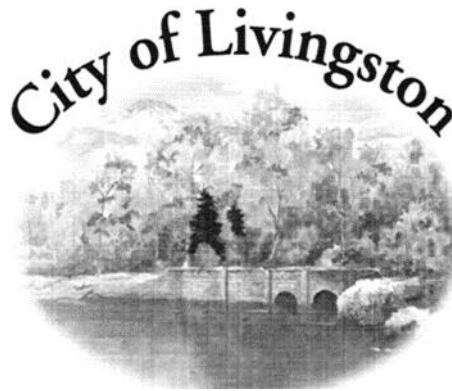


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September 9, 2022

## MEMORANDUM

**TO:** City Planning Board

**CC:** City Manager, City Attorney

**FROM:** Director of Building/Planning

**SUBJECT:** Mountain View Subdivision

All of the submitted documentation for this application is now available on the City website with the agenda. Keep in mind that the engineering reports and utility design are all preliminary and are subject to further review and refinement by the Public Works Department, in accordance with their standards, after, and if, preliminary plat approval occurs.

With regard to the presumption that this application requires two variance requests:

1. Alleys – Livingston Subdivision Regulations Sec. VI-A-8-b(vii) states “Alleys, designed in accordance with Table 1, shall be provided in all residential subdivisions. Alleys will also be the preferred method for providing utility and garbage pick-up access in non-residential subdivisions.”

This is a non-residential subdivision based on its zoning. “preferred method” is not a requirement. No variance is required.

2. Livingston Subdivision Regulations Sec. VI-A-7c states “Blocks must be wide enough to allow for two tiers of lots unless a narrower configuration is essential to provide separation of residential development from traffic arteries, or to overcome specific disadvantages of topography and orientation, or unless the governing body approves a design consisting of irregularly shaped blocks indented by cul-de-sacs.”

Because alleys are not required (alleys would generally separate the two tiers of lots) and the development is oriented on a single street with the lots either bordering the project boundary or accessed by cul-de-sacs, the applicant has the right, under our regulations, to present the current design to the governing body.

The Planning Board, at the August 17<sup>th</sup> meeting, expressed a desire to see an analysis of how this subdivision complies with or furthers the Growth Policy. They also expressed the desire to see both the final requirements from MDOT as well as information about what this development would do in terms of affordable housing. I will explain why these items did not appear in the Staff Report.

Under State law, when a property is annexed into a city's jurisdiction, the city commits to providing municipal services to the annexed parcel. If the City has zoning, it must designate a zone for the parcel. Both of these processes, annexation and zoning, provide vested property rights to the parcel and the owner. Since completed using the guidance of the growth policy at that time, the fact that a newer, or updated, growth policy exists today has a limited affect. An updated growth policy only affects the property rights vested by annexation and zoning to the extent that the zoning regulations or other regulatory documents have been altered to comply with the updated growth policy. There is no point in analyzing the proposal under the current growth policy, because the process to which it applies, annexation and zoning, has already occurred. The growth policy cannot undo what was done lawfully under a prior document.

The Montana Department of Transportation has jurisdiction over Hwy 10. They will decide what, if any, improvements will be required to their roadway as a result of this development. Their final determination has not yet been made and may take several months to be finalized. As these decisions are made, any influence that DOT offers the City, will be overseen by engineering staff or city consultants. This is why the staff report proposes to condition this subdivision based on DOT's requirements.

Effect on affordable housing. The City does not regulate the provision of "affordable housing". With this development, because of the zoning, we don't know with any certainty that housing will be built. All that can be said is that the project is zoned for and could provide additional housing. Affordability, under any definition, remains an unknown.