

**PROPOSED YELLOWSTONE COUNTY BOARD OF PLANNING**  
**FINDINGS OF FACT**

The Findings of Fact for the preliminary plat of Duck Creek Condominium Subdivision have been prepared by the Planning and Community Services Department staff. 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 and agricultural water user facilities, 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 user facilities**

Any existing irrigation or surface water shares will be retained by Subdivider. There is an unnamed irrigation ditch near the northern property boundary and along the east property boundary. Those ditches will be left in place and any construction activity will take necessary precautions to not disturb the existing ditches and drains. The north drain ditch is within a 50-foot wide drain ditch easement on file in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3581177. The drainage ditch on the east is outside the property line and within the Duck Creek Road right-of-way and does not have an easement on it.

**2. Effect on local services**

**Utilities** – There is an existing well on the site but it will be removed and replaced with a new well that will serve the condominium development. The proposed well must be approved by MDEQ before final plat. The owners of the condos will have a permanent, non-exclusive right to use the well, and maintenance will be shared as outlined in the Declaration of Unit Ownership documents to be recorded with the establishment of the condominiums with final plat.

**Septic System** - All of the units on the lot will make use of an existing shared multi-user public drain field system. Shared maintenance provisions will also be established for this existing septic system in the Declaration of Unit Ownership documents. The proposed new buildings will be connecting to the existing, shared multi-user public drain field system and must comply with the State of Montana Department of Environmental Quality (MDEQ) requirements as pointed out in the SIA.

MDU and NorthWestern Energy will provide gas and electrical utilities as necessary. The applicant is providing an access and utility easement for the benefit of both lots for utility installation. The applicant will be discussing the best location for utility installation and the needed easements with the

respective private utility providers and will show all utility easements on the final plat (**Condition#1**).

- a. **Stormwater** – Stormwater will be retained onsite and will be in compliance with Section 4.7, YCSR. A stormwater management plan will be submitted and approved by MDEQ prior to final plat approval. Stormwater retention ponds are shown on the plan.
- b. **Flood Plain / Flood Fringe** - This proposed condominium development is entirely in the Flood Fringe of the 100 year Flood Plain. Since the property is in the Flood Fringe, the developer may build in that area as long as he meets the requirements for construction. In order to develop the site, proposed buildings will require finish floor elevations above the base flood elevation. Floodplain permits are required to be completed and approved prior to any construction on the site as outlined in the SIA.
- c. **Solid Waste** – Solid waste disposal will be provided through a private hauler. The Billings landfill has the capacity to accommodate waste from this subdivision.
- d. **Streets** – Access to the subdivision is from Duck Creek Road, a paved petitioned County road. Duck Creek Road is on the east side of the proposed subdivision lot. No additional street right-of-way is necessary. There currently is not an RSID to maintain Duck Creek and it is currently maintained by the County. No additional RSID is being created at this time for its maintenance.

Access approaches for the lot were also determined with the original plat. Lots 1 and 2 will use a shared 40-foot wide approach. This internal access will be built with a 24 foot wide asphalt driving surface with 2 foot shoulders according to County Road Standards with a turnaround area for the fire department. Maintenance of the internal driving surface will be shared proportionately, as outlined in the Declaration of Unit Ownership documents to be recorded to establish the condominium ownership.

- e. **Emergency Services** – The subject property is within the jurisdiction of the Billings Urban Fire Service Area (BUFSA). The proposed condos will be serviced by looping driveways constructed to meet the fire department needs. The applicant for this subdivision is installing a 30,000 gallon underground storage tank dry hydrant system. The applicant will install the tank as approved by BUFSA and receive final sign off that it functions properly before final plat. An RSID-M will be created that include the proposed condominium units prior to final plat approval to maintain the dry hydrant system (**Condition #2**).

