



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



**AGENDA**

March 22, 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: MARCH 8, 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: STAFF AND PLANNING BOARD**
6. **DISCLOSURE OF EX PARTE COMMUNICATION:** Ex Parte Communication Binder is available at the Sign-In and Agenda station.
7. **OLD BUSINESS** (Agenda items that were not discussed or not completed in a previous meeting or items requiring action).
  - a. **PRESENTATION/DISCUSSION BICYCLE PEDESTRIAN ADVISORY COMMITTEE ANNUAL REPORT. JEFFERY BUTTS, BICYCLE PEDESTRIAN COORDINATOR PRESENTING.**

- b. **PUBLIC HEARINGS/PUBLIC HEARING PARTICIPATION GUIDELINES.** The County Planning Board welcomes public input on matters brought before the Board. To ensure a fair and effective public comment process, we ask that you consider the following guidelines when presenting your comments: Address the Planning Board directly. You must state your name and address before commenting. This is an opportunity to explain how you will be affected by the decision and why that is an important consequence. By state law, the Planning Board must consider only certain criteria when reviewing subdivisions (76-3-608(a), MCA). Please see the attached guidelines for the criterion. Thank you for participating!
  
- 1. **PUBLIC HEARING. MOTION/RECOMMENDATION TO BOCC. Cowboy Country Acres Subdivision, 2nd Filing Amd L15A,** Dave Green, Planner II, presenting.
  
- 8. **NEW BUSINESS:** (Agenda items new to this meeting). **THERE IS NO NEW BUSINESS.**
  
- 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, APRIL 12, 2016**

- a. **PUBLIC HEARING. MOTION/RECOMMENDATION. LOCKWOOD BILLINGS & BEYOND.** Candi Millar, Director, Planning & Community Services, presenting.
  
- b. **PLAT REVIEW. DISCUSSION. HIGH SIERRA SUBDIVISION, 11TH FILING,** a R-7000R, 71-lot, City Major Subdivision generally located north of Topanga Ave, High Sierra/Gary Oakland, Developer. Sanderson/Stewart, Engineer. Dave Green, Planner II, presenting.
  
- c. **PLAT REVIEW/DISCUSSION. JOSEPHINE LANDING SUBDIVISION,** 136-lot, City major, Planned Development subdivision, generally located on Elysian Road, east of East Lane, McCall Development, developer. Sanderson/Stewart, Engineer. Dave Green, Planner II, presenting.
  
- d. **PLAT REVIEW/DISCUSSION. COPPER RIDGE 6TH FILING.** A 60-lot, R-7000R, City major subdivision generally located north and west of Copper Ridge Loop and West of Lucky Penny Lane. Copper Ridge Dev./Gary Oakland, developer. Sanderson Stewart/Engineer. Dave Green, Planner II, presenting.

### Public Hearing Participation Guidelines

The County Planning Board welcomes public input on matters brought before the Board. To ensure a fair and effective public comment process, we ask that you consider the following guidelines when presenting your comments: **Address the Planning Board directly. You must state your name and address before commenting.** This is an opportunity to explain how you will be affected by the decision and why that is an important consequence.

1. Be informed of the process and the requirements of the Board. If you are commenting about a subdivision, please limit your comments to the review criteria.

**By state law, the Planning Board must consider only certain criteria when reviewing subdivisions (76-3-608(a), MCA). These criteria include:**

- Effect on agriculture and agricultural water user facilities
- Effect on local services
- Effect on the natural environment
- Effect on wildlife and wildlife habitat
- Effect on public health and safety

2. Provide specific information about why you are concerned about the pending application, how the decision will impact the review criteria listed above, and provide suggestions on how to minimize or eliminate the impact.
3. Respect the right of others to participate. Wait until the previous speaker has completed their comments before making your own comments. Do not talk over the person commenting or with other people in attendance.
4. The public hearing is not an opportunity to question or accuse the applicant or their agent. If you have questions of the Board, the applicant or the agent, ask the question directly to the Board during the public hearing portion of the meeting. The Board will respond or request the applicant or agent to respond after the public comment portion of the hearing is closed.
5. After the public comment portion of the hearing is closed, no further comments are allowed unless you are addressed directly by a Board member.
6. You should expect the Board to make a balanced recommendation in accordance with its statutory responsibilities. The Board's ability to make reasonable and thoughtful recommendations is dependent on a fair consideration of everyone's interests.

