



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



AGENDA

December 8, 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. **MOTION. APPROVAL OF MEETING MINUTES: NOVEMBER 24, 2015**
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. **(Return Item). Motion/Recommendation. Bowman Subdivision, County Major Subdivision, (Condominiums), Dave Green, Planner II.**
8. **NEW BUSINESS:** (Agenda items new to this meeting).

- a. **Plat Review/Discussion. Pinerock Subdivision, County Major Subdivision, Dave Green, Planner II**

9. **OTHER BUSINESS:**

- a. Planning Board Nomination Committee Recommendation for 2016 Planning Board Officers
- b. (Standing Item) Staff update. Long Range Strategic Issues and an overview of future City and County issues and projects.
 - 1. Update: Billings and Beyond Growth Policy, Candi Millar, Director
- c. **Announcements:** The December 22, 2015 Planning Board meeting is canceled. The next Planning Board meeting will be held on Tuesday, January 12, 2016. The Planning and Community Services Offices will be closed on Friday, December 25, 2015 to observe the Christmas Holiday, and on Friday, January 1, 2016 to observe New Year's Day.

10. **ADJOURNMENT**

FUTURE AGENDA ITEMS FOR TUESDAY, JANUARY 12, 2016

- a. Public Hearing. Motion/Recommendation. Pine Rock Subdivision, County Major, Dave Green, Planner II
- b. Plat Review/Discussion. Glynn Abbey Subdivision, City Major, Wyeth Friday, Planning Division Manager
- c. Motion. Planning Board Election of 2016 Officers-Planning Board members

Planning Board Meeting I (2nd Tuesday)

3.

Meeting Date: 12/08/2015

Information

Subject

MOTION. APPROVAL OF MEETING MINUTES: NOVEMBER 24, 2015

Attachments

PlnMinutes_2015_11_24_DRAFT

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	A	A	1	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	E	1	1	1
Dean Clark	YC District 6	E	E	1	-	1	1	-	1	1	1	1	1	1	E	1	1	1	E	E	E	1	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	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

November 24, 2015

To be 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.

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

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.

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

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.

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

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.

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

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.

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

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.

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

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 Tunnicliff 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 Tunnicliff 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.

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

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.

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

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: DRAFT. To be approved by a motion on November 24, 2015



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



Planning Board Meeting I (2nd Tuesday)

7. a.

Meeting Date: 12/08/2015

Information

INTRODUCTION

On October 1, 2015, the Planning Division received an application for review and preliminary plat approval of a 12-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 development must be reviewed as a major subdivision.

The Planning Board delayed action on this proposal at its November 24 meeting after conducting the public hearing and voted to consider it at its December 8 meeting. The Board had significant concerns about the irrigation drain ditch on the north and east sides of the property, the culvert at the approach to the property, and the existence of a methanol tank on the property used for a portable toilet business. The Board asked staff and the applicant to provide additional information before it acted on the preliminary plat. Additional information is included in the Findings of Fact under the **Effect on agriculture and agricultural water user facilities** heading regarding the drainage ditch and under the **Effect on Local Services (b. Flood Plain/Flood Fringe)** heading regarding the existing Methanol tank on the site. There are also current photos of the drainage ditch and approach to the property under photo attachment included with this staff report.

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, prior to final plat approval the applicant 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 subdivider will receive approval from the MDEQ for use of the existing septic system for the proposed condominium units, wells or cisterns, and for stormwater drainage facilities for the proposed development.

3. 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 establish a Rural Special Improvement District for Maintenance for the dry hydrant system on Lot 2.
4. To minimize the effect on local services, prior to final plat approval the applicant will provide documentation that he has contacted the United States Postal Service and has approval for the proposed type of mail delivery for the property.
5. 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.
6. 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.
7. 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 were requested.

PROCEDURAL HISTORY

- A pre-application meeting was held on April 30, 2015 for this proposal. It was determined that this is a major subdivision application for condominiums which follows the major subdivision review process.
- The preliminary plat application was submitted to the Planning Division on October 1.
- A Department Review Meeting was held on October 15.
- The Yellowstone County Board of Planning held a plat review for this application at its November 10 meeting.
- The Yellowstone County Board of Planning conducted a public hearing on this application at its meeting on November 24. The Board delayed action on the plat at this meeting and agreed to consider it at its December 8 meeting.
- The Yellowstone County Board of Planning will take action on this application at its meeting on December 8.
- The Yellowstone County Board of County Commissioners is scheduled to consider the application at its regular meeting on December 15.

