



Request for Commission Action

Public Hearing

Meeting Date: April 27, 2017

Action Information

Date Required: 04/27/2017

Action/Motion Requested: Staff and Planning Board
Recommendation:

THAT the Spurgin Ranch Subdivision be approved as conditioned.

Requestor Information

Submitter: Christine Dascenzo

Department: CAPS - Planning

Submitted:

E-mail: cdascenzo@missoulacounty.us

Presenter: Christine Dascenzo

Parties Involved: Spurgin Ranch, LLC - Applicant and Landowner
Territorial-Landworks, Inc. - Representative

Fiscal Impact:

Budget Action Required:

Project Information

Project/Item: Spurgin Ranch Subdivision

Project Location: Target Range Neighborhood between Spurgin Road and Mount Avenue, west of Clements Road

Project/Contract Begin Date:

Project/Contract End Date:

Action Request Summary

Spurgin Ranch major subdivision, creating 19 lots and 1 agriculture and utility lot

Action Request Approvals

Christine Dascenzo
Tim Worley
John Hart
Annie Cathey

Created -

Commission Actions

Chair

Chair Authorized to Sign: No

To review the Commissioners' schedule, please go to <http://bit.ly/BCCschedule>

Commissioner _____
Commissioner _____
Action Date _____



MEMORANDUM

TO: Board of County Commissioners

FROM: Christine Dascenzo and Tim Worley, Community & Planning Services

DATE: April 20, 2017

RE: Mitigation of Potentially Adverse Impacts, Spurgin Ranch Subdivision

Based on Planning Board discussion and subsequent interactions with the applicant and the applicant's representative, interested parties, and CAPS staff, additional mitigations have been proposed to address the issues that informed the original denial recommendation in the staff report, including the viability of agriculture, irrigation water allocation, zoning compliance alternatives for the Agricultural and Utility Lot, and connectivity to Mount Avenue.

The applicant has proposed to offer Lots 1, 2, 3, and 4 with a Right of First Refusal option to an entity that will restrict use exclusively to agriculture for a certain period of time after final plat approval. Staff has included this in a subdivision condition, requiring a minimum 12-month time period. If this option is fully realized, an additional 3.29 acres would be available for agricultural use. Additionally, the covenants have been proposed to include language clarifying that the Agricultural and Utility Lot will maintain the senior right for use of irrigation ditch water shares available to the subdivision. The issue of the Agricultural and Utility Lot's width compared to its depth is addressed in a condition requiring this zoning compliance issue to be addressed through establishment of a building setback line or through obtaining approval of a variance. Together these offerings reasonably mitigate the impact to agriculture, and address other impacts to the Subdivision Review Criteria. The full list of recommended conditions is found as part of the Planning Board summary.

County Parks, Trails and Open Lands recommended a combined use of cash-in-lieu of parkland dedication and a dedicated linear park to provide a pedestrian connection through the subdivision, from Road 'A' to Mount Avenue. The parkland would be in the form of a pedestrian/bike corridor along the southern portion of the Agricultural and Utility Lot, upon which a trail would be constructed. Construction costs would be offset by the cash-in-lieu funds.

Based on these conversations and with the proposed alterations, Community and Planning Staff is now comfortable recommending approval of the proposal.

Attachment #1

Planning Board Recommendation Spurgin Ranch Subdivision

Planning Board Recommendation

On Tuesday, April 4th with 7 members and 2 alternates present, the Missoula Consolidated Planning Board voted 6-3 to recommend approval of the Spurgin Ranch Subdivision. This followed a motion to recommend denial of the subdivision which failed 4-5. A summary of the Board's discussion, findings of fact from the meeting, possible conditions, and a plat checklist can be found following the recommended motion.

Planning Board's Recommended Motion

1. **THAT the Spurgin Ranch Subdivision be approved** for a three-year preliminary plat approval period, based on the appropriate findings of fact and conclusions of law, public comment, and subject to conditions that will not trigger significant additional review. *(Motion passed with six votes of 'aye' and three votes of 'nay.'*)

Planning Board Discussion

The Planning Board discussed Spurgin Ranch Subdivision in light of the Subdivision Review Criteria, Subdivision Regulations, and public testimony. The Planning Board, on a vote of 6-3, recommended approval of the Spurgin Ranch Subdivision.

The Board discussed the mitigation merits of the proposed agricultural parcel, given the review criteria in state law and the limited requirements in the Subdivision Regulations. At 15% of the total property, the majority of Planning Board deemed the agricultural parcel sufficient for mitigation and recognized it as an offering where one is not mandated. Those not supporting the mitigation proposal acknowledged the quality and rarity of the agricultural soils, the parcel's isolation from existing agriculture, and encumbrances by the riparian area and utility lot. There was discussion about the housing market and agreement that this development, or any new subdivision, would not address affordable housing issues in Missoula. The fact that some mitigation of agriculture is provided through the restricted agricultural parcel contributed to the subdivision gaining Planning Board's approval recommendation.

See the Planning Board Minutes (Attachment #2) for further discussion.

Planning Board's Additional Findings

1. The subject site is located within the 2010 Census Urban Area, Missoula Urban Growth Area, Wastewater Treatment Plant Service Area, Missoula Active Transportation Area, and Missoula Metropolitan Planning Organization boundary, where development is expected.
2. The subdivision is in compliance with the land use designation of 1 dwelling per acre from the Missoula County Growth Policy and the C-RR1 zoning density of 1 dwelling per acre.

3. A public road easement on the northwest corner of the subject site was a factor in locating the proposed Agricultural and Utility Lot to the east of the subdivision.
4. The County established three working groups to investigate voluntary agricultural protection and has not codified their recommendations.
5. Excluding the portions of the Agriculture and Utility Lot that are encumbered by the drainfield and riparian area, as calculated by staff, this lot still preserves 15% of the total site for agriculture use.
6. A number of lots in Target Range and Orchard Homes, used for agriculture, are similar in shape and scale to the proposed agricultural lot.

Planning Board's Recommended Conditions of Subdivision Approval

(Produced by staff, based on the application and discussion at the Planning Board meeting.)

Plat

1. The following statement shall be shown on the face of the plat, subject to CAPS review and approval prior to final plat approval:

"Acceptance of a deed for a lot within this subdivision shall constitute a waiver of the right to protest a future RSID/SID for a community or municipal water system for fire protection purposes." *Subdivision Regulations Section 3.5.11*
2. The Areas of Riparian Resource shall be shown in bearings and distances and labeled on the plat or on a conditions of approval sheet, subject to CAPS review and approval prior to final plat approval. *Subdivision Regulations Sections 3.2.3 and 7.6.4*
3. The Agricultural and Utility Lot shall be made zoning compliant by one of the following, prior to final plat approval: 1) the establishment of a Building Setback Line such that the Agricultural and Utility Lot is compliant with the minimum lot width in the C-RR1 zoning, subject to review and approval by CAPS prior to final plat approval; or 2) approval of a minimum lot width zoning variance. *Missoula County Zoning Resolution; Subdivision Regulations Section 1.8.3.2*
4. All easements, including those for water and wastewater, storm water, and utilities, shall be at least 20 feet wide. *Subdivision Regulations Sections 3.6.4, 3.7.8, and 3.8.3.*

Agriculture and Agricultural Water User Facilities

5. The developer shall provide documentation that the water rights associated with Parcel A of C.O.S. 6210 have been severed or are intended to be severed in conformance with MCA 76-3-504 (1)(J) and Subdivision Regulations Section 3.1.5.4 prior to final plat approval. Severed water rights, or the intent for water rights to be severed, shall be indicated on the final plat and in the covenants, with language subject to CAPS review and approval prior to final plat approval. *Subdivision Regulations Section 3.1.5.4*
6. The developer shall provide documentation of a Right of First Refusal for Lots 1, 2, 3, and 4 binding the subdivider to offering or making a good faith effort to offer the lots for sale or lease to a party for the exclusive use of agriculture for a mutually agreed upon amount of time that shall not be less than 12 months from final plat approval, subject to review and approval by CAPS prior to final plat approval. *Subdivision Regulations Section 3.1.4.2.A*
7. The covenants shall be amended to clarify that the Agricultural and Utility Lot maintains the senior right for use of irrigation ditch water shares allocated to the parent parcel, with language subject to CAPS review and approval prior to final plat approval. This section of

the covenants shall not be changed or deleted without governing body approval.
Subdivision Regulations Appendix E

Roads, Access and Utilities

8. A road signage plan in conformance with the MUTCD, including, but not limited to, provisions for temporary signage during construction, permanent signage, and cost of installation to be the responsibility of the subdivider, shall be reviewed and approved by County Public Works prior to final plat approval. *Subdivision Regulations Section 3.4.7.4*
9. Address assignments and an address signage plan shall be reviewed and approved by the Missoula Rural Fire District and be included in the development covenants prior to final plat, subject to review and approval by Public Works, Missoula Rural Fire, and CAPS. *Subdivision Regulations Appendix E*
10. Road A shall be designated as a public right-of-way on the final plat, subject to review and approval by Public Works and CAPS. *Subdivision Regulations Table 3.4.7*
11. The 60-foot wide public rights-of-way shall extend south along the common lot boundary of Lots 3/4 and Lot 7, along the common lot boundary of Lot 16 and Lot 19, and west along the common lot boundary of Lot 18 and Lot 19, subject to review and approval by Public Works and CAPS prior to final plat. *Subdivision Regulations Section 3.4.6.3*
12. Should well isolation zone easements be needed to accommodate well arcs within or adjacent to this subdivision, reasonable changes to the final plat shall be permitted, subject to CAPS review and approval prior to final plat. Arcs shall be shown with bearings and distances as appropriate. All off-property encroachments shall be verified by written approval of the appropriate landowners. *Subdivision Regulations Sections 3.6.2.4 and 3.7*

Park Land/Cash-in-lieu/Common Area

13. A combination of cash-in-lieu and land dedication shall be used to satisfy the parkland requirement. The applicant shall provide the appraisal of cash-in-lieu of 1.06 acres of park land and proof of payment in the amount proportional to the value of the land not covered by the land dedication, subject to the review and approval of County Parks, Trails, and Open Lands and CAPS prior to final plat. *Subdivision Regulations Section 3.10.5.2*
14. A pedestrian/bike corridor measuring at least 20 feet wide shall be dedicated, shown on the plat, and provide access through the Agriculture and Utility Lot. The corridor shall be eligible for up to 50% of the required dedication as confirmed by a decision of the Parks and Trails Advisory Board, subject to review and approval of County Parks, Trails, and Open Lands prior to final plat approval. The corridor shall connect the sidewalk along Road A to Mount Avenue and be subject to review and approval by Public Works; County Parks, Trails and Open Lands; and CAPS prior to final plat approval. *Subdivision Regulations 3.10.8.4*
15. A Class I Core Trail shall be constructed within the pedestrian/bike corridor pursuant to a Development Agreement signed by representatives of the subdivider, County Public Works, and County Parks, Trails, and Open Space. The Agreement shall include, at a minimum: trail design specifications, a construction schedule, and cash-in-lieu reimbursement procedures. The Agreement shall be subject to review and approval by Public Works; County Parks, Trails, and Open Lands; and CAPS prior to final plat. *Subdivision Regulations Section 3.10.7.5, 3.10.8.4, and 3.10.9*

Area of Riparian Resource

16. The Riparian Resource Area Management Plan shall be amended to include information on the 20 foot wide pedestrian easement and trail construction, subject to CAPS review and approval prior to final plat approval. *Subdivision Regulations Section 3.2.3*
17. The Area of Riparian Resource in Zones 2 and Zone 3 shall be expanded to the north and south to entirely encompass existing riparian vegetation, including to the established fenceline north of the ditch, subject to CAPS review and approval prior to final plat approval. The Area of Riparian Resource Buffer shall be expanded in kind to provide at least a 10 foot wide buffer for the Area of Riparian Resource. The Riparian Resource Management Plan and related exhibit shall be recorded with the covenants, subject to CAPS review and approval prior to final plat approval. *Subdivision Regulations Section 3.2.3*

Weeds

18. A Revegetation Plan for disturbed sites shall be submitted to and approved by the Missoula County Weed District prior to final plat approval. *Subdivision Regulations Section 3.7.12.3*
19. The Development Covenants shall be amended to include a weed management plan for all undeveloped and unsold lots of the subdivision, subject to review and approval by the County Weed District and CAPS. It shall include provisions making the developer responsible for its implementation for all undeveloped and unsold lots, subject to review and approval by CAPS prior to approval of the first building permit. The developer shall start implementation of the Plan and the covenant or development agreement provisions related to weed management as specified in the plan and progress on implementation of the plan shall be approved by the Missoula County Weed District and CAPS. *Subdivision Regulations Section 3.7.12*

Public Health and Safety

20. The Groundwater Mitigation Report shall be recorded with the covenants, subject to CAPS review and approval prior to final plat approval. Subsections 1 and 2 under "4.0 Groundwater Mitigation" shall be amended to require lowest floors to be constructed six inches above street level, and prohibit basements, subject to CAPS review and approval prior to final plat approval. *Subdivision Regulations Section 7.6.12.8*

Covenants

21. The Building Permit Requirements Section in Covenant Section 6 shall be amended to add the following:
 - d. "The lowest floor of each home shall be built at least six inches above adjacent street level as certified by a Professional Engineer. See Groundwater Mitigation Report for details."
 - e. "Basements shall be prohibited. See Groundwater Mitigation Report for details."
Subdivision Regulations Section 7.6.12.8
22. The last sentence in Covenant #9 shall be amended to strike "~~Ground disturbances caused by construction or maintenance must be re-vegetated with beneficial species at the first appropriate opportunity.~~" and add "Replanting areas of disturbance shall occur no later than the first growing season after the ground disturbance to prevent erosion and weed invasion." *Subdivision Regulations 3.7.12.3*

