

## FINDINGS OF FACT

The City/County Planning staff has prepared the Findings of Fact for the Emerald View Park Subdivision, Amended Lot 1A, Block 3. 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 not currently used for agricultural purposes and does not have water rights. The subdivision is in an area that is developed with a mix of other uses and should not affect agriculture or agricultural water users' facilities.

#### **2. Effect on local services**

- a. **Water and Sewer** –The property is currently served by the Lockwood Water and Sewer District (LWSD). Water service lines already exist in this subdivision in Rockwood Street. LWSD will review the proposal and work with the applicant to provide any additional water services to the new lot. There also is public sewer to the property. There is an 8 inch gravity feed system and the new development will be submitting engineered drawings to the LWSD for review and approval to service the additional homes on the subject property. Water and sewer systems will be constructed as approved by the LWSD and the MDEQ as shown on approved plans.
- b. **Streets and roads** – The proposed subdivision is located on the west side of Johnson Lane south of Old Hardin Road. Johnson Lane is a paved principle arterial road. There are two access points into the subdivision from Johnson Lane via Rockwood Street and Silverton Street. These interior streets are all paved and have curb, gutter and sidewalks. There are no additional road improvements needed on existing roads within this subdivision.

A new cul-de-sac street will be built to county standards for the new proposed mobile home spaces. The applicant has shown the new street to match the existing streets in the subdivision with curb, gutter, and sidewalk.

This subdivision was originally platted in 1983 with traditional lots and blocks for residential homes. In 1989 the subdivision was amended to remove all the individual lots, the blocks were retained. Each block became a block and a single lot. Street layout was the same. The streets have been well maintained and so have the curb gutters and sidewalks. There has been a question raised as to whether the streets were dedicated to the public or not. This has caused confusion with who the roads belong to and who is responsible for road maintenance. With

this proposed plat, the applicant will be dedicating the roads to the public and creating an RSID for their maintenance. **(Condition # 1)**

- c. **Fire and Police Services** – The property is within the Lockwood Fire Department jurisdiction and it will provide fire service. It is the subdivider’s responsibility to ensure provisions of a water source and adequate access to the proposed lots for emergency service’s needs. A pressurized fire hydrant is located across Johnson Lane from Silverton Street, adjacent to this subdivision. The Lockwood Fire Department has reviewed the location of this existing hydrant in relation to the proposed subdivision and finds is acceptable.

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 home 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. There will be additional stormwater detention swales along the perimeter of the lot that is being modified to meet the requirements of MDEQ. **(Condition # 2)**
- f. **School facilities** – The proposed subdivision is located in the Lockwood School District for elementary and Middle school, and Senior or Skyview High School in Billings School District #2. Staff did receive correspondence from the Lockwood School District for the Elementary and Middle School. Both stated they have capacity for more students and that there is a current bus route in the area. School District #2 responded stating that Senior High School would be where the students would attend and that they are currently 3 students above maximum capacity.
- g. **Parks and recreation** – This proposed subsequent minor subdivision will be paying cash-in-lieu of the required 2.31 acres of parkland dedication. The land that is the subject property is a private park easement that was provided in 1983 when the plat was originally completed. Before there was water and sewer available to the development, the land of the subject subdivision was the drain field for the septic system and was left as a private park space. As the drain field is no longer needed for that purpose, the owner is proposing to further develop the land for more mobile homes and remove the drainfield and private open space area.

This proposed subdivision is required to provide between 11% of the net area as parkland pursuant Section 10.2 B, YCSR and MCA 76-3-621. This amount totals 2.31 acres, and a cash contribution in lieu of land dedication has been proposed to

meet this requirement. The County Park staff has reviewed this proposal and approves of the cash-in-lieu contribution in place of land for this project. The nearest park in the area is about half a mile east of the subject property.

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 (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 unsubdivided, unimproved land.”  
**(Condition #3)**

- 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 #4**).

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

### **4. Effects on wildlife and wildlife habitat**

There are no known endangered or threatened species on the property. Montana Fish, Wildlife, and Parks (FWP) responded to a request for review and comment on the proposed subdivision. It is suggested that future homeowners should be made aware that unless they take steps to deter animals such as fencing their yards they may experience damage problems. A paragraph to this effect is found within the SIA to help inform future landowners.

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

Plans and designs for use of the proposed connection to the Lockwood Water and Sewer District will be reviewed by the District and also meet all the requirements of the MDEQ. Fire and emergency services are provided for this proposed subdivision. There should be minimal effects on public health and safety as a result of this subdivision.

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

An environmental assessment was not required for this subdivision as it is in the zoned area of Yellowstone County.

**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 additional spaces for residential uses, consistent with the immediately surrounding neighborhood.*

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

*There are similarly sized lots directly adjacent to the subject property.*

- **Goal: Contiguous development focused in and around existing population centers separated by open space. (p. 6)**

*The proposed subdivision for lease or rent will increase the development density on the subject property therefore concentrating development and potentially preserving the agricultural land and open space in the surrounding the area.*

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

*The proposed subdivision will create additional housing options for people in the Lockwood area.*

**2. 2014 Billings Urban Area Long Range Transportation Plan**

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

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

The subject property is outside of the study area of the BABTMP. No improvements are proposed or required with this plat. However, the development is providing sidewalks to connect t existing sidewalks in the neighborhood.

**4. 2015 Lockwood Non-Motorized Transportation Plan**

The Lockwood Pedestrian Safety District prepared the Lockwood Non-Motorized Transportation Plan in 2015 and it was adopted by the Yellowstone County Board of County Commissioners. The Vision of the Plan is to make “Lockwood a vibrant community with thriving industrial, commercial and residential neighborhoods where people of all ages and physical abilities can travel safely and efficiently without the use of an automobile.” While the current County Subdivision

Regulations do not require sidewalks in Lockwood, the Plan identifies both coordination with development to install sidewalks in the short term and adoption of an ordinance requiring the construction of sidewalks along all roads in Lockwood area in the next few years. Provision of sidewalks in this development meets the intent of the Plan.

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

The proposed subdivision meets the requirements of the MSPA and the YCSR. The subdivider and the local government have complied with the subdivision review and approval procedures that are set forth by local and state subdivision regulations.

**E. Does the subdivision conform to sanitary requirements? [Section 4.8(C) and 4.9 (C), YCSR]**

The subdivider will need to receive approval from LWSD and the MDEQ. The LWSD will review and approve the connections to the public water and sewer system for the new mobile home sites.

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

The subdivision is in the County's zoning jurisdiction and is zoned RMH. The proposed lots sizes are in compliance with zoning, County Subdivision Regulations, and MDEQ. There is a paragraph within Section II of the SIA notifying future property owners that a Zoning Compliance Permit is required prior to any construction or placement of mobile home on the lot.

**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 Yellowstone Valley Electric Cooperative and MDU.

**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 Rockwood Street and Silverton Street connecting to Johnson Lane.

**CONCLUSIONS OF FINDINGS OF FACT**

- The Emerald View Park Subdivision, Amended Lot 1A, Block 3 - Preliminary Subsequent Minor Subdivision for Rent or Lease 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 Emerald View Park Subdivision, Amended Lot 1A, Block 3 and adoption of the Findings of Fact as presented in the staff report.

## **ATTACHMENTS**

A: Zoning Map

B: Preliminary Plat and Associated Documents

Subject Property

