



# CITY/COUNTY PLANNING BOARD

*“Serving Billings, Broadview and Yellowstone County”*

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**March 22, 2016**

*Draft-To be approved by a motion on April 12, 2016*

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

President Darell Tunnickliff 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 Tunnickliff called for introductions of the members of the Planning Board and staff. Attending Planning staff members were: Wyeth Friday, Planning Division Manager; Dave Green, Planner II; Jeffery Butts, Alternative Modes Coordinator; Darin Swenson, Yellowstone County Public Works.

**Attending:** Dianne Johnson, Carroll W. Johnson, Steve Haley, Heather Haley, Julie Kirkpatrick; Dan Kirkpatrick; Chuck Cashmore, Kathleen Cashmore, Karen Campbell, Paula Harada, Jennifer Brietbach; Jennifer Hoffman, Julia Aasen; Jeff Nitzcake; Ben Phipps, Ed Gulick, BPAC; Kristy Drake, BPAC; Tom Kelly, North Star Land Services; Lee Myers, Applicant

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

### **Motion**

**Board member Saldivar made a motion and it was seconded by Board member McFarland to approve the March 22, 2016 agenda as submitted. The motion carried with a unanimous voice vote.**

## **3. March 8, 2016 meeting minutes.**

### **Motion**

**Board member Forbes made a motion and it was seconded by Board member Klugman to approve the March 8, 2016 meeting minutes as submitted. The motion carried with a unanimous voice vote.**

- 4. 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.

## **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. Dave Green provided a letter to the Board from Citizen Byron LaRue , 7045 Lakeshore Drive, Billings, Montana in opposition to Cowboy Country Acres Subdivision 2<sup>nd</sup> Filing, Amended Lot 15A .

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### **7. OLD BUSINESS:**

#### **7a. Presentation/Discussion. Bicycle Pedestrian Advisory Committee, BPAC Annual Report. Jeffery Butts, Bicycle Pedestrian Coordinator presenting.**

President Tunncliff asked Jeffery Butts to open this agenda item. He gave a brief introduction and introduced BPAC Planning Board representative Ed Gulick and BPAC Vice chair Kristy Drake. Ed Gulick stated their primary task is to identify barriers to safe walking or bicycling throughout Billings and Yellowstone County. He continued and stated bicycle and pedestrian facilities ensure safety, health, and quality of life; which builds a more attractive community. He comments on off street trail use and statistics for pedestrians and bicyclists. He pointed out a disproportionate number of pedestrians have been severely injured or involved in fatalities when compared to the number of trips and commented on a recent bicyclist fatality on 6<sup>th</sup> Avenue. He stressed the need for infrastructure and education.

Kristy Drake noted the 2015 BPAC activities including providing letters of support and meetings with the City Engineering Division to work on the Zimmerman/Poly intersection signalization. BPAC supported the “Take the Hi Road” etiquette campaign and are working on avenues to place bike parking in public areas.

#### **Discussion**

President Tunncliff noted the statistical increase in fatalities and injuries and asked if the type of intersection is a contributor. Ed Gulick said often times motorists are not complying with right-of-way rules, especially when making left turns. President Tunncliff asked if there is a common cause and commented on the need to identify the problem and find an equitable solution. Board member Forbes asked why the bike lane was located on Lewis Avenue as it seems to be too narrow and presents opportunities for accidents. Kristy Drake said Lewis Avenue was selected due to the need for an east-west route. Board member Klugman commented he had expected “Connectivity” to be more prominent in the BPAC word cloud. He asked about collaboration with developers and if BPAC works on extending the Marathon Loop. Kristy Drake clarified and said subdivision review is outside their scope and it is addressed through the Bicycle and Pedestrian Coordinator. BPAC provides information only and is not an advocacy group. Ed Gulick said they plan to give another update at a future meeting and Kristy Drake provided her e-mail address to the board: [kristi@bilingstrailnet.org](mailto:kristi@bilingstrailnet.org)

#### **7b. Public Hearing/Motion and Recommendation to BOCC. Cowboy Country Acres Subdivision 2<sup>nd</sup> Filing, Amended Lot 15A, Dave Green, Planner II, presenting**

President Tunncliff asked Dave Green to open this agenda item. Dave Green 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

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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 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.