*Thank you for participating.*

**Planning Board Meeting 2 (4th Tuesday)**

**Meeting Date:** 03/22/2016

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**Information**

**Subject**

**MOTION/APPROVAL OF MEETING MINUTES: MARCH 8, 2016**

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**Attachments**

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# CITY/COUNTY PLANNING BOARD

*“Serving Billings, Broadview and Yellowstone County”*

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**March 8, 2016**

*Draft-To be approved by a motion on March 22, 2016*

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## **1. Call the Meeting to Order**

President Darell Tunnicliff called the meeting to order at 6:00 p.m. on Tuesday, March 8, 2016, in the Miller Building 1<sup>st</sup> Floor conference room, 2825 3<sup>rd</sup> Avenue North, Billings, Montana.

### **Introduction of Planning Board Members and Planning Department Staff**

President Tunnicliff called for introductions of the members of the Planning Board and staff. Attending Planning staff members were: Candi Millar, Director, Planning and Community Services; Wyeth Friday, Planning Division Manager; Robbin Bartley, Administrative Assistant; Darin Swenson, Yellowstone County Public Works.

**Attending:** Tom Kelly, North Star Land Services and Lee Myers, 6848 Niebauer Rd, Billings, MT

## **2. Approval of the Agenda**

### Motion

**Dave Goodridge made a motion and it was seconded by Dennis Cook to approve the March 8, 2016 agenda as submitted. The motion carried with a unanimous voice vote.**

## **3. February 23, 2016 meeting minutes.**

### Motion

**Donna Forbes made a motion and it was seconded by Clint McFarland to approve the amended February 23, 2016 meeting minutes. The motion carried with a unanimous voice vote. Patrick Klugman noted these corrections: On Page 15, the voting is incorrect, Troy Boucher’s vote is not accounted for. Troy Boucher was in favor, so noted and amended to minutes.**

- 4. Public Comment:** President Tunnicliff 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.

## **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.

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Board Member Dave Goodrich stated that he works for Mr. Lee Myers, the applicant for Cowboy Country Acres Subdivision, and therefore would exclude himself regarding any discussion of Cowboy Country Acres Subdivision, 2<sup>nd</sup> Filing.

**7. OLD BUSINESS:** There is no old business.

### **8. NEW BUSINESS**

#### **8a. Plat Review/Discussion. Cowboy Country Acres Subdivision 2<sup>nd</sup> Filing, Amended Lot 15A, Dave Green, Planner II, presenting**

President Tunncliff asked Planning Division Manager Wyeth Friday in Dave Green’s absence, to open this agenda item. Wyeth opened this agenda item with a PowerPoint presentation.

#### **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 2<sup>nd</sup> 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 south east intersection of Neibauer Rd. and South 72<sup>nd</sup> 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, Amended Lot 15A, and adopt the Findings of Fact as presented in the staff report.

#### **VARIANCES REQUESTED**

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.**

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## **PROPOSED CONDITIONS OF APPROVAL**

Planning staff recommends the following conditions of approval:

1. To ensure public health and safety measures 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 roads 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 fire suppression system the applicant will expand the existing RSID-M for the dry hydrant facilities in Cowboy Country Subdivision.
4. To ensure public health and safety measures prior to final plat approval, the applicant will obtain MDEQ approval for the storm drainage system in the subdivision.
5. To ensure access for public facilities in the subdivision 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 Rules of the State of Montana.

## **Discussion**

President Tunncliff called for questions and discussion from the members of the Board. Donna Forbes asked if 70<sup>th</sup> Street West would eventually going through. Wyeth explained that the owner’s variance request was to not have 70<sup>th</sup> Street West go thru and connect to the existing road in Linlee Lakes Subdivision to the south..

Patrick Klugman asked for clarification as to which variance Donna was referring to. Wyeth stated that it is variance #2. The first variance is regarding the paving of 68<sup>th</sup> Street West and the second variance is regarding connecting 70<sup>th</sup> Street West to the south.

Darell asked how connecting the new commercial subdivision to the existing residential subdivision on the south might impact the traffic through the current residential subdivision. He asked if trucks would be driving through the residential streets? Planning staff explained that while no traffic study had been completed, it appeared more likely that there would be residential traffic heading north from the residential subdivision to Neibauer and less likely that very much commercial traffic would travel south on 70th Street West and through the residential subdivision out to 72nd Street West. Darell also asked if there would be a negative impact on the residential area with the connection completed. Planning staff stated there would likely be minimal negative impact to the residential area.

