

EXECUTIVE SUMMARY

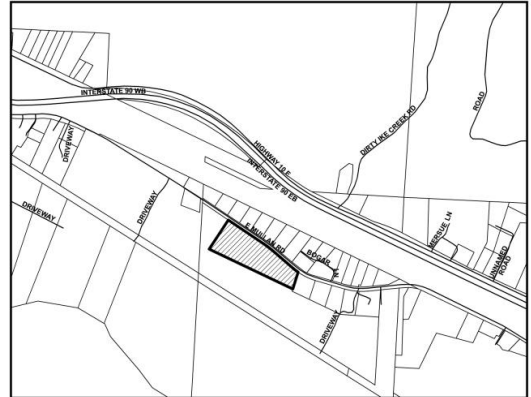
CASE PLANNER: Casey Drayton

REVIEWED AND APPROVED BY: Tim Worley

PUBLIC MEETING DATE: BCC: June 8, 2017

35-DAY LIMIT: June 8, 2017

AGENDA ITEM: **Holden Addition 2**



**APPLICANT/
FEE OWNER:** Kathleen Holden
16701 East Mullan Road
Clinton, MT 59825

REPRESENTATIVE: Montana Northwest Company
c/o Ken Jenkins or Lynne Stanley
P.O. Box 8777
Missoula, MT 59807

LOCATION: 18321 East Mullan Road, Clinton, MT 59825.
Approximately 1.5 miles northwest of Clinton, MT.

LEGAL DESCRIPTION: Parcel A-1-A of COS 6494, in S21, T12 N, R17 W, P.M.M.

LEGAL NOTICE: Adjacent property owners were notified by mail on May 12, 2017.

ZONING DESIGNATION: Unzoned

GROWTH POLICY: Missoula County Growth Policy (2016) and the 2002 Regional Land Use Guide, an update to the 1975 Comprehensive Area Plan. The land use designation at this location is Residential - 2 Dwelling Units per Acre and Parks and Open Space. The property is located within the Clinton Activity Center.

SURROUNDING LAND USES	SURROUNDING ZONING
North: Residential	Unzoned
South: Pasture	Unzoned
East: Residential	Unzoned
West: Residential & Agriculture	Unzoned

PROPOSAL

1. Holden Addition 2 Subdivision

STAFF RECOMMENDATION

1. Approval of the subdivision,
subject to conditions.

MISSOULA BOARD OF COUNTY COMMISSIONERS

June 8, 2017

HOLDEN ADDITION 2 SUBDIVISION

I. BACKGROUND

The Holden Addition 2 Subdivision is a proposal by Kathleen Holden, represented by Montana Northwest Company for five lots on 9.97 acres. The existing 9.97 acre tract was created through a relocation of common boundaries as depicted on COS 6494. The surrounding area is a mix of residential development and pasture land for horses. The proposed subdivision will result in 5 residential lots for a density of 1 dwelling unit per 1.99 acres. The land use designation established is for residential use with a small area identified for parks and open space. The subdivision density complies with the maximum residential density of two dwellings per one acre recommended in the comprehensive plan for the area. The density proposed will be approximately 25% of the plan's recommended maximum.

Agricultural activity in the area is limited by adjacent residential development to the north and west. The soil found on the property is classified as prime farmland if irrigated. No agricultural water user facilities are currently located within the parcel. All of the proposed lots will be served by individual wells for water supply and individual septic systems for sewage disposal.

Access to the tract is served from Mullan Road, an offsite public right-of-way. Access to the 5 lots will be provided by three new approaches. Non-motorized transportation facilities are not proposed with this subdivision. Clinton Rural Fire District will provide fire protection to the lots. With driveways less than 150' and clear address signage it is not anticipated that there will be any adverse impacts to emergency service providers. Residential fire sprinklers are the chosen water supply for firefighting.