23. The Amendments section of the covenants shall include sections related to Agriculture, the Riparian Resource Management Plan, Groundwater Mitigation, the Private Road Maintenance Agreement, and water rights as sections of the covenants that shall not be changed or deleted without governing body approval. *Subdivision Regulations Section 7.6.6*

FINAL PLAT REQUIREMENTS

If the Commissioners preliminarily approve the proposed subdivision, the preliminary approval applies to the subdivision as proposed on the preliminary plat and in the submittal packet, as amended by any conditions of approval. Community and Planning Services (CAPS) and other applicable agencies will review for the following items, in addition to conditions of approval, and the final plat checklist, prior to final plat approval in order to ensure compliance with the subdivision regulations, other applicable regulations, and the proposed preliminary plat and submittal packet:

Plat

1. Notes requiring fire sprinklers be installed in single family homes; proximity to adjacent agricultural land; restrictions associated with the Agricultural and Utility Lot, and well isolation zone easements shall appear on the plat or conditions of approval sheet as appropriate, to be reviewed and approved by the CAPS office prior to final plat approval. *Subdivision Regulations Section 3.1.5.4*
2. A 1-foot wide Access Control Line that designates access to Lots 8 and 11 and the Agricultural and Utility Lot, shall be shown on the final plat and is subject to review and approval by Public Works and CAPS. *Subdivision Regulations 2.2.2*

Roads

3. Plans for and installation of Proposed Road 'A', as detailed in the Street and Road Plans, shall be reviewed and approved by County Public Works, the Missoula County Fire Inspector, and CAPS prior to final plat approval. The road shall be paved to an unobstructed drivable width of 24 feet, exclusive of shoulder, within a 60' public road right-of-way, maintain a grade of no more than 10%, and incorporate T-type turn-arounds at both corners. *Subdivision Regulations Section 3.4.7*
4. The shared access for Lot 8 and Lot 11 shall be paved to an unobstructed drivable width 20 feet to be reviewed and approved by County Public Works and the CAPS office prior to final plat approval and a maintenance agreement complying with Subdivision Regulations Appendix B shall be incorporated into the covenants be reviewed and approved by County Public Works and the CAPS office prior to final plat approval. *Subdivision Regulations Section 3.5.8.3, Appendix B*

Pedestrian Access

5. A minimum 8 foot wide paved sidewalk with a 12 foot wide boulevard along one side of Proposed Road and an 8 foot wide paved sidewalk along the north boundary of Lot 1, providing pedestrian access to the Agricultural and Utility Lot, shall be installed. The plans and construction shall be reviewed and approved by County Public Works and the CAPS office prior to final plat approval. *Subdivision Regulations Sections 3.3.3.2 and 3.4.9.1.B.1*
6. Street crossings shall be installed in at least three locations. The first shall be located where the trail spans across the southeast corner of Proposed Road A. The second and third shall be located across the intersections of Spurgin Road at Humble Road and Sierra Drive, connecting the sidewalk to the existing non-motorized infrastructure, to be reviewed and approved by County Public Works and the CAPS office prior to final plat approval. *Subdivision Regulations Section 3.3.3.2*

Fire

7. Residential fire sprinklers that meet NFPA standards are required for fire suppression, subject to review and approval by the Missoula Rural Fire District as detailed in the "Building Permit Requirements" section of the covenants. *Subdivision Regulations Section 3.5.3; Missoula Rural Fire District*

April 20, 2017

Tim Worley
Missoula County Community and Planning Services
200 West Broadway
Missoula, Mt 59802

Re: Spurgin Ranch Subdivision

Dear Tim,

I am writing to follow up on our short April 20 phone conversation. Thank you for your time.

We have lived in the Target Range neighborhood for more than 30 years and, as I mentioned to you, we have known the Richardson and Ruana families for most of that time. So, we have no desire to hinder how their land is developed, as long as the applicable subdivision rules are followed.

However, there is one thing that we would like for the developer to consider and that is a dedicated pedestrian/bike path through the agricultural lot, connecting Spurgin Road and Mount Avenue. This very thing was mentioned in a December 22, 2016 letter from Missoula County Parks, Trails, and Open Lands Committee to Territorial Landworks. Also, we have heard other folks in the neighborhood mention this and the Community and Planning Services EXECUTIVE SUMMARY (p.14) notes that several neighbors of the proposed subdivision spoke of the need for a more direct route to Mount Avenue for kids heading to the Target Range School.

This has a direct bearing on us, even though we don't live directly adjacent to Spurgin Ranch. We live a short distance to the east at the very north end of 42nd Avenue (1445). 42nd Avenue is a dead end that stops several hundred yards shy of Spurgin Road. Especially during the summer, kids, dogs, and bicyclists like to take the most direct route from Mount Avenue to Spurgin Road which brings them down our driveway, across our yard, across the yard of our neighbor to the west and then down another private drive that serves several houses accessible from Spurgin. We fear that this route will become the default Spurgin Ranch to Mount Street corridor because it is more direct than going out to Clements Road.

Thank you for accepting these comments. We hope that what we have said will be considered.

Jim and Janet Surrena
1445 42nd Ave
Missoula, MT 59804

406-549-1386

April 4, 2017

Missoula Planning Board,

Thank you for providing the opportunity to comment on the Spurgin Ranch subdivision proposal. One of my biggest concerns is for these lands that are on the fringe of development. It is these that are most in danger of being developed and it is not in keeping with the intent of the Target Range plan. See page 5 of the staff report, item 14: The Target Range plan states the need to "preserve open space within the neighborhood, not just on the periphery, and agricultural use is a good open-space option" and warns that "low-density development that fences off smaller lots, for example, one-acre parcels with bluegrass lawns, also threatens the loss of soil available for agricultural uses."

This proposal is for soil that is classified as prime if irrigated, soil of national importance and of which there is only 8% in Missoula County. Remember, the county has a mandate under state law to adequately mitigate for the loss of agricultural land to subdivision. This proposal cannot be considered adequate mitigation.

This proposal is being presented after months and even years of work citizens, public officials, developers, agencies, conservation organizations and housing advocates have struggled to craft solutions for addressing the loss of agricultural soil in Missoula County. This proposal doesn't employ those tools. The past year the Board of County Commissioners created three working groups to develop ways to voluntarily conserve agricultural soils and practices. It may be naive of me, but I thought subdivision proposals on such soils would now be more creative or show more effort to acknowledge the commissioners' and community's concerns.

Please support planning staff's recommendation to deny this proposal. They have clearly outlined several concerns regarding development planning in this neighborhood specifically. We can do better than this in Missoula County to both accommodate landowners' needs and protect finite, precious soil.



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MISSOULA CONSOLIDATED PLANNING BOARD MINUTES
City Council Chambers, 140 W. Pine
April 4, 2017,
At 7:00 PM

Members present: Dick Ainsworth, Neva Hassanein, Michael Houlihan, John Newman, Josh Slotnick, Jamie Hoffmann, Dudley Improta

Members absent: Helen Jenkins, Jason Rice

Others present: Jenn Gress, Laval Means, Christine Dascenzo, Tim Worley, Heather Peters, Paul Forsting, Steven Tucker, Don Ruana, Dennis Rauna, Dave Ruana, Peggie Morrison, Dean Gingerich, Shauna Gedney, Robert Anderson, Nancy Anderson, Rob Fleming, Lorna Richardson, Jim Surrena, Janet Surrena, Don MacArthur, Elaine Higuera, Mark Nicholzen, Derek Goldman, Ross Prospero, Juanita Vero, Gene Thompson, Jim Cusker, Bob Caryton, Carol MsQuade, Bill Farrell, Andy Short, Catie Reames, Kali Orton, John Vance, Bonnie Buckingham, Clare O'Conalle, Mark Kobos, Andy Hayes.

I. Call to Order

Mr. Newman called the meeting to order at 7:00 p.m.

II. Roll Call

The meeting secretary called the roll. There were 7 regular members and 2 alternates present. With a member from the City and a member from the County absent both alternates were called as voting members.

III. Approval of Minutes

A. March 7, 2017 Meeting Minutes--

[History](#)

7:02 MOTION: Mr. Improta moved, Mr. Ainsworth seconded to approve the March 7, 2017 meeting minutes.

The vote passed with a voice vote of all “ayes”.

IV. Public Comment

There were no public comments on items not on the agenda.

V. Staff Comments

There were no Staff comments.

VI. Public Hearings

A. Ordinance Modifying Historic Preservation Commission Membership Requirements, City—Jenn Gress

[History](#)

Recommended motion

That the Missoula City Council approve an ordinance to modify the Historic Preservation Commission Membership and Voting requirements found in Title 20, Section 20.90.030B and E.

Jenn Gress, City Development Services introduced the proposed changes to the Ordinance Modifying Historic Preservation Commission Membership Requirements. This is a city initiated amendment. The goals are to accomplish optimum board efficiency, encourage greater participation, and add clarity.

Currently the board has 11 regular members and 2 alternates, which is the largest board the City manages. It is made up of 5 geographic regions; there is 1 at-large member, 3 professional members, 1 Design Review Board member, 1 Missoula Redevelopment Agency member, and 2 alternates.

She said experts in the field of board management have recommended an optimal board size of between 5 and 7 team members. Staff is recommending a board size of 9 members; 7 regular members and 2 alternate members. Reducing the membership from 13 to 9 will be in line with other boards the City manages. On February 22nd the Land Use and Planning Committee considered a draft of the amendments. The City Council supported the concepts and motioned to send the proposed amendment to the Planning Board. At their March meeting the Historic Preservation Commission reviewed the amendments and suggested subsection B.5, dealing with the additional outside expertise, be removed from the proposed amendments and addressed in the next phase of preservation permit procedure clean up, and that preservation law and historic preservation expertise be included in the list of professions in subsection B.3. Both suggested amendments were included in the 3/17/17 document. Agency and interested party memos were distributed and 3 responses were received, 2 responses did not have comments, the third came from an HPC member requesting clarification on the alternates role when a members term has expired and the member is not willing to continue until a replacement is appointed by the City Council.

Ms. Gress reviewed the proposed changes including removing the geographic regions, showing a map of the proposed downtown region, increasing the at large positions from 1-3, the addition of preservation law and historic preservation to the professional members, removal of subsections B4 and B5, a clarification of the alternates roles, and a clarification of the number of members required for a quorum.

Ms. Gress went over the timeline for this process. Which started in February, reached the Planning Board in April and the City Council Public hearing will be requested for May.

RECOMMENDED MOTION: That the Missoula City Council approve an ordinance to modify the Historic Preservation Commission Membership and Voting requirements found in Title 20, Section 20.90.030B and E.

There was no public comment.

Mr. Improta asked if they needed to get approval from a City Attorney before bringing in outside experts. Ms. Gress said they had that in previous language, but it was decided to remove that and add the preservation law and historic preservation under the professional paragraph that will be reviewed later.

Mr. Newman made comment to the structure of the alternate section, Ms. Gress said she will look at it, but his suggestion seems fine at this time.

7:11 Mr. Hoffmann moved, Mr. Slotnick seconded that the Missoula City Council approve an ordinance to modify the Historic Preservation Commission Membership and Voting requirements found in Title 20, Section 20.90.030B and E.

The motion passed with a voice vote of all 'ayes'.

Christine Dascenzo, Planner with Missoula County Community and Planning Services, introduced the Spurgin Ranch Subdivision proposal. This is a major subdivision proposing 19 residential lots on 20.01 acres. It is owned by Spurgin Ranch LLC and represented by Paul Forsting with Territorial Landworks. A certified mailing, legal ad, Planning Board, Commissioners meeting, and 60 day comment period make up the process for this proposal. The location is in the Target Range area East of the Bitterroot and Clark Fork Rivers.

The existing lot is bordered by Spurgin Road, a 24' wide road with a 5' bike-ped path. North of the ditch are 16 acres of agricultural land and irrigated and unirrigated hay and alfalfa. South of the ditch are 4 acres of horse pasture. Ms. Dascenzo gave an overview of the subdivision, which includes 19 residential lots, a 5.28 acre ag and utility lot, 1 loop road, a shared access for lots 8 and 11, and a 8' wide sidewalk on one side.

Ms. Dascenzo described the surrounding conditions. There are residential lots ranging from 1 to 2.5 acres in size, and a 67.73 acre agricultural lot to the West. The subdivision was reviewed for zoning and comprehensive plan compliance.

The site is zoned C-RR1, and Ms. Dascenzo read the intent for C-RR1 Residential zoning. The density of this zoning applies to residential lots and the lot width applies to any lot in the district, as do the setbacks and building heights. The residential lots comply with density and lot widths; however the proposed ag lot does not comply with the minimum lot width required for this zoning. This was not discovered during the sufficiency review and while it informs noncompliance, it is not the basis for the denial.

This area is subject to the Missoula County Growth Policy from 2016 and the Target Range Plan from 2010. Ms. Dascenzo went over the goals of the Growth Policy for this area. The Target Range Plan lists the need to preserve open space within the neighborhood, not just on the periphery, and ag use is a good open-space option. Prime soils are designated in this area. Only 8% of Missoula County has prime soil.

The conclusion from the Target Range Plan based on the prime soils if irrigated, location to sewer and water hookups, and current/historical ag use is that this is a low suitability area for residential development. The goal of the Growth Policy is to guide subdivisions to have the least impact on natural resources and to areas that are most suited for development. The recommendation is not based solely on non-compliance with the Growth Policy.

The applicant provided a map showing the usable ag acreages. Staff recommended having a 10 foot buffer on each side of the riparian area and calculated a total of 3 farmable acres. The applicant shows a total of 4.11 acres available for agriculture. Agriculture was not properly mitigated by the ag lot. The Health Department did review ag water user facilities, and commented that the ditch water is considered high quality ditch water.

Ms. Dascenzo said City and County Parks would prefer cash-in-lieu and recommend a pedestrian easement through the ag lot. Also a trail could be constructed with cash-in-lieu to address agency and neighbor support. Local services were reviewed. There are no adverse impacts to schools, natural environment, wildlife or wildlife habitat. Fire and law enforcement services are available.

