

### **III. REVIEW AND APPROVAL PROCEDURES FOR MAJOR SUBDIVISIONS**

#### **III-A-1. General**

Subdivisions containing six or more lots, and subsequent subdivisions containing five or fewer lots that do not qualify as first minor subdivisions, shall be reviewed under the procedures of this Section.

#### **III-A-2. Pre-application Process**

- a. **Pre-application Meeting.** The subdivider shall meet with Planning Staff (or other authorized agent or agency, designated by the governing body to review subdivision applications) prior to submitting a subdivision application and preliminary plat. The purpose of this meeting is to discuss these Regulations and standards, to identify the state laws, local regulations and any growth policy provisions that may apply to the subdivision review process, familiarize the subdivider with the goals and objectives of applicable plans, regulations and resolutions, and to discuss the proposed subdivision as it relates to these matters. A request for a pre-application meeting shall be made in writing to the Planning Office. The request shall include the owner's name, address and phone number, name, address and phone number of the subdivider, if different than the owner, a complete legal description of the parcel or parcels proposed to be subdivided and a description of the proposed development plans. The pre-application meeting will be scheduled within thirty (30) days of the Planning Office receiving a written request with all the required information.
  - i. If the owner or owners designates a representative to represent the owner at the pre-application meeting, the representative must have a signed designation granting the authority to represent the landowner for the purpose of subdividing the property.
  - ii. The applicant will provide the materials identified in Appendix A, subsection A (Pre-Application meeting) at or before the scheduled pre-application meeting.
  - iii. At the pre-application meeting, the Planning Staff (or other authorized agent or agency, designated by the governing body to review subdivision applications) will provide the subdivider with a list of the public utilities, those agencies of local, state, and federal government, and any other entities that may be contacted for comment on the subdivision application and the timeframes that the public utilities, agencies, and other entities are given to respond. If, during the review of the application, the Planning Staff or other authorized agent designated by the Commission contacts a public utility,

agency, or other entity that was not included on the list originally made available to the subdivider, the agent or agency shall notify the subdivider of the contact and the timeframe for response.

b. The subdivider shall submit the subdivision application and preliminary plat as provided in III-B-1 of these regulations within one hundred twenty (120) working days of the Planning Office notification of completion of the pre-application process. If an application is not submitted within one hundred twenty (120) working days the subdivider must request a new pre-application meeting and complete the pre-application process as if it were a new proposal.

### **III-B. Subdivision Application and Preliminary Plat**

After the requirement for pre-application review has been satisfied, the subdivider shall submit a subdivision application, including a preliminary plat of the proposed subdivision. Preliminary plats submitted to the Planning Office must conform to the requirements of these Regulations. The preliminary plat shall be prepared by a surveyor licensed to practice in Montana.

#### **III-B-1. Subdivision Application and Preliminary Plat Approval**

The subdivider shall submit to the governing body or to the agent or agency designated by the governing body a subdivision application addressing these topics and containing the following materials, all described in more detail in forms provided by the subdivision administrator, as applicable:

1. A completed and signed Subdivision Application Form;
2. The required review fee;
3. A preliminary plat;
4. A Vicinity Sketch;
5. A topographic map;
6. A grading and drainage plan;
7. Engineering plans for all Public and Private Improvements;
8. Overall development plan if development is in phases;
9. Abstract of Title (or Title Report);
10. Lien holders' acknowledgement of subdivision;
11. Documentation of legal and physical access;
12. Documentation of existing easements, including those for Agricultural Water User Facilities;
13. Existing covenants and deed restrictions;
14. Existing water rights;
15. Existing mineral rights;
16. Names and addresses of all adjoining property owners;
17. Proposed road plans and profiles;