II. SUBDIVISION FINDINGS OF FACT AND CONCLUSIONS OF LAW

A.) ZONING AND GROWTH POLICY COMPLIANCE

Findings of Fact:

1. The proposal is for a five-lot subdivision on 9.97 acres. The resulting density is 1 dwelling unit per 1.99 acres. (*Project Application, Page 2*)
2. The property is vacant with the exception of a small shed. (*Project Summary, Page 1*)
3. The property proposed for subdivision is unzoned. (*Project Application, Page 2*)
4. The applicant proposes a five lot subdivision for residential use with one dwelling per lot. (*Project Summary, Page 3*)
5. The applicable amendment to the Missoula County Growth Policy (2016) is the 2002 Missoula County Regional Land Use Guide ("Regional Land Use Guide"). The land use designation is primarily Residential 2 Dwelling Units per Acre with a small portion defined as Parks and Open Space. (*Project Application, Page 3; Property Information System*)
6. The Missoula County Growth Policy outlines a series of objectives. Objective 8.3 looks to guide new subdivisions and development to areas that have the least impact on natural resources and are most suited for development. (*Growth Policy*)
7. Objective 11.1 discourages development in hazardous areas and areas where public and emergency responder safety is compromised. (*Growth Policy*)

8. The Regional Land Use Guide encourages residential development up to two dwellings per acre within activity centers. The tract of land is completely contained within the Clinton Activity Center. *(Regional Land Use Guide, Page 5; Property Information System)*
9. Ownership of the land in residential development is encouraged in the Clinton Planning Area objectives. The intent is to foster community stability and pride of ownership. *(Regional Land Use Guide, Page 2)*
10. FEMA-designated floodplain is absent from the property. *(Property Information System)*
11. The goal of the subdivider is to create five new lots to be served by individual well and septic systems. *(Project Application, Page 26)*
12. The lots proposed will be, on average, slightly larger than other lots within adjacent subdivisions served by Mullan Road. *(Property Information System)*

Conclusions of Law:

1. The subdivision is in substantial compliance with the Missoula County Growth Policy (2016).
2. The subdivision is in substantial compliance with the Regional Land Use Guide (2002).

B.) PRIMARY CRITERIA COMPLIANCE

CRITERION 1: EFFECTS ON AGRICULTURE AND AGRICULTURAL WATER USER FACILITIES -

Findings of Fact:

1. Agricultural use is currently absent from the site. *(Project Application, Page 9)*
2. The property is split between two soil classifications. Approximately 71% of the tract is identified as Bigarm gravelly loam, 0 to 4 percent slopes. The remaining 29% of the tract is identified as Grantsdale Loam, 0 to 2 percent slopes. Both soils are classified as prime farmland if irrigated. *(Project Summary, Page 1; Web Soil Survey)*
3. Land uses adjacent to the parent parcel are vacant and residential. The vacant property to the south and west is utilized for pasture. *(Project Application, Page 2)*
4. The covenants include a notification to residents about the potential for adjacent agricultural activities. *(Missoula County Subdivision Regulations Section 3.1.4.2.B.2; Covenants)*
5. The vegetation found on the property consists of mainly dryland grasses. A small area of Spotted Knapweed has been identified. Active management and revegetation throughout all stages of development will mitigate impact to adjacent agricultural soils that may be susceptible to noxious weed infestation. *(Vegetation Map; Project Application, Page 14)*
6. A condition of approval requires a Weed Management Plan to be recorded as part of the covenants or a development agreement. This plan shall address the developer as the responsible party for implementation and execution until such time that each lot is conveyed and the new owner assumes the responsibility for weed management. A current site analysis, goals and action items will need to be identified. *(Missoula County Subdivision Regulations Sections 3.7.12.3, 3.1.2.4, and Appendix B - Maintenance Agreements)*
7. The property is not located on land with agricultural water user facilities and is not adjoining an agricultural water user facility. *(Project Summary, Page 2)*
8. Subdivision runoff is designed to be retained onsite and does not depend upon adjacent agricultural land or irrigation facilities. *(Missoula County Subdivision Regulations Section 3.1.4.2.B.1; Storm Water Calculations)*
9. The property is located within the Clinton Irrigation District. No water rights are associated with this tract. *(Property Information System; Water Right Query System)*

10. Water for the 5 lots will be obtained via individual wells suitable for residential use only. *(Project Summary, Page 2)*
11. A 60' setback and no build zone is proposed along the rear lot lines of lots 3 – 5 to protect the valuable soil for open area, residential gardening or agricultural endeavors. It also provides a buffer between the proposed residences and adjacent agricultural land. *(Project Summary, Page 1; Preliminary Plat; Covenants)*
12. A condition of approval requires that Development Covenants Section 9.d. *Architectural Control: Building Line Restrictions* shall not be amended or deleted without governing body review and approval.