Ms. Dascenzo concluded that the ag impacts have not been mitigated, the subdivision is not in compliance with the growth policy or its amendments, and the subdivision design could mitigate these impacts.

Staff recommended motion: That the Spurgin Ranch Subdivision be denied based on the findings of fact in the staff report and public testimony.

Paul Forsting with Territorial Landworks introduced himself as representing the applicant. He said they have looked at this site for quite a while on how to put it together. Mr. Forsting went over the review process for this project. He said they have been trying to balance the needs of this project and went over the review criteria. First is zoning, which permits 1 dwelling per 1 acre. The property has been zoned the same way for 40 years. Adjacent to that is land zoned 2 dwelling units per acre, and additional 1 dwelling per acre zoning.

Mr. Forsting showed a map of the area. He said there are about 16 houses directly adjacent to this property. When you look at the entire Target Range area there are very limited areas to add homes. The Growth Policy suggests 1 dwelling per acre. They reviewed the policy and its amendments very carefully and they are asking to build the same way that is built all around that area. We are proposing a high quality waste water system. This project supports bicycle and public transportation and will prevent light pollution. Mr. Forsting reviewed quotes from the Target Range plan and said many residents agree that the primary use should be residential. The subdivision also complies with the land use recommendation.

Mr. Forsting showed the urbanized area and said this project is well within the urbanized area as well as the Missoula active transportation area. The subdivision would connect to existing trails and is also in the Metropolitan Planning Area.

Mr. Forsting showed a map including an existing road easement that bisects the neighboring property and an established sewer line easement. This falls within the Major Urban Standards, the plan includes infrastructure that matches these urban standards. Roads are designed to line up with the existing road network.

Mr. Forsting described the irrigation facilities and showed the path and direction of the ditch. All domestic water would come from the onsite wells. The ag lot is 26% of the total acreage. Mr. Forsting discussed the ag land and provided pictures of the area.

Mr. Forsting provided examples of successful ag parcels that are less than 200' wide. He said that the 5 acres can be contributed to Missoula in line with Missoula being considered the "Garden City". Local services are good, close to schools, hospital, fire station, etc. He said they feel they have met the park guidelines and Fish, Wildlife and Parks does not see any adverse effects with this subdivision.

Steven Tucker spoke as an applicant for Spurgin Ranch Subdivision. He grew up in Missoula and used to live in the summer pasture of the ranch; his bother lives in the winter pasture. His grandpa purchased the land and raised cattle on the property. He wants the Board to know the applicant is not a high end developer from out of State. They grew up here, have lived a Montana childhood, and have a sensitive ear to agriculture. He said they do feel the highest and best use of this area is for residential. Housing is at a shortage right now. He said we have been monitoring the groundwater for 5 years and actively for 3 years, this isn't a recent idea. He said his aunt and uncle, cousins and their parents decided to create a partnership and do something beneficial for the area. They are very proud of this property and he wants it to be somewhere he can bring his kids to in the future to show them where he grew up.

Rob Fleming spoke as an owner of Spurgin Ranch. He too is a native lifelong Missoulian. He has been a mortgage lender since 1995 and he has never seen a housing shortage like Missoula has right now. Workforce housing and starter homes are a priority and he has 35 clients that cannot find homes and more are added to that every day. They may not be starter homes, but being reasonably priced second homes they will open up other housing options for people. The problem is there are not enough options for people looking to move out of the City. He said any housing will help the housing shortage and we should be talking about it.

Bob Carter, a Spurgin Rd. resident, wanted to thank the owners and developers. He said they have done a great job communicating with the neighbors and paying attention to the neighborhood plan. With all the different agencies that have identified how unique this property is, he hopes the owners will consider selling the land to interested parties and agencies that would be interested in taking on something like this. He said it would be a wonderful asset to the neighborhood if a deal could be made with agencies that have concerns.

Andy Hayes said that 2 years ago a subdivision regulations amendment was denied in regard to agriculture. A working group met 14 times and generated a report that is available on the Missoula County website. The primary tool would be the Open Space Bond. Currently the bond has very limited funds remaining and there is not likely to be another bond soon. The current subdivision regulations have limited use in the mitigation of agricultural lands and do not provide adequate regulations for the impacts of mitigation of agricultural lands. This happens often and it will continue to happen until there is a definite plan for developers to follow to meet agricultural mitigation standards. Ag land should be similar in scope as each of the other 7 review subdivision review criteria. It should have the same level of detailed calculations as park land dedication. The CAPS office is currently developing a report from the 3 working group reports and hopefully that will add direction in the future. Mr. Hayes said he feels they should not recommend approval as we will see changes in the future.

Jim Cusker said the report from the County is extensive, thorough and he agrees with it. He said that the owners and developers are good people and they want to see the right thing done with this property. While they may not have the same idea of what the right thing for this property is, he knows they are good people. He described a highly diverse agricultural land and said that all of those acres consist of similar soil and could be very bountiful. He wanted to remind people that in the Hellgate community the Flynn ditch serviced over 2000 acres and now you can pretty much forget about it due to development. Similar instances have happened in the Big Flat area. In Grass Valley as late as 1960 there were 26 landowners on the entire ditch and just a few years ago there are well over 200 residences and over 100 shareholders. You can see how development won't just happen in the Target Range area, but it would push outside that as well. Only 8% of land has this highly productive soil with water and this area has the water available. Even though the push seems to be for development, we shouldn't have isolated small acreages of agricultural land. The demand for agriculture is rising in Missoula and this is a valuable 20 acres.

Mr. Cusker said these folks have invested a lot of time and money into this project and he hopes they get a good reasonable price for their investment. Land acquisition followed by an easement would be best and hopefully there will be an agricultural buyer that will be interested in this land. He said there is an example in Ravalli County this last year where both parties were happy with the outcome, when a Land Trust purchased the land at market value and then sold it to an interested buyer at a lower price for agricultural purposes. The difference in the price would be refunded by multiple sources, not just from an Open Space Bond. He hopes this could be an option for this property, and he said we need to remember agricultural land is in short supply in Missoula and is essential for our future.

Juanita Vero said she appreciates the reports provided tonight and the work that has been done. These lands are on the fringe of development and are not keeping with the intent to comply with the Target Range Plan. This design does not protect this prime soil and doesn't mitigate for agricultural land. This project doesn't seem to comply with the work that many agencies have put a lot of time into. She hoped that subdivisions would be more creative in order to address the community's needs. She encouraged the board to deny this version of the subdivision and provided a letter for the record.

Bonnie Buckingham spoke as a representative of the Community Food and Agriculture Coalition. They have recommended denial of this subdivision. Identified the Target Range area an important area for agriculture. This subdivision utilizes none of the recommendations from the Growth Policy. TLI was an active participant in developing regulations. This is located on the very best soils we have in Missoula County. Any crop suitable for our climate could be grown here. The current plan falls short of achieving the goal of using this for agriculture. Much of it is designed for utilities. Land use patterns show that agriculture is not enhanced by these small plots. This will have an adverse impact on agriculture. Ms. Buckingham reviewed details of the comment submitted on behalf of the CFAC.

Ross Prosperi spoke, representing the Montana Conservation Voters in opposition of the Spurgin Ranch Subdivision. They have 1000 members in Missoula and they are increasingly concerned about the loss of ag land in Missoula to subdivision and the lack of predictability in the subdivision approval process in regard to agricultural mitigation. He encouraged the Board to recommend denial.

Bill Farrell is a neighbor and has lived there since 1994. He sees it meets the density requirements, but the neighborhood has been 1 house per acre for a long time. However you take the 5 acres out then the 19 lots do not meet the density requirement. He said there was an example where clustering worked, but you must maintain the open space requirement. He objects to this proposal because he doesn't believe the septic plan will work. He is in favor of selling to Land Trusts in order for an interested farmer to be able to purchase the area. The riparian area can only be played in during 3 months in the summer. He said there are other options to keep this area as open space and the owners still make their money. He would be open to creating a special district where the neighborhood would pay for it, if that's what it takes to keep this property as open space. He said there isn't going to be any affordable housing there and there are other places to build that already have infrastructure in place. He asked that the Board deny this in order to provide options to preserve the land.

Dean Gingerich is a neighbor across the road from the subdivision. He is adamantly against the neighborhood SID proposal. He said it appears ag land is dear to everyone here, but when he drives down South he sees the new park land that is more acreage than this subdivision and he knows that could have been ag land. Ag land is dear, but if it is for park land it doesn't seem to be as special.

Fred Stewart lives at the end of South Ave. He owns a 2 acre orchard and those 2 acres are enough to keep him busy. He is confused by the open ag land to the west of this parcel. It is productive, but these people don't own it and they don't have any say over that land. He said he disagrees with the amount of income that could be generated from Hay land and how it could cover half of the property taxes; it is irrelevant to talk about its benefit as hay land, as other parcels being discussed are used for more intensive purposes. He said small parcels of land are viable for concentrated ag use and we do have examples of that, but it is irrelevant to talk about its benefit as hay land. He said the Target Range Plan was approved in 2010 and we have been working since then to get the zoning and that plan put into effect. In the recommended zoning for this area it references the use of conservation design methods that protect resources that are at risk in the area. Those tools are recommended not required, but it's about how you position housing on parcels to protect resources. If you were to combine 2 of the lots with the 5 acres you would have a more viable and better resource and you could then position the housing on the remaining area so the owner and developer don't lose value. His only concern is that it wasn't farsighted enough to meet objectives of the neighborhood plan. He has learned how expensive it is to go through the subdivision process and he hopes if they are required to go through the process again, they would be able to meet more of the requests. He thinks there is a better design to protect the resources.

Lorna Richardson is an adjacent land owner. She says they have the right to develop their

property and while it is good ag land, it is the best interest for them to develop. They do not want to farm the land and barely make enough to pay taxes on it, so this is a reasonable option to them. She stated the right to own the land, pay taxes, and to sell it if they want to.

Steven Tucker said there were good recommendations to be taken into consideration. There are conflicting views and we do want to do something that is complimenting to the neighborhood. This is retirement for these people, this was passed onto them and this is their only option for retirement. By offering the 5.28 acres for ag land, that is a significant area to take off of their retirement. We have to be realistic and if you can't make a living of the land, you have the right to sell it. He said 20 acres isn't going to sustain 4 families. His grandfather couldn't sustain using the land for ag and while he loved it, he couldn't sustain it.

Mr. Slotnick said Mr. Forsting's slide showing few places left for housing was interesting and you could also look at it as there are few places left to farm. He asked why individual septic systems would not work. Mr. Forsting said the most appropriate spot for the septic is the location they put it, the lower part was not ideal for drainfields. Mr. Slotnick asked how they came up with the design for the subdivision. Mr. Forsting said they looked at and combined all the subdivision design requirements. They did look at other options, but due to design requirements they came up with the proposed design. Mr. Slotnick asked about the requirements for the replacement drainfield. Mr. Forsting said it is a requirement to be adjacent to the drainfield and you see them everywhere. You wouldn't want to drive on it, but a tractor could drive on it and it could hold a vehicle. You just wouldn't want to compact the soils. This is a large percentage of the project and they are doing their best to accommodate requests. They have not seen any other alternative ag options presented. If there were a different option on the table it would be considered. Each lot will access the ditch and the ditch companies want people along the ditch. This subdivision is going to use less water than when it is used for hay. The ag lot can be made a priority for the ditch water before the homes.

Mr. Ainsworth asked to be walked through the process of this project. Mr. Forsting said originally there was no ag parcel and things have changed quite a bit from the original application meeting. Mr. Ainsworth asked when they settled on this design. Mr. Forsting said before the new Zoning Regulations they had 20 lots, and since have changed to 19 lots. Mr. Ainsworth asked if they were caught off guard by not complying with the ag requirements. Mr. Forsting said yes until last week we thought we were in compliance. Mr. Ainsworth said it doesn't seem fair that if there was a concern they should have told you much earlier. A new design would cost a lot and take a lot of time. Ms. Dascenzo said that Staff didn't address the ag concerns in the sufficiency review, but there were concerns that came up later on. Staff tried to schedule a meeting a few weeks ago, but were not able to schedule the meeting until recently. Staff does wish to have addressed that concern earlier. Ms. Dascenzo said that not having direct guidelines does create difficulty in addressing ag land. Mr. Ainsworth said maybe Staff didn't know what they thought about it until recently.

Mr. Newman said in February it was deemed sufficient and maybe agency comment wasn't collected until after that. Mr. Improtta asked if there is a way for them to mitigate this without starting over. If they have a scoping and a pre-app meeting that could cut down on the time. A week before the staff report was issued they did meet and discuss the options for mitigation or more clustering. Mr. Ainsworth said that is still pretty late in the game.

Ms. Hassanein asked if the other 67 acre lot is separate from the property owned by Spurgin Ranch LLC. Mr. Forsting said yes. Ms. Hassanein asked if they made the choice to include the drainfield in the ag lot. Aside from the drainfield wouldn't it make sense for the ag lot to be on the West side of the land and maintain continuity of the ag land? Mr. Forsting said there is a road right of way platted right through that area and the western end has the irrigation ditch. There is a 60 foot easement through there that connects with a sewer easement and makes this configuration the best. Ms. Hassanein said the soil we are

talking about is prime if irrigated, which means it is a nationally important resource. These soils made up 1.8% of the County when the survey was done. A lot of areas with this same soil have now been developed. Even if you maintain these small lots, during the construction the soil quality usually diminishes. She asked how they decided on the acreage for the ag lot. Mr. Forsting said that they looked at other examples and determined this was a good width for viable farming and created a good corridor. It is a quarter of the property. Mr. Hassanein asked how they come up with the number of acres. Mr. Forsting said they tried their best to find a good percentage and how do you determine that number without a set regulation.

