

# Conditions of Approval Highland Meadows Subdivision; Phase 3

Date: September 2022

Subject: Highland Meadows Subdivision; Phase 3  
Final Plat Application  
SEA Project No. 2821-00721

To: City of East Helena  
Attn: Jeremy Fadness, P.E., AICP  
306 East Main Street  
PO Box 1170  
East Helena, MT 59635

From: Greg Wirth, PE  
Stahly Engineering & Associates, Inc  
Landy Leep  
Highland Meadows, LLC

3408427 COND  
02/13/2023 11:54 AM Pages: 1 of 13 Fees: 5.00  
Amy Reeves Clerk & Recorder, Lewis & Clark MT



The following information is provided in response to each Condition of Approval according to the Findings of Fact and Preliminary Plat Approval for the subject project, approved by the City Council on December 18, 2019. Recommended Conditions for Phase 1 (conditions numbered 31 – 39) were addressed with the Final Plat for Phase 1. Recommended Conditions for Phase 3 (conditions numbered 40 – 47) were addressed with the Final Plat for Phase 2. Information is also provided in response to each Additional Condition of Approval according to the Findings of Fact in the Matter of Commencement of Highland Meadows Phase 3, approved by the City Council on November 12, 2021.

## Recommended Conditions for all Phases

1. Plans for all internal roads as well as storm water conveyance and treatment shall be submitted to the City of East Helena for review and approval by the City Engineer and City Public Works prior to construction of roads and storm water improvements for each phase. The City Engineer and City Public Works approval and approved plans shall be submitted prior to final plat approval for each phase. If storm water facilities are not located within City right-of-way or on City dedicated property, then easements shall be provided on the final plat for maintenance of these facilities. (Chapter 8, Sections 9.b.5 and 10.b, EHSR)

**Response:**

**Plans for all internal roads and storm water infrastructure were submitted to the City of East Helena and approved on June 30, 2022. Easement are provided for all storm water infrastructure not located within City right-of-way or City dedicated property.**

2. Plans for water main extensions shall be submitted to the City of East Helena and DEQ for review and approval prior to construction of water mains and connections to the existing City water system. The City of East Helena and DEQ approval and approved plans shall be submitted prior to final plat approval for each phase. If water infrastructure is not located within City right-of-way or on City dedicated property, then easements shall be provided on the final plat for maintenance of these facilities. (Chapter 8, Section 11.d and e, EHSR)

**Response:**

**Plans for water main extensions were submitted to the City of East Helena and approved on June 30, 2022. Plans were also submitted to DEQ and approved on July 7, 2022. Easement are provided for all water main extensions not located within City right-of-way or City dedicated property.**

3. Plans for sewer main extensions shall be submitted to the City of East Helena and DEQ for review and approval prior to construction of sewer mains, lift stations, and connections to the existing City sewer system. The City of East Helena and DEQ approval and approved plans shall be submitted prior to final plat approval for each phase. If sewer infrastructure is not located within City right-of-way or on City dedicated property, then easements shall be provided on the final plat for maintenance of these facilities or easement documents shall be provided for offsite sewer mains that have been filed with the Lewis and Clark County Clerk and Recorder. (Chapter 8, Section 12.d and e, EHSR)

**Response:**

**Plans for sewer main extensions were submitted to the City of East Helena and approved on June 30, 2022. Plans were also submitted to DEQ and approved on July 7, 2022. Easement are provided for all water main extensions not located within City right-of-way or City dedicated property. There are no off-site sewer mains needing easements.**

4. A traffic control plan and street identification sign plan for each phase shall be submitted to the City of East Helena for approval by the City Engineer and City Public Works. The City Engineer and City Public Works approval and approved plans shall be submitted prior to final plat approval for each phase. (Chapter 8, Sections 9.b.11, EHSR)

**Response:**

**A traffic control plan and street identification sign plan were submitted to the City of East Helena and approved on June 30, 2022.**

5. Each phase must provide adequate infrastructure including water, sewer, and access that is not dependent on future phases. The phases must be sequenced so that phases are adjacent to a previously final platted phase. (Chapter 8, EHSR)