Donna asked if 68th Street West was also going to extend to the south past the subject property? Planning staff explained that it is not intended to go through at this time, but that when Linlee Lake Estates Subdivision was platted it was expected

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that further development might occur to the east of the subdivision and connections would be reviewed at that time.

### **Applicant/Agent**

#### **Tom Kelly, North Star Land Services, 33 Centennial Rd, Columbus, MT**

Mr. Kelly is the surveyor and Mr. Meyers' representative on this project. He stated the DEQ application was currently in Helena for review and that it was planned that 68th Street West would be paved from Neibauer Road to Cowgirl Way as the developer intended to have a loop road from 68th Street West to 70th Street west in the subdivision. Regarding the variance requests for connecting 70th Street West, Mr. Kelly stated it would be dangerous to the residential neighbors to the south to have 70th Street West connected because it would open a road into a commercial development. The commercial development and traffic would not be a safe environment for kids or pedestrians. Kelly explained that the access road on 68th Street West will be used by the owner, Mr. Meyers, to access property owned in that area. The variance is requested because 68th Street West is not going anywhere at this point in time, Kelly stated. He said his argument is that the County could require the paving of 68th Street West if, in the future, the area were to go through the subdivision process. Kelly said that if the variance were granted the section of road in question would be brought up to road specifications, graveled etc. but not paved at this time.

Lisa asked who owns the property in the southeast corner and how this area is accessed. Mr. Kelly explained that the area may be accessed by 68<sup>th</sup> or 64<sup>th</sup> Street West. He said Mr. Meyers has a sand and gravel company on this property now.

Patrick asked if Mr. Meyers' property on the southeast corner could be developed into a residential area in the future. Mr. Kelly explained that currently there is no zoning in this area. He also showed access scenarios if it should become a residential area in the future.

Patrick confirmed with Mr. Kelly that he had not seen or was aware of the County's legal stance on the paving of 68<sup>th</sup> Street West. Patrick then read the County Legal staff's statement aloud. "Failure to pave the stub on 68<sup>th</sup> Street West at this time would mean that it would likely never be paved. We would never force a potential sub divider to the south of this proposed subdivision to pave something in a different subdivision after making an affirmative decision to allow the current sub divider to not pave on his own property." Mr. Kelly asked if that meant the paving could not be forced in the future. Patrick confirmed that he understood from the staff comments that to be correct. Mr. Kelly stated his disagreement with that. He further stated that there are public safety issues that could condition the road be paved in a future subdivision. Patrick asked if it wouldn't make sense to pave it now and it be complete. Mr. Kelly voiced his problem with paving a street that goes nowhere. Without upkeep and maintenance the street will deteriorate. Kelly said.

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Jared asked Mr. Kelly about the possibility of a binding agreement for paving in the future should the southeast corner be developed. Candi addressed the issue of a future subdivision being conditioned to pave 68<sup>th</sup> Street West. She said public health and safety, and impact to local services, are valid reasons for a possible condition. The Board could, at that time, make a recommendation for that condition. However, she cautioned that the County Commission very rarely recommends offsite improvements.

Darell stated that it was the decision of the developer to place residential next to commercial, even though Mr. Kelly’s statement was in opposition to it. Darell went on to say that the developer has put the burden on the County Commissioners to mitigate a problem caused by this development.

### **Lee Myers, 6848 Neibauer Rd, Billings, Montana**

Mr. Myers is the property owner. He stated that neighbors along Lakeshore Drive in the Linlee Lake Estates Subdivision do not want 70<sup>th</sup> Street West to connect and be paved. He said they are concerned about commercial trucks using the road.

Patrick asked if all surrounding property owners have been notified. Candi confirmed that adjacent property owners are notified as per the regulations. Patrick then reminded Mr. Meyer’s that those parties can attend the meeting for the public hearing in two weeks for comment.

