

FINDINGS OF FACT

The City/County Planning staff has prepared the Findings of Fact for the Whitehorse Estates Subdivision, 1st Filing. 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 currently used for agricultural purposes and about 16.7 acres of agricultural land would be taken out of production when this proposed subdivision is built out. There is an existing lateral ditch that comes off of the Big Ditch. This ditch will be re-routed to provide irrigation water to the property owners within this subdivision. Other perimeter ditches and drains shall remain in place and not be altered by the subdivider or subsequent owners. The subdivision should not affect agricultural water users' facilities but it will take land out of agricultural production.

2. Effect on local services

- a. **Water and Sewer** – This subdivision is not near any services provided by a municipality. The applicant is proposing individual water wells for each lot. It will be designed to meet the requirements of Section 4.9 of the Yellowstone County Subdivision Regulations (YCSR). It will also meet the requirements set out by MDEQ for a community water system. Individual septic systems are proposed for each of the lots. Locations and design of the septic systems will be reviewed and approved by the Montana Department of Environmental Quality (MDEQ) prior to final plat approval. **(Condition #1)**
- b. **Streets and roads** – The proposed subdivision is located on the west side of 48th Street West north of Hesper Road. Forty Eighth Street West and Hesper Road are paved county roads. The applicant will be building a paved road into the proposed subdivision, Secretariat Circle, that will provide access to each individual lot. The proposed road inside the subdivision is the maximum length allowed for a dead end street, 1000 feet. The proposed street will be a public road and will be built to County Road Standards. The road will be maintained by the creation of an RSID-M with the final plat. **(Condition #2)** The applicant has requested a variance from the subdivision regulations requiring future connections to undeveloped land that is directly adjacent to the subject property. Attachment A lists the requested variance, the applicants reason they would like the variance and the review and recommendation from county staff.
- c. **Fire and Police Services** – The property is within the Billings Urban Fire Service Area (BUFSA). It is the subdivider's responsibility to ensure provisions of a water source and adequate access to the proposed lots for emergency service's needs. There is a 30,000-gallon dry hydrant system located on Hesper Road approximately 1300 feet from the beginning of the new proposed internal road entrance. The applicant indicates in the SIA

that the dry hydrant tank construction documents have been approved. In the SIA the under IV. Emergency Service there is no reference to the need to create an RSID-M for the dry hydrant system, this language needs to be added. The tank will need to be installed, tested and approved for use by BUFSA prior to final plat approval. **(Condition #3)**

In the SIA under IV. Emergency Service the first sentence states: The Billings Urban Fire Service Area (BUFSA) currently provides fire protection and paramedic services for the subdivision. The applicant needs to modify that sentence to remove reference to paramedic services. **(Condition #4)**

The Yellowstone County Sheriff's Department has indicated they be able to 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** – The management of storm water runoff shall be designed to satisfy storm water management requirements and specifications of MDEQ and Yellowstone County. The applicant is proposing to use the standard County Road Cross section with road side swales and natural percolation to handle the storm water requirements. **(Condition #1)**
- f. **School facilities** – The proposed subdivision is located in Elder Grove School District for elementary and middle school. Students in the subdivision will go to West High School in Billings School District #2. Elder Grove School responded that they have minimal capacity for additional students in elementary and they are over capacity in the middle school. The proposed subdivision is on an existing Elder Grove bus route. Staff did not receive comments from West High School. Some previous subdivisions have received a response from West that indicated they were over capacity.
- g. **Parks and recreation** – This subdivision is required to provide parkland dedication for the 12 lots. The applicant would be required to provide 0.76 acres of land for parkland for this proposed subdivision. The applicant is choosing to provide a cash in lieu contribution in place of the parkland dedication. The applicant will follow the requirements of Section 10.6 of the YCSR to determine the cash contribution amount. The County Parks Board will review the comparative market analysis prepared by a 3rd Party appraiser prior to a check being provided for the cash in lieu contribution. **(Condition #5)**
- h. **Historic features** – No known historical or cultural assets exist on the site.
- i. **United States Postal Service (USPS)** - The USPS has responded that they will require a centralized delivery box system just off of Hesper Road. The location will need enough

space that the delivery vehicle will be able to pull off the road safely. The applicant will coordinate that location with the USPS prior to final plat approval. (**Condition #6**)