PLAT INFORMATION

General location:	West side of Duck Creek Road, north of Kautzman Road, generally located at 3620 Duck Creek Road
Legal Description:	Lot 2, Block 1, Bowman Subdivision
Subdivider and Owner:	MD Yellowstone Properties, LLC (Dan Bowman)
Engineer and Surveyor:	Sanderson Stewart, Bryan Alexander
Existing Zoning:	None
Existing land use:	Shop / Commercial Use

Proposed land use:	Shop / Commercial Use
Gross area:	3.882 acres
Net area:	3.882 acres
Proposed number of lots:	12 condominium units on one lot
Lot sizes:	3.882 acres
Parkland requirements:	Not required for commercial subdivisions

Attachments

Findings of Fact_1
Attachment A
Current Site Photos

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 the Subdivider. There is an unnamed irrigation drain ditch near the northern property boundary and along the east property boundary. The ditch will be left in place and any construction activity will take necessary precautions to not disturb the existing ditch. The drain ditch along the northern property boundary is within a 50-foot wide drain ditch easement that was created when Bowman Subdivision was first platted and is on file in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3581177.

At the public hearing November 24 public hearing for this proposed condominium development, the Planning Board heard from several neighbors of the proposed subdivision regarding issues with the irrigation drain ditch, the uses on the property, and the existence of a methanol storage tank on the property and whether it met permitting requirements for a hazardous substance. The Board ended up delaying action on the preliminary plat until its December 8 meeting to gather more information on these issues and questions.

Drain Ditch Information

Following the meeting, staff made several inquiries to determine who may be responsible for the maintenance of the drainage ditch on the north side of the property and within the County Road right-of-way of Duck Creek Road. The easement document referenced above states that the easement is for the benefit of Canyon Creek Ditch Company. Staff contacted Everett Gable, President of the Canyon Creek Ditch Company, and asked him about the ditch and maintenance of the ditch. He stated that the ditch company is not in charge of drainage ditches, only water source ditches. He said he believes that the ditch in question was most likely dug out by a farmer many years ago to convey water off flood irrigated fields so they didn't rot the crop in the field. When the ditch was in use for significant irrigation drainage, the drainage ditch would have been cleaned by the farmer using it. After that, Gable said there were drainage ditch boards that monitored ditches and made certain that they were maintained properly. However, when an area developed with more houses and the farming activity that the

drainage ditch was intended for declined, the drainage ditch boards were disbanded. Gable said he believes this is the situation with this drainage ditch and so the cleaning of the ditch would be the responsibility of the property owners where the ditch is located if they want them to be cleaned out.

Staff also spoke with County Public Works Director Tim Miller about the drainage ditch where it is located within the Duck Road right-of-way on the east side of the subject property. Miller stated that the County does not maintain the drainage ditch in the road right-of-way and has no plans to do so in the future. However, Planning staff must note for the Planning Board's information that the County controls the road right-of-way and so any issues with the drainage ditch in the County road right-of-way should be directed to County Public Works.

Miller also said he had the same understanding about how the drain came about as the Canyon Creek Ditch Company President had stated, and Miller said he believed that if the current owners want to clean the drainage ditch out on their property on the north side of the subdivision they could do that. Miller also agreed that the ditch does not serve the same purpose as it did when initially constructed.

Staff also asked Miller about the culvert in the drainage ditch in the road right-of-way under the existing drive access into the proposed site. Mr. Miller responded that the County requires a minimum culvert size of 15 inches diameter and that may be what was installed in the access to the subject property.

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. All of the units on the lot will make use of a shared multi-user public drainfield system. Shared maintenance provisions will also be established for the septic system. The proposed new buildings will be connecting to the existing onsite septic systems and must comply with the State of Montana Department of Environmental Quality (MDEQ) requirements as referenced in the SIA (**Condition #2**).

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 (**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 (**Condition #2**).
- b. **Flood Plain / Flood Fringe** - This proposed condominium development is entirely in the 100 year Flood Plain (Flood Fringe). Since the property is within the Flood Fringe, the owner may build structures as long as they meet 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.

Methanol Tank and Floodplain Information

County Public Works Director Tim Miller also provided information to staff about the Methanol tank currently in use at the site since he is also the County Floodplain Administrator. Miller stated that because it was installed before the property was identified as being in the Yellowstone River Floodplain through the latest updates to the Floodplain maps in the River corridor, it could remain in place and in use. However, he stated that business owner and property owner would not be allowed to increase the tank capacity, install more tanks, or modify the current installation of the tank without a floodplain permit.

Staff also spoke with State Department of Natural Resources and Conservation, and State Department of Environmental Quality staff in Helena regarding the regulation of the floodplain requirements and the methanol tank. Both agency staff stated that the County Floodplain Administrator may interpret the regulations and how they are enforced regarding existing structures and equipment.

- 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. No additional street right-of-way is necessary. Duck Creek is currently maintained by the County and 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 turn around 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 subdivision is installing a 30,000 gallon underground storage tank dry hydrant system. An RSID-M will be created that include the proposed condominium units prior to final plat approval to maintain the dry hydrant system (**Condition #1**).

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 depending on what the USPS requests (**Condition #4**).

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 #5**).

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) was 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, septic systems and stormwater will be reviewed and approved by MDEQ prior to final plat approval (**Condition #2**). 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. 2014 Billings Urban Area Transportation Plan

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.

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.

