



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



AGENDA

March 8, 2016 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: FEBRUARY 23, 2016**
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: PLANNING BOARD MEMBERS AND STAFF**
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). **THERE IS NO OLD BUSINESS.**

8. **NEW BUSINESS:** (Agenda items new to this meeting).
 - a. **PLAT REVIEW/DISCUSSION. Cowboy Country Subdivision. County Major Subdivision, Dave Green, Planner II, presenting.**

 - b. **PRESENTATION/DISCUSSION. Growth Policy Scenarios.** Candi Millar, Director, Planning & Community Services Dept.

 - c. **PRESENTATION/DISCUSSION. Lockwood/Billings & Beyond.** Candi Millar, Director, Planning & Community Services, presenting.

9. **OTHER BUSINESS:**
 - a. (Standing Item) Staff update. Long Range Strategic Issues and an overview of future City and County issues and projects.

10. **ADJOURNMENT**

FUTURE AGENDA ITEMS FOR TUESDAY, MARCH 22, 2016

- a. **PUBLIC HEARING. MOTION/RECOMMENDATION TO BOCC. Cowboy Country Subdivision. County Major Subdivision, Dave Green, Planner II, presenting.**

- b. **PRESENTATION/DISCUSSION. Bicycle Pedestrian Advisory Committee Annual Report.** Jeffery Butts, Bicycle and Pedestrian Coordinator, presenting.

Planning Board Meeting I (2nd Tuesday)

3.

Meeting Date: 03/08/2016

Information

Subject

MOTION. APPROVAL OF MEETING MINUTES: FEBRUARY 23, 2016

Attachments

2016-02_23_PLNB_Minutes_DRAFT

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

February 23, 2016

Draft-To be approved by a motion on March 8, 2016

1. Call the Meeting to Order

President Darell Tunnickliff called the meeting to order at 6:00 p.m. on Tuesday, February 9, 2016, in the Miller Building 1st Floor conference room, 2825 3rd Avenue North, Billings, Montana.

Introduction of Planning Board Members and Planning Department Staff

President Tunnickliff called for introductions of the members of the Planning Board and staff. Attending Planning staff members are: Candi Millar, Director, Planning and Community Services; Wyeth Friday, Planning Division Manager; Dave Green, Planner II, Jeffery Butts, Bicycle and Pedestrian Coordinator; Tammy Deines, Planning Clerk; Darin Swenson, Yellowstone County Public Works

Attending: Scott Aspenlieder, PEC; Toby Liechti, Blueline Engineering; Marshall Phil, Blueline Engineering; Gary Owen, Sanderson Stewart; Travis McDowell, AT Architecture; Patrick G Weber; Shawn & Karen Murray; Bob Whalen, Elysian School; Butch Crawford, Ed Taylor; Robert Taylor; Chris Vlahos, Tray Larson; Patty Larson; Chuck Strum, Lockwood Pedestrian Safety District Advisory Board; Paul Monson, Troy Wilson, Rod Wilson

Approval of the Agenda

Motion

Don Reed made a motion and it was seconded by Donna Forbes to approve the agenda as submitted. The motion carried with a unanimous voice vote.

2. February 9, 2016 meeting minutes.

Motion

Donna Forbes made a motion and it was seconded by Dennis Cook to approve the February 9, 2016 meeting minutes as submitted. The motion carried with a unanimous voice vote.

- 3. Public Comment:** President Tunnickliff 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.

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5-6. Disclosure of Conflict of Interest – Board members and Planning Staff 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.

7. OLD BUSINESS:

7a. Discussion. AmeriCorps VISTA Alternative Modes Outreach and Education Volunteer-Jeffrey Butts, Bicycle Pedestrian Coordinator, Tony Chase, AmeriCorps VISTA member

Division Manager Wyeth Friday opened this agenda item and noted this was presented at the last meeting with Bicycle Pedestrian Coordinator Jeffery Butts and AmeriCorps VISTA member Tony Chase. Staff is asking for the Planning Board’s support of this program for the coming year. Bicycle Pedestrian Coordinator Jeffery Butts is available for questions.

Discussion

President Tunncliff called for questions and discussion from the members of the Board. There was none.

Motion

Troy Boucher made a motion and it was seconded by Donna Forbes to support the AmeriCorps VISTA Alternative Modes Program for the coming year.

The motion carried with a unanimous voice vote.

7b. Public Hearing. Motion/Recommendation to City Council. Trails West Subdivision, 3rd Filing. Dave Green, Planner II, presenting

President Tunncliff asked Planner Dave Green to open this agenda item. Dave Green opened this agenda item with a PowerPoint presentation. He pointed out this parcel is adjacent to the school property for the Ben Steele Middle School. City Services are available. The developer will provide cash-in-lieu of parkland dedication but residents will have access to the school grounds after hours.

INTRODUCTION

On January 4, 2016, subdivider, Trails West Homes LLC, applied for preliminary major plat approval for Trails West Subdivision, 3rd Filing. The proposed subdivision would create 55 lots for single-family residences and one large remaining lot for future development. The first filing of this subdivision and a master plan of the entire development was first submitted and reviewed by the Planning Board in 2009. The subject property is generally located on the south side of Grand Avenue, just west of 56th Street West. The property is zoned Residential-6,000-Restricted (R-60-R) and Residential-9,600 (R-96). The Billings City Council will act on the proposal on March 21, 2016.

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RECOMMENDATION

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Trails West Subdivision, 3rd Filing, to the City Council, 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 the effect on local services with regard to the drainage system in the subdivision, prior to final plat approval the applicant will add the following language to the SIA under V. Storm Drainage: The maintenance of the ponds, including any mechanical systems, is the obligation of the HOA. The ponds will be privately owned and maintained by the HOA. The ponds shall be improved with underground, automatic sprinkler systems and grass. Privately owned ponds shall be covered with a blanket storm water easement. If the HOA fails to maintain or replace the ponds, the City reserves the right to create a maintenance district in the subdivision to maintain the ponds.
2. To minimize effects on local services and prior to final plat approval, the final cash-in-lieu contributions toward the intersection improvements at 54th St. West & Grand Ave., 56th St. West & Grand Ave., and 56th St. West & Central Ave. shall be approved by the City Traffic Engineer and the table in the SIA under F. Off-Site Intersections will be filled in with the correct dollar amounts.
3. To minimize effects on local services, the developer will be required to submit a cash contribution for the construction of 56th Street West. It shall include half of a residential street (given credit for what is constructed), curb and gutter, sidewalk and design and construction administration.
4. *Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.*
5. *The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.*

Discussion

President Tunncliff called for questions and discussion from the members of the Board. Don Reed commented on Condition of Approval #1, and asked if designating the Home Owner’s Association’s to maintain the storm water ponds is a common practice, and Dave Green replied this is fairly new and the City Engineering Division will enforce this condition. Donna Forbes asked if residents can use the school grounds while in session.

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She pointed out there is no access to a park where young children may play. Dave Green pointed out the linear parks and trail system in this subdivision.

Public Hearing: At 6:13 p.m. President Tunncliff opened the public hearing and asked the owner to address the board.

Applicant/Agent

Rod Wilson, 422 Shamrock Lane, Billings, Montana

Mr. Wilson is the developer for this property and one of the three owners of the Trails West Subdivision. He distributed a handout with the final print of the subdivision which will contain 300 home sites, several miles of walking trails, and boulevard walks. The retention ponds have underground sprinkling and maintained by the Homeowners' Association. The storm water will be managed and moved from a detention area to Birely Drain. This subdivision is zoned for single family housing only. Gary Owen, Sanderson Stewart, is the technical engineer and is available for questions. In response to a question by Donna Forbes, Mr. Wilson said the retention pond is a 4.5-foot deep sloped area that could be used as a play area.

Gary Owen, Sanderson Stewart, 1300 North Transtech Way, Billings, Montana

Mr. Owen is the engineer for the project and available for questions. There was none.

President Tunncliff asked if there was anyone else wanting to speak in favor or against the Trails West Subdivision, 3rd Filing. There was none. President Tunncliff called for a motion.

Motion

Dennis Cook made a motion and it was seconded by Francisco Saldivar to recommend conditional approval of the preliminary plat of Trails West Subdivision, 3rd Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

The motion carried with a unanimous voice vote.

7c. Public Hearing. Motion/Recommendation to Board of County Commissioners. Harmony Meadows, 2nd Filing. County Major Subdivision, Dave Green, Planner II, presenting.

President Tunncliff asked Dave Green to present this agenda item and he opened this agenda item with a PowerPoint presentation.