Conclusions of Law:

1. Impacts to valuable agricultural land are proposed to be mitigated through the enhanced setback area with the required condition of approval.
2. No impacts to agricultural water user facilities are anticipated with the development.

CRITERION 2: EFFECTS ON LOCAL SERVICES --

Roads

Findings of Fact

1. The subdivision is served by Mullan Road, a 26 foot wide offsite road within a 66 foot wide right-of-way. *(Project Application, Page 21)*
2. Missoula County Subdivision Regulations require public roads in the rural area designated as Minor Collector to be 26 feet in width and located within a 60 - 80 foot right-of-way. *(Missoula County Subdivision Regulations Table 3.4.7)*
3. No onsite roads are proposed in the subdivision. *(Preliminary Plat)*
4. Access to the five lots will be provided by two shared approaches and one individual approach, all requiring approach permit approval by Missoula County Public Works and the GIS office. *(Preliminary Plat; Public Works, 4/13/17)*
5. Montana Department of Transportation has no maintenance authority on this part of Mullan Road and has no additional comments or concerns. *(Department of Transportation, 4/3/17)*
6. The two shared approaches between lots 2 and 3, and 3 and 4 will be 32 foot wide paved approaches. *(Project Application, Page 22; Preliminary Plat)*
7. A condition of approval requires the two shared approaches to be constructed and paved prior to final plat. The improvements may be allowed after final plat, subject to an improvements guarantee. *(Public Works, 4/13/17; Missoula County Subdivision Regulations Section 6.3.4)*
8. A condition of approval requires that Development Covenants Section 4. *Driveway Approach and Setbacks* be altered to state that the shared approaches will be constructed by the developer prior to final plat or as part of an improvements guarantee. *(Covenants)*
9. Access to lots 2 and 3, and lots 4 and 5 from Mullan Road will be provided by a shared access driveway. *(Missoula County Subdivision Regulations Section 3.3.2.9)*
10. Shared driveway construction and maintenance agreements have been included in the covenants for lots 2 and 3, and 4 and 5. *(Covenants; Public Works, 4/13/17)*
11. The 16 foot wide individual approach serving lot 1 will require an approach permit at time of Building Permit review. The application and plat indicate that this may be paved or gravel. *(Project Application, Page 22; Preliminary Plat; Public Works, 4/13/17)*
12. A no access strip is shown on the preliminary plat to reduce the overall number of approaches. *(Preliminary Plat)*

13. A condition of approval requires the No Access Strip to be designated as an Access Control Line on the face of the final plat. (*Missoula County Subdivision Regulations Section 2.2.2*)
14. Original GLO records indicate a Military Road (Mullan Trail or Mullan Road) across a portion of the subdivision. A petition to alter the possible location of the historic right-of-way to align with the current alignment of Mullan Road was approved by the Board of County Commissioners at the Public Hearing on May 25, 2017. (*Project Application, Page 12*)
15. The Board of County Commissioners approved a reduction in the Mullan Road right of way width from 66' to 60' along the frontage of the subdivision at the Public Hearing on May 25, 2017. A condition of approval requires the 3' wide dedicated easement for the 66' wide county road to be removed from the plat. (*Preliminary Plat*)

Conclusions of Law

1. The subdivision will meet the road standards in the Missoula County Subdivision Regulations with the required conditions of approval.

Pedestrian Facilities

Findings of Fact:

1. Pedestrian facilities are not available along Mullan Road. (*Project Application, Page 20*)
2. Missoula County Parks, Trails and Open Lands has commented on the potential for a trail segment along Mullan Road. This would be a small step in a larger plan recommended in the County Parks & Trails 2012 Master Plan. (*Parks, Trails and Open Lands, 3/9/17*)
3. Minor subdivisions in the Rural Area are not required to have pedestrian facilities per Missoula County Subdivision Regulations Section 3.4.9.2.A. However, they are required to include a waiver of the right to protest creation of an SID/RSID for future construction of sidewalks, bicycle lanes or trails. (*Missoula County Subdivision Regulations*)
4. A condition of approval requires the inclusion of SID/RSID language on the final plat, subject to CAPS review and approval. (*Missoula County Subdivision Regulations Section 3.4.9.2.A*)

