

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

Board Attendance Roster: Please note: “E” stands for excused absence, “A” stands for un-excused absence, “1” stands for present.

BYLAWS, YELLOWSTONE COUNTY BOARD OF PLANNING, (Amended. May 25, 2004)

Section 4. Absences and Removal

- A. Each member shall inform the Planning Director at least one day before the meeting of his/her inability to attend a Board or Committee meeting. Such an absence shall be considered an excused absence.
- B. If any Board member accrues three (3) or more consecutive unexcused absences from regular meetings, notice of which has been given at his/her usual place of work or residence, or by announcement at a meeting attended by him/her, the President may call such absences to the attention of the Board which may then recommend to the appointing authority that such member be asked to resign and that another person be appointed to serve out the unexpired term. Schedule: (** denotes a Wednesday meeting)

1	Position	01/13/2015	01/27/2015	02/11/2015	02/24/2015	03/10/2015	03/24/2015	04/14/2015	04/28/2015	05/12/2015	05/26/2015	06/09/2015	06/23/2015	07/14/2015	07/28/2015	08/11/2015	08/25/2015	09/08/2015	09/22/2015	10/14/2015	10/27/2015	11/10/2015	11/24/15
Dave Goodridge	Mayor/Billings Ward I	-	-	-	-	1	1	-	1	E	E	E	1	1	E	1	E	E	1	1	E	1	1
Patrick Klugman	Mayor/Billings Ward II	1	1	1	-	1	1	-	1	1	1	1	1	1	1	E	1	1	1	1	1	1	1
Donna Forbes	Mayor/Billings Ward III	1	1	E	-	1	1	-	1	1	1	1	E	1		1	1	1	1	1	1	1	1
Darell Tunnicliff	Mayor/Billings Ward IV	1	1	1	-	-	1	-	1	1	1	1	1	1		1	1	1	1	E	1	1	1
Dick Clark (President)	Mayor/Billings Ward V	1	E	1	-	1	1	-	1	1	1	1	1	1	E	E	1	1	1	1	1	1	E
Vacant	YC District 1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Dennis Cook	YC District 2	1	1	1	-	-	E	-	1	1	1	1	1	1	1	1	1	1		1	1	1	1
Lisa Sukut	YC District 3	1	E	E	-	-	E	-	E	1	E	1	1	1	1	E	1	1	1	1	A	A	1
Vacant	YC District 4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Don Reed	YC District 5	E	E	1	-	-	1	-	1	E	1	1	1	1	1	1	1	1	1	1	E	1	1
Dean Clark	YC District 6	E	E	1	-	1	1	-	1	1	1	1	1	1	E	1	1	1	1	E	E	E	1
Al Littler	YC District 7	1	1	1	-	1	E	-	E	E	E	E	1	E	1	1	1	1	1	E	E	1	E
Clint McFarland	Y County Cons. District	1	1	1		1	1	-	E	1	1	1	1	E	A	1	1	E	E	1	1	A	A
Scott Reiter	Ex-Officio S.D. 2 Facilities Director	E	E			1	1	-	1	-	E	E	1	E	1	E	E	E	1	1	E	E	E
Supt. Terry Bouck	Ex-Officio S.D. 2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

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November 24, 2015

Approved by a motion on December 8,, 2015

1. Call the Meeting to Order

Vice President Don Reed called the meeting to order at 6:00 p.m. on Tuesday, November 24, 2015, in the Miller Building 1st Floor conference room, 2825 3rd Avenue North, Billings, Montana.

Introduction of Planning Board Members and Planning Department Staff

Vice President Reed called for introductions of the members of the Planning Board and staff. Attending Planning staff members are: Candi Millar, Director, Planning & Community Services Dept.; Wyeth Friday, Planning Division Manager; Dave Green, Planner II; Scott Walker, Transportation Coordinator; Tammy Deines, Planning Clerk; Robbin Bartley, Administrative Assistant

Attending: Lonney White; Bob and Linda Golubske, Colleen Cantrell, Bryan Alexander

Approval of the Agenda

Motion

Dennis Cook made a motion and it was seconded by Donna Forbes to approve the November 24, 2015 agenda as submitted.

The motion carried with a unanimous voice vote.

Meeting Minutes for October 27, 2015 and November 10, 2015 meeting minutes.

Motion

Patrick Klugman made a motion and it was seconded by Dennis Cook to approve the October 27, 2015 meeting minutes as submitted. The motion carried with a unanimous voice vote.

Motion

Dennis Cook made a motion and it was seconded by Dean Clark to approve the November 10, 2015 meeting minutes as submitted. The motion carried with a unanimous voice vote.

Public Comment: Vice President Reed asked if there was anyone wishing to speak during the public comment portion of the meeting. He stated 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 agenda for discussion. There were no Public Comments given during this time.