INTRODUCTION

On January 4, 2016, Harmony Meadows, LLC, applied for preliminary major plat approval for Harmony Meadows, 2nd Filing. The proposed subdivision would create 25 lots for commercial uses and multi-family residential development. The first filing of this subdivision was done as an expedited subdivision creating two large lots in December of 2012. The subject property is generally located on the south side of Elysian Road, just west of Mallowney Lane. The property has multiple zonings of Community Commercial (CC),

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Highway Commercial (HC) and Residential Multi-Family Restricted (RMF-R). The Billings City Council will act on the proposal on March 21, 2016.

RECOMMENDATION

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Harmony Meadows Subdivision, 2nd Filing, to the City Council, 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 ensure the provision of easements for utilities, prior to final plat approval the subdivider shall provide utility easements on the final plat as requested by the private utility companies.*
2. To minimize effects on public facilities and for public safety, prior to final plat approval the subdivider will coordinate the layout of the proposed storm water detention facility in the public park with the City Parks Department and have a letter from the Department stating the proposal is acceptable. The facility also must meet the requirements of City Engineering Division and be approved by the Division prior to final plat approval.
3. To minimize effects on local services and ensure proper storm water management, prior to final plat approval the applicant will provide a storm water report to the City Engineering Division for approval.
4. To minimize effects on local services and to ensure proper maintenance of the detention pond in the public park, prior to final plat approval in the SIA under Section V Storm Drainage second paragraph, the last sentence shall be changed to read “Storm water detention facility will be maintained through the creation of a Parks Maintenance District.”
5. To minimize the effects on local services and provide access control onto Elysian Road, prior to final plat approval the applicant will show on the face of the plat a controlled access strip along Elysian Road
6. To minimize effects on local services and ensure proper access for pedestrians, prior to final plat approval the applicant will add a paragraph in the SIA under Section III Transportation B, that all sidewalks will be installed at time of lot development with the exception of ADA ramps at the intersections. The ADA ramps will be constructed at the time of road construction.
7. To minimize the effects on local services and contribute to intersections that may be impacted by this development, prior to final plat approval, the applicant will submit an updated TIS to the City Engineering Division and offsite intersection

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contributions must be identified within the Traffic Impact Study. These contributions must be outlined within the SIA detailing each intersection and timing of contribution.

8. *To minimize the effects on local services and provide for coverage of possible future costs related to bridge construction, prior to final plat approval, the applicant in the SIA under Section III Transportation A Streets will modify language in paragraph 2 and 3, the last sentence by removing the words ‘construction costs’ replacing them with, ‘any overages incurred’ beyond the 50% that what will be contributed for improvements to cross Hogan Slough.*
9. *To minimize the effects on local services as per the City Engineering Division, prior to final plat approval the applicant will add language within the street section of the SIA, that reads: “Upon construction of Phase IV, developer is required to construct Story Road and/or Stearns Circle between the eastern boundary of Harmony Meadows Subdivision and Mallowney Lane to the standards that are in place at the time of Phase IV construction. Developer is also required to mill and overlay Mallowney Lane to City standards between Elysian Road and Story Road. If the properties along Story Road have annexed into the City prior to Phase IV construction, the City may initiate a Special Improvement District and include Harmony Meadows Phase IV in the Special Improvement District for its proportionate share.”*
10. *To minimize effects on local services and ensure proper parkland dedication requirements, prior to final plat approval, the subdivider will meet with the City Parks Department and determine how much additional parkland will be provided through smaller park areas within the proposed lots in the subdivision and provide HOA language to outline how these smaller parks will be maintained.*
11. *To minimize the effects on local services, prior to final plat approval the subdivider will provide a letter from the United States Postal Service acknowledging its agreement with the placement of mail delivery facilities in the subdivision.*
12. *To ensure proper documentation for the proposed phasing of Harmony Meadows prior to final plat approval the applicant will include a Declaration of Restriction of Transfers, a Release, and a Certificate for each proposed phase of Harmony Meadows.*
13. *Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.*
14. *The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.*

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Dave Green stated Staff sent additional information to the Board on this item due to recent developments. A decision was made and derived from an agreement with the McCall Development and the applicant that the residential to residential connection is more important than the commercial to commercial access. He pointed out the southern access provides a connection to the trail system and gives the most benefit to the community as a whole. The developers agreed to complete the pedestrian trail along Elysian Road with phase one of this subdivision and phase one of Josephine Landing Subdivision to provide a safe route for students to the school in a shorter amount of time. Dave Green reviewed an e-mail received from Mark Jarvis, Parks and Recreation Department requesting an amendment to Condition of Approval #10, and an additional condition, and a letter from McCall Development.

Planning Board Members,

We will be asking for elimination of the Dodger Lane crossing over Hogans Slough (northern crossing). In turn we will agree to contribute to the paving and improvement of Story Road/Stearn Circle within the River Grove Estates subdivision which will connect to the mill/overlay improvements we're installing on Mallowney Lane. We met with the County and some business owners in the River Grove development this morning and tentatively offered/agreed to provide up to 25% of the cost to install an asphalt road surface, meeting county standards, to meet Condition #9 in the staff report. This would only include road improvements and would exclude any or all water and sewer improvements in the development. Coming out of that meeting it appears that the County and business owners are interested and willing to accept that contribution. We would suggest that Condition #9 be modified to state a maximum contribution of 25% to be made by Phase IV of the Harmony Meadows development or at the time the RSID is created to install the improvements.

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Dave:

Per our conversation yesterday and today, there are some provisions we feel need to be added to the SIA to help clarify expectations for the park and its development.

Regarding the development and maintenance of the public park, the following should be included in the SIA:

At Phase IV and prior to the construction of the stormwater detention facility, a Special Improvement District and a Park Maintenance District shall be created for the purpose of funding the public park master plan, park development and park maintenance. At that time the stormwater detention facility shall be integrated into the park master plan to serve as an amenity to the park and to integrate other park functions within the footprint of stormwater detention facility.

Keep #2 of the conditions of approval. This will provide us with the necessary calculations and volumes of the stormwater detention facility.

Keep #10 there should be additional clarification. Place a period after the word subdivision in the 3rd line of the paragraph, deleting the rest of the sentence and add: These additional private park parcels shall be dedicated to a legal entity such as a Homeowners Association (HOA) and maintained by that entity.

Let me know if you have any questions or concerns with these comments.

Mark L. Jarvis, PLA
City of Billings Parks and Recreation
Park Planner
390 North 23rd Street
Billings, MT 59101
Phone: 406-657-8367
Web:<http://www.billingsparks.org>

"We create community through people, parks and programs"

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MCCALL HOMES

1536 Mallowney Lane Suite 100
Billings, Montana 59101
Telephone: 406-651-5354
Fax: 406-651-5364
www.mccallhomes.com

February 17, 2016

To whom it may concern,

We recently attended a meeting with the Harmony Meadows team, where we mutually came to a conditional agreement. McCall Development Inc. is agreeable to the proposal of removing the north connection over the Hogan's Slough.

Both Harmony Meadows and McCall Development Inc, agree that the north connection is less important than the south connection. Preserving connectivity between the neighborhoods and the continuation of the Marathon Loop/Heritage Trail, is a priority for both neighborhoods. We also both agree that one connection appears sufficient particularly when considering the costs versus benefits necessary of crossing Hogan's Slough.

McCall Development Inc. as part of our consent to the removal of the north connection, we have asked Harmony Meadows to first insure that the Story Road/Sterns Circle connection is improved to the standard which has been set forth by the City of Billings Engineering department. Second, that Harmony Meadows agrees to accelerate their build out of the proposed bike trail and pedestrian crossing at Hogan's Slough, along the entire northern boundary of the property, and to be completed during their first phase of infrastructure improvements.

Likewise, McCall Development Inc. agrees to forego the northern connection, and we will also build out our portion of the proposed bike trail and pedestrian crossing, along the entire northern boundary of our property, during our initial first phase of construction.

Both McCall Development Inc. and Harmony Meadows recognize the need and importance of this bike trail connection from the existing neighborhoods to the school, we mutually wish to be proactive in seeing this amenity put in place as quickly as possible.

Most Sincerely,

Greg McCall, CGB, CGP
McCall Homes LLC
McCall Development Inc.

Discussion

President Tunncliff called for discussion from the members of the Board.

David Goodridge asked if the route from Mallowney-Elysian-Story Road is paved.