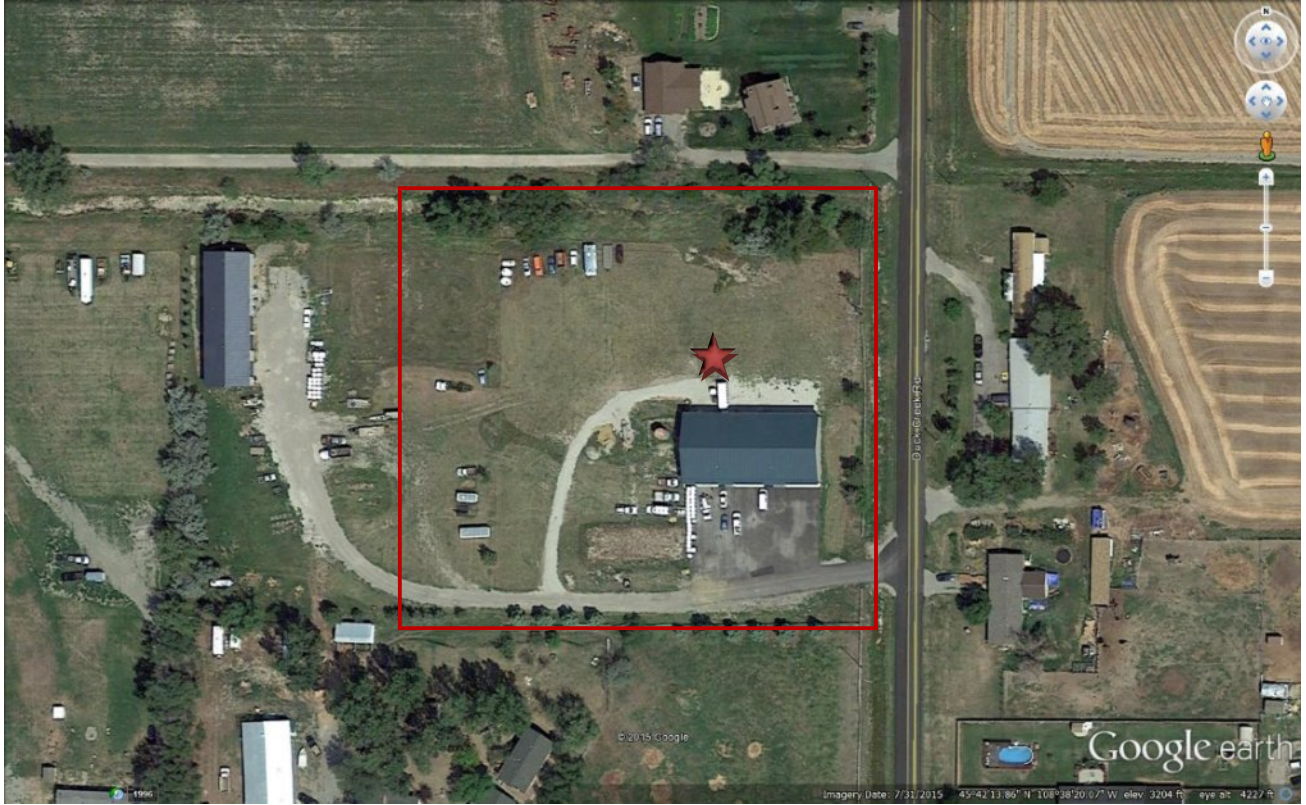
ATTACHMENTS

A: Aerial Image

B: Photos of Existing Drainage Ditch

Attachment A
Aerial Image

Subject property



Attachment B



Drainage Ditch from the subject property access looking north



Drainage Ditch from Duck Creek Road where it turns west onto subject property



Drainage ditch on the north edge of subject property from Duck Creek Road



Bicycle in drainage ditch along Duck Creek Road



Drainage Ditch from Kautzman Road to access drive of subject property



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



Planning Board Meeting I (2nd Tuesday)

8. a.

Meeting Date: 12/08/2015

Information

INTRODUCTION

On November 2, 2015, Blueline Engineering on behalf of VTR Properties, LLC, applied for preliminary major plat approval for Pinerock Subdivision, 1st Filing. The proposed plat creates 48 lots for single-family residences on a 118-acre parcel of land. The subject property is generally located on the west side of Highway 87 North (Hwy 87 N), directly across from Hidden Lake Subdivision. The property is outside of zoning. The Yellowstone County Board of Planning will review the plat at this meeting and conduct a public hearing on Tuesday, January 12, 2016. The proposal will go to the Board of County Commissioners for action on January 26, 2016.