Darrel questioned what the intention was regarding the subdivision to the south when the stub of 70<sup>th</sup> Street West was cut in and platted. He asked if it was anticipated at that time that the property to the north would be residential? Staff explained that it was not clear what the development to the north would be at the time of the Linlee Lake Estates Subdivision platting and the area is not zoned.. Staff stated that while it was not known at that time if the adjacent property would be commercial or residential since there is no zoning in the area, the need for connectivity between the large parcels and developments in the area was the main reason the connection was platted. . Darrel asked whether the need for the connection outweighed the public safety issues of commercial traffic in a residential area. Staff said that without a traffic study there is no way to know exactly how much commercial traffic would use the road connection in the residential area. Staff also noted that there are no pedestrian facilities in either the existing or proposed subdivision.

Darrel stated that there is no action required at this meeting and a public hearing for Cowboy Country Acres Subdivision 2nd Filing, Amended Lot 15A would be held at the Planning Board meeting on March 22.

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**8b. Presentation/Discussion. Growth Policy Scenarios. Candi Millar, Director, Planning & Community Services Department.** President Tunnick asked Ms. Millar to present this agenda item and she opened this agenda item with a PowerPoint presentation.

Candi Millar disclosed there had been a Growth Policy Public Meeting in Lockwood on March 3, 2016 and that all the Planning Board members had not been notified because staff was unaware they were not notified automatically through CivicSend. She apologized for this oversight and said it would be taken care of. Patrick Klugman spoke up and said that he had been notified.

This Growth Policy is focusing on 3 areas: the City of Billings, land use in Lockwood and the rural part of the County. In Lockwood, emphasis was placed on future zoning compliancy with the Growth Policy and how important compatible zoning is. A Growth Policy needs to be adopted in order to guide land use decisions in the future.

### **Outline of PowerPoint Presentation**

**2016 Lockwood Growth Policy  
Yellowstone County Planning Board  
March 8, 2016**

**A 20-Year Vision  
Candi Millar, AICP  
Director, Planning & Community Services Department**

Slide 1 - Population Projections

Slide 2 - Proposed Land Use

Slide 3 - Proposed Land Use - Examples

Small Town Center

Residential Density ~6 d.u./ac.

Slide 4 - Proposed Land Use -Examples

Residential Density ~ 3 d.u./ac.

Residential Density ~10 d.u./ac.

Slide 5 - Proposed Land Use - Examples

Slide 6 - DRAFT Growth Policy Statement

“Lockwood is a community that will evolve with a Main Street-style TOWN CENTER surrounded by a range of housing options that support and sustain, both fiscally and socially, the community investments in schools, public water and sewer, transportation,

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recreation, and public safety while providing economic opportunities in general commercial and light and heavy industry businesses in areas shown on the preferred land use map.”

### Slide 7 - DRAFT Growth Policy Guidelines

- The existing zoning of R-15,000 *may* be changed to higher densities of 7 - 10 dwelling units per acre.
- The existing zoning of R-9,600 *may* be changed to higher densities of 4 - 6 dwelling units per acre.
- A mixed-use zoning district *may* be applied to properties within the area designated as the TOWN CENTER
- Consider constructing private and public improvements to higher design standards in the more densely developed area
- Take into account pedestrian safety when designing private and public infrastructure
- Industrial development *may* be located along existing and proposed transportation corridors north of the interstate
- A Targeted Economic Development District (TEDD) *may* be used to foster secondary, value adding economic development. Properties within the general area of the TEDD may be initially zoned as agriculture with the intent to rezone to an industrial zoning district when and if the TEDD is implemented.
- Consider connectivity and convenient access for all users when designing future road network
- The County Floodplain Regulations *may* be the best regulatory tool to protect the floodway and flood fringe.

### **Discussion**

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

Darell mentions that he struggles with why we continue to put industrial zoning next to the Yellowstone River. The Yellowstone is the longest free flowing river in the nation and we continue to put industrial property next to it and subject it to industrial accidents. Secondly, our criteria is to promote wildlife and this is one of the most pristine areas in the county as far as wildlife. It strikes him as unusual from an aesthetics viewpoint that we would select that particular piece of property which is a gateway into our community as an industrial area. Candi replied that is exactly why floodplain regulations protect the area. It is our only tool for protecting it. Adding both floodplain and zoning would provide a modicum of protection. Darell states that he simply disagrees.

Dave’s concern is the word “industrial” from a real estate point of view; it promotes the wrong image. The railroad set in motion the development of that portion of land. Commerce is a better word than industrial, light commercial or large warehousing.