18. Encroachment permits from Montana Department of Transportation or the local jurisdiction;
19. Proposed easements;
20. Proposed disposition of water rights;
21. Proposed disposition of mineral rights;
22. Parkland dedication calculations;
23. Environmental assessment and/or summary of probable impacts;
24. Transportation impact analysis or transportation plan;
25. Fire risk rating analysis and fire prevention plan;
26. Weed management plan and re-vegetation plan;
27. Property owners' association documents, including draft articles of incorporation, declaration and bylaws;
28. FIRM or FEMA panel map and letter identifying floodplain status;
29. Required water and sanitation information;
30. Copies of any review by DEQ or sanitarian under 76-4-134, MCA on the subject property or adjoining properties;
31. A form of Subdivision Improvements Agreement, if proposed;
32. Letter requesting a revocation of agricultural covenants;
33. Letter indicating locations of cultural or historic resources;
34. Variance request or approval;
35. Re-zoning application or approval;
36. Flood hazard evaluation;
37. Letter identifying and proposing mitigation for potential hazards or other adverse impacts as identified in the pre-application meeting and not covered by any of the above required materials; and
38. Such additional relevant and reasonable information as identified by the Subdivision Administrator during the pre-application meeting that is pertinent to the required elements of this section.

The requirement for preparing an environmental assessment does not apply when the subdivision meets the criteria in 76-3-616, MCA:

- (a) The proposed subdivision is entirely within an area inside or adjacent to an incorporated city or town where the governing body has adopted a growth policy that includes the provisions of 76-1-601(4)(c), MCA;
- (b) The proposed subdivision is entirely within an area subject to zoning adopted pursuant to 76-2-203 or 76-2-304, MCA that avoids, significantly reduces, or mitigates adverse impacts identified in a growth policy that includes the provisions of 76-1-601(4)(c); and
- (c) The subdivision proposal includes a description of future public facilities and services, using maps and text, that are necessary to efficiently serve the projected development.

### **III-B-2. Application Review**

The time limits for the element and sufficiency reviews of this subsection apply to each successive submittal of the application materials until a determination is made that the application contains all the required elements and is sufficient for review and the subdivider is notified in writing.

The Planning Office shall be the entity to complete element and sufficiency review regardless if the subdivider has applied to the MDEQ first pursuant to 76-4-129, MCA.

#### **1. Element Review**

- a. Within five (5) working days of the receipt of the elements required in Section III-B-1 the Planning Office shall determine whether the application contains all the elements required for submittal.
- b. The County shall transmit via regular mail, email, or fax a written determination to the subdivider stating whether the application does or does not contain the required elements and specifying what, if any, elements are necessary to make the application complete.

#### **2. Sufficiency Review**

- a. Within fifteen (15) working days of the issuance of a determination that an application contains all the necessary elements for review, the Planning Office shall determine whether the application and supporting materials are sufficient to allow for the review of the proposed subdivision.
- b. The County shall transmit via regular mail, email, or fax a written determination to the subdivider stating whether the application does or does not contain sufficient information for processing and what, if any, elements require additional information to make the application sufficient for review.
- c. A determination that an application contains sufficient information for review as provided in this subsection does not ensure that the proposed subdivision will be approved or conditionally approved by the Commission and does not limit the ability of the Planning Office, Planning Board or Commission to request additional information during the review process.
- d. A determination of sufficiency by the Planning Office does not limit the MDEQ from requiring more water and sanitation information as part of the MDEQ's review of water and sanitation information.

*The sixty (60) working day review period (or 80 working day review period for subdivisions with 50 or more lots) commences on the date that the Planning Office transmits via regular mail, email, or fax a written determination to the subdivider stating the application contains sufficient information for processing.*

### **III-B-3. Date of Sufficiency and Related Review Standards**

Subdivision review under these Regulations may occur only under those regulations in effect at the time the Planning Office mails a written determination to the subdivider stating the application contains sufficient information for processing. If regulations change during the element and/or sufficiency review by the Planning Staff the element and sufficiency review shall be based on the new regulations.

### **III-B-4. Review by Affected Agencies**

After an application is deemed sufficient, the Planning Office may submit copies of the application, preliminary plat, and supplementary information to relevant public utilities and public agencies for review and comment, and to the Planning Board for its recommendation pertaining to the approval, conditional approval or denial of the subdivision application. Review by public agencies or utilities may not delay the Commission's consideration of the subdivision application beyond the statutory specified review period. If the Planning Office shall request review by a public utility, agency of government, or other parties regarding the subdivision application that were not identified during the pre-application process the Planning Office shall notify the subdivider. The Planning Office will make these comments available to the subdivider and to the general public upon request.

### **III-B-5. Review by Outside Expertise**

The Planning Office, Planning Board, and the Commission may employ outside expertise to assist with the review of a subdivision application and preliminary plat. The Commission shall assess the costs of employing outside expertise to the subdivider.

