



YELLOWSTONE COUNTY BOARD OF PLANNING
CITY OF BILLINGS AND
YELLOWSTONE COUNTY, MONTANA



AGENDA

March 24, 2015 MEETING TIME: 6:00 p.m.
1st Floor Large Conference Room, Miller Building
2825 3rd Avenue North, Billings, Montana 59101

1. **CALL TO ORDER - Planning Board President:** Welcome and Introduction of new and returning Board Members.
2. **APPROVAL OF AGENDA*** - including any additions or deletions to agenda. The agenda for a regular meeting will be closed at 5:00 p.m. three (3) working days prior to the date of the meeting.
3. **MEETING MINUTES:** The Yellowstone County Board of Planning met on **MARCH 10, 2015** in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana.
4. **PUBLIC COMMENT PERIOD** – As required (3 minute maximum per person). *Any member of the public may be heard on any subject that is not on the agenda. The Planning Board will not take any action on these items at this time, but could choose to add an item to the next meeting's agenda for discussion.*
 - 4a) **Comments on items not on agenda and requests to add items to future agendas**
 - 4b) **Comments on items on the non-public hearing agenda items**
5. **DISCLOSURE OF CONFLICT OF INTEREST:**
6. **DISCLOSURE OF EX PARTE COMMUNICATION:** Ex Parte Communication Binder is available at the Sign-In and Agenda station.
7. **OLD BUSINESS** (Agenda items that were not discussed or not completed in a previous meeting or items requiring action).

- A. **PUBLIC HEARING : Diamond Falls Subdivision, Juliet Spalding, Subdivision Coordinator.** a 61-lot, County major subdivision of S16, T01 S, R25 E, S2NE (Less C/S 2452 & 2892). The 64.781-acre subject property is located on the north side of Austrian Pine Drive, between South 48th Street West and South 52nd Street West. The property is zoned Agricultural-Open, and residential use is proposed. Diamond Falls, LLC, owner. Blueline Engineering, Agent.

A.

- B. **MOTION/RECOMMENDATION TO CITY COUNCIL. Affirmation of the East Billings Urban Renewal District, Wyeth Friday, Planning Division Manager.**

8. **OTHER BUSINESS:**

- A. **STANDING ITEM. Staff Update. Long Range Strategic Issues and an overview of future City and County issues and projects. Candi Millar, PCSD Director or Wyeth Friday, Planning Division Manager.**

9. **ADJOURNMENT**



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Planning Board Public Hearing

Meeting Date: 03/24/2015

Information

INTRODUCTION

PUBLIC HEARING/RECOMMENDATION TO BOCC: DIAMOND FALLS SUBDIVISION. JULIET SPALDING, SUBDIVISION COORDINATOR: On February 2, 2014, the Planning Division received an application for preliminary plat approval for the proposed Diamond Falls Subdivision. The property is generally located on the west side of South 48th Street West and south of King Avenue West. This 61-lot subdivision would be developed in two phases with the first phase containing 13 lots. The proposed lots range from 0.341 acres to 0.91 acres. A concurrent zone change application is in review at this time to change the zoning from Agricultural Open Space to Residential-15,000. This zone change is necessary to allow the subdivision to proceed. The Planning Board reviewed the plat at its March 10, 2015, meeting and will conduct a public hearing at this meeting.

RECOMMENDATION

Staff recommends that the Planning Board recommend that the Yellowstone County Board of County Commissioners conditionally approve the preliminary plat of Diamond Falls Subdivision and adopt the Findings of Fact as presented in the staff report.

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact.

1. To minimize effects on local services, the Homeowners' Association shall be established concurrent with the final plat recording. Articles of Incorporation, Covenants, Conditions & Restrictions, and any other appropriate documents for its creation shall be provided with the final plat documents.
2. To minimize effects on local services, prior to final plat approval, the 30,000 gallon dry hydrant system shall be installed as approved by the Billings Fire Department and a Rural Special Improvement District – Maintenance (RSID-M) shall be created for its maintenance.
3. To minimize effects on the natural environment and public health and safety, a note shall be added to Section II. of the Subdivision Improvements Agreement (SIA) stating that future landowners are responsible for having a Montana Registered

Professional Engineer inspect and provide as-built certification that the improvements for the SepticNET drain field are constructed as shown on the Drain field Plans as required by Montana Department of Environmental Quality (MDEQ) at the time of septic permitting. A separate note shall notify future lot owners that there is an operation and maintenance plan in place for the approved septic system that must be followed in order to ensure proper functioning of the system.