Conclusions of Law:

1. The proposal complies with the Missoula County Subdivision Regulations with the required condition of approval.

Water & Sanitation Systems

Findings of Fact:

1. Individual wells are proposed for all 5 lots. (*Water & Sanitation Report Section J, page 1*)
2. Well isolation zones are shown on the preliminary plat for all lots. (*Preliminary Plat*)
3. Each well will have adequate water quantity and quality as derived from surrounding well logs and water tests conducted. (*Water & Sanitation Report Section J, page 1*)
4. Individual drainfields are proposed to manage wastewater for each lot. (*Water & Sanitation Report Section J, page 1*)
5. No community water or sewer systems are available at this time in the general area. (*Property Information System*)

Conclusions of Law:

1. The water and sanitation information complies with Subdivision Regulations.
2. Review of water and sanitation systems is under the jurisdiction of state and local health authorities under the Montana Sanitation in Subdivision Act.

Solid Waste

Findings of Fact:

1. Removal of solid waste will be the responsibility of individual lot owners through contract with Republic Services or by private haul off. (*Water & Sanitation Report Section J, page 2*)

Conclusion of Law:

1. Review of solid waste disposal is under the jurisdiction of state and local health authorities under the Montana Sanitation in Subdivision Act.

Parks and Recreation

Findings of Fact:

1. No parkland dedication is proposed for the subdivision. (*Project Application, Page 2*)
2. Missoula County Subdivision Regulations Section 3.10.3.1 exempts minor subdivisions from parkland dedication requirements.
3. An area of land designated as Parks and Open Space bisects the property. This area is approximately 2 acres in size. (*Property Information System*)
4. Proposed mitigation to the development of land designated as Parks and Open Space is the creation of the 60 foot wide no build zone designated along the rear property lines of lots 3, 4, and 5. (*Project Application, page 3*)

Conclusions of Law:

1. This subdivision is exempt from parkland dedication or cash-in-lieu of park dedication since it is a minor subdivision.

Schools

Findings of Fact:

1. The Subdivision Application indicates that the subdivision is within the Clinton Schools K-8th Grade and Missoula Public Schools for High School. (*Project Application, Page 27*)
2. No residential impact is expected to the established districts from the five additional lots. (*Project Application, Page 26*)

Conclusion of Law:

1. There are no identified adverse impacts to schools requiring mitigation.

Fire Department

Findings of Fact:

1. A Fire Hazard Assessment completed for the subdivision returned a Low Hazard rating. (*Missoula County Subdivision Regulations Appendix C, Fire Hazard Assessment*)
2. The subdivision scored very low for wildfire risk in the categories of subdivision design, vegetation, topography, and utilities. (*Missoula County Subdivision Regulations Appendix C, Fire Hazard Assessment*)
3. The subdivision is located in an area with adequate access and open space. (*Property Information System*)
4. The subject property is located in the Clinton Rural Fire District and is less than 5 miles from the nearest fire station. (*Project Application, Page 27*).
5. Missoula County Subdivision Regulations Section 3.5.3 requires water supply for fire protection that includes a municipal system, storage and hydrants, or fire sprinklers.
6. Residential fire sprinklers are the chosen water supply for fire suppression. A condition of approval requires the residential fire sprinkler language in the covenants to be included on the plat or on a conditions of approval sheet. (*Project Application, Page 27; Missoula County Subdivision Regulations Sections 3.5.3.4 and 3.5.9; County Fire Inspector, 3/31/17*)

7. The Covenants include a section titled Fire Prevention which serves as supplemental notification to new homeowners, permit reviewers, and the County Fire Inspector of the fire sprinkler requirement. A condition of approval requires that the language identifying the fire sprinkler requirement in the covenants shall be included and may not be altered or eliminated without governing body approval. *(Covenants; Missoula County Subdivision Regulations Section 3.5.3)*
8. Since no community or municipal water system with the required minimum fire flow is provided to this subdivision, an RSID/SID waiver statement shall be required stating that at such time a community or municipal water system is available the property owner shall be required to participate in the RSID/SID. This is a required condition of approval. *(Missoula County Subdivision Regulations Section 3.5.11)*
9. The covenants include language regarding address signage and the minimum height of address numbers. *(Covenants)*

Road & Driveway Access

10. The covenants include language regarding turn-around requirements for driveways over 150' in length. *(Covenants)*
11. Subdivision Regulations require a turn-around area for a fire apparatus if the driveway is greater than 150 feet in length. *(Missoula County Subdivision Regulations Section 3.5.7.3)*
12. The Missoula County Fire Inspector will review driveway design for adequate access to individual lots at time of Land Use Permit application.