### **III-B-6. Public Hearings and Notices—In General**

1. Number of Public Hearings. The Planning Board shall hold a public hearing and the Commission may hold a public hearing or a public meeting on the subdivision application and preliminary plat when a hearing is required by these Regulations. Subdivisions that meet criteria of 76-3-616, MCA, are exempt from the requirement to hold a public hearing.

2. Noticing. Notice of the time and date of the hearings will be given by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing. At least 15 days prior to the date of the hearings, the Planning Office will give notice of the hearing by certified mail to the subdivider, each property owner of record whose property is immediately adjoining the land included in the preliminary plat, and each purchaser of record under contract for deed of property immediately adjoining the land included in the plat.
3. Hearing Procedure.

The general steps for conducting a public hearing are as follows:

1. Introduce public hearing.
2. Explain subdivision review procedure and decision criteria.
3. Planning Department staff report.
4. Applicant presentation.
5. Public testimony.
6. Close public hearing.

The meeting will be conducted so that those who want to speak for or against, or who seek additional information, will have an opportunity to do so while still providing a reasonable adjournment time.

The Planning Board Chair (for hearings conducted by the Planning Board), the Commission Chair (for hearings and meetings conducted by the Commission), or other designate responsible for presiding over the meeting, is responsible for setting the guidelines or methods for public comment. The Chair or their designate will review general guidelines prior to public comment, reminding the public of the criteria upon which the final decision must be made. Because each meeting is somewhat different, a standardized set of guidelines may not work in every case. Options to manage public discussion can include, but are not limited, to the following:

- Asking those who wish to speak to sign in, and use the list to call on speakers.
- Limiting the amount of time each person can speak.
- Allowing each person to speak only once until all have had an opportunity.
- Requesting individuals to address new issues only and not repeat what has already been addressed.

The Planning Board or Commission will make their decision after the public hearing or meeting is adjourned.

### **III-B-7. Planning Board Hearing, Consideration, and Recommendation**

1. Public Hearing. At a noticed public meeting or hearing, the Planning Board shall review all subdivision applications, together with required supplementary plans and information. The Planning Board shall hold a public hearing on all subdivisions for which a public hearing is required.
2. Public Testimony. All written public comment received at or prior to a public meeting or hearing shall be incorporated into the written record of the review. Minutes shall be taken of verbal comment received during the public meeting or hearing before the Planning Board and shall be incorporated into the written record of the review. Copies of the minutes and written comments shall be included in any recommendation made to the Commission by the Planning Board.
3. Consideration. In recommending to approve, conditionally approve, or deny the subdivision and preliminary plat, the Planning Board shall consider the following:
  - a. relevant evidence relating to the public health, safety, and welfare;
  - b. the environmental assessment;
  - c. the review criteria specified in Section III-B-11-f of these regulations;
  - d. whether the application and preliminary plat conforms to the provisions of:
    - i. the MSPA;
    - ii. these Regulations;
    - iii. applicable zoning regulations;
    - iv. other regulations in effect in the area of the proposed subdivision;
    - v. whether the MDEQ has approved the proposed subdivision for proposed subdivisions that will create parcels of less than twenty (20) acres; and
    - vi. whether the subdivider has demonstrated that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each lot for a proposed subdivision that will create one or more parcels containing twenty (20) acres or more; and
  - e. Planning Staff recommendation.
- ii. Recommendation. Within 10 working days after the public hearing or meeting, the Planning Board will submit to the Commission a recommendation for approval, conditional approval (including any

recommended conditions/mitigation measures), or denial of the subdivision application and preliminary plat.

### **III-B-8. Water and Sanitation Information**

The Planning Staff shall at any public hearing or meeting collect public comment given regarding the information required in Appendix A for water and sanitation. The Commission shall make any comments submitted or a summary of the comments submitted available to the subdivider within thirty (30) working days after conditional approval or approval of the subdivision application.

- a. Comments. The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the Commission to the:
  - i. Reviewing authority provided for in Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than 20 acres; and
  - ii. Carbon County Sanitarian for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.
- b. Parcel Size.
  - i. For a proposed subdivision that will create one or more parcels containing less than 20 acres, the Commission may require approval by the MDEQ as a condition of approval of the final plat.
  - ii. For a proposed subdivision that will create one or more parcels containing 20 acres or more, the Commission may condition approval of the final plat upon the subdivider demonstrating, pursuant to Montana Sanitation and Subdivision Act, that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each lot.