**Response:**

**This phase provides all infrastructure including water, sewer, and access that is not dependent on future phases. This phase is adjacent to a previous final platted phase, being Highland Meadows Phase 2.**

6. Prior to any development and/or soil disturbance, a Noxious Weed Management Plan for the proposed development shall be submitted to the City of East Helena for review and approval. Certification from the subdivider that all requirements of the approved Noxious Weed Management Plan have been met shall be submitted prior to final plat approval of each phase. (Chapter 8, Section 20, EHSR)

**Response:**

**An updated Lewis and Clark County Weed District Five-Year Noxious Weed Management Plan was submitted to Lewis and Clark County and approved on August 27, 2020. The undersigned hereby certifies that the requirements of the Noxious Weed Management Plan have been met for this phase.**

7. A Storm Water Pollution Prevention Plan shall be submitted to DEQ for review and approval prior to construction for each phase. The DEQ approved Storm Water Pollution Prevention Plan shall be submitted to the City prior to final plat approval for each phase. (Chapter 8, Section 4.2.h, EHSR)

**Response:**

**A Storm Water Pollution Prevention Plan for this phase (SWPPP #MTR108431) was submitted to DEQ and approved on June 1, 2020.**

8. The subdivider shall work with the East Helena Postal Service on location and configuration of a neighborhood box unit for each phase. The Applicant shall provide evidence that they have worked with the Postal Service prior to final plat approval of each phase. If a neighborhood box unit is required for the subdivision, the Applicant shall submit plans for the location and installation of the mailboxes to the Postal Service for review and approval prior to installation. (Chapter 8, Section 9.b.12, EHSR)

**Response:**

**The subdivider has worked with, and plans were submitted to, the East Helena Postal Service for the location and installation of mailboxes and approved on June 24, 2020.**

9. The subdivider shall provide proof that each lot has been assigned an address by the Lewis and Clark County Address Coordinator prior to final plat approval for each phase. (Chapter 4 Section 16.b.4.G, EHSR)

**Response:**

**Lewis and Clark County has assigned addresses for the lots included in this phase.**

10. The subdivider shall work with utility providers to ensure that all dry utilities are placed within the proposed rights-of-way and easements. If dry utilities cannot be provided

within proposed rights-of-way or easements and additional easements are required, the required easements shall be provided on the final plat for each phase. The subdivider shall provide evidence that they have worked with the dry utility providers on placement of utilities and whether additional easements are necessary prior to final plat for each phase. The subdivider shall provide evidence that dry utilities are installed and available for use to each lot prior to final plat for each phase. (Chapter 8, Section 14, EHSR)

**Response:**

**The subdivider worked with utility providers and has provided additional required easements on the final plat. All dry utilities are installed and available for use to each lot of this phase.**

11. The subdivider shall provide a lighting plan for each phase to the City for review and approval prior to final plat of each phase. (Chapter 8, Section 9.b.10, EHSR)

**Response:**

**A lighting plan was submitted to the City of East Helena and approved on June 30, 2022.**

12. The subdivider shall work with the City and Northwestern Energy to set up a lighting district for the installation, operation, and maintenance of all proposed street lighting for each phase. (Chapter 8, Section 9.b.10, EHSR)

**Response:**

**A petition is provided for the City to create a lighting district with the final plat.**

13. The subdivider shall be responsible for construction of sidewalks adjacent to any common areas or lots dedicated the City for utilities or open space. The applicant will be responsible for construction of those sidewalks prior to final plat for each phase or financially guarantee those improvements as part of each phase. (Chapter 8, Section 9, EHSR)

**Response:**

**All sidewalk adjacent to common areas or lots dedicated to the City for utilities or open space have been financially guaranteed.**

14. The subdivider shall hard surface all pedestrian paths and utility maintenance roads prior to final plat for each phase or financially guarantee those improvements as part of each phase. All pedestrian paths and all utility maintenance roads that may also be used as pedestrian paths shall be designed and constructed to meet current Americans with Disabilities Act requirements. (Chapter 8, Section 9, EHSR)

**Response:**

**The pedestrian paths and utility maintenance roads for this phase have been financially guaranteed with a hard surface to meet current Americans with Disabilities Act requirements.**