The Sheriff's Department will provide law enforcement services for the subdivision and does not have any concerns.

f. **Mail Delivery** - The United States Postal Service will service the new lot. The applicant will install either a Centralized Mailbox Unit or individual delivery boxes dependent on what the USPS requests. The applicant will provide documentation that they have contacted the USPS and have approval for the proposed type of postal receptacle system. **(Condition #3)**

**3. Effects on the natural environment**

No alteration of any stream will occur with this subdivision.

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 #4)**.

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) were provided information about the proposed subdivision and did not have any comments regarding this area. The applicant has included in the SIA a paragraph under Conditions That Run With The Land that deer may damage landscaping and unless there is commercial agricultural damage, or a threat to public safety, FWP does not assist with wildlife problems. A note to this affect is found in the 'Conditions that Run with the Land' section of the SIA.

**5. Effects on public health and safety**

There are no known manmade public safety hazards that would affect this subdivision. Plans and designs for wells and septic systems will be reviewed and approved by MDEQ prior to final plat approval. Fire and emergency services are provided for this proposed subdivision, including a water supply for firefighting purposes.

**B. Was an Environmental Assessment required? (76-3-603, MCA)(Section 9.2.C.1, YCSR)**

An environmental assessment was not required for this subdivision as per Section 9.2.C.1., YCSR. A Summary of Probable Impacts was provided. No major issues were identified.

**C. Conformance with the Yellowstone County – City of Billings 2008 Growth Policy Update, the 2011 Billings Area Bikeway and Trail Master Plan, and the Billings Urban Area Transportation Plan 2009 Update (Section 3.2.H.4., YCSR)**

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

**The proposed subdivision is consistent with the following goals of the growth policy:**

- Goal: Controlled weed populations. (p. 9)  
*The developer will complete a weed management plan following an inspection performed by the County Weed Department.*
- Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns. (p. 6)  
*The proposed subdivision is not within the County zoning jurisdiction. It is located south of Interstate-90 in an area that has been developed in recent years for commercial uses. Therefore, it seems to be consistent with the neighborhood character in this area.*
- Goal: More housing and business choices within each neighborhood (p.6).  
*The proposed subdivision would allow for additional business development in this area of Yellowstone County.*

## **2. Billings Urban Area Transportation Plan 2014 Update**

Duck Creek Road is classified as a collector street and is expected to handle the additional traffic generated by this commercial subdivision. The required right-of-way was dedicated with the original Bowman Subdivision to meet the required half width for a collector street. The proposed subdivision maintains the street hierarchy defined in the Transportation Plan.

## **3. Billings Area Bikeway and Trail Master Plan**

The subdivision is within the Billings Area Bikeway and Trail Master Plan jurisdictional area. Duck Creek Road is considered a planned ‘primary on-street bikeway’. There are no bike lanes, or even shoulders on Duck Creek Road, but these facilities may be considered when future upgrades to the road are made. A waiver of right to protest future RSID’s for street improvements is being signed and recorded with this subdivision.

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

The subdivision, with the proposed conditions, satisfies the requirements of the Montana Subdivision and Platting Act and conforms to the design standards specified in the Yellowstone County Subdivision Regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

### **E. Does the proposed subdivision conform to all requirements of the zoning in effect? (Section 3.2.H.3.e., YCSR)**

The subject property is outside of the County zoning jurisdiction.

**F. Does the proposed plat provide easements for the location and installation of any utilities? (76-3-608(3)(c), MCA) (Section 3.2.H.3.b., YCSR)**

Utility easements will be provided on the face of the final plat for both electric and natural gas, as requested by MDU and NWE as noted above.

**G. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? (76-3-608(3)(d), MCA) Section 3.2.H.3.c., YCSR)**

Access to the subdivision lots will be from Duck Creek Road, a petitioned County road.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Duck Creek Condos Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- With the proposed conditions, Duck Creek Condos Subdivision is in compliance with the Montana Subdivision and Platting Act and the Yellowstone County Subdivision Regulations.
- New water and wastewater facilities will be approved through the Montana Department of Environmental Quality.

**ATTACHMENTS**

A: Aerial Image

B: Plat and associated documents