RECOMMENDATION

Staff recommends that the Planning Board recommend that the Yellowstone County Board of County Commissioners conditionally approve the preliminary plat of Pinerock Subdivision, 1st Filing 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 mitigate impacts on local services, prior to final plat approval the subdivider shall create a Rural Special Improvement District – Maintenance (RSID-M) for maintenance of the new internal roads, the dry hydrant system, and the 5-foot wide trail corridor included in the road right-of-way within the subdivision.
2. To ensure access and provision of water supply for fire fighting purposes, prior to final plat approval a recordable easement document shall be provided for the dry hydrant system.
3. To ensure protection of public health and safety, prior to final plat approval, the developer will provide written documentation that the subdivision has been added to the Shepherd Fire Department Service Area and the Shepherd Fire Department has inspected and approved the installation of the dry hydrant system.
4. To minimize impacts to the natural environment and comply with local and state regulations, prior to final plat approval the developer will receive approval from the MDEQ for the proposed cisterns, septic systems and stormwater drainage plans for the subdivision.
5. 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.
6. To minimize the effects on the natural environment and to inform future property owners of possible wildlife habitat, prior to final plat approval the applicant will include in the Conditions That Run With The Land Section of the SIA information from the Environmental Assessment about

the eight Species of Concern identified by the Montana Natural Heritage Program through Montana Fish, Wildlife and Parks and the need to be aware these species may be in the area and as much habitat as possible should be preserved.

7. To provide for the installation of the private utilities within the subdivision, prior to final plat approval the applicant will provide easement documents for the easements shown on the plat for the private utility companies.
8. 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.
9. 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.

PROCEDURAL HISTORY

- A pre-application meeting was held on June 25, 2015 to discuss the proposal.
- The preliminary plat application was submitted to the Planning Division on November 2.
- A departmental review meeting was conducted on November 19.
- The preliminary plat was resubmitted with revisions based on department reviews on November 27.
- The Planning Board will review the plat on December 8.
- The Planning Board will conduct a public hearing on January 12, 2016 and forward a recommendation to the Board of County Commissioners.
- The Board of County Commission will consider the preliminary plat on January 26.
- The 60 working-day preliminary plat review period ends January 27.

PLAT INFORMATION

The proposed subdivision would create 48 lots for single-family residences on the west side of Hwy 87 N across from Hidden Lake Subdivision. The property is outside of zoning and is surrounded by agricultural grazing land on the west, south, and north.

General location: Subdivision	West side of Highway 87 North across from Hidden Lake
Legal Description:	Section 27, T2N, R26E, COS 3288 and COS 3288, Parcel 1
Subdivider:	VTR Properties, LLC
Owner:	VTR Properties, LLC
Engineer and Surveyor:	Blueline Engineering
Existing Zoning:	Outside Zoning
Existing land use:	Vacant open range

Proposed land use:	48 single-family residences
Gross area:	118.18 acres
Net area:	approximately 105.95 acres
Proposed number of lots:	48
Lot size:	Max: 3.213 acres Min.: 1.796 acre
Parkland requirements: of parkland dedication proposed for the	Parkland dedication requirement = 4.991 acres. 2.451 acres is met with the proposed (trail corridor) and cash in lieu is remaining 2.54 acres.

Attachments

Findings of Fact
Attachment
Subdivision Master Plan
Preliminary Plat, 1st Filing

FINDINGS OF FACT

The City/County Planning staff has prepared the Findings of Fact for the Pinerock Subdivision, 1st Filing. 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 vacant grass land. No water rights are being transferred to the new lots within the subdivision. There will be no impact to agriculture with this subdivision.

2. Effect on local services

- a. **Water and Sewer** – Individual cisterns are proposed be used to supply water to the lots and individual septic systems are proposed for sanitary sewer needs. Locations of water cisterns and septic systems will be reviewed and approved by the Montana Department of Environmental Quality (MDEQ) prior to final plat approval. These systems will be constructed as approved by the MDEQ and as shown on approved plans (**Condition #4**).
- b. **Streets and roads** – The proposed subdivision is located on the west side of Hwy 87 N that goes to Roundup. Highway 87 is classified as a principal arterial street according to the Billings Urban Area Functional Classification Map. The proper amount of right-of-way for this arterial has been dedicated previously.

The Traffic Impact Study (TIS) that was submitted with this proposed subdivision uses existing traffic counts on Hwy 87 N and projects traffic numbers that would be generated by this proposed subdivision. The TIS shows a need for a left hand turn lane for traffic going north on Hwy 87 N and turning into the subdivision at the south entry point prior to the completion of the 2nd filing, and a left had turn lane on the north entry point before the completion 4th filing. These requirements will be condition during the review of 2nd and 4th filings.

The TIS states there is not a need for a right hand turn lane for traffic traveling south on Hwy 87 N since the traffic data in the TIS shows the majority of the traffic will be traveling from the south (from Billings) to the subdivision.

All proposed lots shall be accessed from new internal roads dedicated to the public. The new roads will be built to County residential road standards with 24 feet of pavement within a 60-foot right of way. An RSID-M for maintenance of the new roads will need to be established prior to final plat approval (**Condition #1**).

- c. **Fire and Police Services** – The property is within the Shepherd Fire Service Area’s jurisdictional boundary. However, the property must be added to their service area and the applicant has begun the process of petitioning into their service jurisdiction (**Condition #3**).