4. To minimize effects on the natural environment and public health and safety, a note shall be added to Section II. SIA stating that future landowners are prohibited from building structures on the areas identified as primary drain field and replacement drain field on the MDEQ Certificate of Subdivision Approval exhibit.
5. To minimize the effects on the natural environment, a weed management plan and property inspection shall be approved by the County Weed Department, prior to final plat approval.
6. To ensure compliance with zoning, a note shall be added to Section II of the final SIA indicating that Zoning Compliance Permits shall be submitted for review and approved by the City-County Planning Division prior to construction on the lots.
7. To minimize the effects on local services, prior to final plat approval an RSID-M will be created or expanded, as appropriate, to provide maintenance of the new interior roads of this subdivision and Austrian Pine Road.
8. To minimize the effects on agricultural water user facilities, evidence that the existing irrigation facility on and adjacent to the subject property does not serve downstream users shall be provided prior to final plat approval.
9. To minimize effects on local services, improvements to Austrian Pine Road shall be made in phases, to bring it up to current County paved road standards. Any necessary improvements from Bridle Creek Trail to S. 48th St. West shall be made during Phase I, while improvements from S. 52nd St. West to Bridle Creek Trail shall be made during Phase II. Updates shall be made to Section XI. of the final SIA to reflect these requirements.
10. To minimize effects on local services, prior to Phase II development, the developer shall apply for and receive the appropriate provisional permit for additional water rights from Montana Department of Natural Resources and Conservation (DNRC). A note shall be added to Section VI.A. of the final SIA stating this requirement.
11. To minimize effects on local services, a note shall be added to the face of the final plat and Section VI.B. of the final SIA indicating which lots will retain sanitary restrictions until future approval is granted by MDEQ.
12. To minimize effects on local services, a Park Maintenance District shall be established prior to final plat approval for future maintenance of the dedicated parkland.
13. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
14. The final plat shall comply with all requirements of the County Subdivision Regulations, rules, regulations, policies, and resolutions of the Yellowstone County, and the laws and Administrative Rules of the State of Montana.

VARIANCES REQUESTED

No variances have been requested from the Yellowstone County Subdivision Regulations for this proposal.

DISCUSSION/STAKEHOLDERS

On March 10, 2015, the Planning Board reviewed the proposal at its regular meeting. Staff gave a brief presentation of the proposal and shared the recommended conditions of approval. Board members asked for clarification on proposed improvements for 52nd Street West, pedestrian circulation, the wastewater treatment proposed, and the ditch.

Staff explained that 52nd Street West would be built during the second phase of development, to the County specifications at that time. Staff noted that the County is currently looking to update its half-street development standards. In reference to pedestrians, it was noted that there are no sidewalks planned for the proposal. Planning Board members asked about the anticipated pedestrian circulation and access to the park area. A board member also asked about which irrigation ditch served the property and nearby properties. The applicant's engineer indicated that it was most likely a lateral of the BBWA ditch, but he would verify that information for the next meeting. Lastly, the symbols for the proposed wells and septic systems depicted on the plat were clarified and it was noted that structures were not to be built over the areas identified for situating the drain field and replacement drain field.

Attachments

Findings of Fact 3-24-15

Diamond Falls Subdivision
PROPOSED YELLOWSTONE COUNTY BOARD OF PLANNING
FINDINGS OF FACT

The City/County Planning Staff has prepared the Findings of Fact for the Diamond Falls Subdivision. These findings are based on the preliminary plat application and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Yellowstone County Subdivision Regulations (YCSR).

A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health and safety (76-3-608(3)(a), MCA) (Section 3.2(H)(2), YCSR)

1. Effect on agriculture and agricultural water users' facilities

The subject property has been historically used for irrigated crop land as have properties to the north, east and west. The properties to the south have been developed for residential uses since the late 1990's and early 2000's and property to the east is master planned for urban mixed-use development in the City limits. The subdivision will remove 65 acres of agricultural land. This area is generally transitioning out of agricultural use.