15. The subdivider shall include an RSID/SID waiver in a notarized document filed with the subdivision plat for the first phase that is applicable to all phases that states the following: Owners and their successors-in-interest waive all rights for 20 years to protest the creation of a special/rural improvement district for the specific purpose of: improving and/or maintaining Valley Drive and related right-of-way. (MCA 76-3-608(7), Chapter 8 Section 5, East Helena Subdivision Regulations)

**Response:**

**The RSID/SID waiver, notarized and applicable to all phases is included on the final plat.**

16. The subdivider shall include an RSID/SID waiver in a notarized document filed with the subdivision plat for the first phase that is applicable to all phases that states the following: Owners and their successors-in-interest waive all rights for 20 years to protest the creation of a special/rural improvement district for the specific purpose of: developing, improving or expanding municipal utility services to include the community water system, the community wastewater treatment system for an incorporated municipality, and storm water facilities. (MCA 76-3-608(7), Chapter 8 Section 5, East Helena Subdivision Regulations)

**Response:**

**The RSID/SID waiver, notarized and applicable to all phases is included on the final plat.**

17. The subdivider shall include an RSID/SID waiver in a notarized document filed with the subdivision plat for the first phase that is applicable to all phases that states the following: Owners and their successors-in-interest waive all rights for 20 years to protest the creation of a special/rural improvement district for the specific purpose of: improving and/or maintaining the roads that access the subdivision and internal roads including (i.e. Meadow View Loop, Southerland Court, Tam O'Shanter Court, Lomond Court, Kinross Court, Karnell Court, Stirling Loop, Glenfinnan Court, Glenco Court, and Argyll Court) and related right-of-way, sidewalks, pedestrian paths, and utility maintenance access roads. (MCA 76-3-608(7), Chapter 8 Section 5, East Helena Subdivision Regulations)

**Response:**

**The RSID/SID waiver, notarized and applicable to all phases is included on the final plat.**

18. The subdivider shall include an RSID/SID waiver in a notarized document filed with the subdivision plat for the first phase that is applicable to all phases that states the following: Owners and their successors-in-interest waive all rights for 20 years to protest the creation of a special/rural improvement district for the specific purpose of: improving and/or maintaining the streets lights. (MCA 76-3-608(7), Chapter 8 Section 5, East Helena Subdivision Regulations)

**Response:**

**The RSID/SID waiver, notarized and applicable to all phases is included on the final plat.**

19. The subdivider shall include an RSID/SID waiver in a notarized document filed with the subdivision plat for the first phase that is applicable to all phases that states the following: Owners and their successors-in-interest waive all rights for 20 years to protest the creation of a special/rural improvement district for the specific purpose of: constructing, improving, and/or maintaining parks, playgrounds, and pedestrian facilities such as sidewalks and trails. (MCA 76-3-608(7), Chapter 8 Section 5, East Helena Subdivision Regulations)

**Response:**

**The RSID/SID waiver, notarized and applicable to all phases is included on the final plat.**

20. The subdivider shall pay the proportionate share of improvements for Valley Drive based on the proportionate share formula developed in the Valley Drive Preliminary Engineering Report in the amount of \$303,800 to mitigate impacts of the proposed subdivision on Valley Drive. The proportionate share amount shall be paid prior to final plat of Phase 1. Upon completion of final construction plans and an engineer's estimate for the Valley Drive improvements, the proportionate share shall be adjusted based on the engineers estimate and any remaining balance shall be paid by the subdivider prior to final plat of Phase 2. (Chapter 8, Section 5, EHSR)

**Response:**

**The proportional share of improvements for Valley Drive was paid prior to the final plat of Phase 1.**

21. An elevation certificate shall be submitted to the City of East Helena prior to final plat for Phase 1 that shows all proposed lots within the subdivision in all phases are above the base flood elevations identified in the detailed study for Prickly Pear Creek. The elevation certificate shall show that no proposed lots within any phase will be affected by a 100-year flood event. (Chapter 8 Section 4, East Helena Subdivision Regulations)

**Response:**

**An elevation certification has been submitted to the City of East Helena prior to the final plat of Phase 1 that shows that all proposed lots within the subdivision in all phases are above the base flood elevation.**