Ms. Hassanein asked if they would entertain an easement offer. Steven Tucker said it was for sale as 20 acres for 2 years and nobody bought it, nobody had a fair offer. If there were significant ag concerns that was the time to come forward. When they started they were looking at 4 or 5 lots with minimal impact design, but infrastructure costs require this many lots. They had to look at how to pay for the infrastructure and create sellable lots. They gave the maximum amount of space possible and still cover the infrastructure costs. Ms. Hassanein said she appreciates that the owners have tried to mitigate for agricultural lands, unfortunately you don't have the subdivision regulations in place to be clear on what is needed.

Mr. Hoffmann asked if they considered the approved changes of the townhome exemption in all residential zones. Mr. Forsting said this project would not be able to go through that process, because it has yet to be subdivided.

Ms. Hassanein said the MOR housing report shows that the number of homes that are on the market and not moving are homes that are 400k and above. There is a lack in the 150k range, but she is not sure how building homes that are 300-400k are going to help our housing issue. She asked if there is really a market for these homes. Mr. Forsting said the only inventory that isn't moving in a few days is the 400k-475k range. 350k is what you're going to pay, if it's not a fixer-upper home. Someone in the City looking to move to Target Range for a 2nd or 3rd home would be able to look at these properties. He said there is a lack of inventory across the board. Ms. Hassanein said this doesn't seem to be helpful for affordable housing. Mr. Forsting said no new subdivision is going to be able to provide affordable housing.

Mr. Houlihan said anyone that has property is going to want to get what they can from their property and the applicants have bent over backward to meet the requirements. Also, the neighborhood probably wouldn't want 250k homes in this area and what they are doing is fine. Mr. Hoffmann said the median price of a single family home is 311k, so they would be offering something close to that. Ms. Slotnick said just because the median price is that high doesn't mean it reflects a median income in Missoula. The average person in Missoula could not afford the median home price.

Mr. Caristo asked why the developer didn't propose to dedicate the 1.06 acres of park land described by City and County Parks. Mr. Forsting responded that the Parks Department indicated there was not a need for any more parks in this area, so the request is to consider the ag lot as the park land. You have to have an appraiser to determine what the cost of 1.06 acres of undeveloped land costs. Mr. Caristo asked about the width to depth issue and if it normally applies to the common area. Mr. Forsting said normally that is resolved in the sufficiency review and had they known that they would have created a solution. That regulation is in place to prevent odd shaped residential lots. The other 19 lots do meet the requirements.

Mr. Caristo asked if the width to depth regulation applies to the open space. Ms. Dascenzo said it does apply and was missed during sufficiency review. Mr. Newman asked if because it was missed during review it was not a hardship to the developers. Ms. Dascenzo said there would be a few ways to address the issue including a variance for that lot.

Mr. Mefford said it is a valid project and if it was up to him he would approve the subdivision. To deny with no regulation in place is not acceptable.

Mr. Newman said a tactic would be if the denial is moved and does not pass, it would be back on Staff to create conditions for approval. Mr. Slotnick wanted to apologize to the owners and the developers for the disservice of a vague law and late notice of the ag issue.

Mr. Newman read Helen Jenkins comments for the record. Included were comments regarding the drainage and access to the river from the subdivision. She liked the variety of the lot sizes and hopes the ag lot will be maintained in the future.

Mr. Newman said this issue has been going on for a decade. There is a lack of documentation in the regulations and non-compliance with the Growth Policy. The subdivision meets the land use and the density that are in the books, but because it doesn't meet a requirement that isn't in the books, that shouldn't hold back approval. Law states that Planning Board cannot hold up a project for laws that are not yet in place. Even using the figure from staff, it is still 15% of the land, which is significant. A more contiguous ag parcel is best, but the fact that there is something is good. This area is within the area where populations should expand into. Either change these boundaries or except that these boundaries are there. The community could focus on other areas that are not in these boundaries and look at the fact that this is in line with policies and regulations. He said looking at everything this is probably a good place to develop.

Mr. Slotnick said we are talking about 20 acres of precious property. He said what is lacking here is a creative design. He feels they took the least usable land and added a few pieces and called it agriculture. Mr. Slotnick said with a better design the owners could be made whole and it would protect the resource. Mr. Newman said he feels parks do preserve the soils better than a home. Ms. Hassanein said there is misinformation about the Fort Missoula park, as there were stated concerns about the ag land impacts.

Ms. Hassanein does sympathize that there are no standards in place, but we are still here because there was no legislation that has occurred to spell this out. Under State Law subdivisions do have to consider impact to agricultural land. She cannot in good conscious say we can give up those 20 acres of prime soil. Soil is a finite resource and in order to ensure we have food in the future we need to protect this area. She said she supports the finding of fact that we will lose an agricultural resource by allowing this subdivision. While we think of ourselves as urban, there is a lot of support in policies for supporting agriculture and just because it's been done before, doesn't mean it's ok to continue.

Mr. Hoffmann said he agreed with Mr. Newman's thoughts.

10:20 MOTION - Ms. Hassanien moved, Mr. Improta seconded that the Spurgin Ranch Subdivision be denied based on the findings of fact in the staff report.

Mr. Ainsworth, Mr. Slotnick, and Mr. Caristo discussed their reasoning for their view on the motion.

AYES: Neva Hassanein, Dudley Improta, Josh Slotnick, Vince Caristo

NAYS: Dick Ainsworth, Michael Houlihan, Jamie Hoffmann, Andy Mefford, John Newman

The motion failed with a voice vote of 4 ayes and 5 nays.

Mr. Worley made the recommendation to switch the motion from a failed denial vote to a

motion to approve the subdivision. It is the board's choice, but when a staff recommendation fails, there wouldn't be a recommendation moving forward without an approved motion.

The board discussed the option of changing the motion.

10:30 MOTION Mr. Newman moved, Mr. Ainsworth seconded that the Spurgin Ranch Subdivision be approved based on appropriate findings of fact and conclusions of law drafted in accordance with the testimonials received at the public hearing.

Mr. Hoffman said to include an effort to clean up some of the problems with the application that arose late in the review process, such as the lack of conformity of the ag lot. Mr. Newman said the questions remains if there are findings of fact that change, would it need to come back to the Planning Board. Mr. Worley said personally a Board of Adjustment variance would be the way to go on the ag lot and that could be a condition of subdivision approval. Mr. Ainsworth said if the layout of the lots remained, but added lot lines to meet the width depth ratio you would have the same layout, but it may resolve the regulation issue. If they changed the lot layout in a meaningful way, they would have to go through a new process. Even with the legwork put in, they would be subject to the fee. Mr. Newman wouldn't call adding lot lines a redesign. Mr. Ainsworth said unfortunately if this would have come up earlier on it could have been resolved before it was brought to us. Mr. Newman said there is a fine line between what changes triggers a new review and what doesn't. Mr. Worley said significant changes would cause a risk of being required to start over if recommended after the sufficiency review. Mr. Worley said a condition would be to resolve the zoning compliance issue on the ag lot.

Mr. Worley said the motion presented would be sufficient.

10: 41 MOTION was amended to include conditions... that the Spurgin Ranch Subdivision be approved based on an appropriate findings of fact and conclusions of law drafted in accordance with the public comments received at the public hearing and subject to the condition that zoning compliance issues are resolved at a future Board of Adjustment hearing and other conditions generated by staff.

Ms. Hassanein is still going to deny the subdivision as it is not about the conditions included, but more about the loss of the agricultural land. Mr. Mefford would hate to see a guarantee to have to go to BOA in order to fix that. He said another option may be to call one section of the lot a utility lot and the other portion on the other side of the ditch the ag lot. He hopes there is some way of resolve. The final motion was determined.

10: 44 MOTION Mr. Newman moved, Mr. Ainsworth seconded that the Spurgin Ranch Subdivision be approved based on an appropriate findings of fact and conclusions of law drafted in accordance with the public comments received at the public hearing and subject to the condition that zoning compliance issues are resolved at a future Board of Adjustment hearing or by other means staff would agree to and other conditions generated by staff.

AYES: Dick Ainsworth, Michael Houlihan, Jamie Hoffmann, Vince Caristo, Andy Mefford, John Newman.

NAYS: Neva Hassanein, Dudley Improta, Josh Slotnick.

The motion passed with a voice vote of 6 ayes and 3 nays.

VII. Communications and Special Presentations

There were no communications and special presentations.

VIII. Committee Reports

There were no committee reports.

IX. Old Business

There was no old business.

X. New Business and Referrals

There was no new business or referrals.

XI. Comments from MCPB Members

There were no comments from MCPB members.

XII. Adjournment

Mr. Newman adjourned the meeting at 10:46 p.m.

EXECUTIVE SUMMARY

CASE PLANNER: Christine Dascenzo,
CAPS

REVIEWED AND APPROVED BY: Tim Worley

PUBLIC HEARING DATES: PB: April 4, 2017
BCC: April 27, 2017

60-DAY LIMIT: May 3, 2017

AGENDA ITEM: PB Agenda Item 6A
Spurgin Ranch Subdivision

**APPLICANT/
FEE OWNER:** Spurgin Ranch, LLC
P.O. Box 20601
Billings, MT 59104

REPRESENTATIVE: Territorial-Landworks, Inc.

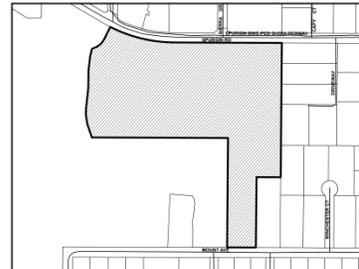
LOCATION: In the Target Range neighborhood, between Spurgin Road and Mount Avenue, west of Clements Road

LEGAL DESCRIPTION: Parcel A of C.O.S. 6210, in Section 26, Township 13 N, Range 20 W, P.M.M., Missoula County, Montana

LEGAL NOTICE: Adjacent property owners were notified by certified mail on March 10, 2017. A legal ad appeared in the *Missoulian* on March 12 and March 20, 2017.

ZONING DESIGNATION: C-RR1 (1 dwelling unit per acre)

GROWTH POLICY: The 2010 Target Range Plan, as an amendment to the 2016 Missoula County Growth Policy. The land use designation is Residential, 1 dwelling unit per acre.



	SURROUNDING ZONING	SURROUNDING LAND USES
North:	C-RR1	Residential
South:	C-RR2	Residential/Agricultural
East:	C-RR1	Residential
West:	C-RR1	Residential/Agricultural

<u>PROPOSAL</u>	<u>STAFF RECOMMENDATION</u>	<u>PLANNING BOARD RECOMMENDATION</u>
Spurgin Ranch Subdivision major subdivision.	Denial of the subdivision.	Approval of the subdivision.

MISSOULA CONSOLIDATED PLANNING BOARD
Agenda Item 6A
April 4, 2017
SPURGIN RANCH SUBDIVISION

I. STAFF'S RECOMMENDED MOTION

1. THAT the Spurgin Ranch Subdivision be denied based on the findings of fact in the staff report.

II. INTRODUCTION

This is a proposal by Spurgin Ranch, LLC., represented by Territorial-Landworks, LLC, for a 19 lot subdivision proposal on 20.01 acres of vacant agricultural land, located west of Clements Road in the Target Range neighborhood.

The site of the subdivision is zoned C-RR1 with a residential density of 1 dwelling unit per acre. It is guided by the *2010 Target Range Plan*, an amendment to the *2016 Growth Policy*. The land use designation for the area proposed for subdivision is Residential, one dwelling unit per acre. The proposal's residential density is 1 dwelling unit per 1.05 acres.

Access is provided off Spurgin Road by a proposed public loop road serving 17 lots and a shared access serving Lots 8 and 11. An eight foot wide sidewalk is proposed along one side of the looped road and west along Lot 1.

The Missoula Irrigation District is located along the western boundary and bisects the proposed 5.28 acre Agricultural and Utility Lot. These are identified as areas of riparian resource and cannot be developed. The 20.01 acre property includes groundwater water rights for lawn, garden and stock use. The land is currently used for irrigated and unirrigated hay and alfalfa although documentation of surface water rights could not be confirmed. Soil surveys and analyses confirm soils classified as Prime Farmland if Irrigated. The 5.28 acre Agricultural and Utility Lot is proposed to mitigate the impacts of the subdivision on agriculture and agricultural water user facilities. While maintenance of irrigation facilities appears adequate, staff has concluded that this lot does not mitigate impacts to agriculture in any meaningful way.

Individual wells for the 19 residential lots and a public sewer system are proposed for the subdivision. A well is not proposed for the Agricultural and Utility Lot. The subdivision is located within the Missoula Rural Fire District and residential fire sprinklers are proposed for each new home. The Agricultural and Utility Lot is proposed to satisfy the park land dedication. Staff has concluded that this does not meet parkland dedication requirements. No variances are requested with this subdivision proposal although one should have been sought to allow the width of Spurgin Road to vary from the road standard for Minor Collectors.

Given the parcel's status as one of the last large parcels of active agricultural land, concerns about the subdivision design stem from the lack of meaningful mitigation of

adverse impacts to agriculture. This is due to the irregular configuration of the 5.28 acre Agricultural and Utility Lot, the parcel's lack of zoning compliance, lack of confirmed surface (irrigation ditch) water rights, lack of a proposed well, the isolated location within residential development given the agricultural land adjacent to the subdivision; and encumbrances from the utility easement and area of riparian resource bringing the usable farmland down to approximately 2.95 acres.

Subdivision impacts to agriculture cannot be mitigated by conditions of subdivision approval. Potential mitigation of impacts could occur by conserving agricultural land off-site to the west, more significant clustering of home sites, elimination of Lots 1-4, and/or shifting/expanding the agricultural lot in order to be contiguous with agricultural land to the west. If any of these recommendations were implemented, it would be a fundamental subdivision redesign, requiring review as a new subdivision. Therefore, staff recommends denial of Spurgin Ranch Subdivision.