Patrick Klugman asked about the traffic study required by final plat approval discussed in Condition of Approval #7. Dave Green stated a traffic study was submitted but the City Engineering Division is requesting more information. He said if Engineering identifies a

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trigger, the funds will be used for construction. Donna Forbes asked about the smaller parks in the subdivision and the need for additional parking. Dave Green stated there are plans for smaller parks within the subdivision lots as there is about 1-acre of remaining parkland required after the dedication of the southerly parkland. The Master Plan could identify additional parking needs. Don Reed asked about the proposed storm water detention area and asked why it is located next to a drainage ditch. City Engineer Chris Hertz said this done per DEQ regulations. Francisco Saldivar asked for clarification on Condition of Approval #9 indicating one of the two routes must be paved. Dave Green deferred this question to the Engineering Division representative, Chris Hertz.

Chris Hertz, City of Billings Public Works Engineering Division

Mr. Hertz stated Engineering they would like Condition #9 to remain and have these roads paved prior to Phase IV of this subdivision’s development. Dave Goodridge asked why the City is interested in paving roads in a County island. Chris Hertz gave explanation that Mullowney is a city road and the developer is responsible for the frontage improvements with a waiver for curb, gutter, and sidewalk until needed. Candi Millar said State law states the subdivider is only required to provide a proportional share of cost to mitigate the impact. She asked if it would be appropriate to ask the developers of Josephine Landing to participate in paving Stearns Circle/Story Road as the condition may change with the traffic volumes from the Josephine Landing Subdivision as well as River Grove Subdivision. Chris Hertz said if River Grove were to annex, a Special Improvements District could be created. He said he would have to consider the Traffic Impact Study; which has to be updated.

David Goodridge asked the potential for an agreement for the developer to trade City services for fronting the cost of the roads by the time of Phase IV. He commented on the potential for the City tearing up the streets for development after the developer spends the funds to improve them. Candi Millar continued with the thought of Josephine Landing participating and asked if Engineering would be receptive to reimbursement to this developer for paving the road. She voiced concern with the proportionality and said it seems there should be a mechanism whereby this developer can be reimbursed by the subdivision to the west. Wyeth Friday commented potentially there has to be paving now regardless of Josephine Landing but when Josephine Landing will be responsible to contribute when it is developed. Candi Millar concurred and said if there is an impact to Stearns Circle/Story Road based on the TIS, (Traffic Impact Study), Josephine Crossing may need to contribute. Wyeth Friday noted the documents from McCall Homes and the concept of construction of pedestrian facilities from both subdivisions to make a connection from Mullowney Lane to Elysian School. He asked if the Board should consider an additional condition due to these discussions and it was not bought up previously.

Public Hearing: At 6:58 p.m., President Tunncliff opened the public hearing and asked for presentation by the applicant.

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Scott Aspenlieder, Performance Engineering, 2101 Overland, Billings, Montana

Mr. Aspenlieder is the engineer for this project and represents property owners Harmony Meadows, LLC and James A. Weber. He thanked Staff for all of the effort and work with this application to find something that is amiable to everyone. The agreement was made in an effort to try to be good neighbors and they have agreed to construction of the pedestrian path over Hogan's Slough. They are agreeable to the additional condition of approval requested by the Parks Department. They determined it is not that big of a benefit to have a commercial to commercial connection as there is plenty of access between the two neighborhoods. They respectfully request the crossing be removed from Dodger Lane. Mr. Aspenlieder said Condition #9 is the biggest point of contention. They wish to pay their proportionate share and met with the neighbors in Stearns Circle/Story Road and the County Public Works Department. The residents expressed interest in paving this road. Tentative conversations discussed the subdivider will pay 25%, Yellowstone County will pay 25% up to \$200,000 through an RSID, and the lot owners would get 50% of the road paved. He said the developer's concern with the language in Condition #9 is that it puts the full burden on improvement of the road on the developer. Mr. Aspenlieder questioned the legality of such a condition. He asked that contributions be fair and consistent and that a “middle ground” be found.

Discussion

President Tunncliff commented that there are still a lot of moving parts in this discussion and asked if the developer is comfortable. Mr. Aspenlieder said he feels it is headed in a positive direction and Stearns Circle/Story Road will be paved within the next two years. David Goodrich asked if the developer would like to have Condition of Approval #9 removed. Mr. Aspenlieder said it is an added expense and the developer would like it removed even though they are willing to participate and contribute. Darin Swenson, Yellowstone County Public Works, said Story Road was platted all the way through but it was not constructed. Patrick Klugman noted the email from the Parks Department and asked if the developer is receptive to the additional condition. Scott Aspenlieder said they are agreeable and a homeowners' association will be created to manage the private parks.

Darin Swenson, Yellowstone County Public Works Department

Mr. Swenson cautioned and said the County provide a match but there is a \$200,000 expenditure cap and the final decision is driven by the Commissioners.

Bob Whalen, Principal, Elysian Schools, 6416 Elysian Road, Billings, Montana

Mr. Whalen applauded the developers of Harmony Meadows and Josephine Landing for their foresight in developing pedestrian walkways along Elysian Road. He said he is in favor of pedestrian and bike trails and commented currently they have to bus children due to safety issues on Elysian Road.

Butch Crawford, 2983 Woodridge, Billings, Montana

Mr. Crawford said he was not contacted for the neighborhood discussion and he feels deletion of Condition of Approval #9 would be extremely disappointing. He referred to a

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posted plat map and said the residents are unable to pay a 50% contribution and it will be very expensive to develop Stearns Circle/Story Road. David Goodrich asked if he would be amiable to annexing into the City. Mr. Crawford replied he would be agreeable as it would be a benefit to have City Services. Mr. Crawford said Stearns Circle has to have access to the County piece of Story Road.

Rebuttal-President Tunnicliff called for rebuttal.

Scott Aspenlieder, Performance Engineering, 2101 Overland, Billings, Montana

Scott Aspenlieder suggested installing a breakaway gate and creating an emergency access if there is no interest in paying to pave the road. He said he doesn't feel it is fair and consistent to have the developer pay for paving a County road outside their subdivision.

Butch Crawford, 2083 Woodridge, Billings, MT

Mr. Crawford said installing a chain and a gate will be “a lawsuit waiting to happen”. He said they would like to see the upgrades but they do not want an emergency exit.

President Tunnicliff asked if there is anyone else wanting to speak in favor or against Harmony Meadows Subdivision. There was none. President Tunnicliff closed the public comment period at 7:23 p.m. and asked staff for a clear recommendation.

Director Millar suggested an alternative for Condition of Approval #9 as she is concerned with proportionality and there are four potential parties that may contribute. She suggested this revised language: *Upon construction of Phase IV if Story Road/Stearns Circle is not paved, the developer is required to contribute their proportionate share to paving Story Road/Stearns Circle as determined by the Traffic Impact Study.*

Ms. Millar strongly warned against requiring the developer to pave the entire road as the Board may be overstepping its bounds.

Motion

Don Reed made a motion and Francisco Saldivar seconded the motion to recommend conditional approval of the preliminary plat of Harmony Meadows Subdivision, 2nd Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

Francisco Saldivar made a motion and David Goodridge seconded the motion to include an additional condition to address construction of the pedestrian facilities along Elysian Road and the pedestrian bridge over Hogan’s Slough.

Francisco Saldivar made a motion and it was seconded by Patrick Klugman to accept the letter from the Parks and Recreation Department and make the language amends to reflect the agreement in the letter: *Regarding the development and maintenance of the public park, the following should be included in the SIA: At Phase IV and prior to the construction of the storm water detention facility, a Special Improvement District and a Park Maintenance District shall be created for the purpose of funding the public park master plan, park development and park maintenance. At that time the storm water detention facility shall be integrated into the park master plan to*

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serve as an amenity to the park and to integrate other park functions within the footprint of storm water detention facility.

Keep #2 of the conditions of approval. This will provide us with the necessary calculations and volumes of the storm water detention facility.

Keep #10 there should be additional clarification. Place a period after the word subdivision in the 3rd line of the paragraph, deleting the rest of the sentence and add: These additional private park parcels shall be dedicated to a legal entity such as a Homeowners Association (HOA) and maintained by that entity.

Discussion

In response to a question by Troy Boucher, Scott Aspenlieder stated they have no objections to the requests in the Parks Department’s letter.

David Goodridge made a motion and it was seconded by Troy Boucher to remove Condition of Approval #9.

Discussion

David Goodridge discussed benefit of paving this area would potentially turn this area into a County island as he City is growing. Mr. Crawford is amenable to coming into the City. Potentially the developer will be paying for pavement and removing it in the future to install city services. He voiced concern with the burden to the developer, and said this an opportunity for the county subdivision to come into the City.

