

FINDINGS OF FACT

The City/County Planning staff has prepared the Findings of Fact for Amended Lot 1, Block 1, Holly's 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 is currently used for agricultural purposes and does have water shares from existing ditches. This proposed subdivision is in an area that is predominantly farmland and farm houses with out buildings. The Big Ditch is on the western border of the proposed subdivision with the Burlington Northern rail road tracks on the eastern border of the property. Future property owners can obtain pumping permits from the Big Ditch Company if they would like to water their property using ditch water. This parcel of land in the recent past has been irrigated using the Big Ditch as a water source. There has been some issue with water flowing from the subject property to the neighboring property to the east. The applicant will add language in the SIA under Conditions That Run With The Land to inform future property owners, should they use water from the Big Ditch to irrigate their property, of their obligation to control irrigation water from flooding onto adjacent property owners land (**Condition #1**).

In the original Holly's Subdivision it was stated in the SIA that there are irrigation rights with this property from the High Ditch and the Big Ditch. Two shares from the High Ditch and one share from the Big Ditch transferred to Lot 2. All remaining shares transferred to Lot 1.

There is no mention in the submitted SIA of what will be happening to the water shares that transferred to Lot 1. In the SIA under an Irrigation Facilities heading the applicant will clarify what water shares exist with Lot 1 and what will be done with them as per Section 4.13 of the Yellowstone County Subdivision Regulations (**Condition #2**).

This proposed plat shows a 50 foot easement from the centerline of the irrigation ditch for the Big Ditch Company to access their ditch for maintenance purposes. There is a note on the face of the plat that says: "Note: The Big Ditch is covered by a working easement to properly maintain the ditch. The ditch superintendent states they need approximately 50 feet on the low side (east side) and 45 feet on the high side (west side) from the ditch centerline for proper maintenance". On the original plat of Holly's Subdivision there is a note on the plat that says: "Note: The Big Ditch is covered by a working easement to properly maintain the ditch. The ditch superintendent states they need approximately 60 feet on the low side (east side) and 45 feet on the high side (west side) from the ditch centerline for proper maintenance". Then on the original plat it

shows a 50 foot easement from the centerline of the Big Ditch on the low side (east side). At the department review meeting the Big Ditch representatives asked for a 35 foot easement on the east side from the ditch bank edge for maintenance purposes. As a condition of approval the applicant will contact the Big Ditch Company to determine what size the easement needs to be for the ditch company to properly access the ditch for maintenance purposes and provide documentation with signatures from the Big Ditch representative on what was agreed upon. The proper easement, as per the Big Ditch Company, will be depicted on the Final Plat (**Condition #3**).

2. Effect on local services

a. **Water and Sewer** –The properties will be required to use wells or cisterns for water and individual septic systems will be used for each of the lots. Locations for water wells or cisterns and septic systems will be reviewed and approved by the Montana Department of Environmental Quality (MDEQ). These systems will be constructed as approved by the MDEQ and as shown on approved plans. The subdivider will need to receive approval from MDEQ for the use of septic systems, and wells or cisterns before final plat approval (**Condition #4**).

- b. **Streets and roads** – The proposed subdivision is located on the north side of Neibauer Road between South 72nd Street West and South 80th Street West and on the west side of the existing railroad tracks belonging to Burlington Northern Railroad. Access to the proposed lots will be from a new private road into the subdivision called Holly's Lane. The proposed new paved section of road ends at an existing ditch that is to remain in place. A cul-de-sac end will be built south of this existing ditch and on the edge of the cul-de-sac is where a 10,000 gallon dry hydrant for fire suppression will be installed.

The paved portion of Holly's Lane will provide access to lots 1D and 1C. Lot 1C will have to place a culvert in the existing irrigation ditch or build a bridge over it to get from the paved cul-de-sac to Lot 1C. Lots 1B and 1A are accessed by use of a dirt drive way being built from the cul-de-sac end of Holly's Lane. That dirt drive way will have a culvert or bridge installed separate from the one installed for use by Lot 1C to get across the ditch that is on the north edge of the proposed cul-de-sac. Any construction of culverts for getting over the ditch or trenches for the installation of utilities will require approval from the ditch company that is affected (**Condition #5**). From the cul-de-sac end of Holly's Lane there will be an access and utility easement where a drive way will be built to provide access to lots 1B and 1A. In the SIA under Transportation, there is confusion about which lots have the paved portion of Holly's Lane and which ones have a dirt drive way. As a condition of approval the applicant will revise the transportation section of the SIA to clarify what lots have a paved private road on them, which lots have a dirt drive way as their access and how Lot 1C is required to have a separate access across the existing ditch than Lots 1A and 1B that are using the dirt drive way. All accesses, roads and driveways must meet County Standards as specified in

the YCSR and by the Yellowstone County Public Works Department (**Condition #6**).