III. SUBDIVISION FINDINGS OF FACT AND CONCLUSIONS OF LAW

A) ZONING AND COMPREHENSIVE PLAN COMPLIANCE

Findings of Fact:

1. The proposed subdivision of 20.01 acres would create single family homes on 19 lots that range from 0.61 acres to 1.02 acres in size, with a 5.28 acre Agricultural and Utility Lot. The proposed residential density of this subdivision is one dwelling unit per 1.05 acres. *Subdivision Application, Page 2*
2. The property is zoned C-RR1, with a residential density of one (1) dwelling per acre. *Zoning Resolution Section 2.09*
3. The intent of the zoning is to position a "low density residential district between urbanized areas and agricultural uses...while limiting density to recognize environmental concerns." *Zoning Resolution Section 2.09*
4. The C-RR1 zoning has a minimum lot width of one third (1/3) the average depth. The Agricultural and Utility Lot has a long, narrow shape, connecting Mount Avenue with Spurgin Road. Due to the irregular shape of this lot, compliance could be determined by breaking the parcel into portions and assessing those lot widths and depths. *Zoning Resolution Section 2.09*
5. The rectangular portion of the Agricultural and Utility Lot along Spurgin Road is 150 feet wide and 828.4 feet long: a length more than five times the width. The southern rectangular portion along Mount Avenue is 178.29 feet wide and 564.3 feet long, which is a length more than three times the width. A small remaining triangular portion in the middle of the lot is approximately 56 feet wide and 178.29 feet long. This length is more than three times the width. Taken together or separately, these portions of the Agricultural and Utility Lot exceed the width-to-depth ratio in the zoning. *Preliminary Plat; Zoning Resolution Section 2.09*
6. Expansion of the Agricultural and Utility Lot to accommodate the area occupied by Lots 1-4 could resolve the zoning compliance issue. Alternatively, establishing a building setback line for agricultural buildings could resolve the zoning compliance issue. Neither is proposed with the application. *Preliminary Plat; Zoning Resolution Section 2.09*
7. The subdivision is subject to the *Missoula County Growth Policy (2016)*. The applicable Growth Policy amendment is the *Target Range Plan (2010)*.

8. The land use designation for this parcel is Residential, one dwelling unit per acre. *County Maps*
9. The Target Range Plan acknowledges the existing neighborhood character “as a rural or semi-rural residential community, mostly consisting of single-family homes on lots between one-half and one acre in size.” *Target Range Plan*
10. The subdivision is proposed on and adjacent to land currently used to grow hay and alfalfa. It is surrounded on three sides by single-family homes on lots ranging between 0.455 acres and 2.42 acres in size. *Preliminary Plat; County Maps*
11. The Target Range Plan identifies the neighborhood as one of the largest areas of “prime, if irrigated” agricultural soils in Missoula County. These soils are of national importance. Eight percent of the soils in Missoula County have been identified as “prime, if irrigated”, while 75% of the soils in the Target Range neighborhood have been identified as such. *Target Range Plan, Section 1.2*
12. The Target Range Plan states approximately 15 parcels in the neighborhood are assessed by the Montana Department of Revenue as Farmsite, Farmstead Rural, or Agricultural. The land proposed to be subdivided is assessed as Farmstead Rural. *Target Range Plan, Section 1.2; County Maps*
13. The plan also states that approximately 25 properties in the neighborhood maintain horses and that this is a consistent use with the Missoula Equestrian Park located in Big Sky Park, within the neighborhood boundary. The land proposed to be subdivided maintains horses along Mount Avenue. *Target Range Plan, Section 1.2; Subdivision Application*
14. The Target Range Plan states the need “to preserve open space within the neighborhood, not just on the periphery, and agricultural use is a good open-space option” and warns that “low-density development that fences off smaller lots, for example, one-acre parcels with bluegrass lawns, also threatens the loss of soil available for agricultural uses.” The proposed subdivision is located centrally within the Target Range neighborhood and proposes to create 19 lots classified as "large lots" in the Subdivision Regulations. *Target Range Plan, Section 1.2; County Maps; Preliminary Plat; Subdivision Regulations Section 2.2.95.D*
15. The proposal theoretically preserves 5.28 acres of prime farmland. However, 0.66 acres of this will be used for sewage disposal. Considering riparian constraints and the shape of the agricultural and utility lot, 2.95 acres of usable farmland remain. *Preliminary Plat*
16. The Growth Policy includes the guiding principle concerning agriculture: “A healthy agriculture sector is essential to the well-being of our community due to benefits such as food security, open space, wildlife habitat, economic activity, health promotion, and quality of life.” *Growth Policy, Page 2-2*
17. Goal #7 from the Growth Policy is to “Sustain and promote the land- and resource-based industries of agriculture, timber, restoration, and recreation that are part of the local economy and heritage.” *Growth Policy, Page 2-13*
18. The Target Range Plan acknowledges the water resources in the area and prioritizes protecting and improving the quality of the Missoula aquifer, surface water, and groundwater. *Target Range Plan, Section 2.4*
19. The Target Range Sewer and Water District formed in 2000 and works to protect the Missoula aquifer water quality through conservation and smarter use of septic and

well infrastructure. The proposed subdivision is located within this district. *Target Range Plan, Section 2.4 and Map 5*

20. The subdivision proposes a community sewer system located on the utility easement along Mount Avenue where groundwater monitoring observed a separation of more than six feet. The proposed system will install a sewer main underneath the irrigation ditch. The system location was determined suitable for conventional drainfields by the City-County Health Department in 2015. *Missoula County Groundwater Monitoring; Subdivision Application Page 41-42; MDEQ Layout; Health, 12/27/16*
21. The City-County Health Department stated concerns that the proposed wastewater system may not pass non-degradation analysis and noted that the on-site irrigation ditch is considered high quality state water. *Health, 12/27/16*
22. The Target Range Plan states that “maintaining the irrigation infrastructure is critical to the neighborhood goal of preserving agricultural soils” and identifies this site as one of the last large (5+ acres) parcels of irrigated land in the neighborhood. The Irrigation Improvements Plan diverts irrigation water to each lot, and aims to preserve existing irrigation facilities. Documentation of the irrigation water rights, or surface water rights, has not been submitted to confirm the availability of water rights for agricultural use to the home sites or the Agricultural and Utility Lot and was not discovered during staff research. *Target Range Plan, Section 2.4 and Map 6; Irrigation Improvements Plan; Nave, 3/23/17*
23. The Growth Policy cites availability of irrigation water as a factor that may be considered when evaluating a proposed subdivision’s potential impact on agricultural water user facilities. *Growth Policy, Page 5-5*
24. The distribution of irrigation water from the ditch to the Agricultural and Utility Lot is unclear. The use of available water from the ditch is intended for the residential lots in the subdivision as well as the Agricultural Lot. *Project Summary, Page 2*
25. The groundwater rights for this parcel are for the purpose of lawn and garden, stock, and domestic and have a maximum flow rate of 32 gpm and maximum volume of 9.94 acre-feet. The application states that “this water right appears to be associated with the well located on the neighboring property to the west. We are unaware of any history of this water being used on the subject property. Per the requirements of the Missoula County Subdivision Regulations, this water right will be removed/transferred after preliminary plat approval is granted.” *DNRC Abstract; Subdivision Application Page 7*
26. The Target Range Plan encourages improvements to non-motorized transportation infrastructure as a way to mitigate motorized traffic associated with future development. The subdivision proposes an 8 foot wide sidewalk along one side of the internal loop road that twice intersects with Spurgin Road. A connection from Spurgin Road to Mount Avenue is not proposed. *Target Range Plan, Section 2.3, Preliminary Plat, Subdivision Application Page 50*
27. Goal #8 from the Growth Policy is to “Proactively plan and provide for the logical growth of communities while protecting rural character and sustaining county resources by guiding development to areas most suited for it.” *Growth Policy, Page 2-15*
28. Two objectives of Goal #8 are (8.1) to protect and enhance the rural character that exists in much of the County, maintaining a clear distinction between urban and rural areas and (8.3) Guide new subdivisions and development to areas that have the

least impact on natural resources and are most suited for development. *Growth Policy, Pages 2-15 and 2-16*

29. The Target Range Plan identifies this location as one that is lowest for suitability of residential development based on the Prime Farmland if Irrigated soil type, large acreage, current and historical agricultural operation, and the lack of access to Mountain Water or City Sewer. *Target Range Plan, Map 12*
30. The Growth Policy identifies potential agricultural mitigation measures when significant adverse impacts are likely. These include clustering homes or restructuring future development, contributing to an established and effective agricultural conservation program, notification to buyers of the implications of living near agricultural lands, building setbacks between residential and agricultural operations, adequately fencing the perimeter, requiring pets to be restrained, and other measures proposed by the subdivider. *Growth Policy, Page 5-4*
31. The proposed subdivision provides notification to buyers and the covenants require pets be restrained. The community sewer system and density-based zoning provide opportunities for more clustering than is evident with this large-lot subdivision. *Development Covenants, Subdivision Application; SUBDIVISION REGULATIONS Section 2.09*

Conclusions of Law:

1. The proposed density complies with the C-RR1 zoning, but the width-to-depth ratio is not in compliance with the zoning and efforts to resolve compliance may require a fundamental redesign of the subdivision.
2. The proposal is not in compliance with the Growth Policy, including the amending plan's recommendations for development and preservation of agriculture.
3. Due to state law, no land use proposal shall be conditioned or denied based solely upon the lack of compliance with the Growth Policy. The recommendation for subdivision denial is not based solely upon failure to comply with the Growth Policy or its amendments.

B) PRIMARY CRITERIA COMPLIANCE

EFFECTS ON AGRICULTURE AND AGRICULTURAL WATER USER FACILITIES—

(This section jointly addresses two review criteria under MCA 76-3-608. The two criteria have been combined due to the interrelationship of impacts of agriculture and agricultural water user facilities.)

Findings of Fact:

Agriculture

1. The northern 16 acres of the proposed property is currently, and has historically, been used for irrigated and unirrigated hay and alfalfa farming and the 4 acre portion south of the eastern irrigation ditch is used as a horse pasture. *Subdivision Application, Page 31; Agricultural Production Map*
2. The site is home to soils considered to be Prime Farmland if Irrigated ("prime soils") consisting of DeSmet Loam and Grantsdale Loam. *NRCS Web Soil Survey, 8/26/16; Soils Assessment, 8/29/2016; Soils Map*
3. The proposed subdivision dedicates 4.62 acres for agricultural use and 0.66 acres for the public sewer utility easement on the 5.28 acre Agricultural and Utility Lot. According to applicant's representative, approximately half of the utility easement

would be available for agricultural use. *Subdivision Application, Page 33; Preliminary Plat*

4. Additional land on this parcel would be required to be included in the riparian area along the eastern irrigation ditch and would not be useable farmland. Areas north of the currently designated riparian area, on either side of the proposed sewer line easement, appear marginally accessible due to their close proximity to residential Lot 4. Based on staff calculations, approximately 2.95 acres of the Agricultural and Utility Lot would be usable farmland. *Subdivision Application, Page 33; Preliminary Plat*
5. The applicant is “open to transferring all or a portion of this lot to a suitable entity that is committed to utilizing the property for agricultural purposes.” *Subdivision Application, Page 59*
6. There is not a predetermined third-party owner of the proposed agricultural lot, nor has a partnership or management structure been developed to oversee the agricultural use. The lot is proposed to be transferred to the homeowners association because the applicant has not acquired a guarantee that the County or a suitable partner will take ownership of the property. *Subdivision Application, Page 59-60*
7. The applicant indicates the value of leased irrigated agricultural property in 2014 was less than the taxes due in 2015 (\$690 compared to \$1,179.56). *Subdivision Application, Page 34*
8. Adjacent land to the west is used for agricultural production of irrigated hay and alfalfa and small livestock pasture. *Subdivision Application, Page 34*
9. Missoula County Subdivision Regulations Section 3.1.4.2.B requires offsite impacts to agriculture to be mitigated, including runoff impacts. Notification of subdivision lot owners is required, including information about adjacent agricultural operations and impacts such as domestic animals, trespass, and traffic.
10. The covenants include language notifying the residents of adjacent agricultural activity, productive agricultural soils, and agricultural lease opportunities within the subdivision and address family pet controls. A note on the preliminary plat describes the restrictions proposed for the Agricultural and Utility Lot. *Subdivision Application Page 32-33, Development Covenants; Preliminary Plat; Subdivision Regulations Section 3.1.4.2.A and 3.1.4.2.B*
11. The applicant proposes road side swales, culverts, and site grading to avoid draining water onto neighboring agriculture land. *Subdivision Application, Page 34*
12. According to the application, the proposed lots provide opportunities for “micro-gardens.” *Subdivision Application, Page 32*
13. The definition of agriculture excludes “gardening” and gardens are not considered a mitigation of impacts to agriculture. *Subdivision Regulations Section 2.2.5*
14. Missoula Development Services commented that because the property is farmland surrounded by an irrigation ditch, and because the lots will be served by a community sewer system, this would be a good candidate for developing a cluster subdivision with some farmland retained. *City 5/27/16*
15. Community Food and Agriculture Coalition (CFAC) commented on the proposed subdivision and recommended denial. CFAC noted that this site was part of the “largest remaining contiguous agricultural operation in the urban core of Missoula.” According to CFAC, the proposal does not mitigate impacts to agriculture through

the potential mitigation measures identified in the Growth Policy, such as clustering homes on lesser soils or restricting future development on-site. CFAC recommends placing a conservation easement on the property with a government entity or land trust compensating for the difference in land value pre- and post-conservation easement. *CFAC, 12/21/16*

Agricultural Water User Facilities

16. There are two segments of the Missoula Irrigation District ditch on the property. One is located along the western boundary and another bisects the proposed Agricultural and Utility Lot. These ditch segments are part of a non-enclosed and non-lined water canal that flows east to west and ultimately meets with Bitterroot River. *Subdivision Application Page 35; Supplemental Data Sheet 1 of 4*
 17. The Subdivision Regulations require ditch easements for the unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the proposed subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries on the preliminary plat. They also require severance of water rights, or the provision of easements to distribute irrigation water internally following division of the parent parcel. *Subdivision Regulations Section 3.1.5.2*
 18. Existing irrigation ditch easements of unknown width are proposed to be dedicated as 20 feet wide on the western ditch and 40 feet wide on the ditch on the Agricultural and Utility Lot. *Preliminary Plat*
 19. Each of the proposed residential lots will have access to irrigation water via proposed ditch easements located throughout the lots and be used for residential irrigation uses. The applicant expects that this will use less water than an agricultural operation and have a positive impact on adjacent agricultural land. The ratio of irrigation water use for the residential lots versus the Agricultural and Utility Lot is not prescribed. *Subdivision Application, Page 36 and Irrigation Improvements Plan*
 20. The Health Department commented that the irrigation ditch that runs through the property is considered high quality state water because it connects to the Clark Fork River. *Health, 12/27/16*
 21. No documentation affirming the record of surface water rights for the Agricultural and Utility Lot was submitted, nor was such documentation discovered during staff's research. *Nave, 3/23/17*
 22. Ray Tipp, Missoula Irrigation District, commented that MID cannot approve this subdivision as presented. The irrigation easements are not defined to the extent that such is satisfactory. *MID, 12/16/16*
 23. Three groundwater water rights are associated with this site for lawn, garden, and stock use and are available between April 15 and October 15. There are no wells associated with this water right on-site. A well on adjacent land to the west appears to be the source and the applicant has stated the intent to transfer the water right after preliminary approval of the subdivision. A note addressing the removal of the groundwater water right appears on the preliminary plat. *Subdivision Application, Page 36; Preliminary Plat; Subdivision Regulations Section 3.1.5.4.*
 24. A well is not proposed on the Agricultural Lot. *Preliminary Plat*
- Subdivision Design and Agriculture
25. Subdivision Regulations Section 3.1.4.2.A requires that potentially significant adverse impacts to agriculture and agricultural water facilities be mitigated.