Don Reed asked if the proposal is to wait until if and when this is annexed.

David Goodridge said he is suggesting this subdivision go forward with the condition removed. Per request of President Tunnicliff, Chris Hertz said the purpose of Condition #9 is it is a secondary route and there will be traffic on these streets. There will be complaints if they remain gravel and someone will have to deal with this. He said this subdivision will utilize these streets, approximately 300 cars per day. He voiced concern with the deletion and that there will be impact pressure for another entity to pave the streets other than the landowners and adjoining landowners. He said he doesn't know about legality of closing off a platted public road.

Scott Aspenlieder stated he estimates it will be 9-10 years before getting to Phase IV of development. Dave Goodridge commented on the likelihood of traffic flows to Story Road. He said in order to grow in a healthy manner, he doesn't like missing an opportunity for a county parcel to come into the City and avoid creation of a County island. River Grove residents could be impacted if this is not addressed and there could be legal implications.

Wyeth Friday pointed out the regulations require making a connection if there is an existing road. Troy Boucher asked Mr. Aspenlieder to clarify the gating.

Mr. Aspenlieder explained that secondary emergency access gates are chained and locked

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and don't allow for public use. He said they are happy to contribute to the paving as there will be some impact when everything is said and done.

Troy Boucher stated he intends to vote for the motion to eliminate Condition #9 on the principal that it puts an unfair burden on the developer for the benefit for a County island. Dave Goodridge commented residents from this subdivision may not use Stearns Circle until Phase III or IV, a minimum of 5-10 years. President Tunncliff voiced concern with safety issues and asked that Staff ensure these issues are addressed more thoroughly prior to bringing them to the Board.

President Tunncliff called for a roll call vote.

| | Favor | Against | Abstain | | Favor | Against | Abstain |
|------------------------------|-------|---------|---------|--|-------------------------------------|---------|---------|
| David Goodridge Ward I | 1 | | | | Lisa Sukut BOCC Dist #3 | | |
| Jared LeFevre Ward II | - | - | - | | Don Reed BOCC Dist #5 (VP) | 1 | |
| Donna Forbes Ward III | | 1 | | | Francisco Saldivar BOCC Dist #7 | | 1 |
| Patrick Klugman Ward V | | 1 | | | Clint McFarland YC Conserv Dist | - | - |
| Troy Boucher BOCC Dist #1 | | | | | Lisa Sukut BOCC Dist #3 | - | - |
| Dennis Cook BOCC Dist #2 | 1 | | | | Darell Tunncliff Ward IV, (Pres) | | |

The motion carries 4-3. (Jared LeFevre, Lisa Sukut, and Clint McFarland are absent).

Motion

Francisco Saldivar made a motion and it was seconded by Don Reed to insert Condition of Approval #9 to read: *Upon construction of Phase IV if Story Road/Stearns Circle is not paved, the developer is required to contribute their proportionate share to paving Story Road/Stearns Circle as determined by the Traffic Impact Study.*

President Tunncliff called for a roll call vote.

| | Favor | Against | Abstain | | Favor | Against | Abstain |
|------------------------------|-------|---------|---------|--|-------------------------------------|---------|---------|
| David Goodridge Ward I | | 1 | | | Lisa Sukut BOCC Dist #3 | - | - |
| Jared LeFevre Ward II | - | - | - | | Don Reed BOCC Dist #5 (VP) | 1 | |
| Donna Forbes Ward III | 1 | | | | Francisco Saldivar BOCC Dist #7 | 1 | |
| Patrick Klugman Ward V | 1 | | | | Clint McFarland YC Conserv Dist | - | - |
| Troy Boucher BOCC Dist #1 | 1 | | | | Lisa Sukut BOCC Dist #3 | - | - |
| Dennis Cook BOCC Dist #2 | 1 | | | | Darell Tunncliff Ward IV, (Pres) | | |

The motion carries 6-1. (Jared LeFevre, Lisa Sukut, and Clint McFarland are absent).

President Tunncliff called for a vote on the original motion to recommend conditional approval of the preliminary plat of Harmony Meadows Subdivision, 2nd

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Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report with the four amendments. The voice vote carried unanimously, 7-0.

**** At 7:58 p.m., President Tunnicliff called for a 5 minute break.**

7d. Public Hearing. Motion/Recommendation to Board of County Commissioners. Emerald View Park Subdivision, Amd LA B3, Dave Green, Planner II, presenting. President Tunnicliff asked Dave Green to open this agenda item.

INTRODUCTION

On January 4, 2016, Performance Engineering agents for Teton Properties, LLC applied for preliminary subsequent minor plat approval for Emerald View Park Subdivision, Amended Lot 1A, Block 3. The proposed plat does not create any additional lots from a 6.861-acre parcel of land. The subject property is generally located on the west side of Johnson Lane, south of Old Hardin Road in Lockwood. The property is zoned Residential Manufactured Home (RMH) and currently has residential uses on the property. The Board of County Commissioners will act on the proposal on March 15, 2016.

RECOMMENDATION

Staff recommends the Planning Board recommend that the Yellowstone County Board of County Commissioners conditionally approve the preliminary plat of Emerald View Park Subdivision, Amended Lot 1A, Block 3, 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 minimize the effects on local services, prior to final plat approval a Rural Special Improvement District (RSID) will be created, or expanded, to provide maintenance of the interior road of this subdivision.
2. To ensure compliance with Montana Department of Environmental Quality (MDEQ) regulations prior to final plat approval, the applicant will obtain MDEQ approval for the proposed subdivision storm drainage system.
3. To ensure compliance with the park land cash-in-lieu requirements prior to final plat approval, the applicant will 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.
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.

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5. *To minimize effects on local services prior to final plat approval, utility easement will be shown on the lot on the final plat acceptable to private utility providers.*
6. To minimize the effects on local services prior to final plat approval, the subdivider shall provide written verification that the US Postal Service has approved the mail facilities for this subdivision.
7. 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.
8. 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

President Tunncliff called for questions and discussion from the members of the Board. There was none.

Public Hearing

President Tunncliff opened the public hearing and called for presentation by the applicant.

Applicant

Scott Aspenlieder, Performance Engineering, 2101 Overland, Billings, Montana

Mr. Aspenlieder is the agent for this developer. He stated this is a straightforward application, and the applicant has no concerns with the conditions. He asked if it is possible to do cash-in-lieu contribution to the Lockwood area instead of parkland. Candi Millar suggested the Board may note this request to the Commissioners to bring it to their attention. She replied to Patrick Klugman, and explained the cash-in-lieu contribution goes into the County parkland fund; and they are required to spend the funds in an area that would benefit this subdivision. Don Reed jested that 90% sidewalks in Lockwood are within this mobile home park. He stated he feels Hillner Park needs consideration as there is interest in renovation and it is also on the way to the school. It was suggested working with Cal Cumin, chairman of the Parks Board, Chuck Strum, Pedestrian Safety District; Carl Peters, Lockwood Irrigation District; and Jeffery Butts, Bike and Pedestrian Coordinator, to support this idea.

Chuck Strum, 844 Sandstone Trail, Billings Montana

Mr. Strum is attending this evening as a representative of the Lockwood Pedestrian Safety District Advisory Board. He asked the Board to recommend language to encourage cash-in-lieu funds be earmarked for a connecting trail between Emerald View and Hillner Park.

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Motion

Francisco Saldivar made a motion and it was seconded by Troy Boucher to support the request from Chuck Strum, Lockwood Safety District, to forward a note to encourage the cash-in-lieu funds for Emerald View Park Subdivision, and the parkland cash I lieu contribution be earmarked for a connecting trail between Emerald View Park Subdivision and Hillner Park.

The motion carried with a unanimous voice vote.

7e. Public Hearing. Motion/Recommendation to Board of County Commissioners, Aspen Ridge Subdivision, 2nd filing. Wyeth Friday, Division Manager, presenting.

President Tunncliff asked Wyeth Friday to open this agenda item. Wyeth Friday opened this agenda item with a PowerPoint presentation. He commented on the approved Condition of Approval with the first filing of this subdivision requiring the piping for the storm water connection. He noted the developer provided a check to the County to meet the Condition of Approval for a pathway in the first filing of Aspen Ridge Subdivision.

