size. Shared systems, appropriately, move the costs forward in the development, rather than imposing the individual costs on homebuilders. And, although this imposes an additional cost for the developer, it increases the value of the lots by avoiding the need for separate systems. A well-designed development with shared systems could have substantially increased revenue through the sale of more building sites permitted by clustering, even while preserving more prime agricultural land.

- **Possible acceptable designs for Hamel Acres** includes the expansion of the agricultural lot to 10 contiguous acres on the east side of the property covered entirely with prime Alberton soil with the building lots platted on the remaining
8.1 acres having the less productive *Moise* soil and with a reduction of lot size (Note: typical city lot size rarely exceeds 700,000 square feet)

1) Reducing the lot size to one half acre (20,480 square feet) would result in 16 building lots.

2) Reducing the lot size to one third of an acre (13,650 square feet) would allow for 24 building lots.

3) Reducing the lot size to one fourth of an acre (10,240 square feet) would allow for 32 building lots.

4) **Summary:** Using clustering of houses with the reduction of lot size will help alleviate future housing problems and diminish the pressure to build on important farmland.

**4. Recommendations:** CFAC recommends denial of this subdivision application in its present form due to the inadequate mitigation of its effect on agriculture with the permanent loss of too many acres of our most productive soil. CFAC would consider approval of a redesign of the project featuring clustering of housing as described above.

**5. Comments prepared/reviewed by these CFAC Land Use Committee Members**

*Jim Cusker, Andy Hayes, Regan Whitworth*