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Darell would like to add aesthetics into the planning not just zoning, a layer of aesthetic value. Candi talked about entryway higher design standards for aesthetics purposes. Darell asked for some middle ground as to what these areas could be called other than industrial. Candi said she will look into it as far as what the statute allows. This plan is trying to address the statutory requirements for the Targeted Economic Development District (TEDD). We could call it something other than heavy industrial. Darell feels what it is called is less important than how it is defined.

Donna Forbes ask if there is a Yellowstone River Association. She refers to Great Falls and their river frontage preservation. Candi replied the Yellowstone River Protection Association is organized to preserve land along the river. There are not a lot of tools to protect the land along the river. One tool that may be considered is to recommend an overlay district in the vicinity of the TEDD to require protection of habitat and require more landscaping. A Growth Policy guideline could be added to the effect: “A zoning overlay district may be used along the river to protect wildlife habitat and other natural resources.”

Wyeth added that one of the entryway zonings is entryway light industrial and has much more robust landscape requirements. Would the board like us to add a guideline that addresses wildlife conservation and habitat?

Dave liked the idea of developing a guideline. He stated his real estate clients are looking for 10-20 acre parcels that are close to infrastructure. Darell would like to see different restrictions for north of the railroad verses south of the railroad.

Darell wants to see staff do the research and due diligence to address some guidelines for our river and wildlife.

Donna explains that there are other communities that have preserved their treasures and natural resources.

Candi stated that staff will come back with an additional guideline that addresses these issues. Candi expressed her appreciation for all the input and emphasized that it is not regulatory but it would permit future regulations if the County was so inclined.

### **8c. Presentation/Discussion. Lockwood/Billings & Beyond. Candi Millar, Director, Planning & Community Services Department, presenting.**

President Tunncliff asked Ms. Millar to open this agenda item.

Next Wednesday on March 16, 2016 from 4-6pm at the Library we are going to be talking about the scenario planning phase of the City of Billings. It is very interesting. **We wish to give the people some rational information to create a Growth Policy Statement.**

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Slide 1 - 2016 City of Billings Growth Policy

Yellowstone County Planning Board

March 8, 2016

Slide 2 - Scenario Planning Phase

Slide 3 - The Planning Process

Slide 4 - Scenarios Examined

Slide 5 - **Infill and Contiguous Parcels**

- Residential densities and land use determined from existing zoning

Slide 6 - **North Growth Area**

- Public Preferred – mixed densities
- Low Density – 2-4 du/ac
- High Density – 12-20 du/ac

Slide 7 - **West Growth Area**

- Public Preferred – mixed densities
- Low Density – 2-4 du/ac
- High Density – 12-20 du/ac

Slide 8 - Indicators Analyzed

- **Community Parks** (3 mile radius from existing and hypothetical community parks)
- **Walkability** (1 mile radius from existing and hypothetical elementary schools)
- **Fire Station Coverage** (5-minute drive time from existing and hypothetical fire stations)
- **Bus Routes** (hypothetical bus routes to serve new growth \* operation costs)
- **Branch Libraries** (number needed per capita)
- **New Arterials and Collectors** (construction cost of new roads per mile)
- **Garbage Pick-Up** (distance from housing unit to landfill \* operating cost of truck)
- **Property Tax and Assessment Revenues** (property tax and assessments generated on a per unit basis)
- **Farmland preservation**

Slide 9 - Infill and Contiguous Parcels

Slide 10 - North Preferred

Slide 11 - North Low Density

Slide 12 - North High Density

Slide 13 - West Preferred

Slide 14 - West Low Density

Slide 15 - West High Density

Slide 16 - Scenarios Ranked by Costs

- West High Density - \$50,058,005
- West Preferred - \$66,391,470

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- Infill and Adjacent Parcels - \$75,440,631
  - North High Density - \$81,367,770\*
  - West Low Density - \$85,988,822
  - North Preferred - \$119,067,770\*
  - North Low Density - \$126,656,689\*
- \* Preserve farmland

## Slide 17 - Scenarios Ranked by Tax Generated

X units \* average annual property tax for density = total property tax generated at buildout

	e.g.	
10,000 low density units	* \$1,300/year	= \$13,000,000
25,000 medium density units	* \$1,100/year	= \$27,500,000
<u>15,000 high density units</u>	<u>* 400/year</u>	<u>= \$ 6,000,000</u>
50,000 total units		= \$46,500,000

Slide 18 - Given this analysis, what growth guidelines would you recommend for Billings in the next 20 years?