Hogan's Slough runs along the northern boundary of the subject property. One irrigation lateral exists in the proposed subdivision running north/south in the center of the property. It is proposed to be abandoned as it will no longer be needed for irrigation. Staff recommends as a condition of approval that evidence be provided that this lateral does not supply irrigation water to any downstream users. The evidence could be a letter from the applicable ditch company or from the surrounding property owners (**Condition #8**). There is also a lateral ditch located west of the subject property that will not be disturbed by the proposed development.

2. Effect on local services

- a. **Water and Sewer** –Domestic water is proposed to be supplied by using individual wells. Montana Department of Environmental Quality (MDEQ) will review placement of each proposed well to ensure appropriate separations from septic systems. In addition, prior to any use of water, the subdivider and/or subsequent lot owners will be required to obtain a water right permit from the Montana Department of Natural Resources and Conservation (DNRC). Under a recent Montana First Judicial District Court judgment dated November 6, 2014, applying for water rights for multiple wells within a single subdivision project must be looked at collectively. In the past, individual wells were considered on an individual basis, and therefore were exempt from applying for the "provision permit" for a water right. In accordance with a letter dated February 3, 2015, from Kimberly Overcast, Manager of the Billings Water Resources Office, DNRC, water usage from approximately 14 wells within this development can be issued a water right without going through the provision permit process. Phase I of Diamond Falls Subdivision proposes development of 13 wells. Therefore, prior to Phase II development, the developer shall apply for and receive the appropriate provisional permit for additional water rights from DNRC. It is recommended that a note be added to the final SIA under section VI.A. stating this requirement (**Condition #10**).

Sanitary sewer treatment is proposed using individual septic systems. A review of existing background nitrate levels in a nearby well has indicated that an advanced wastewater treatment system called “SepticNET” shall be used to provide the needed water protection envelope for each proposed septic system. MDEQ will review and approve design and location specifications for each proposed system and then require at the time of system installation that a Professional Engineer (PE) inspect and certify the systems are installed to approved plans. Additionally an operation and maintenance plan is required for advanced treatment systems such as the SepticNET. In order to inform future land owners of this requirement staff recommends that a note be added to Section II. of the Subdivision Improvements Agreement (SIA) stating that future landowners are responsible for having a Montana Registered Professional Engineer inspect and provide as-built certification that the improvements for the SepticNET (or approved equivalent) drainfield are constructed as shown on the Drainfield Plans as approved by Montana Department of Environmental Quality (MDEQ) at the time of septic permitting and that an operation and maintenance plan must followed in order to ensure proper functioning of the system (**Condition #3**). Staff also recommends that a note be added to the final SIA indicating that structures cannot be built over the area of the drain field and replacement drainfield as approved by MDEQ (**Condition #4**). Due to the relatively small size of the lots and required separations for wells and septic systems, it will be important for lot owners to preserve the areas approved and reserved for drain field needs.

Only Phase I lots are proposed to have sanitary restrictions lifted at the time of final plat approval. The remaining lots within the future phases will retain sanitary restrictions until future review and approval by MDEQ has been granted. It is recommended that a note be added to the face of the final plat and to Section VI.B. of the final SIA indicating which lots will retain sanitary restrictions until future approval is granted by MDEQ (**Condition #11**).

- b. **Streets and roads** – Current access to the subject property is from either S. 48th St. West on the east or Austrian Pine Rd. on the south. Additionally, S. 52nd St. West fronts the western boundary of the subdivision but is undeveloped at this location at this time. The appropriate additional right-of-way dedications are proposed on the subdivision plat for those three adjacent streets based on their street network classification. Austrian Pine Rd., though existing, does not meet current County paved road standards. Portions of it are not the required 24-foot width, while other portions are gravel-surfaced. The subdivider shall improve Austrian Pine Rd. to current County paved road standards in two phases (**Condition #9**).

Access (driveway approaches) to the new lots is proposed to be limited to a network of constructed internal streets. The local streets will be constructed to County paved road standards and are proposed to be installed in two or more phases. The preliminary plat indicates the darkened roadway that will be constructed with Phase I improvements. Culverts shall be provided to convey storm water under roads and driveways in the subdivision.