22. If required for improvements for any phase, a floodplain development permit shall be submitted to the City of East Helena Floodplain Administrator for review and approval prior to construction. The approved floodplain permit shall be submitted prior to final plat approval. (Chapter 8, Section 4, EHSR)

**Response:**

**A floodplain development permit was submitted to the City of East Helena and approved on September 7 2022.**

23. This condition was amended by the City Council on July 21, 2020 to the following language:  
The subdivider shall provide a 6-foot high premium quality vinyl privacy, screening, and security fence along the shared boundaries with the East Valley Fire District and Lewis and Clark County Search and Rescue, and shall install or financially guarantee the fencing prior to final plat of Phase 1. (Chapter 4, Section 16.b.4.G, EHSR)

**Response:**

**The fence along the shared boundaries with the East Valley Fire District and Lewis and Clark County Search and Rescue was installed prior to the final plat of Phase 1.**

24. The subdivider shall provide, with the final plat of each phase, evidence that they have applied for County-issued addresses for each lot within the proposed phase. (Chapter 4 Section 16.b.4.G, EHSR)

**Response:**

**Lewis and Clark County has assigned addresses for the lots included in this phase.**

25. The final plat for each phase shall be prepared in accordance with the applicable State survey requirements, Montana Subdivision and Platting Act survey requirements and the East Helena Subdivision Regulations. (East Helena Subdivision Regulations)

**Response:**

**This final plat has been prepared in accordance with the applicable State survey requirements, Montana Subdivision and Platting Act survey requirements and the East Helena Subdivision Regulations.**

26. DEQ Municipal Facilities Exemption language must be shown on the face of the plat for each phase indicating that the parcels are exempt from DEQ subdivision review. (Chapter 8, Sections 10.a, 11.b, 12.b, and 13.b, EHSR)

**Response:**

**DEQ Municipal Facilities Exemption language is shown on the face of the plat.**

27. DEQ Approval of the Municipal Facilities Exemption shall be provided prior to final plat approval for each phase. The Municipal Facilities Exemption shall be filed with the final plat at the Lewis and Clark County Clerk and Records office. (Chapter 8, Sections 10.a, 11.b, 12.b, and 13.b, EHSR)

**Response:**

**DEQ approval of the Municipal Facilities Exemption is provided prior and will be filed with the final plat.**

28. Prior to filing the final plat for each phase, the Applicant shall:
- a. Provide proof that all taxes and special assessments assessed and levied on the property are paid for the current tax year; including any past delinquencies. (Section 76-3-611(1)(b), MCA)

**Response:**

**Proof that all taxes and special assessments assessed and levied on the property are paid and included on the final plat.**

- b. Provide documentation (abstract of title or platting certificate) showing that the Applicant is the lawful owner of the property with the apparent authority to subdivide the same, showing the names of lien holders or claimants of record and the written consent to the subdivision by the owners of the land, if other than the Applicant, and any lien holders of claimants of record against the land. (Section 76-3-612, MCA)

**Response:**

**A platting certificate has been provided prior to final plat.**

29. The Applicant is financially responsible for actual outside engineering, consulting, professional and/or contracted service fees, etc. at the sole discretion of the City of East Helena for review of the preliminary plat and/or final plat approval of the proposed subdivision. The Applicant shall pay all costs incurred by the City of East Helena for the review of the subdivision prior to filing the final plat for each phase. (City of East Helena Subdivision Review Fee Schedule)

**Response:**

**Acknowledged, the applicant understands and will be financially responsible for costs incurred.**

30. Each phase shall be final platted based on the submitted phasing plan. The subdivider shall provide notice to the City of East Helena prior to commencement of each Phase. If phasing schedule changes the subdivider shall obtain approval of phasing schedule prior to final plat. No phase shall be extended to allow final plat longer than 20-years after the preliminary plat approval date. (Chapter 4, Section 3, EHSR)

**Response:**

**Notice of commencement of this phase was provided and approved by the City of East Helena on November 12, 2021.**

Note: Condition No. 31 through Condition No. 47 are applicable to Phase 1 and Phase 2 and do not apply to this Phase. Further, additional lots were approved with Phase 3 commencement, for final plat review, responses to Conditions for Phases 3 and 4 are provided as applicable and noted accordingly.



