

PROPOSED YELLOWSTONE BOARD OF COUNTY COMMISSIONERS
FINDINGS OF FACT

The City-County Planning Division Staff has prepared the Findings of Fact for Mackenzie Meadows Subdivision, 2nd Filing. These findings are based on the preliminary plat application and supplemental documents addressing 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 and 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. The BBWA provides water to the existing parcels of land for farming purposes. Irrigation ditches that exist will not be disturbed by development. Any lateral ditches that no longer provide water services to downstream users will be abandoned with development of the land. No water rights will be transferred to the lot owners within the subdivision but water will still be used for farming activities. Culverts and associated drainage swales shall not be filled in or altered. The applicant will provide access to any internal ditches on the property that will remain in use and allow access to them for maintenance until such time as they are no longer needed by downstream users. **(Condition #1)**

2. Effect on local services

a. **Water and Sewer** –The subdivision is not served by any water or sewer district. The applicant is proposing to have shared water wells and a several community septic system for the lots of this filing. It is proposed that the new lots will have community wells drilled for the proposed subdivision. They are proposing a total of 13 community septic systems throughout the subdivision. These systems will be located within the public parks that are throughout the proposed subdivision. All water and sewer lines will be run in the public right of way, but not under the paved road surface. There will be hookup fees and monthly maintenance fees for the community water and sewer lines. The water and septic systems will be controlled and maintained by a business set up for this purposed, it will be called Mackenzie Meadows Water Works. Both the wells and the septic system will need to have MDEQ approval. **(Condition #2)**

b. **Streets and roads** – The subdivision has Neibauer Road along the northern edge, Neibauer is a principal arterial road in the county. There is currently a 30-foot road easement for Neibauer Road from the subject property. The applicant will be dedicating 60 feet of right of way for the required half width for a principal arterial road width for Neibauer Road. No improvements have been identified at this time. The applicant will be required to submit a TIS before final plat that may indicate the need for road widening or possibly turn lanes into the subdivision. Should those needs be identified with the TIS the applicant will be required to install what is identified in coordination with County Public Works review and approval. **(Condition #3)**

Access to the proposed subdivision will be from a proposed new road into the parcel, Abby Drive. It will be built to county paved road standards within an 80 foot right of way. It is identified on the 2014 Functional Class Map as a collector road. Abby Drive will be paved in the first phase from Neibauer Road to South 56th Street West. All other roads within this subdivision will be within a 60 foot right of way and be paved to county road standards. All roads to the east of Abbey Drive and south of Neibauer Road are within county zoning and will have sidewalks installed on both sides of the road. All other roads are outside of zoning and will not have sidewalks along the road sides. All roads within the subdivision will be public roads with the exception of roads within the proposed commercial development east of South 56th Street West. Those proposed commercial roads are labeled on the face of the plat as Private Access Easements. The applicant will create an RSID for the public road within the subdivision. **(Condition #4)** The applicant will also be creating an HOA that will include maintenance of the roads within the commercial areas.

c. **Fire and Police services** – The property is within the BUFSA. The subdivision will provide a 30,000-gallon water storage/dry hydrant for fire suppression on Abbey Drive. The applicant will install the dry hydrant system to the BUFSA standards and have it tested and approved before final plat. **(Condition #5)** The applicant will create a public easement for the dry hydrant system and will also create an RSID-M for the maintenance of the system. Two of the proposed lots will be served by the dry hydrant system within Conrad subdivision. These two lots will be added to the RSID-M for the dry hydrant system in Conrad subdivision. This is called out in the SIA under IV. Emergency Service the last bullet point of the section.

The Yellowstone County Sheriff's Department will provide law enforcement services. The Department stated that with this number of lots being created that the sheriff's office may need to add a deputy to augment current patrols.

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** – Storm water drainage shall satisfy Yellowstone County Storm Water Management requirements and DEQ. **(Condition #2)** Storm water will be collected on site using a combination of swales and the natural slope of the land. Each phase will have a storm water system that is independent of each other. The applicant, through initial studies, has determined that the stormwater can be handled effectively with the swales alongside the subdivision streets and natural percolation on site. This will have to be reviewed and approved by the DEQ to ensure the proposed stormwater management is feasible and will work satisfactorily. Stormwater swales alongside the roads will be part of the RSID for maintenance. **(Condition #4)**

f. **School facilities** – The proposed subdivision is located in the Canyon Creek School District for Elementary and Middle School age students. Canyon Creek School District stated they currently have capacity for additional students. The proposed subdivision is

also along an existing bus route but as it builds out there may be a need for additional routes or changes to existing ones. High School Students would go to West High School. West High School is currently over capacity and they did not indicate there was an existing bus route in the area.

g. **Parks and recreation** – This proposed subdivision is required to provide parkland. They are required to provide 7.1 acres of parkland for this development. At this time, they are proposing to provide 11.5 acres of parkland. They are proposing to dedicate areas in the subdivision that are also being used as community septic systems. They proposed that the parkland be undeveloped natural parkland. Because these parkland areas will be disturbed from construction of the underground septic systems within them the applicant will be required to revegetate them with native grass seed after construction activity is completed. The applicant will add language in the SIA under the heading Park/Open Space that describes the revegetation plan and what type of seed mix is proposed. **(Condition #6)**

h. **Postal Service** – The USPS has requested a Centralized Delivery box to be located off of 56th Street West and Abby Road for the entire subdivision. The applicant will be required to coordinate the location of the Centralized Delivery box and provide enough space for the delivery vehicle to pull out of traffic for safety. **(Condition #7)**

i. **Historic features** – No known historical or cultural assets exist on the site.

j. **Phasing of Development** - The applicant is proposing to develop this subdivision in phases.