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5. Disclosure of Conflict of Interest – Board members and Planning Staff Don Reed is abstaining from the vote on Bottrell Subdivision.

Disclosure of Outside (Ex Parte) Communication– Board Members and Planning Staff. The Ex Parte Communication Binder is available at the Sign-In and Agenda station. Planner Dave Green noted staff received an e-mail dated November 16, 2015 from Lonney H. White, Jr. regarding the application for West King Commercial Park Subdivision.

OLD BUSINESS

Motion/Recommendation to PCC. 2015-2019 Transportation Improvement Program, (TIP), Amendment II. Scott Walker, Transportation Coordinator

Scott Walker said this amendment is needed due to project funding updates and language received from EPA. He provided clarification to Don Reed on projects for the intersection at Main Street.

Motion

Darrell Tunnickliff made a motion and it was seconded by Dennis Cook forward a recommendation to the Policy Coordinating Committee of approval of the 2015-2019 Transportation Improvement Program, (TIP), Amendment II as presented by staff. The motion carried with a unanimous voice vote.

B. Public Hearing. West King Commercial Park Subdivision, Lots 2-3, Block 3, a County Subsequent Minor, Dave Green, Planner II

INTRODUCTION

On October 1, 2015, the Planning Division received an application for review and preliminary approval of a twenty six - unit condominium subdivision on Lots 2 and 3, Block 3, West King Commercial Park Subdivision. The property is located on the east side of Black Hawk Street north of King Avenue West, between South 64th Street West and South 72nd Street West. The property is not within the County zoning jurisdiction and therefore, in accordance with Chapter 8 of the County Subdivision Regulations, this condominium development must be reviewed as a Major Subdivision. The Board of County Commissioners will act on the proposal on December 8, 2015.

RECOMMENDATION

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

PROPOSED CONDITIONS OF APPROVAL

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.

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1. To minimize the effects on public health and safety, prior to final plat approval the subdivider shall receive approval from the MDEQ / RiverStone Health for the proposed cistern and septic system.
2. 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.
3. 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.

Discussion

Vice President Reed called for discussion. Board members asked Dave Green about the significance of the letter from Lonney White. Dave Green explained that the Covenants and Restrictions, (CCRs), are in place for this subdivision and are enforced outside of the County Regulations.

Public Hearing

Vice President Reed opened the public hearing and asked if there is anyone wanting to speak in favor or against West King Commercial Park Subdivision, Lots 2-3, Block 3, a County Subsequent Minor.

Lonnie White, lonneywhitejr@gmail.com

Mr. White stated he wished to address some concerns. He noted a copy of the Covenants and Restrictions for this subdivision provided to the Board along with his letter. He stated that the language in the CCRs do not allow the applicant to do condominium units without written approval from the developer. He said he wanted to place the County on notice of the existing CCRs before this subdivision completes the review process. Vice President Reed stated this is an issue between Mr. White and the developer. Mr. White explained he is trying to be diligent as he does not want to have something approved that conflicts with the Covenants and Restrictions for this parcel.

Chuck Hendrix, 721 Lowest Lane, Billings, Montana

Mr. Hendrix, EEC, said they are aware of the CCRs and have designed the buildings to meet the restrictions. He stated they have been in communication with Mr. White.

Board member Tunnickliff stated this Board is not charged with the responsibility of CCRS as it is outside the scope of the authority of the Board. Vice President Reed agreed but said he appreciated Mr. White's need for disclosure of the information.

Vice President Reed asked if there was anyone else wishing to speak in favor or against West King Commercial Park Subdivision, Lots 2-3, Block 3, a County Subsequent Minor. There was none. Vice President Reed closed the public hearing and called for a motion.

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Motion

Darrell Tunnickliff made a motion and it was seconded by Lisa Sukut to recommend that the Yellowstone County Board of County Commissioners conditionally approve the preliminary plat of the Westfield Warehouses and adopt the Findings of Fact as presented in the staff report.

The motion carried with a unanimous voice vote.

C. Public Hearing. Duck Creek Condominiums, (Formerly Bowman Subdivision, Lot 2, Block 1), County Subsequent Minor, Dave Green, Planner II

INTRODUCTION

On October 1, 2015, the Planning Division received an application for review and preliminary plat approval of a Twelve-unit condominium subdivision on one lot of Bowman Subdivision. The property is located on the west side of Duck Creek Road, north of Kautzman Road, generally located at 3620 Duck Creek Road. The property is not within the County zoning jurisdiction and therefore, in accordance with Chapter 8 of the County Subdivision Regulations, this condominium development must be reviewed as a major subdivision. The Board of County Commissioners will act on the proposal on December 8, 2015.