Maintenance for all public improvements will be through RSIDs which will be created or expanded prior to final plat approval (**Condition #7**).

- c. **Fire and Police services** – The property is within the Billings Urban Fire Service Area’s jurisdiction and the Billings Fire Department will provide fire service. It is the subdivider’s responsibility to ensure provisions of a water source and adequate access to the proposed lots for emergency service’s needs. A 30,000 gallon dry hydrant is proposed to be installed near the intersection of South 48th St. West and Diamond Falls Road. The 30,000 gallon tank is shown on the preliminary plat located in the Diamond Falls Road right-of-way. Maintenance of the 30,000 gallon dry hydrant will be done through an RSID-M to be created prior to the filing of the final plat as stated in the SIA Section IX. The Fire Department indicated that the proposed fire suppression facilities are sufficient but has requested that installation inspection and approval occur prior to final plat approval (**Condition #2**).

The Yellowstone County Sheriff’s Department will provide law enforcement services. The Department did not have any concerns with the proposal.

- d. **Solid Waste disposal** – The Billings Landfill has capacity for solid waste disposal. Solid waste will be collected and disposed of by a private garbage collection company. Each lot owner will be responsible for arranging for collection.
- e. **Storm water drainage** – Storm water drainage shall satisfy Yellowstone County Storm Water Management requirements and MDEQ. Storm water will be absorbed in retention areas within the parkland and in the ditches along the roads.
- f. **School facilities** – The proposed subdivision is located in School Districts #8 and #2 service areas. Elementary and Middle school students would attend Elder Grove, while High School students would be attend West High School. Elder Grove School has indicated that they have capacity for additional students at this time.
- g. **Parks and recreation** – The parkland dedication requirement for this subdivision is 7.5% of the net lot area. This amounts to 3.82 acres. The subdivider has proposed to provide 3.865 acres of parkland on the northern portion of the subdivision adjacent to Hogan’s Slough. Much of this park area is within the 100-year flood plain of Hogan’s Slough. County Parks has reviewed the park proposal and is recommending approval of it with the condition that a Park Maintenance District be established prior to final plat approval for its maintenance in the future (**Condition #12**).
- h. **Historic features** – No known historical or cultural assets exist on the site.

3. Effects on the natural environment

The subject property has Hogan’s Slough on its north border. Portions of the northeast edge of this plat are identified on the plat as in the 100 year mapped floodplain boundary, as identified by the West Billings Flood Study. Even though this flood study has not been officially adopted by FEMA, it is the best available data and must therefore be acknowledged at time of subdivision.

Even though most of the area is within the proposed park dedication, certain limitations exist for areas within the floodplain on individual lots, such as no drainfields can be constructed within it.

The subdividers will use noxious weed control measures to prevent the spread of noxious weeds to adjacent developed or agricultural land. They shall complete the property inspection and weed management plan for the property in coordination with the County Weed Department prior to final plat approval (**Condition #5**).

Aside from the floodplain, there are no other apparent or known natural hazards on the property.

4. Effects on wildlife and wildlife habitat

There are no known endangered or threatened species on the property although the area is good deer and antelope habitat. An advisory note to this effect is in the SIA, Conditions that Run with the Land Section. The proposed parkland area will remain in its natural state, allowing for the perpetuation of existing wildlife habitat.

5. Effects on public health and safety

Plans and designs for the individual wells and septic systems will be reviewed and approved by MDEQ prior to final plat approval to ensure public health and safety.

Fire and emergency services are provided for this proposed subdivision. A 30,000 gallon tank with a dry hydrant system will be constructed prior to final plat approval for water supply for firefighting needs.

Effects on public health and safety should be minimized through these measures.

B. Was an environmental assessment required? If yes, what, if any, significant adverse impacts were identified? (76-3-603, MCA) (Chapter 9, YCSR)

An environmental assessment was not required for this subdivision, as it met the exemptions listed in Section 9.2.C.3.b. of the County Subdivision Regulations.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2008 Growth Policy Update, the Urban Area Transportation Plan--2009 Update, and the Billings Area Bikeway and Trail Master Plan? (Section 3.2(H)(4), YCSR)

1. Yellowstone County – City of Billings 2008 Growth Policy Update

- Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns. (p. 6)
This subdivision will create 61 lots for single family residences. This land use is consistent with surrounding developed properties.