### **III-B-9. Commission Hearing**

After the Planning Board makes its recommendation, the Commission shall hold a public hearing on the subdivision application.

### **III-B-10. New and Credible Information**



- a. The Commission shall determine whether public comments or documents presented to the Commission at a public meeting or hearing regarding a subdivision application constitute:
  - i. Information or analysis of information that was presented at a public hearing or public meeting held pursuant to III-B-6 that the public has had a reasonable opportunity to examine and on which the public has had a reasonable opportunity to comment; or
  - ii. New information regarding a subdivision application that has never been submitted as evidence or considered by either the Commission or the Planning Board at a hearing or meeting during which the subdivision application was considered.
- b. If the Commission determines that the public comments or documents constitute new information not previously considered at a public hearing or meeting, the Commission may:
  - i. Approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information if the Commission determines that the new information is either irrelevant or not credible; or
  - ii. Schedule or direct the Planning Board to schedule a subsequent public hearing or meeting for consideration of only the new information that may have an impact on the findings and conclusions that the Commission will rely upon in making its decision on the proposed subdivision.
- c. In deciding whether the information is both new and credible the Commission shall consider:
  - i. Whether the topic of the information has previously been examined or available for examination at a public meeting or hearing on the subdivision application;
  - ii. Whether the information is verifiable, and if applicable, developed by a person with professional competency in the subject matter;
  - iii. Whether the information is relevant to a topic within the jurisdiction of the County.
- d. If a subsequent public hearing or meeting is held to consider new and credible information, the review period is suspended and the new hearing or meeting must be noticed and held within forty-five (45) working days of the Commission's determination to schedule a new hearing or meeting. After the new hearing or meeting, the otherwise applicable time limit for review resumes at the Commission's next scheduled public meeting for which proper notice on the

subdivision application can be provided. The Commission may not consider any information regarding the subdivision application that is presented after the subsequent hearing when making its decision to approve, conditionally approve, or deny the proposed subdivision.

### **III-B-11. Commission Review, Decision, and Documentation**

The Commission, at a public meeting or hearing will approve, conditionally approve, or deny the subdivision application and preliminary plat within sixty (60) working days (or 80 working days if the proposed subdivision contains 50 or more lots) as provided in III-B-2 of these regulations, unless the subdivider and the Planning Office consent to an extension or suspension of the review period not to exceed one (1) year or if a subsequent public hearing is held pursuant to Section III-B-10 of these Regulations.

If the governing body fails to approve, conditionally approve, or deny the subdivision application within the 60 working day or 80 working day review period, the governing body shall pay to the subdivider a financial penalty of \$50 per lot per month or a pro rata portion of a month, not to exceed the total amount of the subdivision review fee collected by the governing body or the subdivision application, until the governing body denies, approves, or conditionally approves the subdivision. The penalties do not apply if the review period is extended or suspended by mutual agreement of the subdivider and reviewing agent or a subsequent public hearing is required to be held per III.B. 10 above.

Basis for Decision. The basis for the Commission's decision to approve, conditionally approve, or deny a subdivision is whether the proposed subdivision application, the preliminary plat; the environmental assessment; the Planning Board's comments and recommendations; the Planning Office staff report and recommendation; and any additional information authorized by law demonstrates that development of the proposed subdivision would meet the requirements of the Montana Subdivision and Platting Act [76-3-608 (3)(a), MCA] and the Carbon County Subdivision Regulations.

- i. Growth Policy. The Commission may not withhold, deny or impose conditions on a subdivision based solely on compliance with the officially adopted Carbon County Growth Policy [76-1-605(2)(b), MCA].
- ii. Water and Sanitation. The Commission may approve, conditionally approve or deny a proposed subdivision application as a result of the water and sanitation information provided in Appendix A or public comment received pursuant to Section III-B-8 on the water and sanitation information only if the approval, conditional approval or denial is based on existing subdivision, zoning, or other regulations that the Commission has the authority to enforce.