Conclusions of Law:

1. The subdivision is a low wildfire hazard risk.
2. This subdivision meets the fire protection requirements of the Subdivision Regulations with the required conditions of approval.

Sheriff Department

Findings of Fact:

1. The subject property is 8.37 miles away from the Missoula County Sheriff's office. *(Project Application, Page 27)*
2. No comments indicating issues with the subdivision were received from the Sheriff's Department.

Conclusion 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.

CRITERIA 3 AND 4: EFFECTS ON THE NATURAL ENVIRONMENT AND WILDLIFE AND WILDLIFE HABITAT--

Findings of Fact:

Natural Environment

1. The site is located in a rural area planned for suburban residential development based on the capability of supporting high population densities without environmental degradations. *(Regional Land Use Guide, Page 5)*
2. The development observed within the Clinton Activity Center area is found to be residential along transportation corridors with a mix of agriculture and open space beyond. *(Property Information System)*
3. Historic maps indicate that the Mullan Trail crossed a portion of the property. No indication of a road or historical use can be found on the site. *(Project Application, Page 12)*

Wildlife & Wildlife Habitat

4. The site is located in close proximity to a heavily used highway and railroad transportation thoroughfare. *(Property Information System)*
5. The current state of the site has not entertained wildlife due to the lack of irrigation and attractants. *(Project Application, Page 16; Vegetation Map)*
6. Habitat species that can be confirmed for the general area include black bear, white tail deer, birds, coyotes, and small rodents. *(Project Application, Page 18)*
7. No Build Zones and setbacks established for the lots will minimize disturbance and impacts to wildlife. *(Project Application, Page 18)*
8. Covenant language referred to as “Living With Wildlife” has been included that addresses the issue of wildlife attractants. A condition of approval requires that the language may not be changed or deleted without prior approval of the governing body. *(Covenants)*

Weed Management

9. The subdivision site has a small area of Spotted Knapweed. *(Project Application, Page 14)*
10. Previous ground disturbances are not evident. Disturbance could occur with home construction and related access. *(Property Information System)*
11. The Covenants make reference to the Montana County Weed Control Act and the Missoula County Noxious Weed Management Plan. Ground disturbances caused by construction or maintenance shall be re-vegetated with beneficial species at the first appropriate opportunity. *(Covenants)*
12. 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. Approval of the revegetation plan by the Missoula County Weed District is a recommended condition of approval.
13. The weed management language in the covenants confirms that the property owner is responsible for removal and control of noxious weeds. *(Covenants)*
14. The noxious weeds found on the property will continue to propagate until managed. A current site analysis, goals and action items will need to be identified as part of a proper management plan. A condition of approval requires a Weed Management Plan to be recorded as part of the covenants or a development agreement. This plan shall address the developer as the responsible party for implementation and execution until such time that each lot is conveyed and the new owner assumes the responsibility for weed management. *(Missoula County Subdivision Regulations Sections 3.7.12.3, 3.1.2.4, and Appendix B – Maintenance Agreements)*

Conclusion of Law:

1. With the required conditions of approval, the subdivision complies with the Missoula County Subdivision Regulations and mitigates the subdivision’s impacts to the natural environment, wildlife and wildlife habitat.

CRITERION 5: EFFECTS ON PUBLIC HEALTH AND SAFETY--

Findings of Fact:

Floodplain/Steep Slopes

1. The subdivision does not contain any FEMA designated floodplain. *(Property Information System)*
2. Covenant language has been included to address the potential of groundwater inundation of homes with basements on lot 4 and 5 in accordance with comments received from the Missoula County Floodplain Administrator. *(Covenants; Floodplain Comments, 2/27/17)*

3. Covenant language requires pre- and post-construction elevation certificates for lots 4 and 5 with lowest floors including all mechanical equipment and wellheads to be located a minimum of 3420' NAVD88. CAPS recommends minor language modifications to this section of the covenants. (*Floodplain Comments, 2/27/17; Missoula County Subdivision Regulations Section 3.1.2.4 and Appendix E, Section 7*)
4. Several small areas classified as steep slopes are found surrounding a low lying area in the southeast corner of the property. (*Slope Category Map*)
5. Subdivision Regulations require natural slopes in excess of 25% be deemed unsuitable for building sites. (*Missoula County Subdivision Regulations Section 3.1.2.3.A*)
6. A condition of approval requires the inclusion of no build zones on the final plat for any slope greater than 25%, subject to CAPS review and approval.