RECOMMENDATION

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

PROPOSED CONDITIONS OF APPROVAL

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 and to provide correct easements for the needed private utilities the applicant before final plat will contact the private utility companies and identify where they will need easements on the site and show them on the final plat.
2. To minimize effects on local services and provide for public health and safety, prior to final plat approval, the applicant will install the dry hydrant system as approved by the BUFSA and a Rural Special Improvement District for Maintenance will be established for the dry hydrant system, on Lot 2.
3. To minimize the effect on local services the applicant before final plat will provide documentation that they have contacted the USPS and have approval for the proposed type of postal receptacle system.

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4. To minimize the effects on the natural environment, prior to final plat approval, a weed management plan and property inspection shall be approved by the County Weed Department.
5. 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.
6. 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.

Discussion

Vice President Reed called for discussion. Board member Forbes asked about the irrigation ditch that runs across the front of the property and Dave Green explained that it is used as a drainage ditch. Vice President Reed noted this is a mixed use neighborhood and there is farmland nearby.

Public Hearing

At 6:32 p.m., Vice President Reed opened the public hearing and asked if there is anyone wanting to speak in favor or against Duck Creek Condominiums, (Formerly Bowman Subdivision, Lot 2, Block 1), County Subsequent Minor.

Robert Golubski, 3540 Duck Creek Road, Billings, Montana

Mr. Golubski spoke in opposition to the subdivision. He submitted photos of the ditch to the Board and stated it is supplied by spring runoff and may have water in it six to nine months of the year. He voiced concern with the effects on local services as there is a tank labeled “methanol” on this property. He is concerned with the effects on the natural environment and wildlife with the potential for contaminated water running into the Yellowstone River. Mr. Golubski said there are also 75 onsite porta johns, and there is potential for the wind to tip them over and leach chemicals into the ground. He asked who will ensure the septic system is not overused and cause issues in the future. He asked for an explanation of how construction can take place without prior approval of the subdivision. Vice Chairman Reed clarified and said the current regulations for buildings for rent or lease allow this with the understanding the owners will use them and are requesting the condominium use. He noted that DEQ issues septic permits, and the use of toxic chemicals will be addressed through DEQ or the County Environmental Health Department. Discussion followed on the need for the correctly sized culvert for the approach.

Colleen Cantrell, 3534 Duck Creek Road, Billings, Montana

Ms. Cantrell stated she has lived on this property since 1972. She said she is boggled with this development and the large tank, porta johns, and 2 large buildings located there. There are agricultural uses across from this property. The ditch has overflowed at times and caused water in basements. She is against the construction of additional buildings, traffic, and noise.

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Vice President Reed the ditch along the road is County property and is responsible for maintenance. He pointed out that this is beyond the zoning area and mixed uses are allowed. Ms. Cantrell stated she has contacted DEQ who told her they received the application on November 6, 2015 and it is under review.

Bryan Alexander, Sanderson Stewart, 1300 N Transtech Way, Billings, Montana

Mr. Alexander is representing the developer, Dan Bowman. An application to DEQ was submitted roughly 30 days ago. Impacts to water, sewer, and storm drainage will be considered as a part of the review. The units are primarily warehouses and would have limited use.

Board member Sukut asked about the drainage ditch with the smaller culvert.

Mr. Alexander said the subdivision was filed in 2008-2009, and a culvert was installed so the ditch was not blocked off. It has been difficult to ascertain who owns this ditch and it is fairly unmaintained at this point. It is a manmade ditch created to take wastewater from the field adjoining this property. There is no ditch company in charge of maintenance. Darin Swenson, Yellowstone County Public Works, said the ditch runs along Duck Creek and extends to the Yellowstone River. He is unclear as to who is responsible for maintenance. The majority of the ditch is within the County right-of-way.

Board member Forbes asked if there is potential for hazardous waste drainage into the river. Director Millar asked if there is an easement document associated with the ditch and who is party to the easement. She asked if the applicant is willing to clean out the ditch so it flows properly.

Dan Bowman 5535 Retail Drive, Billings, Montana

Mr. Bowman is the developer of this property. He said there is stagnant water in this ditch and the water rises in the spring. The culvert was sized by County Public Works. The methanol tank is used to keep the portable toilets from freezing, and the tank is a lot larger than the chemical it contains.

Vice President Reed asked who is responsible for permitting the tank.

Board member Klugman pointed out that this proposal may not go forward without DEQ's approval.

Vice President Reed asked if there was anyone else wishing to speak in favor or against Duck Creek Condominiums, (Formerly Bowman Subdivision, Lot 2, Block 1), There was none. Vice President Reed closed the public hearing and called for a motion.

Motion

David Goodrich made a motion and it was seconded by Patrick Klugman to recommend that the Yellowstone County Board of County Commissioners conditionally approve the preliminary plat of the Duck Creek Condominiums Subdivision and adopt the Findings of Fact as presented in the staff report.