- i. For a proposed subdivision that will create one or more parcels containing less than twenty (20) acres, the Commission may require approval by the MDEQ as a condition of approval of the final plat.
- ii. For a proposed subdivision that will create one or more parcels containing twenty (20) acres or more, the Commission may condition approval of the final plat upon the subdivider demonstrating that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each lot.

Governing Body Action A governing body may not deny approval of a subdivision based solely on the subdivisions impacts on educational services (MCA §76-3-608(1)), based solely on parcels within a subdivision having been designated as a wildland-urban interface parcels (MCA § 76-3-608(1)) or solely on failure to comply with the Growth Policy (MCA § 76-1-605 (2)(b))

i The governing body shall give due weight and consideration to the subdividers expressed preferences (MCA § 76-3-608(5)(b)). The governing body may not deny approval of a subdivision based solely on the subdivisions impacts on educational services (MCA §76-3-608(1)), based solely on parcels within a subdivision having been designated as a wildland-urban interface parcels (MCA §76-3-608(1)) or based solely on compliance with the Growth Policy (MCA §76-3-605 (2)(b))onditions/Mitigation. The Commission may require the subdivider to design the subdivision to reasonably minimize potentially significant adverse impacts identified through the review required by these Regulations. The Commission shall issue written findings to justify the reasonable conditions/mitigation:

- i. In reviewing a subdivision under this Section and when requiring conditions/mitigation the Commission may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat.
  - ii. When considering a proposed subdivision application and requiring conditions/mitigation under this Section, the Commission shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.
- f. Findings of Fact. In reviewing the subdivision the Commission will issue written Findings of Fact that discuss and weigh the following criteria:
- i. Impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety. Subdivisions that meet the criteria of 76-3-616, MCA, are exempted from the requirement to review these criteria.

- ii. Compliance with the survey requirements of the MSPA.
  - iii. Compliance with these Regulations, and the review procedures of these Regulations.
  - iv. The provision of easements for the location and installation of any planned utilities.
  - v. The provision of legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel.
- g. Written Statement. The Commission shall prepare a written statement on its decision and forward that statement to the subdivider within 30 working days following the oral decision on a subdivision application. The statement shall be available for public review in the subdivision file. The written statement shall provide:
- i. Information regarding the appeal process for the denial or the imposition of conditions.
  - ii. Identification of regulations and statutes that are used in reaching the decision to deny or impose conditions and explains how they apply to the decision to deny or impose conditions.
  - iii. The facts and conclusion that the Commission relied upon in making its decision to deny or impose conditions and references documents, testimony, or other materials that form the basis of the decision.
  - iv. The conditions/mitigation that apply to the preliminary plat approval that must be satisfied before the final plat may be approved.

**III-B-12. Subdivision Application and Preliminary Plat Approval Period and Extension Process**

- a. Upon approving or conditionally approving a subdivision application and preliminary plat, the Commission will provide the subdivider with a dated and signed statement of approval. This approval shall be in force for not more than two (2) calendar years.
- b. At the end of this period the Commission may, at the request of the subdivider, extend its approval for a period of one (1) year. The Commission may extend the approval for more than one (1) year if that approval period is included as a specific condition of a written subdivision improvements agreement between the Commission and the subdivider mutually agreed upon period of time. Any

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mutually agreed upon extension must be in writing and dated and signed by the members of the governing body and the subdivider or subdivider's agent. The governing body may issues more than one extension.

c. All requests for extensions must be in writing and must provide responses to the following criteria and supporting documentation, if any:

i. Progress to date in completing or demonstration and evidence of good faith efforts to satisfy the required conditions of preliminary plat approval.

ii. Duration of the required extension and the ability of the subdivider to meet the required conditions of preliminary plat approval within the requested extension period.

iii. Significant changes in the vicinity of the subdivision that have occurred or are planned to occur within the requested extension period and whether the preliminary plat conditions adequately mitigate the significant changes. Significant changes constitute changes that may render the subdivision non-compliant with current design standards, such as road design, wildfire, or flood standards.

iv. Consistency with adopted comprehensive planning documents, including but not limited to, the jurisdiction's growth policy, annexation policy, capital improvements plan, transportation plan, etc.

v. Impacts to public health, safety and general welfare.

vi. Planning and provisions of public facilities and services in the vicinity of the subdivision and whether the requested extension conforms to those plans and provisions.