It is the subdivider’s responsibility to ensure provisions of a water source and adequate access to the proposed lots for emergency service needs. A 30,000 gallon dry hydrant system is proposed to be installed on the northeast corner of the intersection of proposed Vistarock and Pinerock streets, on Lot 8, Block 11. An easement for its location shall be shown on the face of the final plat, and a recordable easement document provided (**Condition #2**). The applicant also will have the Shepherd Fire Department sign off on the installation of the dry hydrant system prior to final plat approval (**Condition #3**). 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 in Section IV (**Condition #1**). The Shepherd Fire Department indicated that the proposed fire suppression facilities are sufficient and they would provide specifications for the dry hydrant system.

The Yellowstone County Sheriff’s Department will provide law enforcement services.

- 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** – All storm water drainage shall satisfy storm water management requirements and specifications of MDEQ (**Condition #4**). The water is proposed to be absorbed on-site in the ditches along the paved road within the public right-of-way.
- f. **School facilities** – The proposed subdivision is located in School District #52 Independence School for elementary, and School District #2 for Middle and High School, Castle Rock and Skyview respectively. Independence School responded that they have additional capacity for more students and the proposed subdivision is on an existing bus route. Staff only received a comment back from Skyview High School. They have indicated that they have additional capacity for more students. School District #2 is currently constructing a new middle school to address overcrowding issues and other growth pressures experienced over the past decade. The results may change the boundaries for this subdivision. They are hoping to have the new school opened for the start of the school year in Fall 2016. Students in this subdivision may attend the new middle school.
- g. **Parks and recreation** – This proposed subdivision is required to provide 5% of the net area as parkland pursuant to Section 10.2, YCSR and 76-3-621, MCA.

This amount totals 4.991 acres. The subdivider is proposing to install a soft surface trail system within the public road right-of-ways inside the subdivision. The applicant is proposing to use that square footage toward the total required acreage for parkland dedication. They are also providing a 'Trail Head' at one of the entry road into the subdivision and that is proposed to be included in the park land dedication to the County. While the County Park Director has stated that he is agreeable to use that square footage as parkland dedication, Planning and County legal staff have concerns about this approach meeting the Montana Subdivision and Platting Act and are in discussion with County Park staff and the applicant on what options may be available. The trail system will be included in the same RSID-M created for maintenance of the roads (**Condition #1**).

The total acreage provided with the trail system and the 'Trail Head' area is 2.451 acres, the remaining 2.54 acres of required parkland is proposed to be met by a cash contribution in lieu of land dedication. This dedication calculation may need to be modified based on the state law for park land dedication that does not allow a trail provided in a required road dedication to count toward park land dedication for a subdivision. More information will be provided by staff at the plat review meeting on December 8.

The State Legislature has established how and where cash-in-lieu of parkland must be spent, and this dictate is delineated in the districts established in the Comprehensive Parks Plan for Yellowstone County, adopted by the Board of County Commissioners after review, recommendation, and public hearing by the County Board of Park Commissioners. Cash-in-lieu funds from this subdivision development will be used to make improvements in a nearby established park to address the public need generated by the new subdivision residents (MCA 76-3-621(5)).

To provide a rough proportionality of value for the cash-in-lieu, a comparative market analysis (CMA) will be prepared by a third party real estate broker, or similarly qualified person, in Yellowstone County. The CMA provides the dollar per acre value to be applied to the required amount of parkland for which cash is being taken in-lieu. MCA 76-3-621(10)(a) defines cash donation, i.e., cash-in-lieu as "—the fair market value of the un-subdivided, unimproved land." The CMA will be provided at the time of review for final plat approval and the cash-in-lieu contribution will be provided.

- h. **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 #5**).

There are no apparent or known natural hazards on the property.

4. Effects on wildlife and wildlife habitat

There are no known endangered species on the property. Montana Fish, Wildlife, and Parks (FWP) responded to a request for review and comment on the proposed subdivision. It stated that there are deer, antelope and wild turkey in the area and home owner 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. FWP also recommended the applicant request information from Montana Natural Heritage Program (MNHP).

MNHP provided information for species of concern that occur in an area defined by the township, range and section and a 1-mile buffer in the requested area. The MNHP identifies plants, animals and biological features on the land or possibly on the land given the information they have available to them. They identified 8 species of animals that are classed as Species of Concern (SOC), they are not endangered but identified as possibly being in the area because of habitat features in the area. They include, Great Blue Heron, Greater Sage-Grouse, Burrowing Owl, Pinyon Jay, Spotted Bat, Black-tailed Prairie Dog, Western Milksnake and a place where Bats Roost.

The property that this proposed subdivision is being built on has some varying topography and some wooded areas. The applicant plans to leave the major features intact and preserve the wooded area untouched by development. They are also proposing large lots which will not concentrate development and cause most of the land to be disturbed to they will be preserving land that will remain as habitat for the possible existing SOC animals identified in the EA. The CCR's with this application will also be requiring the residents to landscape their lot with native grasses and trees that will require minimal water use which will also provide continued habitat for any existing wildlife that may be in the area.