- Compact or dispersed development pattern?
- High, low or mixed densities?
- Mostly infill, mostly north, or mostly west direction?

\*\*The clerk will send this info slide to all board members.

Candi will be asking this Board to help draft guidelines for the City’s growth. The guidelines may be as simple or elaborate as it desires regarding subdivisions, transportation and more.

This Growth Policy will guide the Annexation Policy among other City policies. Since 2004, when we adopted the Annexation Policy, we have been able to manage annexations. It has proved to be very cost effective. The hope is this Growth Policy does the same thing by giving some direction to land use policies and regulations.

The east and south are not being considered, why? The infill scenario addresses some of the surrounding properties to the east and south. During the public comment phase, nobody wanted to go south or east.

By April, a draft of the vision statement and policy guidelines should be complete. Candi is also working with the Steering Committee and several other focus groups. Eventually we will have to come to some consensus on these statements and guidelines.

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Wyeth talked about the Suburban Subdivision Regulation Special Committee. 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. Some developers and design professionals have been contacted and have agreed to participate. Candi recently invited the City Council and Commissioners to recommend someone from those bodies to participate.

The first meeting will be Wednesday March 30, 2016 @ 3:30pm---please notify the board members. Dave asked if we need someone from a state legislative perspective. Wyeth stated that he thought the committee would be addressing things that could be addressed locally.

9c. Standing Item. Staff update. Long Range Strategic Issues and an overview of future City and County issues and projects. – Nothing presented.

ADJOURNMENT: 8:15 p.m.

ATTEST: DRAFT. To be approved by a motion on March 22, 2016

### **FUTURE AGENDA ITEMS FOR TUESDAY, MARCH 22, 2016**

a. PUBLIC HEARING. MOTION/RECOMMENDATION TO BOCC. Cowboy Country Acres Subdivision 2<sup>nd</sup> Filing, Amended Lot 15A. County Major Subdivision, Dave Green, Planner II, presenting.

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



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



**Planning Board Meeting 2 (4th Tuesday)**

**Meeting Date:** 03/22/2016

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**Information**

**INTRODUCTION**

On February 1, 2016, Tom Kelly of North Star Land Services on behalf of property owner Lee Myers applied for preliminary major plat approval for Cowboy Country Acres Subdivision, 2<sup>nd</sup> 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 72<sup>nd</sup> St. West. The property is outside the zoning jurisdiction and commercial and light industrial uses are proposed. The Yellowstone County Board of Planning reviewed the plat at its March 8, 2016 meeting and will 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, 2<sup>nd</sup> 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.

**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. For further explanation and analysis, and to read the applicant's variance request justifications, please see Attachment A.

**DISCUSSION/STAKEHOLDERS**

A brief presentation was given by staff and the floor was opened to the Board for questions. There were questions from the Board regarding the requested variances to not connect 70<sup>th</sup> Street West and to not pave 68<sup>th</sup> Street West south of the intersection of Cowgirl Way.

Board Member Donna Forbes asked if 70<sup>th</sup> Street West would eventually be going through north south from the subject property to the subdivision to the south. Planning staff explained that the owner's variance request was to not have 70<sup>th</sup> Street West go through and connect to the existing road in Linlee Lake Estates Subdivision south of the subject property. Board Member Patrick Klugman asked for clarification as to which variance Donna was referring to. Planning staff clarified that Variance #2 is the one addressing the connection of 70<sup>th</sup> Street West, while Variance #1 is regarding the paving of 68<sup>th</sup> Street West south of Cowgirl Way.

Board President Darell Tunncliff asked how connecting the new commercial subdivision to the existing residential subdivision on the south might impact the traffic through the current residential subdivision. He asked if trucks would be driving through the residential streets? Planning staff explained that while no traffic study had been completed, it appeared more likely that there would be residential traffic heading north from the residential subdivision to Neibauer and less likely that very much commercial traffic would travel south on 70<sup>th</sup> Street West and through the residential subdivision out to 72<sup>nd</sup> Street West. Darell also asked if there would be a negative impact on the residential area with the connection completed. Planning staff stated there would likely be minimal negative impact to the residential area.

Board Member Forbes asked if 68<sup>th</sup> Street West was also going to extend to the south past the subject property? Planning staff explained that it is not intended to go through at this time, but that when Linlee Lake Estates Subdivision was platted it was expected that further development might occur to the east of the subdivision and connections would be reviewed at that time.