d. At a regularly noticed meeting the Planning Board shall review the extension request and make a recommendation to the Commission to approve or deny the request.

e. Prior to granting any extensions greater than 2 years past original signed statement of original preliminary plat approval for a major subdivision, the Planning Board must hold a public hearing prior to making a recommendation to the Commission. Notice of the hearing must be given by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing.

f. The basis for the Commission's decision to approve or deny the extension request shall be the extent to which the request meets the criteria for extension, including whether or not any changes to the primary criteria impacts identified in the original subdivision approval or any new information not previously considered

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exists that creates any new potentially significant adverse impacts that would support denial of the subdivision extension request.

g. Additional conditions may not be imposed as a condition of subdivision extension.

### **III-B-13. Additional Conditions After Approval**

After the subdivision application and preliminary plat are approved, the Commission may not impose any additional conditions as a prerequisite to final plat approval if the approval is obtained within the original or extended approval period described in these Regulations.

The Commission may withdraw approval of a preliminary plat if it determines that information provided by the subdivider, and upon which the approval was based, is inaccurate.

### **III-B-14. Amended Applications**

- a. If the subdivider changes the subdivision application prior to the Planning Board hearing, the subdivider shall submit the amended application to the Planning Office.
  - i. Within five (5) working days of receiving the amended application, the Planning Staff shall determine whether the changes to the subdivision application are material.
  - ii. The sixty (60) working day review period (or 80 working day review period for subdivisions with 50 or more lots) is suspended while the Planning Office considers the amended application.
    1. If the Planning Staff determines the changes are material, the Planning Staff may require the subdivider to schedule a new pre-application meeting and resubmit the application as a new subdivision application.
    2. If the Planning Office determines the changes are not material, the sixty (60) working day review period (or 80 working day review period for subdivisions with 50 or more lots) resumes when the Planning Office sends notice of the decision to the subdivider.
- b. If the subdivider changes the subdivision application after the Planning Board hearing but before the Commission public meeting or hearing, the subdivider shall submit the amended application to the Planning Office for review.

- i. Within five (5) working days of receiving the amended application, the Planning Staff shall determine whether the changes to the subdivision application are material.
  - ii. The sixty (60) working day review period (or 80 working day review period for subdivisions with 50 or more lots) is suspended while the Planning Staff considers the amended application.
  - iii. If the Planning Staff determines the changes are not material, the sixty (60) working day review period (or 80 working day review period for subdivisions with 50 or more lots) resumes when the Planning Staff sends notice of the decision to the subdivider.
  - iv. If the Planning Staff determines the changes are material, the Planning Staff shall either:
    1. require the subdivider to begin the subdivision review process again, starting with the pre-application process, and require payment of a new application fee;
    - or
    2. schedule a new Planning Board hearing to take comment on the amended application. A supplemental staff report shall be prepared to address the changes to the original application. An additional application fee may be charged.
  - v. If a second Planning Board hearing is held, the sixty (60) working day review period (or 80 working day review period for subdivisions with 50 or more lots) is suspended for the time period between notice of the Planning Staff's determination and ten (10) days after the date of the second Planning Board hearing.
- c. By making changes resulting in an amended application, the subdivider consents to suspension of the review period as provided in these Regulations.

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

- i. configuration or number of lots;
- ii. road layout or size;

- iii. water and/or septic proposals;
- iv. configuration of park land or open space;
- v. easement provisions; and
- vi. designated access.

**III-B-15. Review Process for a Subdivision to be Developed in Phases**

If a subdivision is proposed to be developed in phases, the following regulations apply:

- a. A subdivision proposed to be developed in phases is subject to the review requirements for a major subdivision, except as modified below.
- b. An overall development plan must be submitted with the preliminary plat application showing independent platted development phases, a schedule for when the subdivider plans to submit each phase, and subdivision application documents required pursuant to these Regulations for each phase of the subdivision.
- c. The subdivider may change the schedule for submittal of each phase upon approval of the Commission after a public hearing, only if the change does not negate conditions of approval or adversely affect public health, safety, and welfare.
- d. The Commission may grant conditional approval beyond the time frames provided for in Section III-B-12 of these Regulations, but in no case shall the conditional approval period extend beyond 20 years.
- e. Prior to the commencement of each phase, the subdivider shall provide written notice to the Planning Staff (or other authorized agent or agency designated by the Commission to review subdivisions).
- f. The Planning Board shall hold a public hearing within 30 working days after written notice from the subdivider has been received.
- g. After the hearing, the Planning Board will make a recommendation to the Commission of approval or denial based on whether any changed primary criteria impacts or new information exist that create new potentially significant adverse impacts for the phase or phases, and may recommend imposing

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additional conditions to minimize potentially significant adverse impacts identified in the review of each phase.

