

## FINDINGS OF FACT

The City/County Planning staff has prepared the Findings of Fact for Cowboy Country Acres Subdivision, 2<sup>nd</sup> 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 72<sup>nd</sup> 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 70<sup>th</sup> Street West and South 68<sup>th</sup> 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 68<sup>th</sup> Street West from Neibauer Road to Cowgirl Way will be built to county paved road standards. South 68<sup>th</sup> 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 70<sup>th</sup> 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 70<sup>th</sup> 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 70<sup>th</sup> 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 2<sup>nd</sup> 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 70<sup>th</sup> Street West and South 68<sup>th</sup> Street West. Both South 70<sup>th</sup> Street West and South 68<sup>th</sup> 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, 2<sup>nd</sup> 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, 2<sup>nd</sup> 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