President Tunncliff asked if the applicant or agent would like to address the board. Mr. Tom Kelly, agent for the applicant, stated the DEQ application was currently in Helena for review and that it was planned that 68<sup>th</sup> Street West would be paved from Neibauer Road to Cowgirl Way as the developer intended to have a loop road from 68<sup>th</sup> Street West to 70<sup>th</sup> Street west in the subdivision. Regarding the variance requests for connecting 70<sup>th</sup> Street West, Mr. Kelly stated it would be dangerous to the residential neighbors to the south to have 70<sup>th</sup> Street West connected because it would open a road into a commercial development. The commercial development and traffic would not be a safe environment for kids or pedestrians.

Kelly explained that the access road on 68<sup>th</sup> Street West will be used by the owner, Mr. Meyers, to access property owned in that area. The variance is requested because 68<sup>th</sup> Street West is not going anywhere at this point in time, Kelly stated. He said his argument is that the County could require the paving of 68<sup>th</sup> Street West if, in the future, the area were to go through the subdivision process. Kelly said that if the variance were granted the section of road in question would be brought up to road specifications, graveled etc. but not paved at this time.

Board Member Lisa Sukit asked who owns the property in the area Southeast of 68<sup>th</sup> Street West and the proposed subdivision and how this area is accessed. Kelly explained that the area may be accessed by 68<sup>th</sup> or 64<sup>th</sup> Street West. He said Mr. Meyers has a sand and gravel company on this property now.

Board Member Klugman asked if Mr. Meyers' property could be developed into a residential area in the future. Mr. Kelly explained that currently there is no zoning in this area. He also showed access scenarios if it should become a residential area in the future that he believed would go to the east and not up 68<sup>th</sup>

Street West. Board Member Klugman read to Kelly the County statement regarding the need to pave the road at this time. Kelly asked if that meant the paving could not be forced in the future. Board Member Klugman confirmed that this appeared to be correct. Mr. Kelly voiced that his problem is you would be paving a street that goes nowhere.

Board President Tunnickliff stated that it was seemingly the decision of the developer to place residential next to commercial even though Mr. Kelly's statement was in opposition to it. President Tunnickliff added that in asking for the variance for the road connection to the subdivision to the south they have put the burden on the County Commission to mitigate a problem caused by them.

Property owner Lee Myers stated that he had talked to property owners in Linlee Lake Estates Subdivision and the neighbors did not want 70<sup>th</sup> Street West to connect and be paved. He said they are concerned about commercial trucks using the road.

Board Member Klugman asked staff if all surrounding property owners have been notified for the public hearing on this application on March 22. Staff confirmed that all adjacent property owners are notified of the public hearing.

Board President Tunnickliff questioned what the intention was regarding the subdivision to the south and whether when the stub of 70<sup>th</sup> Street West was cut in and platted if it was anticipated that the property to the north would be residential? Staff stated that while it was not known at that time if the adjacent property would be commercial or residential since there is zoning in the area, the need for connectivity between the large parcels and developments in the area was the main reason the connection was platted. Board President Tunnickliff asked whether that need for the connection outweighed the public safety issues of commercial traffic in a residential area. Staff said that without a traffic study there is no way to know exactly how much commercial traffic would use the road connection in the residential area. Staff also noted that there are no pedestrian facilities in either the existing or proposed subdivision.

Board President Tunnickliff stated that there is no action required at this meeting and a public hearing for Cowboy Country Acres Subdivision 2nd Filing, Amended Lot 15A would be held at the Planning Board meeting on March 22.