26. The applicable Growth Policy amendment for this location designates the property as Residential, one dwelling per acre. The Growth Policy recognizes this site as the lowest suitability for development. *Target Range Neighborhood Plan*
27. The 2.95 acres of usable farmland dedicated with the proposed Agricultural and Utility Lot is configured in an irregular and narrow shape that is bisected by the irrigation ditch and riparian area. The Missoula County Subdivision Regulations require further riparian area expansion within this lot. The lot cannot be accessed from north to south. It is not contiguous with adjacent existing agricultural land to the west. *Preliminary Plat; Subdivision Regulations Section 3.2.4.2*
28. The delivery of irrigation water to the Agricultural and Utility Lot is unclear, both as to proportion with the 19 residential lots, and as to volume as indicated by a water right. *Irrigation Improvements Plan*

Conclusions of Law:

1. The proposed development will preclude future agricultural use on the developed portion of property and portions of the preserved agricultural lot, with portions dedicated as riparian or utility.
2. There will be a significant loss of high quality agricultural soils as a result of this subdivision.
3. Restricting 2.95 acres of usable farmland for agricultural use does not reasonably mitigate the subdivision's potential adverse impacts to agriculture.
4. Subdivision design fragments the existing agricultural resource by placing the Agricultural and Utility Lot between residential development on two sides (east and west).
5. The subdivision complies with the subdivision regulations for ditch easements and maintenance of facilities.
6. The proposed development does not establish water rights on the agricultural lot, which constitutes an adverse impact to agriculture.
7. Subdivision layout and design indicates the developer's primary intent is to create residential lots for sale. Redesign of the subdivision to further cluster residential lots to preserve more and better configured agricultural land, and the development of a partnership or management structure to oversee the agricultural use could facilitate mitigation. These efforts to mitigate agricultural impacts would be a fundamental redesign of the subdivision, requiring review as a new subdivision

CRITERION 2: EFFECTS ON LOCAL SERVICES--

Roads

Findings of Fact:

1. The site is located in the Urban Area and urban standards for roads and non-motorized facilities apply. *Subdivision Regulations Sections 3.4.2.1 and 3.4.9.1, and Table 3.4.7*
2. Spurgin Road is a County-maintained road that is located off-site of the proposed subdivision to the north. Mount Avenue is a County-maintained road that is located off-site of the proposed subdivision to the south. These roads are paved to 24-foot wide within a 60' right-of-way. This surface is two feet less than what is required for Minor Collectors and a variance is supportable. *Subdivision Application, Page 51; Subdivision Regulations Table 3.4.7*

3. The applicant proposes to access the subdivision by a looped road off Spurgin Road that aligns with existing intersections at Humble Road and Sierra Drive. The proposed asphalt surface is 24 feet wide within a 60 foot public right-of-way. It will prohibit parking. The Subdivision Regulations require a 24 foot wide paved surface within a 60-80 foot wide ROW. *Subdivision Regulations Table 3.4.7, Table 3.4.9.4; Subdivision Application, Page 49-55; Preliminary Plat*
4. Lot 8 and Lot 11 will be accessed by a 20 foot wide asphalt surface within a 50 foot wide shared access easement, meeting the local road standards in the Subdivision Regulations. The Covenants include a private road maintenance agreement detailing the responsibilities of the owners of Lot 8 and Lot 11. *Subdivision Regulations Table 3.4.7; Covenants, Exhibit A*
5. An Access Control Line along Spurgin Road allowing access to the proposed 50 foot wide shared access for Lots 8 and 11, address assignments, and a signage plan are typically required for subdivision developments, addressing temporary construction signage and permanent signage. County Public Works commented that an Access Control Line, address assignments, and street signage plan would be required if the subdivision were approved. *Public Works, 12/22/16*
6. The required Access Control Line along Spurgin Road does not cross the Agricultural and Utility Lot, allowing physical and legal access to the Agricultural and Utility Lot off Spurgin Road. *Preliminary Plat*
7. The Preliminary Plat and Supplemental Data Sheets identify the proposed public road as a private access easement. It is the intent of the applicant for the road to be a public right-of-way. If the subdivision were approved, correcting these errors would be a recommended condition of approval. *Preliminary Plat; Supplement Data Sheets*
8. The Subdivision Regulations require a proposed subdivision to provide an opportunity to connect roads to an existing road network or a future road network in an area that potentially may be subdivided by extending rights-of-way. *Subdivision Regulations, Section 3.4.6.3*
9. Land to the east of the proposed subdivision has previously been divided through occasional sales and family transfers. Neither private access easements nor public rights-of-way have been established that would facilitate connection to the proposed subdivision. An extension of rights-of-way to the east is not feasible. *C.O.S. 1224; C.O.S. 1818; C.O.S. 1488; C.O.S. 2090*
10. Land to the west and south is contained in 67.72 acres of Parcel B of C.O.S. 6210, created through a boundary line relocation in 2010. This parcel has potential to be subdivided in the future. *County Maps*
11. The rights-of-way associated with the road as proposed do not facilitate future connections to potentially subdivided land and the establishment of public rights-of-way that extend south along Lot 4 and Lot 7, south along Lot 16 and Lot 19, and west along Lot 18 and Lot 19 would be required to comply with the Subdivision Regulations. *Subdivision Regulations Section 3.4.6.3*
12. C.O.S. 6210 shows a public road easement to the west of the proposed subdivision that meets up with the northwest intersection of the proposed road. *C.O.S. 6210*
13. The runoff calculations comparing pre-development and post-development runoff shows the rate will decrease from 3.58 to 3.37 cfs and the runoff volume will remain 41,504 cu. ft. *Grading and Drainage Report*

Conclusions of Law:

1. Access to the subdivision meets the standards of the Missoula County Subdivision Regulations.
2. The road infrastructure does not provide an opportunity to connect the development to adjoining land.
3. The post-development runoff rate meets the standards of the Subdivision Regulations.
4. This street proposal meets the applicable Subdivision Regulations.

Pedestrian Access

Findings of Fact:

1. An existing 5 foot wide non-motorized path, known as Spurgin Bike-Ped Shoulderway, is located on the north side of Spurgin Road. *Subdivision Application, Page 50; Supplemental Data Sheet 2 of 4*
2. Urban major subdivisions are required to construct walkways along onsite roads and may propose a wider sidewalk on one side of the road as an alternative to narrower sidewalk on both sides pursuant to the standards established in Table 3.4.9.4. These subdivisions are not required to construct walkways along off-site roads. *Subdivision Regulations Section 3.4.9.1.B.1*
3. The proposed public road right-of-way is 60 feet wide and will accommodate an 8 foot wide sidewalk and 12 foot wide boulevard along one side of the interior road. Pedestrian access is provided to the Agricultural and Utility Lot by a trail along Lot 1. *Subdivision Regulations Table 3.4.7; Subdivision Application, Page 49-55; Preliminary Plat*
4. Street crossings are proposed across the southeast corner of the loop road and across both intersections of Spurgin Road at Humble Road and Sierra Drive, connecting the proposed sidewalk to the existing non-motorized infrastructure. *Supplemental Data Sheet 2 of 4*

Conclusions of Law:

1. The subdivision meets the requirements for pedestrian access as required in Section 3.4.9.1 of the Subdivision Regulations.

Water System

Findings of Fact:

1. The closest public water main is located approximately one mile away, outside the 500-foot proximity requiring connection to a public water system. *Subdivision Application, Page 55; Subdivision Regulations Section 3.6.5*
2. An individual well is proposed for each of the 19 lots. A well is not proposed on the Agricultural and Utility Lot. The preliminary plat and MDEQ site layout included in the applicant's packet show the location of proposed wells. *Preliminary Plat; MDEQ Site Layout*
3. Easements are required for the 100-foot well isolation zones that extend onto neighboring lots, which is the case for all 19 wells, and are proposed as shown in grey on the preliminary plat. *Subdivision Regulations, 3.6.2.4; Health, 12/27/16; Preliminary Plat*
4. The City-County Health Department commented that this subdivision must go through DEQ Sanitation in Subdivision review. *Health, 12/27/16*

Conclusions of Law:

1. Water will be provided to the residential lots within the subdivision.
2. The Agricultural and Utility Lot does not have access to groundwater.
3. State and local agencies will review water resource issues.

Sewer System

Findings of Fact:

1. The closest public water main is located approximately one mile away, outside the 500-foot proximity requiring connection to a public sewer system. *Subdivision Application, Page 57; Subdivision Regulations Section 3.6.5*
2. A public sewer system consisting of a collection system, storage tanks, treatment tanks, and a drainfield is proposed to treat wastewater. As part of the installation, the applicant is also required to install dry-laid sewer facilities to allow for a future connection to the City of Missoula's sewer system. *Subdivision Application, Page 57*
3. The City-County Health Department commented that this subdivision must go through DEQ Sanitation in Subdivision review. Health also commented that the ground water is extremely high on the northern portion of the proposed subdivision, with observations from 2014 ground water monitoring establishing readings of less than a foot below the ground surface in some areas and less than two feet below the surface in most of the proposed northern subdivision. Health further commented that the Department has concerns that it could be difficult for the proposed wastewater system to pass non-degradation analysis given the proximity to surface water. *Health, 12/27/16*

Conclusions of Law:

1. State and local agencies will review sanitation issues.
2. Sanitary services will be provided to this subdivision.

Solid Waste

Findings of Fact:

1. Republic Services provides waste disposal service to the project area. *Subdivision Application, Page 55*

Conclusions of Law:

1. Solid waste disposal will be available to the subdivision.

Parks and Recreation

Findings of Fact:

1. The required park land dedication for the lots proposed in this subdivision is 1.06 acres and the applicant proposes a 5.28 acre Agricultural and Utility Lot to satisfy park land dedication. *Subdivision Application, Page 60*
2. The subdivision regulations allow for land to be dedicated as park land for the preservation of natural environment, including agricultural uses. *Subdivision Regulations Section 3.10.1.1*
3. The 5.28 Agricultural and Utility lot consists of a riparian area that should be expanded to approximately 2 acres and a 0.66 acre portion encumbered by the proposed community sewer system utility easement, half of which will not be usable farmland. As a result, 2.95 acres could be used for agricultural purposes. *Preliminary Plat; Riparian Resource Plan*

4. The application states that the Agricultural and Utility Lot will be established for “permanent agricultural use” on page 33 and be “utilized by the community for agricultural and recreational (sic) use...” and “for the subdivision’s utilities” on page 59. This section also refers to the covenants which establish permanent restrictions limiting the use to agriculture, recreation, and utilities on page 60. Point #2 of the proposed covenants limits use to agricultural and utilities and prohibits all non-agricultural and non-utility uses. *Subdivision Application, Page 33, 59, and 60; Development Covenants*
5. The application mentions the transfer of all or a portion of this lot to a suitable entity. Transferring a portion of the lot would require further subdivision. *Subdivision Application, Page 59*
6. Suitable entities to receive a park land dedication are a property owners’ association, a land conservation entity, or a governing body. *Subdivision Regulations Section 3.10.2*
7. Transferring the parcel to another entity has the potential to adversely affect the lot owners’ ability to operate and maintain the public sewer system, per Covenant #15.
8. Third party ownership of the utility lot containing the public sewer infrastructure has potential to adversely affect the future connection to city sewer. *Subdivision Application, Page 57*
9. County Parks, Trails, and Open Lands commented that the Agricultural and Utility Lot does not satisfy the park land dedication, as required in Section 3.10.7 of the Subdivision Regulations and supports the cash-in-lieu alternative. City Parks and Recreation also supports the cash-in-lieu alternative over accepting the Agricultural and Utility Lot as park land dedication. Both organizations support the idea of using the cash-in-lieu of park land contribution to construct a trail throughout the Agricultural and Utility Lot if the applicant were to propose a 20-foot wide pedestrian easement connecting Spurgin Road to Mount Avenue. *Subdivision Regulations Sections 3.10.7 and 3.10.5.2; CPTOL, 12/22/16; City Parks, 2/3/17*
10. Street crossings are proposed across the southeast corner of Proposed Road A and across both intersections of Spurgin Road at Humble Road and Sierra Drive, connecting the proposed sidewalk to the existing non-motorized infrastructure. *Supplemental Data Sheet 2 of 4*
11. An 8 foot wide paved trail along the northern boundary of Lot 1 is the proposed non-motorized access to the Agricultural and Utility Lot along Spurgin Road. The Access Control Line stops at the eastern edge of Lot 1 and does not prohibit motorized access to the Agricultural and Utility Lot from Spurgin Road. *Supplemental Data Sheet 2 of 4*
12. No motorized or non-motorized access into or through the Agricultural and Utility Lot from Mount Avenue is proposed. *Supplemental Data Sheet 2 of 4*
13. A neighbor commented that children attending Target Range School will take the shortest available route along Mount Avenue. *Gingerich, 12/22/16*
14. Another neighbor commented that the subdivision will bring several school age children to the area that will walk to Target Ranch School along Mount Avenue, crossing through the Agricultural and Utility Lot. He recommended the applicant make that easy for the children to do. *Loftsgaarden 12/21/16*
15. The Agricultural and Utility Lot restrictions proposed in the application are internally conflicting, stating in some places that use is restricted to agriculture, recreation, and

utilities, while the proposed covenants limit use to agricultural and utilities, prohibiting all non-agricultural and non-utility uses. *Subdivision Application, Development Covenants*

