

Grant Gager
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Melissa Nootz
Vice Chair
Karrie Kahle
Commissioners
Mel Friedman
Quentin Schwarz
Torrey Lyons

November 3, 2022

Mr. Andrew Field
Livingston West LLC
P O Box 500
Emigrant, MT 59027

RE: Mountain View Major Subdivision
Sent VIA USPS and Email

Dear Mr. Field,

Pursuant to requirements in both the City of Livingston Subdivision Regulations as well as MCA, this letter is to serve as the written determination of reasons for the Livingston City Commission's vote to deny your request for subdivision.

To summarize the conversation that occurred during the Commission's meeting on October 4, 2022, the following facts and conclusions of the Commission factored into the rejection of the subdivision application:

Montana Code Annotated 76-3-608 - Criteria for local government review.

3) A subdivision proposal must undergo review for the following primary criteria:

(a) except when the governing body has established an exemption pursuant to subsection (6) or except as provided in 76-3-509, 76-3-609(2) or (4), or 76-3-616, the specific, documentable, and clearly defined impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety, excluding any consideration of whether the proposed subdivision will result in a loss of agricultural soils;

Impact on local services:

The application indicates that the subdivision would create an increase in infrastructure at a significant distance from the majority of land developed in the city limits which significantly increases the costs to maintain it.

The additional water loop needed as this subdivision would develop would be an additional cost to the taxpayers.

The location being away from the existing City Center would require significant enhancements and perhaps require 2 SIDs, one for pedestrian / bicycle connectivity and the other for improvements to the water and or sewer system required to provide additional capacity.

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We know that new development does not pay for itself when it comes to long-term maintenance and upkeep of new services. The City of Livingston is currently not able to maintain our historic and current infrastructure. Our sewer lines are being infiltrated by groundwater and we have water lines to residences that are failing. By adding additional water and sewer lines so far outside the City center we will be adding an additional burden to current city residents.

This is why our Growth Policy prioritizes infill as a way to mitigate these costs to the City and its current residents.

The Applicant has not fully or satisfactorily addressed the above issues.

Natural Environment:

There are steep slopes on grassy areas near I-90 which is a known fire hazard in Montana during the dry seasons.

There are wetlands in the subdivision, so it's likely surface water contamination from run-off at maximum build out could contaminate surface waters, especially given that highway commercial zoning is very permissive with a variety of potential contamination vectors at full build out.

This is a very high wind area resulting in regular I-90 closures, and no mitigation factors are offered.

Effect on Wildlife & Habitat:

There is a recommendation to connect open spaces for safe wildlife corridors. The subdivision design doesn't connect the open spaces.

Montana Fish, Wildlife & Parks has stated that the area is used by big game especially pronghorn as well as black bear, mountain lions and non-game species.

The Applicant has not addressed these issues fully or offered any mitigation strategies like, providing safe wildlife passage corridors, wildlife friendly fencing and bear proof garbage cans.

Effect on Public Health & Safety:

According to the application, the subdivision has known hazards including the interstate, highway, and the nearby railroad, with no mitigation offered.

The traffic study didn't take into account the regular increase in traffic when I-90 is regularly re-routed on the highway through town.

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The open space on lot 25, which the developer describes as "hilly grassland" is not connected to a road or public right of way. It is landlocked between the interstate and private lots depicted on the map. If there is a fire, there is no emergency access to the lot. This lot was also described in the public meeting as being intended for trails, but there is no public access meaning that the community members would have to trespass through private property or approach the plot from the interstate on a steep slope, both of which are health and safety concerns.

Montana Code Annotated MCA 76-1-605 - Use of adopted growth policy:

(1) Subject to subsection (2), after adoption of a growth policy, the governing body within the area covered by the growth policy pursuant to 76-1-601 must be guided by and give consideration to the general policy and pattern of development set out in the growth policy in the:

(b) A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based *solely* on compliance with a growth policy adopted pursuant to this chapter.

- While the adopted growth policy cannot be used to solely approve or deny any land use it can be used to provide additional grounds for a decision.
- Per City of Livingston Subdivision Regulations
 - Consideration-Evidence
"In making its decision to approve, conditionally approve, or deny a proposed subdivision, the governing body may consider the following, as applicable
(iv) an officially adopted growth policy

Livingston Growth Policy:

Goals, objectives and strategies of the growth policy that the Mountain View Subdivision does not comport with:

- Objective 2.1.1: Establish community gateways to indicate entrances into Livingston and celebrate its character.
- Objective 6.2.3: Make a good first impression to visitors.
- Goal 3.1: Prioritize infill over expansion by taking advantage of existing and planned infrastructure, such as transportation, energy, water and sewer facilities.
- Strategy 3.1.1.4: Promote any growth that maintains the compact, historic development patterns found in the historic city center
- Goal 3.4: Encourage the responsible of Livingston by evaluating proposed developments against the ten principles of Smart Growth.
- Objective 4.3.3: Preserve the night skies as well as the natural scenic views.
- Objective 6.1.1: Support existing local business.

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- Objective 6.1.5: Plan for and attract new investment into the downtown district to support local business.

Montana Code Annotated: MCA 76-3-621 Park dedication requirement:

Montana Code discusses that the elected body can require parkland when the zoning regulations permit condominiums or other multifamily dwellings, or the lots are within the boundaries of a municipality. The open space in the design does not equate to parkland, and there are no other parklands in this part of town.

No parkland was included in the design.

Livingston Local Subdivision Requirements: Alleys

This subdivision has the potential to be residential based on allowed uses and there are no alleys included in the design, as required by Livingston building requirements.

The entire meeting is available for your viewing and reference on our City of Livingston website under www.livingstonmontana.org/meetings. Please feel free to reach out to me with any questions, concerns or clarifying questions you may have. I can be reached via email at ggager@livingstonmontana.org or at my office number (406) 823-6000.

Sincerely,



Grant Gager
City Manager
City of Livingston