Radon

7. 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. (*Covenants*)

Air Quality

8. This subdivision is outside the Missoula Air Stagnation Zone. (*Property Information System*)
9. Wood fireplaces may not be installed per Chapter 9 of the City-County Air Pollution Control Program. Other stoves may be installed with proper permits issued by Missoula County Public Works Department. (*City-County Health Department, 2/23/17*)
10. The covenants include language about stove installation and permitting based on the comments provided by the Missoula City-County Health Department, with staff-recommended amendments. A condition of approval requires the language not to be amended or removed without governing body approval. (*Covenants; City-County Health Department, 2/23/17*)

Conclusions of Law:

1. The subdivision will comply with public health and safety standards in the Missoula County Subdivision Regulations with the required conditions of approval.
2. Hazards relating to radon and air quality will be mitigated if the owners enforce the Development Covenants as amended.

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 M.C.A. 76-3.

Conclusion 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 M.C.A. 76-3.

Conclusion of Law:

1. The developer has submitted a plat which complies with the requirements of local subdivision regulations or conditions have been required that will bring the plat into compliance.

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 Section 5 of the Missoula County Subdivision Regulations.
2. The public meeting notification for this subdivision was mailed to notice recipients on May 15, 2017 per Missoula County Subdivision Regulations Section 5.7.11.
3. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty (30) days of such 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.

Conclusion of Law:

1. This subdivision proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Missoula County Subdivision Regulations.

D) PROVISION OF EASEMENTS FOR UTILITIES:

Findings of Fact:

1. Missoula County Subdivision Regulations Section 3.8.7 requires easements for utilities. The plat shows a 42 foot wide power distribution easement crossing lots 3 and 4. (*Preliminary Plat*)
2. Missoula County Subdivision Regulations require a well isolation zone that is a 100 foot radius around the well. Written permission is required if the isolation zone extends to adjacent property. (*Missoula County Subdivision Regulations*)
3. The well isolation zones are completely contained within the property for lots 1 – 4. (*Preliminary Plat*)
4. The well isolation zone for lot 5 extends off of the property. A well isolation zone easement has been recorded in book 975 (micro) page 926.
5. Blackfoot Telecommunications commented that telephone service is in the general area, however additional cost may apply to provide service to each lot. (*Blackfoot Telecommunications, 2/24/17*)

Conclusion of Law:

1. Utility services will be available to this subdivision and are in compliance with the Subdivision Regulations.

E) PROVISION OF LEGAL AND PHYSICAL ACCESS:

Findings of Fact:

1. Mullan Road serves the subdivision. This road is within a 60' wide Public Road Easement.
2. Mullan Road was previously a 66' wide right of way. The right of way was reduced to 60' by the Board of County Commissioners at the Public Hearing on 5/25/17. A condition of approval requires the 3' wide dedicated easement for the 66' wide county road to be removed from the plat. (*Missoula County Subdivision Regulations Table 3.4.7*)

Conclusion of Law:

1. The proposal meets physical and legal access requirements for subdivision with the required condition of approval.

MOTIONS AND CONDITIONS

IV. RECOMMENDED MOTION FOR SUBDIVISION

1. **THAT the Holden Addition 2 Subdivision be approved**, based on the findings of fact in the staff report and subject to the recommended conditions of approval in the staff report.

