

## **FINDINGS OF FACT**

The City/County Planning staff has prepared the Findings of Fact for the Pinerock Subdivision, 1<sup>st</sup> 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 2<sup>nd</sup> filing, and a left had turn lane on the north entry point before the completion 4<sup>th</sup> filing. These requirements will be condition during the review of 2<sup>nd</sup> and 4<sup>th</sup> 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, 1<sup>st</sup> 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, 1<sup>st</sup> Filing and adoption of the Findings of Fact as presented in the staff report.

**ATTACHMENTS**

A: Zoning Map

B: Preliminary Plat and Associated Documents