

**PUBLIC MEETING – February 9, 2005**

The Public Meeting was called to order at 1:30 p.m. by Acting Chair Bill Carey. Also present were Commissioner Barbara Evans, Chief Civil Deputy County Attorney Mike Sehestedt, Deputy County Attorney Colleen Dowdall and Public Works Director Greg Robertson. Commissioner Jean Curtiss was on a conference call with the Health Improvement Task Force.

**Pledge of Allegiance**

**Public Comment**

None

**Routine Administrative Actions**

Commissioner Evans moved that the Board of County Commissioners approve the routine administrative items adopted the past week and approve the weekly claims lists in the amount of \$810,856.47. Acting Chair Carey seconded the motion. The motion carried on a vote of 2-0.

**Bid Award: Dental Clinic (Partnership Health Center)**

Greg Robertson presented the staff report.

This is a request to award a bid for the remodel of the existing Dental Area at the Partnership Health Center. Bids were let with two contractors responding: D. Lower Construction in the amount of \$72,460 and Sirius Construction in the amount of \$73,600.

It is staff's recommendation to award the bid to D. Lower Construction in the amount of \$72,460, as the lowest and most responsive bidder.

Mike Sehestedt stated that both companies have worked for the County before and have done good work.

Acting Chair Carey asked for public comments. There were none.

Commissioner Evans moved that the Board of County Commissioners approve awarding the bid for the remodel of the Dental Area at the Partnership Health Center to D. Lower Construction in the amount of \$72,460.00 as the lowest responsible bidder. Acting Chair Carey seconded the motion. The motion carried on a vote of 2-0.

**Consideration: Gardner Addition (2 lots) – off Pokey Lane in Target Range area**

Jennie Dixon, Office of Planning and Grants, presented the staff report.

This is a request from Kevin and Lynda Gardner, represented by Nathan Lucke of Landworks Consulting and Design, Inc., to create Gardner Subdivision, a two lot subdivision of a 1.95 acre lot. The lots will be 0.82 acres and 1.13 acres in size. The property is located south of Mount Avenue, east of Clements and west of 37th Avenue. The proposed subdivision is accessed from Pokey Lane, a private road located on the Benchmark Homes Subdivision to the east. The property is zoned C-RR2 (Residential) and the Comprehensive Plan designation corresponds to the zoning at a recommended density of 2 dwelling units per acre. The property is within the Urban Growth Area. Staff finds the proposal to be in compliance with both zoning and the Comprehensive Plan.

An irrigation ditch crosses the property east to west on proposed Lot 2, where the existing residence is located. The residence is north of the irrigation ditch and therefore access to it off Pokey Lane would not require crossing the ditch.

The existing home on proposed Lot 2 has an existing driveway off Mount Avenue. The property owner indicates that driveway will be abandoned and access will be from Pokey Lane for both the existing home and the new home. Pokey Lane meets road standards except for curb and gutter and sidewalks. Variances are being requested from those two standards and staff is recommending approval of both. A condition has been recommended for a waiver of the right to protest an RSID/SID for improvements to Mount Avenue.

Kelly Acres is a subdivision to the south. When it was approved, the Commissioners imposed a 30 foot conditional access easement running east/west on the northern boundary of that subdivision. OPG and Public Works

recommend a corresponding 30 foot wide conditional access easement on the southern boundary of this subdivision, which would result in a total easement width of 60 feet for a potential east/west connector street in the area.

There are no pedestrian facilities in the area, which is the basis of the recommendation to approve the variance request. Lots are proposed to be served by individual private wells and a community septic system and drainfield. Lot 33A, located north of the proposal on Mount Avenue and not part of this subdivision, will also use the community septic system and drainfield. There is an executed septic and drainfield maintenance agreement in the subdivision application.

Staff also recommends a condition that final plans for water supply for fire protection be reviewed and approved by the Missoula Rural Fire District and conform to the Subdivision Regulations requirements for fire protection; that addresses be clearly visible from the street; and that driveway plans also be reviewed and approved by Rural Fire.

The Weed District has recommended a covenant that lot owners comply with the Montana County Noxious Weed Control Act and file a Revegetation Plan. The Health Department has recommended a development covenant be filed regarding passive radon mitigation systems. Staff is recommending approval of both variance requests and of the subdivision, subject to 8 conditions of approval.

Acting Chair Carey asked for public comments.

Nathan Lucke, Landworks Consulting and Design, developer's representative, stated that staff did a great job on the report. The current access to the property is through someone else's property, via a long driveway. That access will be abandoned and the two new lots will access off Pokey Lane. Both variances are supported by Public Works, as curb and gutter and sidewalks do not currently exist in the vicinity.