V. RECOMMENDED CONDITIONS OF SUBDIVISION APPROVAL

Roads and Transportation:

1. The two shared approaches to access lots 2 and 3 and 3 and 4 shall be paved and constructed prior to final plat. The improvements may be allowed after final plat, subject to an improvements guarantee. (*Public Works 4/13/17; Missoula County Subdivision Regulations Section 6.3.4*)
2. The 3' wide dedicated easement for the 66' wide county road shown along the Mullan Road frontage shall be removed from the plat. (*Missoula County Subdivision Regulations Table 3.4.7*)

Plat Notes:

3. 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 the subdivision shall constitute the assent of the owners to any future SID/RSID, based on benefit, for future construction of sidewalks, bicycle lanes or trails and may be used in lieu of their signatures on an SID/RSID petition." (*Missoula County Subdivision Regulations Section 3.4.9.1.A*)
4. 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." (*Missoula County Subdivision Regulations Section 3.5.11*)

Fire Prevention:

5. Fire sprinklers shall be provided for each new residential structure that comply with NFPA 1142, 13, or 13D, as applicable, to be reviewed and approved by the Missoula County Fire Inspector. Fire sprinkler language contained in the covenants shall be included on the final plat or on a conditions of approval sheet, subject to CAPS review and approval prior to final plat approval. (*Missoula County Subdivision Regulations Sections 3.5.3.4 and 3.5.9*)

Weeds:

6. A Revegetation Plan for the subdivision shall be signed and approved by the Missoula County Weed District prior to final plat approval. (*Missoula County Subdivision Regulations Section 3.7.11*)
7. A Weed Management Plan shall be crafted and recorded with the Covenants or as a Development Agreement, subject to CAPS and the Missoula County Weed District review and approval prior to Final Plat approval. The developer shall be identified as the responsible party for implementation and execution of the plan for each lot until such time that the property is conveyed to a new owner. The plan shall include at minimum a current site analysis, and identify weed management goals and action items. (*Missoula County Subdivision Regulations Sections 3.7.12.3 and 3.1.2.4*)

Development Covenants:

8. Development Covenants Section 7 shall be amended as follows:

“The property is outside the Air Stagnation Zone, but installation of any wood stove, pellet stove, or similar heating device is subject to Chapter 9 of the City-County Air Pollution Control Program. Wood fireplaces may not be installed. Natural gas/propane devices may be installed with the proper county permits. County approved wood stoves, pellet stoves and outdoor wood boilers may be installed with the proper permits from the Missoula County Public Works Department. Because large parts of Missoula County are close to exceeding the national fine particulate matter standard and because residential wood heating is the primary source of fine particulate matter pollution, it is imperative that the cleanest heating methods available be used.”

9. Development Covenants Section 4. *Driveway Approach and Setbacks* shall be altered to state that the shared approaches will be constructed by the developer prior to final plat or as part of an improvements guarantee. (*Missoula County Subdivision Regulations Section 6.3*)
10. The Development Covenants shall be submitted and recorded with the final plat, subject to review and approval by Missoula County Community and Planning Services. The following sections shall be included and cannot be altered or eliminated without governing body approval:
 - a. Wildlife
 - b. Fire Prevention – fire sprinkler requirements
 - c. Woodstoves
 - d. Architectural Control: Building Line Restrictions
(*Missoula County Subdivision Regulations Section 7.6.6*)

Plat:

11. Areas identified as having slopes greater than 25% shall be depicted in bearings and distances, and shall be designated as No Build Zones on the Final Plat, subject to CAPS review and approval prior to final plat approval. (*Missoula County Subdivision Regulations Section 3.8.3*)
12. “No Access Strips” shall be re-labeled as “Access Control Lines” on the final plat, subject to CAPS review and approval prior to final plat approval. Access Control Lines shall be shown exclusive of designated approach areas. (*Missoula County Subdivision Regulations Section 2.2.2*)

Public Health and Safety

13. The requirement for pre- and post-construction elevation certificates for lots 4 and 5 shall be amended as follows:

“Although not within designated floodplain, houses shall be elevated due to potential of groundwater inundation of homes with basements on Lots 4 and 5 during flood. ~~Per Community and Planning Services Floodplain Administrator,~~ Pre- and post-construction elevation certificates shall be required for Lots 4 and 5 with lowest floors including all mechanical equipment and wellheads to be located a minimum of 3420’ NAVD88.

This section shall be added to sections of the covenants that may not be changed or deleted without written consent of the governing body. (*Missoula County Subdivision Regulations Section 3.1.2.4 and Appendix E, Section 7*)

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.