16. Comment from County Parks, Trails, and Open Lands recommends the applicant facilitate a non-motorized trail connection from Spurgin Road to Mount Avenue by establishing a 20-foot wide pedestrian access easement through the Agricultural and Utility Lot. *CPTOL, 12/22/16; Subdivision Regulations 3.10.8.4*
17. City of Missoula Parks and Recreation strongly supports a non-motorized connection between Spurgin Road and Mount Avenue, noting the lack of connectivity between the subdivision and Target Range School and the potential to co-locate a pedestrian access easement within the proposed 20 foot wide utility easements on the Agricultural and Utility Lot, as well as the possibility to combine cash-in-lieu of parkland and trail construction through the Agricultural and Utility Lot. *City Parks, 2/3/17*
18. The City-County Health Department – Air Quality Program commented in support of the proposed internal walkways and strongly supports a non-motorized trail connecting Spurgin Road and Mount Avenue given the proximity to parks, schools, and existing trail systems. *Health 12/27/16*
19. Non-motorized infrastructure exists along Spurgin Road, Clements Road, and North Avenue. *County Maps*
20. Target Range School is located just over half a mile southeast of the subdivision, at the intersection of Clements Road and South Avenue West.
21. Parks within one mile of the subdivision include Big Sky Park, Capy Court, Dinsmore River Four Park, Double R Acres Park, Kelly Island, Rosecrest Park, and Schmutz Park. *County Maps*
22. The irrigation ditch crossing the Agricultural and Utility Lot is identified as a slope greater than 25%. *Slope Category Map*
23. The Subdivision Regulations acknowledge impacts that arise with steep slopes, stating that “natural slopes in excess of 25% grade shall be deemed unsuitable for building sites unless a geotechnical analysis and an engineering plan demonstrate that development can safely occur on the slope.” *Subdivision Regulations 3.1.2.3.B*
24. The irrigation ditch that bisects the Agricultural and Utility Lot is identified as an area of riparian resource and the management plan permits pedestrian access through the area. *Riparian Resource Plan*
25. In regards to irrigation ditches, the Subdivision Regulations exclude those that “measure less than 3 feet in width at its widest point” in the definition of a riparian resource, thus including those larger than 3 feet wide. *Subdivision Regulations 2.2.85*
26. Five Valleys Audubon commented that “a small portion of the land area contains riparian vegetation...associated with an irrigation ditch” and recommended designation of the land as “a riparian area that should be protected from adjoining human activity by a vegetated buffer.” *FVAS (1), 5/26/16*
27. Research by WATERSHEDSS Wetland Management, citing Buchsbaum, 1994, states “Pedestrian and pet access can be directed, discouraged, or eliminated through placement of shrub hedges, fences, open water buffers, signs, or a combination of these measures on the perimeter of a wetland. Common use piers

and boardwalks over marshes or through swamps can be used to reduce degradation from recreational activities.” *WATERSHEDSS; Buchsbaum, 1994*

28. There is strong support from agencies and neighbors for a trail connection through the Agricultural and Utility Lot between Spurgin Road and Mount Avenue due to the probable increase in the number of school age children, the variety of community resources in the area, potential adverse impacts created by steep slope, and the sensitive riparian area that could be further protected by a designated path. A 20 foot wide pedestrian access easement and trail construction between Spurgin Road and Mount Avenue that meet the standards in Subdivision Regulations 3.10.9, would be a recommended condition of approval. *Subdivision Regulation, Section 3.10.8.4 and 3.10.9; CPTOL 12/22/16*
29. Dedication of a 20 foot wide pedestrian access easement through the Agricultural and Utility Lot would be required if the subdivision were approved. *Subdivision Regulation, Section 3.10.8.4; CPTOL 12/22/16*
30. A donation amount equal to the fair market value of 1.06 acres to satisfy the cash-in-lieu of park land alternative would be required if the subdivision were approved. *Subdivision Regulations 3.10.5.2; CPTOL 12/22/16*
31. An agreement dedicating the cash-in-lieu of park land funds to the trail construction through the Agricultural and Utility Lot would need to be arranged between County Parks, Trails and Open Lands and the developer and would be required if the subdivision were approved. *Subdivision Regulation, Section 3.10.5.2 and Section 3.10.8.4; CPTOL 12/22/16*

Conclusions of Law:

1. The proposed agricultural lot does not meet parkland dedication requirements in Subdivision Regulations Section 3.10.
2. The proposal does not satisfy the Park Design Standards in Subdivision Regulations Section 3.10.7.
3. A dedicated trail connection could meet parkland standards in Subdivision Regulations 3.10.5.2.A and 3.10.8.4 with appropriate conditions of approval.

Schools

Findings of Fact:

1. The application states that approximately 9.5 children from this subdivision would attend the Target Ranch School District #23 for grades K-8 and Big Sky High School for grades 9-12. *Subdivision Application, Page 57*

Conclusions of Law:

1. No adverse impacts to schools requiring mitigation have been identified.

Fire Department

Findings of Fact:

1. The Missoula Rural Fire District will serve the proposed subdivision, located approximately 3.2 miles from the property. *Subdivision Application, Page 58*
2. Wildfire hazard areas are defined as being located within the Wildland Urban Interface and ranking as a moderate or higher risk of wildfire based on the Fire Hazard Assessment. Assessment scores of 40-59 are classified as Moderate Hazard; 60-74 as High Hazard; 75+ as Extreme Hazard. *Subdivision Regulations Section 3.1.3.2 and Appendix C*

3. The applicant completed the Fire Hazard Assessment for Spurgin Ranch Subdivision and received a score of 35 points, ranking below a moderate risk of wildfire. *Subdivision Application, Page 58; Fire Hazard Assessment*
4. Access to individual lots is provided by one 24-foot loop road that incorporates a T-type turn-around design at both corners. *Subdivision Application, Page 51; Supplemental Data Sheet 2 of 4; Subdivision Regulations Section 3.5.7.3*
5. Water supply for fire protection is required to be provided by a system that provides minimum fire flow per NFPA 1142 standards. *Subdivision Regulations Section 3.5.3*
6. In the Fire Suppression Plan, the applicant proposes residential fire sprinklers be installed, inspections and maintenance of the sprinkler systems, and access to individual lots that meet Subdivision Regulation standards. *Fire Suppression Plan*
7. No community or municipal water system with the required minimum fire flow is provided to this subdivision and an RSID/SID waiver statement is required on the plat requiring property owners to participate in the RSID/SID if a community or municipal water system is available. This would be a condition of approval. *Subdivision Regulations Section 3.5.11*

Road and Driveway Access

8. Language in the covenants addressing emergency access requirements include the need for turn-arounds on driveways exceeding 150' in length, an unobstructed drivable width of 20 feet, and a vertical clearance of 13 feet 6 inches. The 20 foot drivable width exceeds the 16 foot requirement in the Subdivision Regulations. *Development Covenants (Building Permit Requirements 6.b); Subdivision Regulations Section 3.5.7*

Conclusions of Law:

1. Fire service is available to the subdivision.

Sheriff's Department

Findings of Fact:

1. The subdivision is located within the jurisdiction of the Missoula County Sheriff's Department, located about 5.4 miles from the property. *Subdivision Application, Page 58*

Conclusions of Law:

1. Missoula County law enforcement services will be available to the subdivision in a manner consistent with its distance from services and ease of access.

EFFECTS ON THE NATURAL ENVIRONMENT AND WILDLIFE AND WILDLIFE HABITAT

(This section jointly addresses three review criteria under MCA 76-3-608. The three have been combined due to the interrelationship of impacts to the natural environment, wildlife, and wildlife habitat.)

Findings of Fact:

1. The property is generally flat with steep slope on either side of the irrigation ditch located on the proposed Agricultural and Utility Lot. The vegetation on-site consists of unirrigated hay, grass, and alfalfa and some weeds. Along the western edge of the property, where one segment of irrigation ditch is located, grass cover and cattails are denser and range from one to a few years old due to ditch maintenance. Trees, shrubs, grasses, and weeds, aged one to 60 years old, are located along the

other ditch segment located in the middle of the eastern boundary. *Subdivision Application, Pages 43-44; Slope Category Map; Vegetation Exhibit*

2. Both ditch segments are designated as areas of riparian resource. *Riparian Resource Plan; Subdivision Regulations Section 3.2.3*
3. The western ditch is 12-15 feet wide and located within a 20 foot wide irrigation ditch easement. The area of riparian resource ranges from 17 to 24 feet wide. The Area of Riparian Buffer extends 10 feet beyond the area of riparian resource. The Subdivision Regulations require areas of riparian resource in a major subdivision to be located in the common area, whereas minor subdivisions require riparian areas be designated as no-build areas. *Subdivision Regulations Sections 3.2.4.2 and 2.2.85; Subdivision Application, Page 45; Riparian Resource Plan*
4. The area of riparian resource along the eastern ditch ranges from 10 to 50 feet wide and is co-located with the 40 foot wide irrigation ditch easement. The Area of Riparian Buffer extends 10 feet beyond the area of riparian resource. This area of riparian resource is contained on the Agricultural and Utility Lot, which is proposed to be owned by the Spurgin Ranch Homeowners Association, complying with the common area location requirement. Areas of vegetation extend beyond the proposed area of riparian resource to the north and steep slope exists beyond the boundary to the south that are not included in the area of riparian resource. *Subdivision Regulations Sections 3.2.4.2 and 2.2.85; Subdivision Application, Page 45; Riparian Resource Plan*
5. Proper riparian area protection would require expansion of the area of riparian resource north of the eastern ditch, to an established fence line. This would reduce the agricultural lot usable acreage. *Subdivision Regulations Sections 3.2.4.2 and 2.2.85; Subdivision Application, Page 45; Riparian Resource Plan*
6. A Riparian Resource Area Management Plan details the prohibition of buildings, structures, non-wildlife friendly fences, roads, motorized vehicular access, parking, storage, livestock, grazing or watering, or any other development, while permitting pedestrian access. *Riparian Resource Plan*
7. The ditches are considered a Historic Wetland. *Subdivision Application, Page 45*
8. Wildlife species using the area include black bear, white-tail deer, ruffed and blue grouse, gray partridge, wolf, pheasant, marten, mountain lion, bobcat, and fisher. White-tailed deer winter range is located in the area. *Wildlife and Wildlife Habitat Exhibit; Subdivision Application, Page 47*
9. The Five Valleys Audubon Society supports the riparian area designations and notes little change in bird use is expected. *FVAS (2), 12/21/16*
10. Due to the potential for human/wildlife conflicts at this location, particularly if residents do not take care in storing potential attractants, the covenants include a section which addresses attractant concerns, in a section entitled "Living with Wildlife Recommendations." *Development Covenants, Sections a-k*
11. Five Valleys Audubon Society commented that they would expect to see little change in bird use due to this subdivision and it would not be in conflict with their resource protection objectives. *FVAS (2), 12/21/16*
12. The applicant proposes a Weed Management Plan be prepared in accordance with the Missoula Comprehensive Subdivision Weed Management Plan Guidelines and is a condition of subdivision approval. Language in Covenant #9 refers to the Montana Country Weed Control Act, the Missoula Country Noxious Weed

Management Plan, and the Spurgin Ranch Subdivision Weed Management Plan. Ground disturbances caused by construction or maintenance must be re-vegetated with beneficial species at the first appropriate opportunity. *Subdivision Application, Page 44; Development Covenants*

13. Missoula County Subdivision Regulations Section 3.7.11 requires a revegetation plan for disturbed sites. Section 3.7.12.3 requires the replanting of disturbed areas no later than the first growing season after the ground disturbance to prevent erosion and weed invasion and notification to future owners.

Conclusions of Law:

1. This subdivision does not fully mitigate impacts to areas of riparian resource due to lack of a common area designation along the western ditch.
2. The subdivision will not have negative impacts to wildlife.