RECOMMENDATION

Staff recommends that the Planning Board recommend that the Yellowstone County Board of County Commissioners conditionally approve the preliminary plat of Aspen Ridge Subdivision, 2nd 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 minimize effects on local services, prior to final plat approval two storm water facilities easements shall be created for the storm water facilities on Lot 8. A County RSID for maintenance of the storm water facilities in the easements also shall be established or expanded prior to final plat approval. The final SIA must reflect these arrangement for the storm water management.
2. To minimize effects on local services and the natural environment, prior to final plat approval the subdivider will receive approval from MDEQ for the individual septic systems and the storm water management system on the subdivision.
3. To minimize the effects on the natural environment, a weed management plan and property inspection shall be approved by the County Weed Department, prior to final plat approval.
4. To minimize effects on local services, provide the pedestrian pathway connectivity required by Section 4.6 C. 15 of the County Subdivision Regulations, and meet the requirements of the Aspen Ridge Subdivision, 1st Filing Subdivision Improvement Agreement, prior to final plat approval the 5-foot wide pedestrian walkway/trail shall be constructed along the east side of Tanglewood Drive and the north side of San Marino Drive in the existing walkway/trail easement in Aspen Ridge Subdivision, 1st Filing. The pathway shall be constructed of asphalt or concrete at the discretion of the developer. 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.
5. The final plat shall comply with all requirements of the County Subdivision Regulations,

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rules, regulations, policies, and resolutions of the Yellowstone County, and the laws and Administrative Rules of the State of Montana.

Discussion

President Tunncliff called for questions and discussion from the members of the Board. Patrick Klugman asked for confirmation on the location of the pedestrian facility on the north side of San Marino Drive. Wyeth Friday referred to a posted map said it will stop at the boundary of this subdivision. Don Reed asked if the drainage will run along the road and if the houses will be downhill from the drainage. Wyeth Friday said the road will be constructed to County standards and the storm water conveyance will be on the south side of the road.

Public Hearing-President Tunncliff opened the public hearing and asked for anyone wanting to speak in favor or against Aspen Ridge Subdivision, 2nd Filing.

Applicant

Marshall Phil, Blueline Engineering, 2110 Overland Ave, Suite 119B, Billings, Montana

Mr. Phil represents noted the displayed photograph and pointed out a swale and culverts that will convey the water.

Chris Vlahos 832 Granite Estates Lane, Billings, Montana

Mr. Vlahos is the developer for this subdivision. He recounted several development costs including the storm water piping in the first filing and looping the water system. He said the sidewalks put them over the edge for cost, and he compensated by upsizing the lots and getting rid of the sidewalks. Patrick Klugman spoke of the importance of building connectivity with a hard surface area for pedestrians. He said there is a need for separated paths within the urban fringe, and this would be a plus to selling the neighborhood. Chris Vlahos replied adding sidewalks would stop the project. He said he is willing to give the easement to allow them to be added in the future.

Karen Murray, 400 Mirabell Court, Billings, MT

Ms. Murray voiced with water drainage as currently the storm water flows washes out her landscaping. She wanted to know if the developer has considered this issue as no culverts have been installed and the water washes over the roads. Her home has very little water pressure.

Chuck Strum, 844 Sandstone Trail, Billings, Montana

Mr. Strum is speaking on behalf of the Lockwood Pedestrian Safety District. He asked the developer to reconsider construction of the sidewalks. He stated the District feels sidewalks enhance the property and property values and make the lots more attractive to buyers. The District wishes to emphasize safety and keep children from walking in neighborhood streets. This development is close to the sidewalk project along Becraft Lane which has been the scene of a pedestrian fatality. He asked that the burden not be left on the citizens of the Lockwood Pedestrian Safety District.

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Discussion

In response to a question by Donna Forbes, Candi Millar explained the developer sized the lots above the requirements that trigger the requirement for sidewalks. Donna Forbes said she cannot imagine building a subdivision without constructing sidewalks. She projected that in five years the subdivision will not be as attractive, and it will force children to walk in the streets.

Francisco Saldivar asked if the cost would fall on each land owner. Candi Millar explained there are no site development standards in the County, and the only way to construct sidewalks after subdivision is to do an RSID for the construction of sidewalks and each lot owner would be required to pay. She suggested the Board use a condition to include language for sidewalks as a listing in the Waiver of Right to Protest an RSID.

Don Reed voiced concerns with access as there are no arterials; lack of drainage; no curbs or gutters; and lack of pedestrian travel. He said this subdivision has to be considered in the context of the entire community.

Patrick Klugman stated it is difficult to support this subdivision if the sidewalks are not continued. Candi Millar suggested the Board may apply conditions based on the criterion to mitigate the impacts of health and safety.

Motion.

Troy Boucher made a motion and it was seconded by Dennis Cook to forward a recommendation to the Board of County Commissioners the Yellowstone County Board of County Commissioners conditionally approve the preliminary plat of Aspen Ridge Subdivision, 2nd Filing, and adopt the Findings of Fact as presented in the staff report.

Discussion

President Tunnicliff called for discussion on the motion. David Goodridge noted the developer’s costs increased substantially. Per request of Troy Boucher, Marshal Phil highlighted the additional costs. Don Reed voiced concern with public safety for pedestrians. Candi Millar said the Board could condition installing sidewalks in the subdivision to mitigate impacts and explained the RSID and Waiver of Right to Protest language to include sidewalks in the list of improvements.

Dennis Cook asked if there is a solution by relieving the developer in another area if he is struggling with costs. Candi Millar cautioned the Board. She stated they have an obligation to be consistent and reminded them of the need to support their reasoning. Troy Boucher said he doesn’t want to blindside the developer as he is following the law and has had to absorb a tremendous amount of costs. Patrick Klugman voiced concern with public health and safety related to sidewalk facilities and asked about a condition to move forward with a sidewalk or pedestrian facility. Francisco Saldivar said this subdivision was supposed to have a connecting sidewalk.

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President Tunncliff commented his appreciation on respectful discussion. He called for a roll call vote for Aspen Ridge Subdivision, 2nd filing.

| | Favor | Against | Abstain | | Favor | Against | Abstain |
|------------------------------|-------|---------|---------|-------------------------------------|-------|---------|---------|
| David Goodridge Ward I | 1 | | | Lisa Sukut BOCC Dist #3 | - | - | - |
| Jared LeFevre Ward II | - | - | - | Don Reed BOCC Dist #5 (VP) | | 1 | |
| Donna Forbes Ward III | | 1 | | Francisco Saldivar BOCC Dist #7 | | 1 | |
| Patrick Klugman Ward V | | 1 | | Clint McFarland YC Conserv Dist | - | - | - |
| Troy Boucher BOCC Dist #1 | 1 | | | Lisa Sukut BOCC Dist #3 | - | - | - |
| Dennis Cook BOCC Dist #2 | 1 | | | Darell Tunncliff Ward IV, (Pres) | 1 | | |

The vote is 4-4. The Planning Board forwards no recommendation to the Board of County Commissioners for Aspen Ridge Subdivision, 2nd Filing.

9. OTHER BUSINESS-

9a. DISCUSSION. Urban Fringe Subdivision Design Standards Subcommittee. Candi Millar, Director, Planning & Community Services Dept., presenting.

Candi Millar reported she has been advising City Council and the Board of County Commissioners to consider looking at solutions and said the goal is to draft a set of subdivision design standards for suburban style subdivisions. The committee will consist of 3-4 persons from the Planning Board, members of the design community, engineers, a landscape architect, and a developer. The following board members have volunteered to serve Dave Goodridge, Don Reed, Troy Boucher and Patrick Klugman. This committee will provide the full board with monthly progress reports and future action plans.

9c. Standing Item. Staff update. Long Range Strategic Issues and an overview of future City and County issues and projects.

Candi Millar said this Board will hear agenda items on the Growth Policy during the March meetings.

ADJOURNMENT: 9:38 p.m.

ATTEST: DRAFT. To be approved by a motion on March 8, 2016



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



Planning Board Meeting I (2nd Tuesday)

8. a.

Meeting Date: 03/08/2016

Information

INTRODUCTION

On February 1, 2016, Tom Kelly of North Star Land Services for property owner Lee Myers applied for preliminary major plat approval for Cowboy Country Acres Subdivision, 2nd Filing, Amended Lot 15A. The proposed plat creates 16 lots from a 28-acre parcel of land. The subject property is generally located near the southeast intersection of Neibauer Rd. and South 7th St. West. The property is outside the zoning jurisdiction and commercial and light industrial uses are proposed. The Yellowstone County Board of Planning will review the plat at this meeting and conduct a public hearing on Tuesday, March 22, 2016. The Board of County Commissioners will act on the proposal on April 19, 2016.