Commissioner Evans asked if Greg Robertson would like to put his comments regarding access on the record.

Greg Robertson stated the Subdivision Regulations outline what is required, that access to a corner lot shall be from the minor leg. This requirement was protested on another subdivision earlier this week and access was granted from the major leg in contradiction to Public Works recommendation. He would like it on the record that this is a requirement in the Subdivision Regulations and access should be taken from the minor leg, in this case, Pokey Lane. Public Works will make a comment about access from the minor leg in all future subdivision reviews.

There were no further public comments.

Commissioner Evans moved that Board of County Commissioners approve the variance request from Section 3-2(8)(A)(ii) of the Missoula County Subdivision Regulations requiring concrete boulevard sidewalks on Pokey Lane, based on the findings of fact set forth in the staff report; and approve the variance request from Section 3-2(7) of the Missoula County Subdivision Regulations requiring installation of curb and gutter on Pokey Lane, based on the findings of fact set forth in the staff report. Acting Chair Carey seconded the motion. The motion carried on a vote of 2-0.

Commissioner Evans moved that the Board of County Commissioners approve the Gardner Subdivision, based on the findings of fact in the staff report and subject to the conditions in the staff report. Acting Chair Carey seconded the motion. The motion carried on a vote of 2-0.

### **Gardner Subdivision Conditions of Approval:**

#### **Roads**

1. The plat shall be revised to show a 30 foot wide "conditional public access and utility easement" along the southern boundary of Lot 2, subject to review and approval by County Public Works prior to final plat approval. The following statement shall appear on the face of the plat and refer to the conditional public access and utility easement:

"The owners of Lot 2 dedicates a 30 foot right-of-way for purposes of public roadway and utilities over and across Lot 2 of the Gardner Subdivision, as shown on the subdivision plat, conditioned upon rights-of-way being used as roadway at the time that it is needed to serve future subdivision on the parcels to the east and west of the Gardner Subdivision. The lot owners and future owners of lots in the Gardner Subdivision will not be responsible for the construction of the future roadway if construction of the future roadway is attributable to division of land to the east and west. No structures, permanent improvements or utilities shall be placed within

the rights-of-way so as to interfere with the eventual use of the right-of-way as a public roadway.” *Subdivision Regulations Article 3-2(1)(E), 3-2(6)(B), Public Works Department and OPG recommendation.*

2. The following statement shall appear on the face of the final plat:

“Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a future RSID/SID for improvements to Mount Avenue, including, but not limited to, paving, the installation of drainage facilities, curbs and gutters, pedestrian walkways or bikeways, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land.” *Subdivision Regulations Article 3-2(3)(E), Health Department and OPG recommendation.*

#### **Sewer and Water**

3. The following statement shall appear on the face of the final plat:

“Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right to protest a future RSID/SID for public water and sewer systems, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land.” *Subdivision Regulations Article 3-7(2) and OPG recommendation.*

#### **Fire**

4. Final plans for water supply for fire protection purposes, in conformance with Missoula County Subdivision Regulations Section 3-7, shall be reviewed and approved by the Missoula Rural Fire District prior to final plat approval. *Subdivision Regulations Article 3-7(1) and Missoula Rural Fire District recommendation.*
5. The subdivider shall file a development covenant to require that all homes have addresses clearly visible from the street. *Subdivision Regulations Article 307 and Missoula Rural Fire District recommendation.*
6. The subdivider shall file a development covenant to require that driveway plans be reviewed and approved by the Missoula Rural Fire District prior to zoning compliance permit submittal. *Subdivision Regulations Article 3-2(10)(E) and Missoula Rural Fire District recommendation.*

#### **Weeds**

7. The subdivider shall file a development covenant requiring lot owners to maintain their lots in compliance with the Montana County Noxious Weed Control Act and the Missoula County Noxious Weed Management Plan. The development covenant shall also require lot owners to revegetate with desirable species any areas of ground disturbance created by construction or maintenance. It shall also include a Revegetation Plan for disturbed sites that has been reviewed and approved by the Missoula County Weed Board. The development covenant shall be reviewed and approved for filing by the Missoula County Weed District prior to final plat approval. *Subdivision Regulations Article 3-1(1)(B) and Weed District recommendation.*

#### **Radon**

8. The subdivider shall file a development covenant advising property owners that the EPA has designated the Missoula area as having high radon gas potential (Zone 1) and therefore the Missoula City-County Health Department recommends that all new residences incorporate radon resistant construction features. The language of the provision shall be subject to review and approval by OPG and the Health Department prior to final plat approval. *Subdivision Regulations Article 3-1(2) and City-County Health Department recommendation.*

There being no further business to come before the Board, the Commissioners were in recess at 1:45 p.m.