### **Recommended Conditions for Phase 3 & 4**

48. The subdivider shall install all infrastructure improvements for Phase 23 (Phase 4 ) per the (55.) approved plans and specifications. At a minimum the following infrastructure shall be installed prior to final plat.

- a. All on and offsite water and sanitary sewer mains;
  - b. Water and sewer services into all lots within the subdivision;
  - c. All storm water infrastructure shall be installed; and
  - d. The roads shall be installed to a minimum of the top of the base course gravel.
- All other required improvements shall be financially guaranteed and the subdivider shall enter into a subdivision improvements agreement with the City for installation of remaining infrastructure prior to final plat approval. (Chapter 5 Section 2.b.12, EHSR)

**Response:**

**All minimum infrastructure improvements have been installed and all other remaining infrastructure improvements are financially guaranteed.**

49. The subdivider shall provide certification of all completed infrastructure by a professional (56.) engineer in the State of Montana prior to final plat. All completed infrastructure shall be final accepted by the City prior to final plat. (Chapter 8, EHSR)

**Response:**

**Certification of all completed infrastructure by a professional engineer in the State of Montana is included on the final plat. All completed infrastructure was final accepted by the City of East Helena on December 6, 2022.**

50. All proposed streets providing access shall be a minimum of 48-ft dedicated right-of-way (57.) to the City of East Helena on the final plat. A 6-ft public access and utility easement shall be provided on each side of the dedicated right of way and dedicated for such use on the final plat. (PUD Request, EHSR)

**Response:**

**All streets include a 48-ft dedicated right-of-way and 6-ft public access and utility easements, with dedication for such use to the City of East Helena on the final plat.**

51. All proposed utility lots shall be dedicated to the City of East Helena on the final plat. (58.) (Chapter 8, EHSR)

**Response:**

**All city utility lots are dedicated to the City of East Helena on the final plat.**

52. All proposed access and utility easements shall be properly dedicated on the final plat. (59.) (Chapter 8, EHSR)

**Response:**

**All access and utility easements are properly dedicated on the final plat.**

53. A temporary secondary access shall be constructed from the end of Meadow View Loop (60.) to connect to the temporary secondary access constructed for Phase 1 that connects to the southern access to Valley Drive. The temporary secondary access shall be a 24-ft wide paved surface. At a minimum the secondary access shall be constructed to a 24-ft wide gravel surface. If the subdivider does not pave the temporary secondary access, then the paving shall be included in a financial guarantee and subdivision improvements agreement. An access and utility easement shall be provided on the final plat for the temporary secondary access. The width of the easement shall be approved by the City of East Helena prior to final plat approval. (Chapter 8, EHSR)

**Response:**

**The temporary secondary access is constructed with a gravel surface and the paving is financially guaranteed. A City easement is included on the final plat for approval.**

54. The subdivider shall dedicate to the City of East Helena a park lot outside of the floodway that will satisfy parkland dedication requirements for Phase 3 through Phase 7. The dedicated park lot shall be no larger than necessary to satisfy the parkland dedication for those phases, shall include an appropriate area for a playground to serve the residents and children of the subdivision, and the park lot shall be provided with adequate vehicular access and vehicular access shall be approved by the City prior to final plat of Phase 3. If the vehicular access is not constructed as part of the infrastructure for Phase 3 then the remaining improvements required for access shall be included in a financial guarantee and subdivision improvements agreement. The subdivider shall also provide a park development plan to the City Council to show what improvements can be provided within the proposed park lot and the City can use to plan future improvements for the park lot. The park development plan must be approved by the City Council prior to final plat of Phase 3. (Chapter 8, Section 17 EHSR)

**Response:**

**A park lot is dedicated to the City of East Helena to satisfy the parkland dedication requirements with vehicular access being constructed. A park development plan was provided to the City of East Helena and approved by the City Council on August 17, 2021.**

Note: The following Additional Conditions were applied to this phase during the commencement, approved by the City of East Helena on November 12, 2021.