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h. Within 20 working days of the hearing, the Commission shall consider the Planning Board recommendation and issue supplemental written findings of fact.

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i. Any additional conditions must be met before final plat approval for each particular phase.

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j. The approval period for each phase may not exceed 2 calendar years or be less than 1 calendar year.

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### **III-B-15. Resubmittal of a Denied Subdivision**

Following denial of a subdivision application and preliminary plat by the Commission, a new application for the same property may not be submitted unless the following criteria are met:

- a. The new subdivision application and preliminary plat must clearly address or mitigate health and safety and/or design standards which were the basis of the original preliminary plat denial; and
- b. The new subdivision application and preliminary plat must clearly address the six (6) criteria under 76-3-608(3)(a); and
- c. The new subdivision application and preliminary plat application must comply with any adopted zoning regulation.

### **III-C. Final Plats**

#### **III-C-1. Final Plat Required**

After the conditions/mitigation of preliminary approval and the requirements for the installation of improvements have been satisfied, the subdivider shall cause to be prepared a final plat. See (Appendix A and B) for required final plat contents and final plat application materials.

#### **III-C-2. Review of Abstract and Covenants.**

The certificate of a licensed title abstractor, a copy of the covenants, and evidence that the conditions of the preliminary plat approval have been satisfied shall be

submitted to the Planning Office for its review and approval at least 30 calendar days prior to submitting an application for final plat approval.

### III-C-3. Final Plat Review

The Planning Office will examine the final plat contents and required final plat application materials and recommend approval only when it conforms to the conditions set forth in the preliminary plat approval, and the terms of the MSPA and these Regulations.

The Commission will approve the final plat only after the County Treasurer has certified that all real property taxes and special assessments assessed and levied on the land proposed for subdivision have been paid [76-3-611, MCA].

- a. Final Plat Submittal. The final plat and all supplementary documents shall be submitted to the Planning Office at least thirty (30) working days prior to the expiration of preliminary plat approval or any extension thereto. The submittal shall include: a final plat application, the appropriate fee, all required information, County Attorney approvals (as necessary), and a written explanation of how each of the conditions of preliminary approval has been satisfied (Appendices A and B).
- b. Review by Planning Office. Within 20 working days of receipt of the final plat application and any applicable review fees, ~~The Planning Office shall review the final plat to ascertain that all conditions and requirements for final plat approval have been met. If the Planning Office determines the final plat application is incomplete, the Planning Office shall notify the applicant in writing, and shall identify the specific deficiencies noted in the review. Subsequent submissions shall be reviewed by the planning office within 20 working days, and may only be reviewed for information identified as deficient in the original review. The Planning Office will not accept, begin processing, nor schedule any actions on a final plat submittal until a complete application and fee have been received.~~ Final plat applications will not be considered complete by the Planning Office until all conditions of preliminary approval have been satisfied, including but not limited to:
  - i. Signed final plat certificates.
  - ii. Fire protection requirements approved by the appropriate fire district or fire service area.
  - iii. Signed Memorandum of Understanding between the subdivider and the Weed District.
  - iv. County or State encroachment or access permits.

- v. Documents that may require approval of the County Attorney, include but are not limited to:
  - a. Articles of Organization or Incorporation for the Property Owner's Association, filed with/by the Montana Secretary of State.
  - b. Bylaws controlling the operation of the Property Owners' Association.
  - c. Restrictive and Protective Covenants encumbering the real property contained within the subdivision.
  - d. Restrictive Deed transferring title of all common open space parcels within the subdivision to the Property Owner's Association.
  - e. Declaration of Unit Ownership (condominiums).
  - f. Public/Private road easements.
  - g. Improvements agreements.
  - h. Certificate of a licensed Title Abstractor.
- vi. The Commission may require that final subdivision plats and certificates of survey be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the Clerk and Recorder. When the survey data shown on the plat or certificate of survey meets the conditions pursuant to these Regulations, the examining surveyor shall certify the compliance in a printed or stamped certificate on the plat or certificate of survey. The certificate must be signed by the surveyor.