- c. **Fire and Police Services** – The property is within the Laurel Urban Fire Service Area’s jurisdiction and the Laurel 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 needs. The applicant will be installing a 10,000 gallon dry hydrant water tank for fire suppression. The Laurel Fire Department has specifications for proper tank installation for their use. As a condition of approval the applicant will need a letter from the Laurel Fire Department that they have tested and accept the system (**Condition #7**). An RSID will need to be created to maintain the 10,000 gallon dry hydrant tank (**Condition #8**).

The Yellowstone County Sheriff’s Department has indicated that they are able to provide law enforcement services to the proposed subdivision.

- d. **Utilities** – The two existing lots in the existing Holly’s Subdivision are currently being served with power and telephone from facilities along Neibauer Road. These utilities will be extended further into the proposed subdivision using the Utility and Access Easement shown on the plat. Any construction of culverts for getting over the ditch or trenches for the installation of utilities will require approval from the ditch company that is affected (**Condition #5**).
- e. **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.
- f. **Storm water drainage** – All storm water drainage shall satisfy storm water management requirements and specifications of MDEQ. The applicant will submit proposed storm water drainage information to the MDEQ for review and approval (**Condition #9**).
- g. **School facilities** – The proposed subdivision is located in the Laurel School District for Elementary School, Middle School and High School. Laurel Public Schools provided information for this subdivision stating that the elementary, middle and high school all have additional capacity for students. They also indicated that the proposed subdivision is on an existing bus route.
- h. **Parks and recreation** – This proposed four-lot subsequent minor subdivision is not required to provide parkland dedication as outlined in the Yellowstone County Subdivision Regulations (YCSR) Section 10.8 A and B.
- i. **Historic features** – No known historical or cultural assets exist on the site.

3. Effects on the natural environment

The development will use noxious weed control measures to prevent the spread of noxious weeds to adjacent developed or agricultural land. A weed management plan will be completed and a property inspection done prior to final plat approval (**Condition #10**).

There are no 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. Montana Fish, Wildlife, and Parks (FWP) suggests that future homeowners should be made aware that unless they take steps to deter animals such as fencing their yards they may experience damage problems. A note to this effect is found within the SIA to help inform future landowners.

5. Effects on public health and safety

Plans and designs for use of the proposed individual septic systems must be reviewed and approved by MDEQ before construction can take place on the proposed lots. Fire and emergency services are provided for this proposed subdivision by emergency agencies in Laurel. There should be minimal effects on public health and safety as a result of this subdivision.

B. Was an environmental assessment required? If yes, what, if any, significant adverse impacts were identified? (76-3-616, MCA) (Chapter 9, YCSR)

An environmental assessment determined there will be no adverse effect on the land as it has been used as farm land for years and therefore has been disturbed from its natural state and this proposed subdivision does not disturb any natural features or habitat.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2008 Growth Policy Update, the 2014 Billings Urban Area Long Range Transportation Plan, 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 4 lots for large lot residential development, consistent with the immediately surrounding neighborhood.

- **Goal: New developments that are sensitive and compatible with the character of adjacent County townsites. (p. 6)**

There are similarly sized lots adjacent to the subject property.

2. 2014 Billings Urban Area Long Range Transportation Plan

The subject property is on the western boundary of the study area of the Transportation Plan. The subject property has frontage on Neibauer Road which is a principal arterial road. No additional right-of-way is needed with this plat.

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

The subject property is on the western edge of the study area of the BABTMP. The BABTMP identifies a trail along the edge of the Big Ditch. No improvements are proposed with this plat.

D. Does the subdivision conform to the Montana Subdivision and Platting Act 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 will need to receive approval from MDEQ for the use of septic systems, and wells or cisterns before final plat approval.

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

The subdivision is outside the County's zoning jurisdiction. The proposed lots sizes are in compliance with County Subdivision Regulations, and MDEQ.

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 a part of the 60 foot wide utility and access easement shown on the face of the plat. This should provide adequate area for the utility companies to provide services to the proposed lots.

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

Legal and physical access will be provided for the proposed lots from Holly's Lane and an access and utility easement. Holly's Lane will connect to Neibauer Lane to provide access for the entire proposed subdivision.

CONCLUSIONS OF FINDINGS OF FACT

- The Amended Lot 1, Block 1, Holly's 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.

RECOMMENDATION

Staff recommends the Planning Board recommend that the Yellowstone County Board of County Commissioners conditionally approve the preliminary plat of Holly's Subdivision, Amended Lot 1, Block 1, approve the variance requested, and adopt the Findings of Fact as presented in the staff report.

ATTACHMENTS

A: Variance Request

B: Aerial view of the property

C: Preliminary Plat and Associated Documents