RECOMMENDATION

Staff recommends that the Planning Board recommend that the Yellowstone County Board of County Commissioners conditionally approve the preliminary plat of Cowboy Country Acres Subdivision, 2nd Filing, Amended Lot 15A, and adopt the Findings of Fact as presented in the staff report. Staff is not recommending approval of the two variance requests as outlined in the Variances section of this memo and in Attachment A.

PROPOSED CONDITIONS OF APPROVAL

Planning staff recommends the following conditions of approval:

1. To ensure protection of public health and safety, prior to final plat approval the applicant will obtain MDEQ approval for the proposed water and sewer systems in the subdivision.
2. To ensure future maintenance of the public roads in the subdivision, prior to final plat approval the applicant will create an RSID-M to maintain the road system in the subdivision.
3. To ensure future maintenance of the existing dry hydrant facilities in Cowboy Country Subdivision, prior to final plat approval the applicant will expand the existing RSID-M for the dry hydrant facilities to include the new lots in the 2nd Filing.
4. To ensure protect public health and safety, prior to final plat approval, the applicant will obtain MDEQ approval for the storm drainage system in the subdivision.
5. To reduce the impact on local services, prior to final plat approval the applicant will show utility easement on the face of the final plat.
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

VARIANCES REQUESTED

The applicant has requested two variances from the County Subdivision Regulations:

The applicant has requested a variance from Section 4.6 (C) (B) (13) of the Yellowstone County Subdivision Regulations, which outlines the requirement for a dedicated right-of-way be paved when it abuts a paved road.

The applicant has requested a second variance from Section 4.6 (A) (3) of the Yellowstone County Subdivision Regulations, which outlines the requirement that there shall be right-of-way and road connections made when existing roads or platted roads outside of the subdivision connect to the subject parcel.

Staff is recommending denial of the variance requests. Further explanation and analysis, and to read the applicant's variance requests, please see Attachment A.

PROCEDURAL HISTORY

- A pre-application meeting was held on April 25, 2015, to discuss the proposal.
- While the applicant did submit the subdivision application for Completeness and Sufficiency Review within the required 6 month time frame from when the pre-application meeting was held, it took a significant amount of time for the application to be deemed complete and sufficient after multiple revisions and resubmittals by the applicant.
- The preliminary plat application was submitted to the Planning Division on February 1, 2016.
- A departmental review meeting was conducted on February 18, 2016.
- The preliminary plat was resubmitted with revisions based on department reviews on February 25, 2016.
- The Planning Board will review the plat on March 8, 2016.
- The Planning Board will conduct a public hearing on March 22, 2016, and forward a recommendation to the Board of County Commissioners.
- The Board of County Commission will consider the preliminary plat on April 19, 2016.
- The 60 working-day preliminary plat review period ends April 26, 2016.

PLAT INFORMATION

| | |
|------------------------|--|
| General location: | Generally located near the south east intersection of Neibauer Rd. |
| | and 72nd St. West |
| Legal Description: | Lot 15A, Block 1, Cowboy Country Subdivision |
| Subdivider/Owner: | Lee Myers |
| Engineer and Surveyor: | North Star Land Services |
| Existing Zoning: | outside zoning |
| Existing land use: | Vacant land |

| | |
|---------------------------------------|--|
| Proposed land use: | Commercial /Industrial |
| Gross/Net area: | 28 acres |
| Proposed number of lots: | 16 |
| Lot size: | Max: 2.144 acres Min.: 1.478 acre |
| Parkland requirements: subdivision | No parkland dedication is required for this commercial |

Attachments

Findings of Fact
Attachment A - Variances
Proposed Plat

FINDINGS OF FACT

The City/County Planning staff has prepared the Findings of Fact for Cowboy Country Acres Subdivision, 2nd Filing, Amended Lot 15A, Block 1. 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. There are water rights but the owner will be retaining them and not transferring any to the future lot owners. Ditches that use to serve this property were removed previously. The subdivision is surrounded by property developed with commercial, residential and some agricultural uses. It should not affect agriculture or agricultural water users' facilities.

2. Effect on local services

- a. **Water and Sewer** –The proposed subdivision does not have water service and will be required to have on-site wells. The applicant is proposing to use shared wells in this subdivision. The location of the wells must be reviewed and approved by Montana Department of Environmental Quality (MDEQ) before installation. There is also no public sewer to the properties. The applicant has had an engineer design three pressure dose sewer systems to service the 16 lots in this proposed subdivision. The location of the proposed system will be reviewed and approved by the MDEQ. These systems will be constructed as approved by the MDEQ and as shown on the approved plans. **(Condition #1)**

- b. **Streets and roads** – The proposed subdivision is located on the south side of Neibauer Road and east of South 72nd Street West. Neibauer Road is identified on the Functional Classification Map as a Principal Arterial road. This subdivision does not have actual frontage on Neibauer Road and so will not be required to provide any right-of-way. Right-of-way was provided by the original Cowboy Country Acres subdivision. No changes or improvements to the street are anticipated with this subdivision.

The lots will be accessed off Neibauer Road from South 70th Street West and South 68th Street West. There will be an internal road, Cowgirl Way, that will provide access to the proposed individual lots in this subdivision. Cowgirl Way and South 68th Street West from Neibauer Road to Cowgirl Way will be built to county paved road standards. South 68th Street West from Cowgirl Way to the southeast corner of the subdivision is also a dedicated right-of-way and should be paved to county standards under the County Subdivision Regulation requirements. This section of road is the subject of one of two variance requests from the

applicant. He does not wish to pave this section of road because he feels there is no need at this time and he is not going to use this road for access purposes to Lot 1, Block 2. The variance request is discussed further in the memo and staff's review and recommendation are outlined in Attachment A.

South 70th Street West also connects to the proposed subdivision on the south edge between proposed Lots 7 and 8, Block 2. This proposed connection was built when the Linlee Lake Estates Subdivision was developed south of the subject property. The applicant is also requesting a variance from connecting to the existing South 70th Street West in Linlee Lake Estates Subdivision. This variance request is discussed further in the memo and staff's review and recommendation are outlined in Attachment A.

All streets of this subdivision will be public streets. The applicant will be required to create an RSID-M for the maintenance of the public streets. **(Condition #2)**

- c. **Fire and Police Services** – The property is within the Billings Urban Fire Service Area's jurisdiction and the Billings Fire Department 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 needs. With the original subdivision of Cowboy Country Acres, the applicant installed a 30,000 gallon dry hydrant system in the southwest corner of Lot 4A in a public easement. This location is on the east side of South 70th Street West just south of Neibauer Road. This will provide the fire suppression needs of the new filing of the subdivision as well as the existing subdivision. An RSID-M for the maintenance of the dry hydrant system is in place, the applicant will be required to expand that RSID-M to include the additional lots of this subdivision. **(Condition#3)**

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. The water is proposed to be absorbed on-site in the ditches along the paved road within the subdivision. The applicant will need to provide MDEQ approval verification before final plat. **(Condition #4)**
- f. **School facilities** – This is a commercial development with no proposal to have residential uses. The development should have minimal impact on local schools.

g. **Parks** – This proposed 16-lot subsequent minor subdivision is not required to provide parkland dedication as it is a commercial subdivision (76-3-621, MCA).

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 was submitted and was approved by the Yellowstone County Weed District on February 2, 2016 for this proposed subdivision.

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 property owners should be made aware that unless they take steps to deter animals such as fencing their property they may experience damage to landscaping and other problems. Paragraph A within the SIA under Conditions That Run With The Land help inform future landowners.

5. Effects on public health and safety

Plans and designs for use of the proposed septic systems will be reviewed and approved by 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 completed in 2009 with the original filing of Cowboy Country Acres, which included the lot that is now being proposed for development of the 2nd Filing. At that time, there were no endangered species identified and comments received by the Montana Fish Wildlife and Parks department confirms there are no known endangered species on the proposed subdivision property.

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

The proposed subdivision conforms to some goals and has some conflicts with some of the goals of the Growth Policy given the mix of residential and commercial uses adjacent to each other in this area.

- **Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns. (p. 6)**

This subdivision will create 16 lots for commercial development, consistent with development immediately to the west and north. The property to the south is single-family residential development and is less compatible with the commercial development in this subdivision.

- **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 for commercial uses. The property to the south is single-family residential development and is less compatible with the commercial development in this subdivision.

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

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

2. 2014 Billings Urban Area Long Range Transportation Plan

The subject property is on the southwest boundary of the study area of the Transportation Plan. The subject property does not have frontage on Neibauer Road. There are other lots along Neibauer Road from the original Cowboy Country Acres Subdivision. The original subdivision provided the needed right-of-way for Neibauer Road. This subdivision has two access points on to Neibauer Road, as well as access to South 70th Street West and South 68th Street West. Both South 70th Street West and South 68th Street West will be constructed to county paved road standards with this subdivision.