CRITERION 5: EFFECTS ON PUBLIC HEALTH AND SAFETY

Findings of Fact:

1. The subdivision does not contain any FEMA Floodplain. *County Maps*
2. The Missoula Rural Fire District serves the property. The Missoula County Sheriff's Department provides law enforcement services. Community Hospital Medical Center provides ambulance service. *Subdivision Application, Page 58*
3. Individual wells and a public sewer system will serve the lots. *Subdivision Application, Pages 55-56*
4. The Missoula Irrigation District ditch runs through the property. The Health Department commented that the irrigation ditch that runs through the property is considered high quality state water because it connects to the Clark Fork River. *Preliminary Plat; Health 12/27/16*

Radon

5. The covenants contain a section on radon that confirms Missoula County as having high radon potential. In accordance with recommendations from the City-County Health Department, all new construction is recommended to incorporate radon resistant construction features. *Development Covenants; City-County Health Department, 12/27/16*

Air Quality

6. The subject property is in the air stagnation zone. *Subdivision Application, Page 48; County Maps*
7. Since this subdivision is inside the Missoula Air Stagnation Zone, only approved pellet stoves may be installed at this location. The Missoula City-County Air Pollution Control Program regulations prohibit the installation of wood burning stoves or fireplaces. Pellet stoves that meet emission requirements or natural gas or propane fireplaces may be installed. Pellet stoves require an installation permit from County Public Works. *Health, 12/27/16*
8. A condition would be recommended an amendment to Covenant #9 language to replace "the Health Department" with "County Public Works" as the permitting agency for pellet stoves. *Development Covenants*

Ground Water

9. Extremely high ground water has been observed on the northern portion of the property. In 2014 tests, the Health Department observed groundwater less than a foot below the surface in some areas and less than two feet below the surface in

most areas of the proposed northern subdivision. *Water and Sanitation Report; Health 12/27/16*

10. The Health Department has concerns that the proposed wastewater system may have a difficult time passing non-degradation analysis and specifically adjacent to surface water analysis. *Health 12/27/16*
11. The County Floodplain Administrator identified inconsistent references to basements either being discouraged or prohibited due to the likelihood of flooding throughout the application. *Ground Water Mitigation Report, Page 2; Subdivision Application, Page 6*

Conclusions of Law:

1. Emergency services, water and sanitation are available to the subdivision.
2. The potential for groundwater inundation of the houses could be mitigated through conditions.

C. COMPLIANCE

This subdivision complies with:

1. Survey Requirements

Findings of Fact:

1. The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with Part 4 of §76-3, M.C.A.

Conclusions of Law:

1. This proposal meets the survey requirements.

2. Subdivision Regulations

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision regulations provided for in Part 5 of §76-3, M.C.A.

Conclusions of Law:

1. The developer has submitted a plat which does not comply with the requirements of the local subdivision regulations.

3. Review Procedure and Notice of Appeal Process

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in Chapter 5 of the Missoula County Subdivision Regulations.
2. In addition to posting four signs in the area and one in the CAPS office and notifying viewers of the public hearing schedule, a legal ad was published in the Missoulian on March 12, 2017 and March 20, 2017 and notice of the public hearings was sent by certified mail to the notice recipients on March 10, 2017 per Missoula County Subdivision Regulations Section 5.7.12.
3. A decision of the governing body denying or approving a proposed subdivision may be appealed to the District Court within thirty calendar days from the date of the written decision. The application shall specify the grounds upon which the appeal is made. An appeal may be made by the subdivider, a contiguous landowner, an owner of land within Missoula County who can establish a likelihood of material injury to property or its material value, or the Missoula County Board of County Commissioners. In order to file an appeal, the plaintiff must be aggrieved by the

decision, demonstrating that a specific personal and legal interest, as opposed to a general interest, has been or is likely to be specifically and injuriously affected by the decision.

Conclusions of Law:

1. This subdivision plat proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 5.

D. PROVISION OF EASEMENTS FOR UTILITIES

Findings of Fact:

1. The plat indicates seven utility easements within the subdivision. They are located within the road right-of-way, shared access for Lots 8 and 11, along the western boundaries of Lot 12 and Lot 4, along the southern boundaries of Lot 5 and a portion of Lot 8, bisecting the Agricultural and Utility Lot, and the utility easement for the sewer system on the Agricultural and Utility Lot. *Preliminary Plat*
2. The proposed subdivision will be served by Northwestern Energy, and Spectrum or wireless telephone providers. *Subdivision Application, Page 24*

Conclusions of Law:

1. The proposal meets requirements for utility easements.
2. Utility services will be available to this subdivision.

E. PROVISION OF LEGAL AND PHYSICAL ACCESS

Findings of Fact:

1. Physical and legal access will be provided to the subdivision directly off Spurgin Road for Lots 8 and 11, and off of a proposed public road within the subdivision. *Preliminary Plat*

Conclusions of Law:

1. The proposal meets physical and legal access requirements.

IV. VARIANCE REQUEST

1. No variances have been requested for this subdivision although one should have been sought from Table 3.4.7 Road Standards, requiring the surface of Minor Collectors to be 26 feet wide.

RECOMMENDATION

In accordance with Subdivision Regulations Section 5.10, the Community and Planning Services office recommends **approval** of the variance, based on the following findings of fact:

FINDINGS

1. **Strict compliance with these regulations will cause undue hardship for the applicant.**

Spurgin Road is an existing off-site County maintained road with a 24 foot wide paved surface. The road was built to a width that is two feet less than the current 26 foot standard. The road is approximately 3.25 miles long and the subdivision is located approximately 3 miles west of the origin at the intersection with Eaton Street. It ends 0.25 miles west of the subdivision, terminating at the Clark Fork River. The

portion of Spurgin Road abutting the subdivision is 1,077.81 feet long. A 5 foot wide non-motorized path exists on the north side of Spurgin Road, extending the paved surface width to 29 feet. Given the County's construction of the road, the subdivision's location near the terminus, and the existing infrastructure, widening a small portion of the road creates an undue hardship for the applicant.

2. The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to persons or property:

The existing road width is sufficient for the current traffic flows and increasing it was not raised during agency review. The internal road is proposed to align with existing Spurgin Road intersections at Sierra Drive and Humble Road. The internal trail is proposed to connect to the existing non-motorized path by providing pedestrian crossings across Spurgin Road.

3. The conditions upon which a variance is based are unique to the property and are not applicable generally to other property:

Unique conditions are limited to the subdivision's location along Spurgin Road and the proposed infrastructure. The proposed road absorbs the impact that 19 new lots with direct access on the Spurgin Road would otherwise create.

4. The variance will not in any manner violate the provisions of the Missoula County Zoning Resolution or conflict with the Missoula County Growth Policy:

Approval of the variance will not violate the provisions of the Missoula County Zoning Resolution or the Growth Policy for the area.

5. The variance will not cause an increase in public costs:

The need to increase the width of Spurgin Road was not raised during agency review. Public cost is not expected to increase with approval of the variance.

6. The hardship has not been created by the applicant or the applicant's agent:

The hardship that has been identified is based on the existing road being built to a width less than the current standard and the site's location along the road.

V. RECOMMENDED MOTION FOR SUBDIVISION

1. **THAT** the Spurgin Ranch Subdivision be **denied** based on the findings of fact in the staff report.

REFERENCES CITED

The following materials are referenced throughout this document. For ease of reading, short versions of the citations (shown in bold) are used in-text, and full citations are included here.

Plans, Regulations and Resources

Plans available online: <http://www.missoulacounty.us/government/community-development/community-planning-services/plans>

Buchsbaum, 1994: *Management of coastal marshes, Applied wetlands science and technology*, pp'. 331 Boca Raton, FL.: CRC Press.

C.O.S. #####: C.O.S. 1224; C.O.S. 1818; C.O.S. 1488; C.O.S. 2090

County Maps: Property Information System:

<http://gis.missoulacounty.us/propertyinformation/#>

Growth Policy: *Missoula County Growth Policy, Shaping Our Place, Charting Our Future*, June 2016 <http://www.missoulacounty.us/government/community-development/community-planning-services/projects/growth-policy-update/project-documents>

M.C.A.: Montana Code Annotated, 2015, <http://leg.mt.gov/bills/mca/index.html>

MUTCD: Manual on Uniform Traffic Control Devices, 2009, Revised twice in 2012 <http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/mutcd2009r1r2edition.pdf>

NFPA: National Fire Protection Association Code <http://www.nfpa.org/codes-and-standards/document-information-pages>

Subdivision Regulations: Missoula County Subdivision Regulations. Adopted by the Board of County Commissioners of Missoula County and amended on November 4, 2016 <http://www.missoulacounty.us/government/community-development/community-planning-services/regulations/subdivision-regulations-november-4-2016>

Target Range Plan: *Target Range Neighborhood Plan, Rural by Design*, January 2010 <http://www.missoulacounty.us/government/community-development/community-planning-services/plans>

WATERSHEDSS Wetland Management: North Carolina State University Water Quality Group, <http://www.water.ncsu.edu/watershedss/info/wetlands/manage.html>

Zoning Resolution: Missoula County Zoning Resolution, Resolution No. 76-113, <https://shared.missoulacounty.us/index.php/s/XbYsvZDxGfu0O1l#pdfviewer>

Elements of the Spurgin Ranch Subdivision application packet submitted on February 24, 2017

Agricultural Production Map: *Agricultural Production Map, Spurgin Ranch* (Section D)

C.O.S. 6210: Certificate of Survey (Section B)

Development Covenants: *Development Covenants, Spurgin Ranch* (Section B)

DNRC Abstract: *Department of Natural Resources and Conservation, General Abstract* (Section D)

Fire Hazard Assessment: *Fire Hazard Assessment* (Section F)

Fire Suppression Plan: *Fire Suppression Plan*, (Section F)

Irrigation Improvement Plan: *Irrigation Improvement Plan*, (Section D)

Grading and Drainage Report: *Grading and Drainage Engineering Design Report*

(Section F)

Groundwater Mitigation Report: *Groundwater Mitigation Report* (Section E)
Groundwater Monitoring: *Missoula County Groundwater Monitoring* (Section C)
MDEQ Layout: *MDEQ Site Layout* (Section C)
NRCS Web Soil Survey: *Natural Resources Conservation Service Web Soil Survey, 8/26/16* (Section D)
Preliminary Plat: *Preliminary Plat* (Section A)
Riparian Resource Plan: *Riparian Resource Area Management Plan* (Section E)
Slope Category Map: *Slope Category Map* (Section E)
Soils Assessment: *Soils Assessment, Spurgin Ranch, 8/29/2016* (Section D)
Soils Map: *Natural Resources Conservation Service Farmland Classification Soils Map* (Section D)
Subdivision Application: *Missoula County Major Subdivision* (Section A)
Supplement Data Sheet, Sheet # of 4: *Existing Conditions 1 of 4; Layout 2 of 4; Layout with Aerial 3 of 4; Soils Exhibit 4 of 4*
Vegetation Exhibit: *Vegetation Exhibit* (Section E)
Wildlife and Wildlife Habitat Exhibit: *Wildlife and Wildlife Habitat Exhibit* (Section E)
Zoning District Standards: *Zoning District Standards, Spurgin Ranch* (Section B)

Agency Comment Letters and Other Cited References (hard copy documents are included in Section B of the application packet)

City: *City of Missoula Development Services, 5/27/16*
City Parks: *City of Missoula's Parks and Recreation Department, 2/3/17*
CFAC: *Community Food and Agriculture Coalition, 12/21/16*
CPTOL: *County Parks, Trails, and Open Lands, 12/22/16*
FVAS (1): *Five Valleys Audubon Society, 5/26/16*
FVAS (2): *Five Valleys Audubon Society, 12/21/16*
Gingerich: *Dean Gingerich, neighbor, 12/22/16*
Health: *City-County Health Department, 12/27/16*
Loftsgaarden: *Don Loftsgaarden, 12/21/16*
MID: *Missoula Irrigation District, 12/16/16*
Nave: *Jim Nave, DNRC Deputy Regional Director, 3/23/17*
Public Works: *Public Works, 12/22/16*

VI. ATTACHMENTS

- A. Project History Form
- B. Jim Nave email, 3/23/17

**ATTACHMENT A
PROJECT HISTORY FORM**

Project: Spurgin Ranch Subdivision
Applicant: Spurgin Ranch, LLC
Representative: Territorial Landworks, LLC

	<u>Dates</u>		
<u>Scoping/Pre-application Meeting</u>	Pre-Application: 6/7/16		
<u>Element</u>	<u>Submitted</u> 9/13/16 10/24/16	<u>Certified?</u> 9/20/16 (N) 10/28/16 (Y)	
<u>Sufficiency</u>	<u>Submitted</u> No Submittal 12/7/16 1/7/17	<u>Certified?</u> 11/28/16 (N) 12/29/16 (N) 2/7/17 (Y)	
<u>Submitted</u>	<u>Received</u> 2/7/17	<u>Accepted</u> 2/7/17	<u>60-Day Deadline</u> 5/3/17
<u>Extension Granted</u>	NA		
<u>Planning Board</u>	4/4/17		
<u>CAPS Update</u>	4/24/17		
<u>BCC</u>	4/27/17		
<u>Public Notice</u>	<u>APOs Sent</u> 3/9/17	<u>Newspaper</u> 3/12/17 3/19/17	<u>Posted</u> 3/13/17
<u>Plat Approval Expiration Date</u>	4/27/20		

From: [Nave, Jim](#)
To: [Christine Dascenzo](#)
Subject: RE: Record of Surface Water Rights
Date: Thursday, March 23, 2017 11:33:46 AM

Christine,

There are no records of any privately owned surface water rights for that parcel. I know that it was irrigated, and it is within the service area for the Missoula Irrigation District. You could check on their tax records to see if they are assessed a fee from the Missoula Irrigation District. I'm surprised Ray Tipp did not have information, we also list Jerry Supola as a contact for the Missoula Irrigation District, his number is 549-8236. Hope this helps.

Sincerely,

Jim Nave

From: Christine Dascenzo [mailto:cdascenzo@missoulacounty.us]
Sent: Wednesday, March 22, 2017 11:19 AM
To: Nave, Jim
Subject: Record of Surface Water Rights

Hi Jim,

Tim Worley gave me your name and someone who might have information on the surface water rights out at a proposed subdivision at Spurgin and Clements, geocode 04-2199-26-1-01-01-0000.

I wasn't able to find a record of them in the online query tool and Ray Tipp with the Missoula Irrigation didn't have the information available. Does the DNRC have a record of surface water rights? Or another contact with MID?

Let me know if you need anything else.

Thanks,
Christine

Planner, Community and Planning Services
Missoula County

Office: 323 West Alder
Mailing: 200 West Broadway
Phone: 406-258-3869
[Property Information System](#)