Rules, Plans & Regulations

Missoula County Growth Policy: Adopted by the Board of County Commissioners in 2016.

<http://www.missoulacounty.us/home/showdocument?id=15085>

Missoula County Subdivision Regulations: Adopted by the Board of County Commissioners of Missoula County and amended November 4, 2016.

<http://www.missoulacounty.us/Home/ShowDocument?id=23722>

2002 Missoula County Regional Land Use Guide (Regional Land Use Guide): Adopted by the Board of County Commissioners in 2002.

<https://shared.missoulacounty.us/index.php/s/dyCpRxsq6sxFOt#pdfviewer>

1975 Comprehensive Plan: Missoula County Comprehensive Plan 1975

<https://shared.missoulacounty.us/index.php/s/workxKqcaFva00r#pdfviewer>

Missoula City-County Air Pollution Control Program

<https://www.missoulacounty.us/home/showdocument?id=4276>

Information Queries:

Department of Natural Resource and Conservation – Water Right Query System

<http://wrqs.dnrc.mt.gov/>

Missoula County Property Information System:

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

Natural Resource Conservation Service - Web Soil Survey

<https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

Elements of the Holden Addition 2 Subdivision application packet:

Covenants: *Holden Addition 2 Subdivision, Section 9.*

Fire Hazard Assessment: *Fire Hazard Assessment, Section 6.15.*

Preliminary Plat: *Preliminary Subdivision Plat, Section 10.*

Project Application: *Missoula County Minor Subdivision Application, Section 3.*

Project Summary: *Project Summary for Holden Addition 2 Subdivision, Section 2.*

Storm Water Calculations: *Storm Water Calculations for Holden Subdivision, Section 5.*

Water & Sanitation Report Section J: *Water & Sanitation Section J Summary, MDEQ Submittal, Section 5.*

Vegetation Map: *Vegetation Map, Section 6.2.*

Agency Comment Letters and Other Cited References (hard copy documents are included in the application packet Section 7):

Blackfoot Telecommunications, 2/24/17: *Blackfoot Telecommunications Group, dated February 24, 2017.*

City-County Health Department Air Quality, 2/23/17: *Missoula City County Health Department Air Quality Specialist, dated February 23, 2017.*

County Fire Inspector, 3/31/17: *Office of Emergency Management County Fire Inspector, dated March 31, 2017.*

Department of Transportation, 4/3/17: *Montana Department of Transportation, dated April 3, 2017.*

Floodplain Comments, 2/27/17: *Missoula County Floodplain Administrator, dated February 27, 2017.*

Parks, Trails and Open Lands, 3/9/17: *Missoula County Parks, Trails and Open Lands*, dated March 9, 2017.

Public Works, 4/13/17: *Missoula County Public Works*, dated April 13, 2017.

V. ATTACHMENTS

- A. Final Plat Requirements
- B. Project History Form

ATTACHMENT A 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. The Planning Office and other applicable agencies will review the following items, in addition to conditions of approval, Subdivision Regulations Section/Table 7.5, 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. The 60' wide Building Setback and No Build Zone along the rear of lots 3 – 5 shall be clearly labeled and indicated on the face of the Final Plat.

Covenants

2. Driveway Construction and Maintenance Agreements shall be included with the covenants for lots 2 – 5.

**ATTACHMENT B
SUBDIVISION PROJECT HISTORY**

Project: Holden Addition 2 Subdivision, 5-lot residential minor subdivision

Applicant/ Representative: Montana Northwest Company

	Dates		
Scoping/ Pre-application Meetings	Scoping: 1/25/16 Preapplication: 3/1/16		
Element	Submitted 9/14/16 12/7/16 2/9/17	Response 9/21/16 1/27/17 2/16/17	
Sufficiency	Submitted 2/22/17 3/29/17	Response 3/15/17 4/19/17	Sufficient-Y/N No Yes
Submittal 10 copies 7 days prior to 1 st meeting	Received 4/21/17	Accepted	35 Day Deadline June 8, 2017
Planning Board	N/A		
BCC	6/8/17 meeting		
Public Notice	APO letters May 15, 2017		
Plat Approval Expiration Date (3 years)			
Extension	N/A	N/A	
CAPS Plat Sign Off			

Report Reviews/Final Report Issued

Meetings with Applicant

Other Actions