### **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.

### **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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### **Discussion**

President Tunnick called for questions and discussion from the members of the Board. There was none. President Tunnick reviewed the public hearing process and asked for respectful participation from citizens.

### **Public Hearing: (6:36 p.m.)**

#### **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. 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. Mr. Kelly explained that Mr. Meyers, will use the access road on 68th Street West to access property owned in that area, The variance is requested because 68th Street West is not going anywhere at this point in time. 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. 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.

### **Discussion**

President Tunnick asked if this developer was aware of the residential subdivision to the south and Mr. Kelly explained a precedent was set as the first filing of the subdivision was approved while Linlee Lakes Subdivision was already there. Board member Boucher asked about paving 68<sup>th</sup> Street west and Mr. Kelly explained the road will be built to County standards but not paved at this time.

#### **Jennifer Hoffman, 2650 Sage Springs Road, Billings, Montana**

Ms. Hoffman said there are about 33 children residing in the homes adjacent to this subdivision. Ms. Hoffman voice concern with extending the road through to the Linlee Lakes subdivision and suggested installing a breakaway gate with emergency access only. Ms. Hoffman does not want any access from the commercial subdivision to the residential subdivision. Ms. Hoffman said the homes in the Linlee Lake Subdivision range in values from \$350,000-\$400,000 and this will affect the values of their homes. She asked for the developer to construct a separation berm with trees and landscaping to break the view.

#### **Dan Kirkpatrick, 7005 Lakeshore Drive, Billings, Montana**

Mr. Kirkpatrick concurred with Ms. Hoffman's comments. He said this proposed land

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use is commercial industrial and he stressed the need to manage the effects the commercial uses on their residential development.

### **Wade Johnson, 6930 Lakeshore Drive, Billings, Montana d**

Mr. Johnson said the children play in the streets. He stated it is only common sense the commercial industrial uses should be an island and not have access to the residential subdivision.

### **Paula Harad, 6885 Lakeshore Drive, Billings, Montana**

Ms. Harad stated she is a nine year resident of Linlee Lakes subdivision and has two children. She asked that the connections to the commercial areas be not allowed.

### **Kathleen Chasmore, 955 Delphinium, Billings, Montana**

Ms. Chasmore is a realtor. She said she agrees with the comments made this evening. She said Riverside Sand and Gravel have failed to meet their agreement for a barrier and have created an eyesore. She asked that landscape berms be constructed to protect this residential community. She said from a real estate standpoint, the property values will be lowered and affect the resale of homes with this commercial property. She asked the Board to preserve and enhance the existing community.

### **Jennifer Breitbach, 7135 Lakeshore Drive, Billings, Montana**

Ms. Breitbach said her property abuts this Riverside Sand and Gravel and she is planning to make a large expenditure to invest in tresses and landscaping as a buffer. She said a connection to the subdivision will increase truck traffic and create a safety hazard.

### **Julia Aasen, 6990 Lakeshore Drive, Billings, Montana**

Ms. Aasen said there is no place for children to play as there are no sidewalks or trails in the neighborhood.

### **Ben Phipps, 6825 Lakeshore Drive, Billings, Montana**

Mr. Phipps asked the developer construct a barrier between the residential and commercial uses. He voiced concern with directing traffic through the residential area and ensuring children’s safety. Mr. Phipps said he moved to this neighborhood to avoid commercial traffic.

### **Brent Wood, 7165 Lakeshore Drive, Billings, Montana**

Mr. Wood stated there are seventeen residences with children adjacent to this subdivision to 72<sup>nd</sup> Street West. Mr. Wood said it is pointless to build 70<sup>th</sup> Street West as there already two access points to 72<sup>nd</sup> Street West.

President Tunnicliff called for rebuttal.

### **Rebuttal**

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

Mr. Kelly said he has no further comments. Board member Klugman asked for

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clarification on Variance #1 and if there could be an access if the property to the east is developed. Mr. Kelly explained the variance request.

### **Jennifer Hoffman, 2650 Sage Springs Drive, Billings, Montana**

Ms. Hoffman noted the three cul-de-sacs will not go to 68<sup>th</sup> Street West, and said the residents pay for maintenance. Wyeth Friday commented the east end the extension of Lakeshore Drive could go further eastward to future development.