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

The subject property is on the southwest boundary of the study area of the BABTMP. There is a Long Range Bike Lane shown on Neibauer Road, but no trail corridors identified inside the proposed subdivision. No improvements are proposed or required with this plat.

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 MDEQ for the use of septic systems, water systems, and storm water systems on this subdivision as stated in the SIA and required by YCSR.

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

The subdivision is outside County's zoning jurisdiction and does not have any zoning regulations placed upon it. The subdivision does have private Covenant, Codes and Restrictions (CCR's) that govern uses, architectural styles and maintenance of property.

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, MDU and Century Link. **(Condition #5)**

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 Neibauer Road to the internal street, Cowgirl Way.

CONCLUSIONS OF FINDINGS OF FACT

- Cowboy Country Acres Subdivision, 2nd Filing, Amended Lot 15A 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 Cowboy Country Acres Subdivision, 2nd Filing, Amended Lot 15A and adoption of the Findings of Fact as presented in the staff report. Staff is not recommending approval of the two variance requests as outlined in Attachment A.

ATTACHMENTS

- A: Variance Request
- B: Aerial view of the property
- C: Preliminary Plat and Associated Documents

Attachment A

Staff Analysis and Recommendation

County Planning, County Public Works, and County Legal staffs have reviewed the two requests from the applicant (See Page 2 and Page 4 of this attachment below) for variances from Section 4.6 (C) (B) (13) and Section 4.6 (A) (3) of the Yellowstone County Subdivision Regulations and are recommending denial.

Variance #1: Section 4.6 (C) (B) (13) All roads within or adjacent to the subdivision shall be paved if they connect to an existing paved road.

The proposed subdivision is dedicating the internal roads to the county and will be creating an RSID-M to maintain them. The applicant is asking to not have to pave the dedicated right-of-way from the intersection of South 68th Street West and Cowgirl Way going south to the south east corner of the subdivision. As stated by county legal, "Failure to pave the 'stub' on 68th at this time would mean that it would likely never be paved. We could never force a potential subdivider to the south of this proposed subdivision to pave something in a different subdivision after making an affirmative decision to allow the current subdivider to not pave on his own property."

Variance #2: Section 4.6 (A) (3) There shall be right-of-way and road connections made when existing roads or platted roads outside of the subdivision connect to the subject parcel.

The second variance request is to not connect to an existing South 70th Street West road section in the subdivision to the south, Linlee Lake Estates. This section of South 70th Street West is already paved in the Linlee Lake Estates Subdivision to the southern edge of the proposed Cowboy Country subdivision. The subdivision regulations require connection to existing streets that abut the subject property from surrounding subdivisions. County Legal Department staff stated that, "Failure to connect to the existing South 70th Street West would defeat the subdivision regulations that provide for connectivity. There are countless commercial and residential subdivisions that use the same street for transportation needs."

To provide connection to existing and future subdivisions, the entire length of South 68th Street West needs to be built and a connection to the existing 70th Street West needs to take place for the benefit of future and existing property owners for the safety and ease of movement through the neighborhoods. Therefore, staff is recommending denial of the proposed variances, and recommends that the Planning Board recommend denial to the Board of County Commissioners.

NORTH STAR LAND SERVICES, P.C.

33 Centennial Road, Columbus, Montana 59019

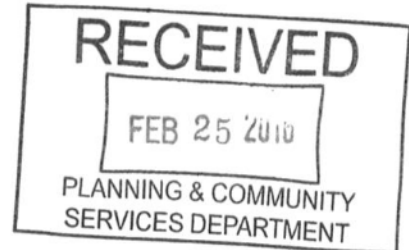
Phone and Fax – (406) 322-9943 Email: nstar0102@gmail.com

Thomas G. Kelly, Land Surveyor

Montana Registration No. 11289 LS

2-22-16

Yellowstone County
City/ County Planning Department
2825 3rd Ave. North, 4th Floor
Billings, MT 59101



RE: Request for Variance, Cowboy Country Acres Subdivision, 2nd Filing
Yellowstone County Subdivision Regulations, Streets and Roads
Section C, Road and Street Performance Standards for Subdivisions
Paragraph 13, Street Surfacing

The request for a variance is from the above referenced regulation asking that we will **not be required** to pave that section of 68th Street West from the intersection of 68th Street West and Cowgirl Way going south and being 408.88 feet in length.

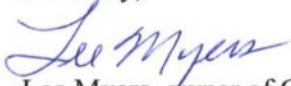
This request satisfies the five findings found in Section 11.1.A of the Subdivision Regulations, which is described below.

- 1) Granting of this variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties because this section of 68th Street West is a dead end and only serves as access for Mr. Meyers to get to his property located southeast of the proposed subdivision. A no access strip is located along the east line of Lot 1, Block 2, therefore there will not be any accesses off of this section of road onto any lot.
- 2) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced. At this point in time this section of road does not provide access to any of the lots, is not a through street and is not part of the main road design for the subdivision.
- 3) The variance will not result in an increase in taxpayer burden because it does not effect anything that would require public finding.
- 4) The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations. This area is located in a non zoned area.

5) The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied. The road design of Cowboy Country Acres Subdivision, 2nd Filing satisfies the requirements of the Yellowstone County Subdivision Regulations for road design and paving this section of 68th Street West will not deviate from meeting these requirements or improving on the traffic flow or safety of the roads within the subdivision. If this section of road, in the future, serves as an access to a another development, then the road will be paved to county standards.

Thank you for you consideration of this variance request and look forward to continuing through the subdivision review and approval process.

Sincerely;



Lee Myers, owner of Cowboy Country Acres Subdivision, 2nd Filing

NORTH STAR LAND SERVICES, P.C.

33 Centennial Road, Columbus, Montana 59019

Phone and Fax – (406) 322-9943 Email: nstar0102@gmail.com

Thomas G. Kelly, Land Surveyor

Montana Registration No. 11289 LS

2-22-16

Yellowstone County
City/ County Planning Department
2825 3rd Ave. North, 4th Floor
Billings, MT 59101

RE: Request for Variance, Cowboy Country Acres Subdivision, 2nd Filing
Yellowstone County Subdivision Regulations, Streets and Roads
Section A, Road Network Performance Standards
Paragraph 4, Proposed roads shall be looped or connected to other roads whenever possible

The request for a variance is from the above referenced regulation asking that we will **not be required** to extend 70th Street West south to intersect with Lakeshore Drive being a street in Linlee Lake Estates Subdivision.

This request satisfies the five findings found in Section 11.1.A of the Subdivision Regulations, which is described below.

- 1) Granting of this variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties because Cowboy Country Acres Subdivision, 2nd Filing road design connects 68th Street West and 70th Street West with a connector street, "Cowgirl Way" which provides a loop road design and proper ingress/egress for the subdivision.
- 2) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced. If we connect 70th Street West and Lakeshore Drive it would be intermixing residential and commercial use via the road design and provide a hardship on the existing residential residents of Linlee Lakes Estates Subdivision.
- 3) The variance will not result in an increase in taxpayer burden because it does not effect anything that would require public finding.
- 4) The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations. This area is located in a non zoned area. Connecting the roads would, however, create a connection between a residential and commercial use that would be detrimental to both uses.

5) The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied. The road design of Cowboy Country Acres Subdivision, 2nd Filing satisfies the requirements of the Yellowstone County Subdivision Regulations for ingress/egress for the subdivision and meet the objectives of keeping residential and commercial uses separate.

Thank you for your consideration of this variance request and look forward to continuing through the subdivision review and approval process.