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## **Attachments**

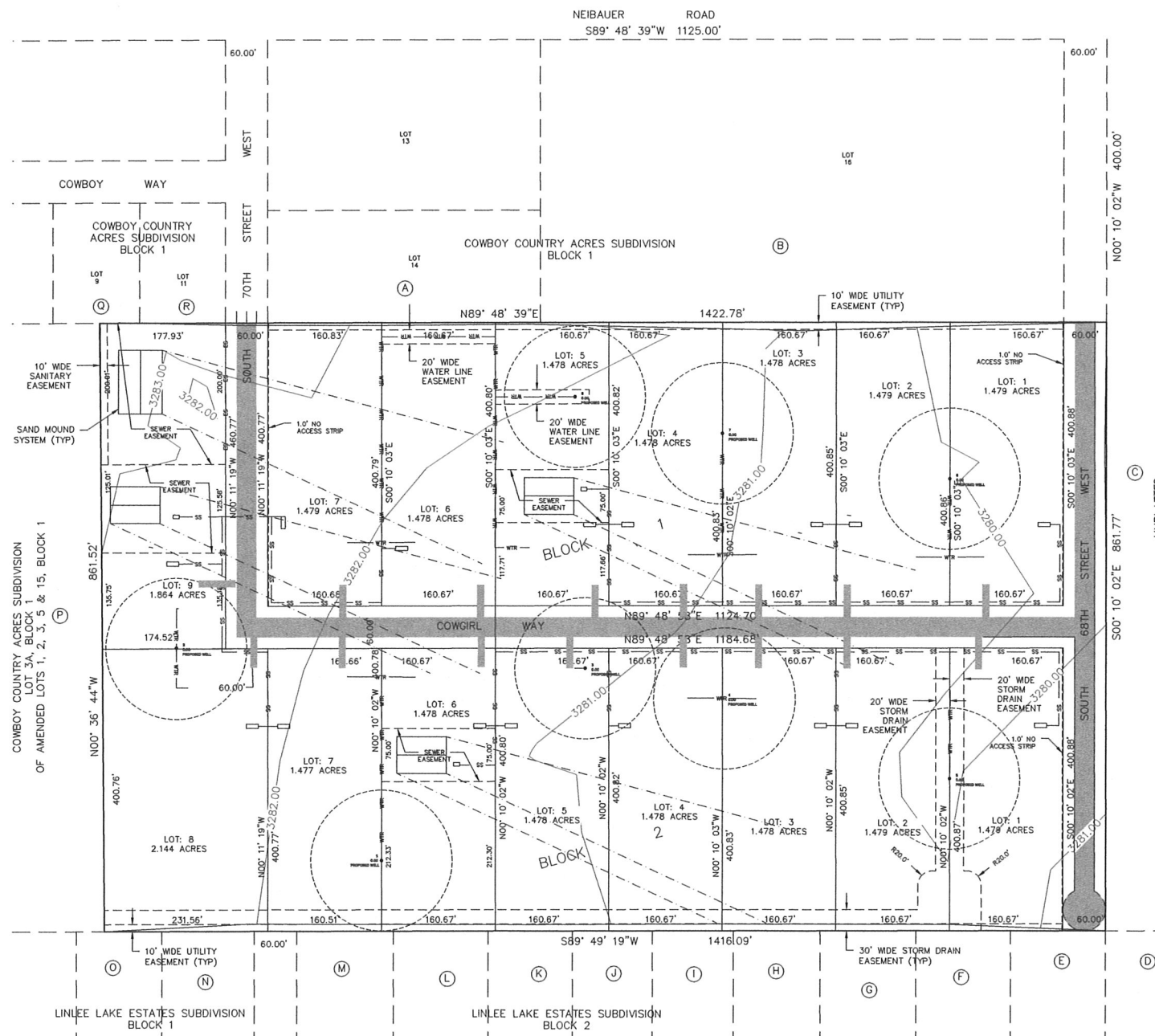
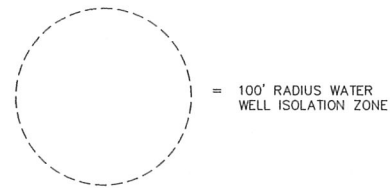
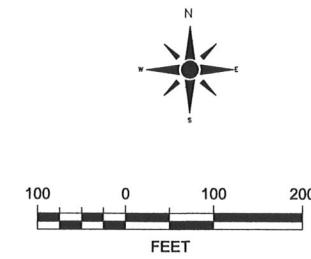
Proposed Plat

Variance

Findings of Fact

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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



## 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 68<sup>th</sup> 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 70<sup>th</sup> Street West road section in the subdivision to the south, Linlee Lake Estates. This section of South 70<sup>th</sup> 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 70<sup>th</sup> 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 68<sup>th</sup> Street West needs to be built and a connection to the existing 70<sup>th</sup> 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.

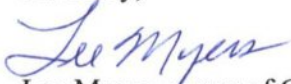
This request satisfies the five findings found in Section 11.1.A of the Subdivision Regulations, which is described below.

- 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 written in a cursive style with a long horizontal flourish extending to the right.

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



## 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