#### **III-C-4. Public Improvements Agreement; Guaranty**

As a condition of approval of the final plat, the subdivider must have installed all required improvements or have entered into a subdivision improvements agreement guaranteeing the construction, installation, and maintenance of all required improvements [76-3-507, MCA]. (A model improvements agreement and alternative methods of guaranteeing public improvements, the procedures and requirements for securing an agreement, and suggested conditions for maintenance are provided in (Appendix G).

The governing body may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding or other reasonable security for purposes of filing a final plat. The requirement is applicable to approved preliminary plats.

#### **III-C-5. Final Plat Approval**

- a. Approval by the Commission: The Commission shall examine every final subdivision plat and, within ~~thirty-two~~ (30) working days of ~~its submission to~~ the Planning Office making a determination that the final plat application

contains the required information, shall approve it if it conforms to the conditions of preliminary plat approval and to the terms of the MSPA and these Regulations.

- i. If the final plat is approved, the Commission shall certify its approval on the face of the final plat. When applicable, a certificate of the Commission expressly accepting any dedicated land, easements, or improvements will be filed with the final plat. An acceptance of a dedication is ineffective without this certification.
  - ii. If the final plat is denied, the Commission shall write a letter stating the reason for denial and forward a copy to the subdivider. The Commission will return the final plat to the subdivider within ten (10) working days of the action. The subdivider may then make any necessary corrections and resubmit the final plat for approval.
- b. Final Plat Substantially Different: If the final plat differs substantially from the approved preliminary plat, the Commission shall return the final plat to the Planning Office and/or the Planning Board for additional review.
- c. Inaccurate information: The Commission may withdraw approval of a final plat if it determines that material information provided by the subdivider is inaccurate.

### **III-C-6. Final Plat Filing**

After it is approved, the final plat may not be altered in any manner except as provided in III-D. The Clerk and Recorder may not accept any plat for filing that does not bear the Commission's approval in proper form or that has been altered. The Clerk and Recorder may file an approved plat only if it is accompanied by the documents specified in the Montana Uniform Standards for Monumentation, Certificates of Survey, and Final Subdivision Plats (Appendix F).

### **III-D. Amended Plats**

- a. Changes that materially alter any portion of a filed plat, its land divisions or improvements, or that will modify the approved use of land within the subdivision, must be made by filing an amended plat showing all alterations. Any alteration which increases the number of lots or modifies six or more lots, or abandons a public dedicated road right-of-way must be reviewed and approved by the Commission.
- b. An amended plat is subject to the procedures for reviewing major or minor subdivisions, as appropriate. The Commission may not approve an amended

preliminary plat without the written consent of the owners (or lenders) of all lots which will be modified by the proposed amendment.

- c. The Commission may not approve an amendment that will place a lot in non-conformance with the design standards contained in Section V of these regulations unless the Commission holds a public hearing on the amendment and issues a written variance from the standards pursuant to Section VIII-B, Variances.
- d. The final amended plat submitted for approval must comply with the requirements for final subdivision plats ((Appendix F).

#### **III-D-1. Amended Conditions**

- a. Any proposed amendments to the conditions of preliminary and final approval shall be reviewed and approved by the Commission.
- b. The Planning Board shall review the proposed amendment(s) and make a recommendation to the Commission whether to approve or deny the proposed amendment(s).
- c. The Commission may not approve an amended condition without the written consent of the owners or lenders of all lots which will be affected by the amended condition.
- d. A proposed amendment to the conditions of preliminary and final approval is subject to the procedures for reviewing major or minor subdivisions, as appropriate.
- e. Conditions may only be amended for reason of public health and safety.

#### **III-D-2. Exemptions from Amended Plat Review**

Amended plats that show the relocation of common boundaries between, or the aggregation of, five or fewer lots are exempt from subdivision review [76-3-207(1)(d), MCA]. These amended plats must be prepared following the requirements of the Montana Uniform Standards for Certificates of Final Subdivision Plats (Appendix F).