**Recommended Additional Conditions for Phase 3**

**Additional Condition 1.** The subdivider shall submit engineering plans to the City of East Helena for review and approval for legal and physical access and emergency turn around to the parkland lot from Meadow View Loop in the location of Karnnel Court as reviewed and approved by the City Council in the park development plan prior to final plat approval of Phase 3.

**Response:**

**Engineering plans were submitted to the City of East Helena and approved on June 30, 2022**

**Additional Condition 2.** The subdivider shall install the required legal and physical access to the parkland lot from Meadow View Loop including the emergency turn around in accordance with the final plat requirements of the East Helena Subdivision Regulations and approved parks development plan prior to final plat approval of Phase 3. For items not completed prior to final plat of Phase 3, the subdivides shall provide a financial guarantee and enter into a subdivision improvements agreement for the remaining items prior to the approval of the final plat for Phase 3.

**Response:**

**The required legal and physical access to the parkland lot, including the emergency turnaround is installed.**

**Additional Condition 3.** The subdivider shall extend the proposed gravity sewer main on Karnnel Court, planned with the approved parks plan, to the east boundary of the proposed dedicated parkland lot.

**Response:**

**The gravity sewer main in Karnnel Court has been extended to the east boundary of the parkland lot.**

**Additional Condition 4.** The subdivider shall provide an updated phasing plan that reflects the requested change and shows that Phase 3 can be properly served with water, sewer, and storm water infrastructure. The revised phasing plan shall be provided prior to or with the submittal of engineering plans for Phase 3 so the updated phasing plan can be reviewed with the engineering plans.

**Response:**

**An updated phasing plan was provided on March 11, 2022 prior to the submittal of the engineering plans.**

**Additional Condition 5.** The subdivider shall submit engineering plans for Phase 3 to the City of East Helena for review and approval that include infrastructure for the added Meadow View Loop and Glenfinnan Court and shall ensure a looped water main for Glenfinnan Court, adequate sewer conveyance, and adequate storm water collection and treatment. The applicant shall construct all improvements as outlined in Condition of Approval 48\* for Phase 3 and Condition of Approval 55\* for Phase 4.

**Response:**

**Engineering plans that included the additional infrastructure were submitted to the City of East Helena and approved on June 30, 2022.**

**Additional Condition 6.** If the storm water treatment cannot be provided on a dedicated utility lot, adequate easements shall be provided on the final plat for Phase 3 that ensures access for maintenance of storm water infrastructure including ponds, pipes, and outlets.

**Response:**

**Easements for all storm water infrastructure not located within City right-of-way or City dedicated property are provided on the final plat.**

**Additional Condition 7.** If water or sewer infrastructure cannot be provided within dedicated rights-of-way, a minimum 20-ft utility easement shall be dedicated to the City for maintenance of utilities. The easements shall be provided on the Phase 3 final plat.

**Response:**

**Easements for all water and sewer infrastructure not located within City right-of-way or City dedicated property are provided on the final plat.**

**CONDITIONS OF APPROVAL CERTIFICATION**

We, the undersigned, do hereby certify, as owners of the property that the text and/or graphics shown on this conditions of approval sheet or face of plat represents requirements by the governing body for final plat approval and that all conditions have been satisfied. The information shown is current as the date of this certification, and changes to any land-use restrictions or encumbrances may be made by amendments to covenants, zoning regulations, easements, or other documents as allowed by law or by local regulations pursuant to 24.183.1107(4) A.R.M.

BY: [Signature] - Manager  
Highland Meadows, LLC

STATE OF MONTANA

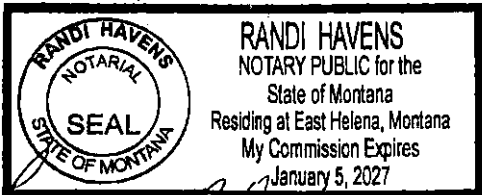
County of Lewis and Clark

On this 17<sup>th</sup> day of February, 2023,

Before me personally appeared

Landy Leep

known to me to be the person whose name is  
subscribed to the above instrument, and  
acknowledged to me that he executed the same.



[Signature]

Notary Public for the State of Montana.