With the information provided with the EA it is recommended that in the SIA under Conditions That Run With The Land A. the applicant include language addressing the additional wildlife information provided in the EA. **(Condition #6)**

5. Effects on public health and safety

Plans and designs for use of the proposed individual cisterns and septic systems will be reviewed and approved by MDEQ prior to final plat approval **(Condition #4)**. Fire and emergency services are provided for this proposed subdivision as discussed in Section 2 (c) above.

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 (EA) was required for this subdivision as outlined in Section 9.2. A. of the County Subdivision Regulations. The EA outlines impacts to the surrounding and addresses water, sewer and storm water issues that have historically existed on the proposed subdivision site. Please refer to the 'Effects on wildlife and

wildlife habitat' paragraph above in Section 4 and how this issue is being addressed in the subdivision and SIA.

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 48 lots of approximately 1 to 3+ acres for single family residences, 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 many similarly sized lots containing single-family homes directly adjacent to the subject property.

- **Goal: More housing and business choices within each neighborhood. (p. 6)**

The proposed subdivision will create 48 additional lots in this area.

2. 2014 Billings Urban Area Long-Range Transportation Plan

The subject property is within the study area of the Transportation Plan. The subject property has frontage on Hwy 87 N. This street is a principal arterial, and the appropriate amount of right-of-way was previously provided. All access to the lots will be from the new internal local streets.

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

The subject property is outside the jurisdiction of the BABTMP. However, the applicant is proposing to have a 'soft surface' trail system in the subdivision that would provide for bicyclists and pedestrians.

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 must receive approval from MDEQ for the proposal to make use of the proposed individual wells and septic systems for the new lots, prior to final plat approval (**Condition #4**).

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 so there are no zoning requirement on the land. The applicant is proposing Covenants Codes and Restrictions (CCR's) to govern the subdivision. CCR's are not enforced by the county but by the homeowners in the subdivision.

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 shall appear on the face of the final plat as requested by Northwestern Energy and MDU and be accompanied by easement documents (**Condition # 7**). An easement has also been shown for the dry hydrant system. A recordable easement document for the hydrant shall be submitted with the final documents (**Condition #2**).

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 the new public internal streets, which are off of Hwy 87 N.

CONCLUSIONS OF FINDINGS OF FACT

- The Pinerock Subdivision, 1st Filing 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.

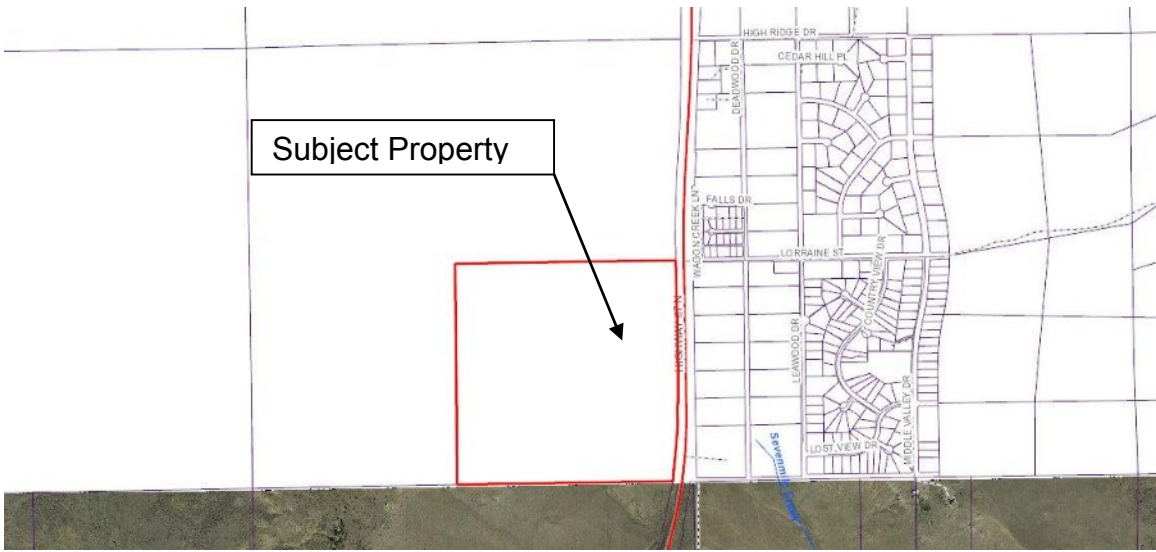
RECOMMENDATION

Staff recommends that the Planning Board recommend to the Board of County Commissioners conditional approval of the preliminary plat of Pinerock Subdivision, 1st Filing and adoption of the Findings of Fact as presented in the staff report.