- j. **Irrigation** – There is an existing irrigation ditch that runs through the subdivision. In the SIA it is stated that there are water rights to this land and they will be relocating the irrigation lateral ditch along the back of the properties for the future home owners to use as irrigation water. They are proposed to be open surface ditches for the homeowners use. Prior to final plat the applicant needs to outline how these ditches will be constructed and the costs of maintenance in HOA documents. (**Condition #9**)

3. Effects on the natural environment

The development will use noxious weed control measures to prevent the spread of noxious weeds to adjacent developed or agricultural land. A weed management plan will be completed and a property inspection done prior to final plat approval. (**Condition #7**)

MDEQ will review and approve the new proposed septic systems and storm water management facilities to ensure any impacts of the development are mitigated.

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

4. Effects on wildlife and wildlife habitat

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

5. Effects on public health and safety

Plans and designs for use of the proposed septic systems and public water supply will be reviewed and approved by MDEQ prior to final plat approval. Fire and emergency services are provided for this proposed subdivision. Effects on public health and safety should be minimal.

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

An environmental assessment was not required for this subdivision because it is within a zoned area of the County.

C. Does the subdivision conform to the Yellowstone County 2008 Growth Policy Update, the 2014 Billings Urban Area Long Range Transportation Plan, and the Billings Area Bikeway and Trail Master Plan Update? (Section 3.2 (H)(4), YCSR)

- 1. **West Billings Plan** – The proposed subdivision is in an area of Billings that is zoned and surrounding property is developed for residential uses. The Future Land Utilization Map from the West Billings Plan shows the area where this subdivision is proposed as a Residential Development area.

2. Yellowstone County 2008 Growth Policy

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

This subdivision will create 12 lots with all lots just over 1 acre for single family residences, consistent with the immediately surrounding neighborhood.

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

There are many similarly sized lots containing single-family homes in the surrounding neighborhood near the subject property.

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

The proposed subdivision will create 12 additional lots in this area for housing.

3. 2014 Billings Urban Area Long Range Transportation Plan

The subject property is within the boundary of the study area of the Transportation Plan. 48th Street West and Hesper Road are identified as a principle arterial streets. There is adequate road dedication for the proposed street type along southern edge of the proposed subdivision. New lots will be served by an internal private street; the appropriate amount of right-of-way is being provided with this plat.

4. Billings Area Bikeway and Trail Master Plan Update (BABTMP)

The subject property is within the jurisdiction of the BABTMP. There is a proposed long-range bike lane along Hesper Road. This subdivision will not be required to install any bike lanes along Hesper Road. There are no bike lanes identified within the proposed subdivision.

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 shall receive approval from MDEQ for the proposal for individual water wells and individual septic systems for the new lots.

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

The subdivision is in the County's zoning jurisdiction; the proposed lots do meet the requirement for lot size required by existing zoning. In the SIA under Conditions That Run With The Land there is a paragraph notifying the future lot owner they are required to obtain a Zoning Compliance Permit prior to any construction on individual lots.

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 private utility companies. The applicant will coordinate with private utility companies to provide needed easements within the proposed subdivision. **(Condition #8)**

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 Hesper Road and the new internal subdivision road, Secretariat Circle.

CONCLUSIONS OF FINDINGS OF FACT

- The Whitehorse Estates Subdivision 1st Filing, 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 parts of four different plans, the West Billings Plan, 2008 Yellowstone County Growth Policy, 2014 Transportation Plan and the BABTMP.
- 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 Whitehorse Estates Subdivision, adoption of the Findings of Fact as presented in the staff report and denial of the requested variance.