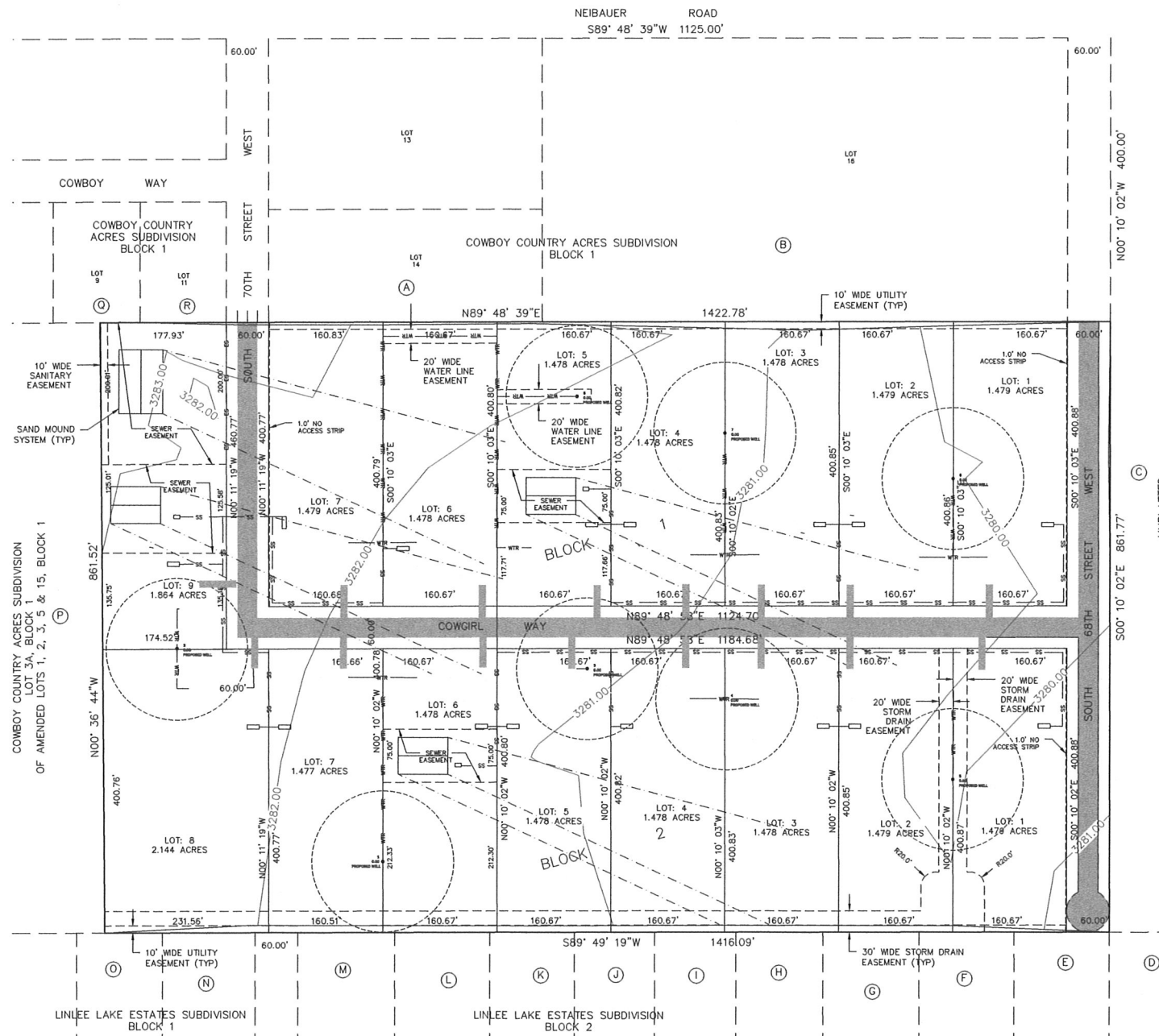
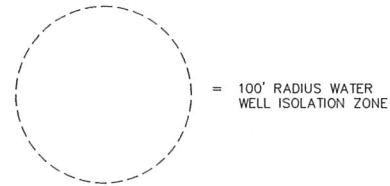
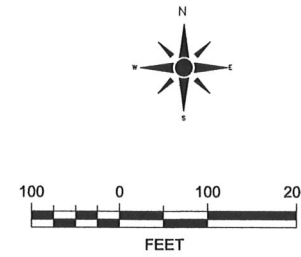
Sincerely;

A handwritten signature in blue ink that reads "Lee Myers". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lee Myers, owner of Cowboy Country Acres Subdivision, 2nd Filing



PRELIMINARY
 COWBOY COUNTRY ACRES SUBDIVISION, 2ND FILING
 BEING LOT 15A OF AMENDED LOTS 1, 2, 3, 5 AND 15, BLOCK 1
 COWBOY COUNTRY ACRES SUBDIVISION
 SITUATED IN THE NW1/4 SECTION 30, T.1S., R.25E., P.M.M.
 YELLOWSTONE COUNTY, MONTANA

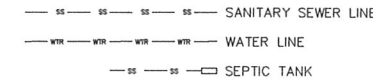


ADJACENT PROPERTY OWNERS

- A) DREW PROPERTY MANAGEMENT LLC
426 SHANE CREEK RD
COLUMBUS, MT 59019-7407
Property Address: COWBOY WAY
EXISTING USE - VACANT LAND RURAL
- B) MYERS, LEE & LINDA E
6848 NEIBAUER RD
BILLINGS, MT 59106-3509
EXISTING USE - AGRICULTURAL RURAL
- C) MCRAE, JOHN D
6740 NEIBAUER RD
BILLINGS, MT 59106-3510
EXISTING USE - RESIDENTIAL RURAL
- D) MYERS, LEE & LINDA E
6848 NEIBAUER RD
BILLINGS, MT 59106-3509
Property Address: 2606 S 64TH ST W
EXISTING USE - AGRICULTURAL RURAL
- E) PHIPPS, BENJAMIN K & KELSEY M
6825 LAKESHORE DR
BILLINGS, MT 59106-4226
Property Address: 6805 LAKESHORE DR
EXISTING USE - VACANT LAND RURAL
- F) PHIPPS, BEN & KELSEY
6825 LAKESHORE DR
BILLINGS, MT 59106-4226
EXISTING USE - RESIDENTIAL RURAL
- G) EASLEY, JONATHAN & JAIME L
6865 LAKESHORE DR
BILLINGS, MT 59106-4226
Property Address: 6845 LAKESHORE DR
EXISTING USE - RESIDENTIAL RURAL
- H) HARADA, NICHOLAS & PAULA
6885 LAKESHORE DR
BILLINGS, MT 59106-4226
EXISTING USE - RESIDENTIAL RURAL
- I) VON EDWINS, JOSEPH A
6905 LAKESHORE DR
BILLINGS, MT 59106-4221
EXISTING USE - RESIDENTIAL RURAL
- J) AYERS, RUSSELL A
6925 LAKESHORE DR
BILLINGS, MT 59106-4221
EXISTING USE - RESIDENTIAL RURAL
- K) JEWETT, NIKKI L
6945 LAKESHORE DR
BILLINGS, MT 59106-4221
EXISTING USE - RESIDENTIAL RURAL
- L) SHAFFER, EDDIE & ROBIN A
6965 LAKESHORE DR
BILLINGS, MT 59106-4221
EXISTING USE - RESIDENTIAL RURAL

ADJACENT PROPERTY OWNERS

- M) MCARTHUR, JAMES K
6985 LAKESHORE DR
BILLINGS, MT 59106-4221
EXISTING USE - RESIDENTIAL RURAL
- N) KIRKPATRICK, DANIEL D & JULIE A
7005 LAKESHORE DR
BILLINGS, MT 59106-4206
EXISTING USE - RESIDENTIAL RURAL
- O) CORMIER, SUZANNE
7025 LAKESHORE DR
BILLINGS, MT 59106-4206
EXISTING USE - RESIDENTIAL RURAL
- P) RIVERSIDE CONTRACTING
5571 ALLOY S
MISSOULA, MT 59808-9622
Property Address: 7100 COWBOY WAY
EXISTING USE - COMMERCIAL RURAL
- Q) MARCIA A HURLBURT REVOCABLE TRUST
5550 WALTER HAGEN DR
BILLINGS, MT 59106-1005
Property Address: 7006 COWBOY WAY
EXISTING USE - VACANT LAND RURAL
- R) BARTHEL, LAWRENCE J & RITA J
2028 SWANSON LN
BILLINGS, MT 59102-7549
Property Address: 7002 COWBOY WAY
EXISTING USE - VACANT LAND RURAL



PLAT DATA

| | | |
|------------------|------|-----------------|
| GROSS AREA | ---- | 28.077 ACRES |
| NET AREA | ---- | 24.697 ACRES |
| NUMBER OF LOTS | ---- | 16 |
| MAXIMUM LOT SIZE | ---- | 2.144 ACRES |
| MINIMUM LOT SIZE | ---- | 1.478 ACRES |
| STREET LENGTH | ---- | 2,447 L.F. |
| PARK LAND | ---- | NONE - PROPOSED |
| EXISTING ZONING | ---- | NONE |
| EXISTING USE | ---- | PASTURE |
| PROPOSED USE | ---- | COMMERCIAL |
| PROPOSED ZONING | ---- | NONE |