ATTACHMENTS

A: Zoning Map

B: Preliminary Plat and Associated Documents



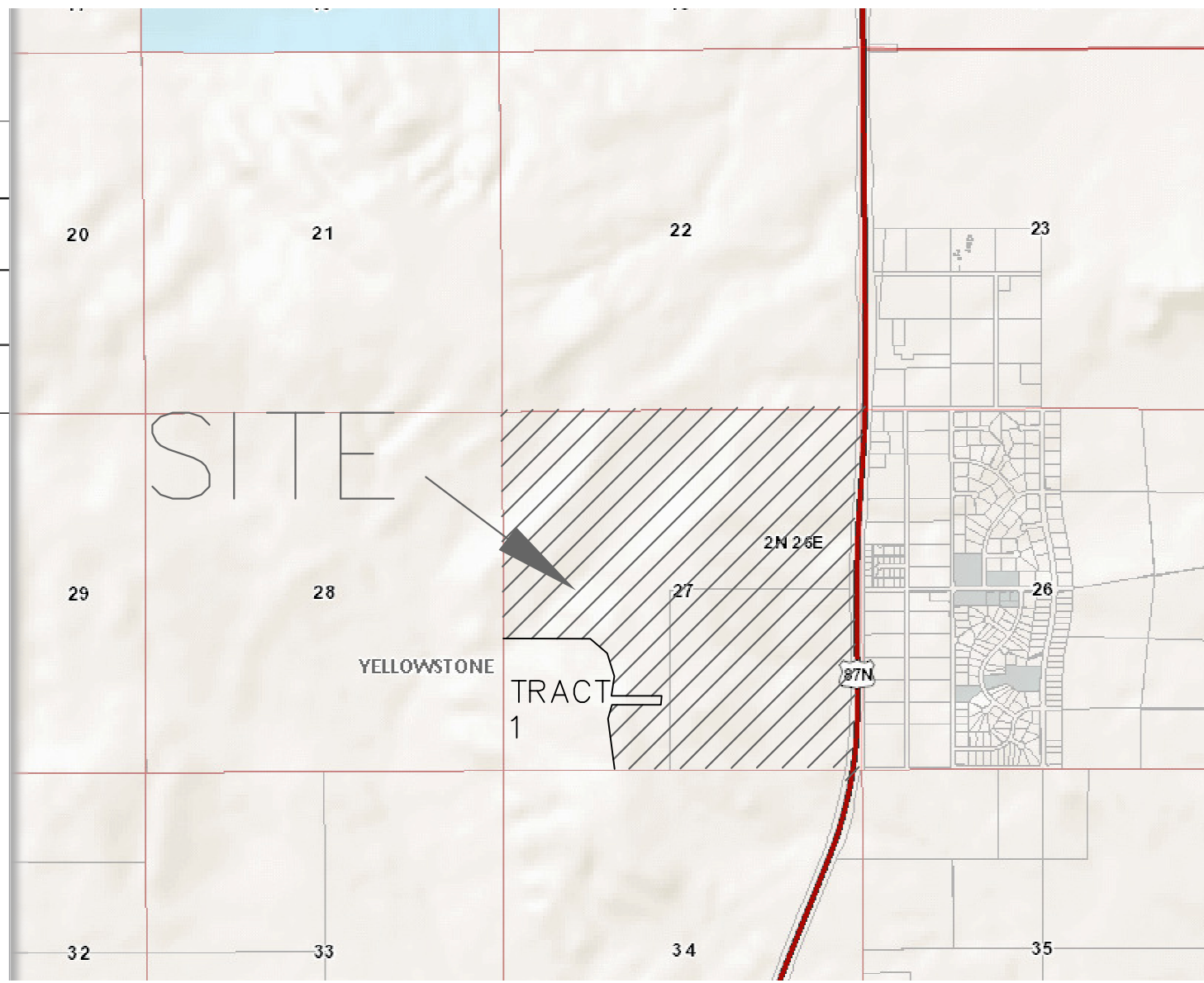
PRELIMINARY PLAT OF PINEROCK SUBDIVISION

BEING TRACT 2 C/S _____ IN SECTION 27, T. 2 N., R. 26 E., P.M.M.
YELLOWSTONE COUNTY, MONTANA

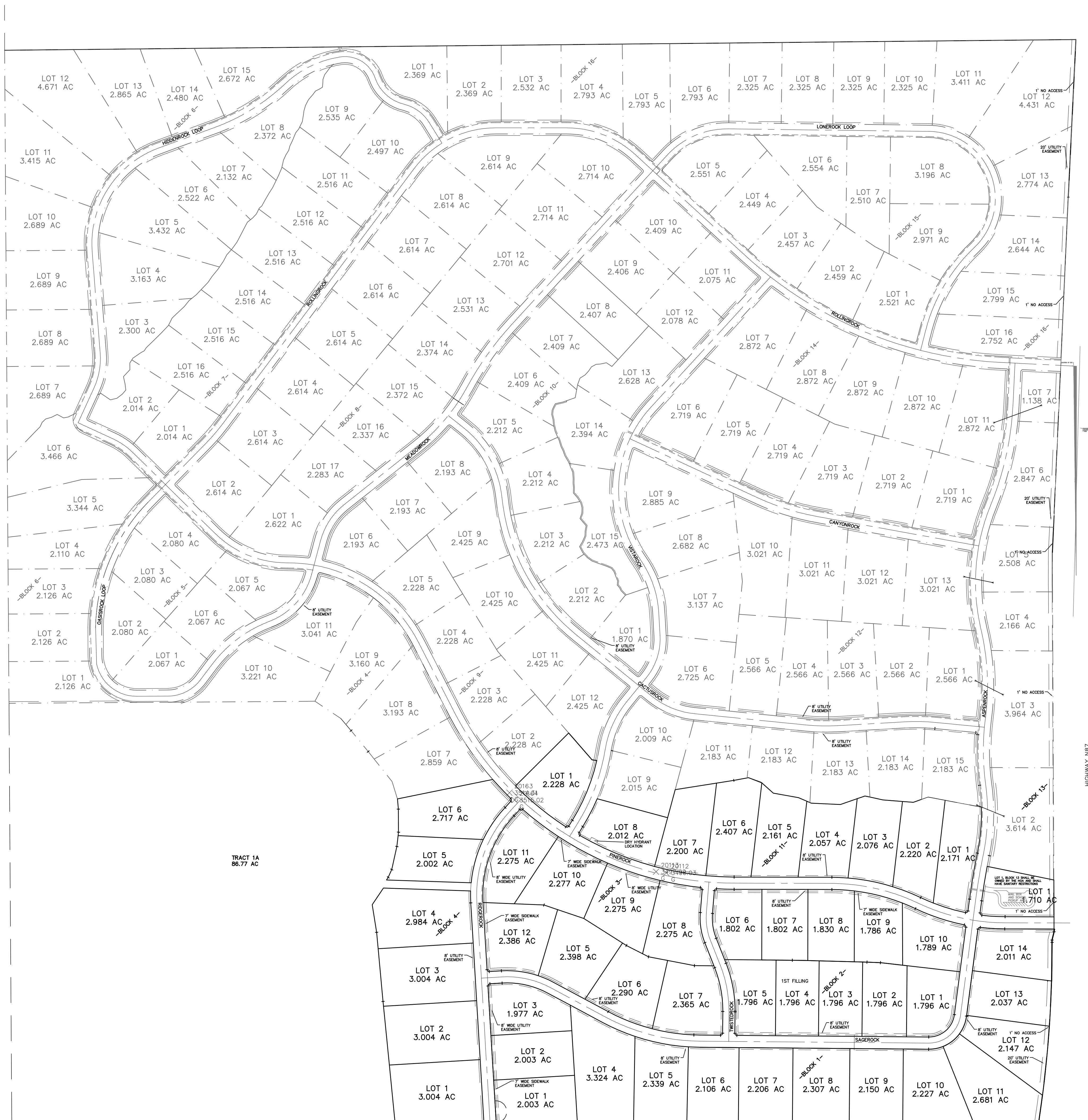
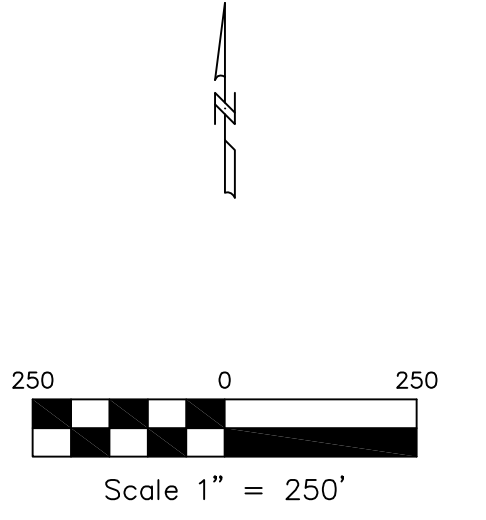
PREPARED FOR: VTR PROPERTIES LLC
 SURVEYOR: NORTH STAR LAND SERVICES, P.C.
 ENGINEER: BLUELINE ENGINEERING LLC
 NOVEMBER, 2015
 BILLINGS, MONTANA

SUBDIVISION DETAILS:

GROSS AREA	=	537.542 ACRES
NET AREA	=	525.314 ACRES
ROAD AREA	=	12.228 ACRES
NUMBER OF LOTS	=	47
MINIMUM LOT SIZE	=	1.796 ACRES
MAXIMUM LOT SIZE	=	3.213 ACRES
EXISTING ZONING	=	NONE
SURROUNDING ZONING	=	NONE
NORTH	=	NONE
SOUTH	=	A1
EAST	=	NONE
WEST	=	NONE/ GRAZING
EXISTING LAND USE	=	VACANT
PROPOSED LAND USE	=	RESIDENTIAL



VICINITY MAP
NOT TO SCALE



PRELIMINARY PLAT OF
PINEROCK SUBDIVISION
BEING TRACT 2 C/S _____ IN SECTION 27, T. 2 N., R. 26 E., P.M.M.
YELLOWSTONE COUNTY, MONTANA