President Tunncliff closed the public hearing at 7:20 p.m. and called for a motion.

### **Motion**

**Board member Boucher made a motion and it was seconded by Board member Forbes to recommend that the Yellowstone County Board of County Commissioners conditional approval of the preliminary plat of Cowboy Country Acres Subdivision, Amended Lot 15A, and adopt the Findings of Fact as presented in the staff report.**

President Tunncliff called for a motion on the applicant’s request for request for Variance #1: *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.*

Staff recommends denial of the variance.

### **Motion**

**Board member Boucher made a motion to approve Variance #1 as submitted by the applicant.**

**The motion dies for lack of a second.**

President Tunncliff called for a motion on the applicant’s request for Variance #2: *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 recommends denial of the variance.

### **Motion**

**Board member Saldivar made a motion and Board member Saldivar moved to approve Variance #2 as submitted by the applicant.**

**The motion carries, 7-1, with Board member McFarland voting against the motion.**

President Tunncliff called for a vote on the original motion.

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### **Discussion**

Board member Saldivar suggested adding a condition of approval to construct a berm with landscaping as a buffer. Wyeth Friday explained a condition may be tied to the criterion for public health and safety. He stressed the need for the Board to be consistent in their review from one application to the next. President Tunncliff suggested the developer and this community meet to find consensus as the request for variance suggests the builder is aware of the need for a buffer or separation of the residential and commercial areas. Board member Cook said an additional condition of approval to build a barrier makes sense. Board member Sukut pointed out there is an existing storm water drainage easement at the suggested berm location. Board member Saldivar stated the public testimony this evening clearly points to a definition of public safety. Board member Boucher spoke to the need balancing the need to mitigate an unsightly situation with following the criterion. Wyeth Friday pointed out there are no land use controls as this property is outside of zoning and commented on the challenges of executing the condition.

**The original motion carried unanimously, 8-0.**

### **Discussion**

President Tunncliff opened discussion and commented on the need for staff to anticipate and address these types of issues prior to the Board presentation. Dave Green pointed out that in this case, staff has suggested the developer include language in the Covenants and Restrictions to planting evergreen trees along the southern property bordering the residential subdivision. He reminded the Board that Covenants and Restrictions are outside of the purview of the Planning Board and enforced by the developer.

Discussion followed by the Board and staff on the review process and the possibility of holding the public hearing at the first meeting to allow time to address issues that may arise by the second meeting. Wyeth Friday reiterated the need to focus and mitigate issues on the basis of criterion.

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

1. Wyeth Friday announced the first meeting of the Urban Fringe Subdivision Design Standards Subcommittee will be held Wednesday, March 30, 2016. The Board of County Commissioners has asked that this committee include a representative from the Home Builders' Association. Staff will distribute a meeting agenda this week.

### **FUTURE AGENDA ITEMS FOR TUESDAY, APRIL 12, 2016**

- a. PUBLIC HEARING. MOTION/RECOMMENDATION. Lockwood Growth Policy. Candi Millar, Director, Planning & Community Services
- b. PRESENTATION/DISCUSSION. 2015-2019 TIP AMENDMENT III, Scott Walker, Transportation Coordinator, Presenting.
- c. PLAT REVIEW/DISCUSSION. Josephine Landing Subdivision, 1<sup>st</sup> Filing, a 136-lot City major subdivision, generally located at Elysian Road, east of East

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Lane, Gary T. Owen, PE, Sanderson Stewart, agent. Dave Green, Planner II, presenting.

- d. PLAT REVIEW/DISCUSSION. High Sierra Subdivision, 11<sup>th</sup> Filing, a 71-lot City major subdivision generally located north of Topanga Avenue and west of Owen Street, Gary Oakland, owner. Gary T. Owen, PE, Sanderson Stewart, agent. Dave Green, Planner II, presenting.
- e. PLAT REVIEW/DISCUSSION. Copper Ridge Subdivision, 6<sup>th</sup> filing, a 60-lot City major subdivision generally located north of West Copper Ridge Loop and west of Lucky Penny Lane, Gary Oakland, owner. Gary T. Owen, PE, Sanderson Stewart, agent. Dave Green, Planner II, presenting.

ADJOURNMENT: 8:02p.m.

ATTEST: DRAFT. To be approved by a motion on April 12, 2016