- Goal: More housing and business choices within each neighborhood. (p. 9)
The proposed subdivision will create 61 additional lots for homes in this area.

- Goal: Protection of groundwater, surface water, riparian areas, air quality and productive agricultural land. (p. 9)

The proposed subdivision will maintain the natural drainage area as parkland, although it is removing some agricultural land.

- Goal: Contiguous development focused in and around existing population centers separated by open space. (p. 6)

The proposed subdivision will increase the development density on the subject property therefore concentrating development and potentially preserving the agricultural land and open space in the surrounding area. Additionally the natural drainage area is preserved within Public zoning ensuring open space in the neighborhood.

2. 2014 Billings Urban Area Long Range Transportation Plan

The subject property is within the boundary of the Transportation Plan. The subject property has frontage on S. 48th Street West, which is a principal arterial road, and S. 52nd Street West and Austrian Pine Road, both which are collector roads. The appropriate amount of right-of-way is being preserved for these roads with this plat. Also, no-access strips are identified on the plat to prevent new drive approaches on to these existing roads. The internal streets in this subdivision are proposed to be public local residential streets.

3. Billings Area Bikeway and Trail Master Plan (BABTMP)

The subject property is also within the jurisdiction of the BABTMP. The plan identifies Austrian Pine Road and S. 52nd St. West as proposed long-range bike lane routes. This subdivision is providing sufficient right-of-way to allow for a future bike lane. The BABTMP also identifies a potential future trail alignment along Hogan's Slough. Parkland dedication adjacent to Hogan's Slough is proposed, and a future trail could be built within the park area. No bikeway or trail improvements are required or proposed for this subdivision.

D. Does the subdivision conform to the Montana Subdivision and Platting Act (MSPA) and to local subdivision regulations? [76-3-608(3)(b), MCA and Section 3.2(3)(a), YCSR]

The proposed subdivision meets the requirements of the MSPA and the YCSR. The subdivider and the local government have complied with the subdivision review and approval procedures that are set forth by local and state subdivision regulations.

E. Does the subdivision conform to sanitary requirements? [Section 4.8(C) and 4.9(C), YCSR]

The subdivider must receive approval from the MDEQ for the individual wells and the proposed septic facilities within Phase I development prior to final plat approval. Phase II lots will retain sanitary restrictions until they are lifted at a future date.

F. Does the proposed subdivision meet any applicable Zoning Requirements? [Section 3.2(H)(3)(e), YCSR]

The subdivision is currently within the Agricultural Open Space zoning district but a zone change application has been submitted for consideration. The new proposed zoning (Residential-15,000) would allow the proposed lot sizes.

Other zoning requirements for the buildable lots shall be reviewed prior to construction on the individual lots. It is recommended as a condition of approval that a note be added to Section II of the final SIA indicating that Zoning Compliance Permits shall be submitted for review and approved by the City-County Planning Division prior to construction on the lots (**Condition #6**).

G. Does the subdivision provide for necessary planned utilities? [76-3-608(3)(c), MCA and Section 3.2(H)(3)(b), YCSR]

Utility easements are provided as requested by MDU and Northwest Energy adjacent to the public road dedication.

H. Does the proposed subdivision provide for Legal and Physical Access to all lots? [MCA 76-3-608 (3) (d) and Section 3.2 (H) (3) (c) (d), YCSR]

Legal and physical access will be provided for proposed lots off of the internal streets. Access off of South 48th St. West and Austrian Pine Road must be approved by the Yellowstone Public Works Department.

CONCLUSIONS OF FINDINGS OF FACT

- Diamond Falls Subdivision does not create adverse impacts that warrant denial of the subdivision.
- Impacts to agriculture, agriculture water user facilities, local services, public health and safety, the natural environment, and wildlife should be minimal. Impacts identified can be mitigated by reasonable conditions of final plat approval.
- The subdivision conforms to some of the goals of the 2008 Growth Policy.
- The applicant has complied with the MSPA and YCSR processes and the subdivision conforms to the law requirements.