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Discussion

Discussion followed on the struggle with the Board’s mission of public health, wildlife issues. Board members suggested cleaning the ditch and planting trees may be a way to take some things under consideration. Donna Forbes commented on the need to be aware of aesthetics that can be put in place as properties are developed. She said it is the Board’s duty to see that there is more than just buildings, streets, and sidewalks. Candi Millar reminded the Board of the criterion to be considered through State Law. She said it is within the authority of this Board to add conditions to minimize the impacts. Wyeth Friday commented it appears the impacts are with the adjoining properties. The replacement culvert is too small and restricts the flows. Vice President Reed said the ditch downstream should be addressed. Board member Klugman asked Darin Swenson to work with this applicant on these issues. Board member Tunncliff asked if staff will do more due diligence and conduct research to find out the type of easement and what the flow is in order to avoid speculation. Candi Millar said that perhaps the County should revisit the size of the culvert. Board member Goodrich asked for clarification on the definition of maintenance; whether it is removing trash or making the water move. He stressed the need for the applicants and neighbors to work with the County.

Motion

Board member Tunncliff made a motion and was seconded by Board member Sukut to amend the original motion and delay a vote until additional information can be obtained by Staff and brought to the December 8, 2015 meeting.

Vice Chairman Reed called for a vote on the original motion. The motion carried with a unanimous voice vote.

Vice Chairman Reed called for a vote on the amended motion. The motion carried with a unanimous voice vote. The vote on this agenda item is delayed until December 8, 2015.

D. Public Hearing. Bottrell Subdivision, Lot 1 and Lot 4, Block 1, Dave Green, Planner II

INTRODUCTION

On October 1, 2015, Performance Engineering and Consulting for Diamond B Companies applied for preliminary subsequent minor plat approval for Amended Lots 1 and 4, Block 1, Bottrell Subdivision. The proposed plat creates 5 lots from a 14.68-acre parcel of land. The subject property is generally located on the north side of Trade Center Avenue and east of Shackelford Lane. The property is zoned Controlled Industrial (CI) and there are existing commercial/industrial on the land and in the immediate vicinity. The Board of County Commissioners will act on the proposal on December 8, 2015.

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RECOMMENDATION

Staff recommends that the Planning Board recommend that the Yellowstone County Board of County Commissioners conditionally approve the preliminary plat of Amended Lots 1 and 4, Block 1, Bottrell Subdivision, and adopt the Findings of Fact as presented in the staff report.

PROPOSED CONDITIONS OF APPROVAL

Planning staff recommends the following conditions of approval:

1. To ensure that public health and safety measures with fire suppression are met the applicant will receive approval from the Billings Fire Department for the location of the proposed dry hydrant and that it will meet the requirements for access with fire apparatus.
2. To ensure that public health and safety measures with fire suppression are met with final plat documents the applicant will submit public easement documents to be recorded with the final plat for the dry-hydrant system.
3. To ensure future maintenance of the dry-hydrant system before final plat approval the applicant will create an RSID-M to maintain the dry-hydrant fire suppression system.
4. To minimize the effects on the natural environment prior to final plat approval, a weed management plan and property inspection shall be approved by the County Weed Department.
5. 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.
6. 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.

Discussion

Vice President Reed called for questions and discussion. There was none.

Public Hearing

Vice President Reed opened the public hearing and asked if there is anyone wanting to speak in favor or against Bottrell Subdivision. There was none. There was none.

Vice President Reed closed the public hearing and called for a motion.

Motion

Dennis Cook made a motion and it was seconded by Patrick Klugman to recommend that the Yellowstone County Board of County Commissioners conditionally approve the preliminary plat of the Bottrell Subdivision, Lot 1 and Lot 4, Block 1, and adopt the Findings of Fact as presented in the staff report.

The motion carried with a unanimous voice vote, with Don Reed recusing.

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OTHER BUSINESS-

- **Planning Board Nomination Committee for the 2016 Officers.** The Nomination Committee members are: Donna Forbes, Patrick Klugman, and Lisa Sukut. The Committee will report to the Board at the next meeting on December 8, 2015. The Board will vote during the first meeting in January, and the new officers will take office in February 2016. Any Board member that is interested should express their interest to Donna Forbes.
- Wyeth Friday said staff will provided updates on the Growth Policy, West End Traffic Modeling, and the Rims to Valley Study at the next meeting.
- Wyeth Friday asked the Board members with expiring terms to notify staff of their intent.

ADJOURNMENT: 7:35 p.m.

ATTEST: Approved by a motion on November 24, 2015

Don Reed, Vice President, City/County Planning Board



Tamara L Deines, Planning Clerk