Phase I includes Lots 5 through 29 in Block 1; Lots 1 through 19 in Block 6; Lots 1 through 16 in Block 7; and Lots 1 through 16 in Block 8; Lots 1 through 16 in Block 9; Lots 1 through 8 in Block 10 for a total of 100 Lots.

Phase II includes Lots 1 through 5 and Lots 36 through 51 in Block 2; Lots 6 through 9, Block 4, Lots 1 through 9 in Block 5, 34 lots in total.

Phase III includes Lots 6 through 19, Lots 20 through 35 in Block 2; Lots 1 through 13 in Block 3; Lots 1 through 5 and Lot10, in Block 4, 49 lots in total.

Recent legislation in the state of Montana requires that developers proposing to do phasing in the subdivision are required to set a date when they plan to proceed with each phase. This developer has provided proposed dates for phase 2 and 3. Phase 2 is proposed to begin in April 2020, and Phase 3 is proposed to begin in April 2022.

At these two dates the applicant is required to go through a public hearing to open the phases. At that public hearing there is the possibility of additional conditions of approval being added to the original conditions of approval. Should the applicant not meet these dates they must propose new dates, at a public hearing, for the phases to begin.

Specifics of the proposed phasing and what improvements and contributions will be installed with each phase is identified in the SIA under the heading XI. Phasing Improvements.

Each phase will need to also have a Certificate and Release for the phases to be submitted with the final plat, those have been included at the end of the SIA.

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. According to SIA Section IX., Weed Management, the developer will submit a weed management plan prior to final plat approval. (**Condition #8**)

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. A paragraph in the 'Conditions that Run with the Land' section of the SIA warns future lot owners of the likely presence of wildlife in the area and their potential to damage residential landscaping.

5. Effects on public health and safety

Plans and designs for the water and septic system will be reviewed and approved by MDEQ prior to final plat approval to ensure public health and safety.

Fire and emergency services are provided for this proposed subdivision from BUFSA and the Yellowstone County Sheriff's department.

B. Was an environmental assessment required? If yes, what, if any, significant adverse impacts were identified? (76-3-603 MCA) (Chapter 9, YCSR)

An environmental assessment was required for this subdivision. This property has historically been used as farm land and pasture land. Some areas are native grasslands that are east of South 56th Street West. Land south of Neibauer Road have been used most recently as farm land. Because of the disturbance of the native land from use as farmland there was no identified wild life habitat on the land. There are some birds and the possibility of some small animals near the ditches but there was no known large animal habitat on the land.

C. Does the subdivision conform to the Yellowstone County 2008 Growth Policy, the 2014 Billings Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan Update? [BMCC 23-302.H.4.]

1. Yellowstone County – City of Billings 2008 Growth Policy

The subdivision is consistent with the following goals of the Growth Policy:

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

The subdivision is consistent with the low density residential development surrounding it.

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

There is residential development directly adjacent to the subject property.

- Goal: Controlled weed populations. (p. 9)

The developer shall complete a weed management plan, and shall provide a re-vegetation plan for any ground disturbed by development.

2. 2014 Billings Urban Area Long Range Transportation Plan

The subject property is within the study area of the Transportation Plan and as proposed is conforming to the plan. Abby Drive is identified as a collector and the subdivision will be providing the required 80 foot right of way for the collector road width.

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

The proposed subdivision is within the study area of the BBTMP. Neibauer Road and the proposed Abby Drive are both shown on the map as having a Proposed Long-range Bike Lane on them. The subdivider will not be required to build additional road width for the bike lane.

D. Does the subdivision conform to the Montana Subdivision and Platting Act (MSPA) and to local subdivision regulations? [MCA 76-3-608 (3) (b) 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 must receive approval from the MDEQ prior to final approval. New parcels are subject to DEQ review.

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

The proposed Phase I of this subdivision is outside of zoning. Before phase II can take place the applicant will have to go through the process of a zone change. Portions of phase II are within the zoned area of the county and the current zoning requires a 10-acre parcel for each dwelling unit. The applicant will have to change the zoning to accommodate what is proposed with this subdivision. **(Condition #9)**

G. Does the subdivision provide for necessary planned utilities? [MCA 76-3-608 (3) (c) and Section 3.2 (H) (3) (b), YCSR]

Utility easements are provided alongside the road right-of-way as requested by Yellowstone Valley Electric Cooperative, MDU and Century Link. The applicant will be required to coordinate the easements needed for the private utility companies. (**Condition #10**)

H. Does the proposed subdivision provide for Legal and Physical Access to all lots? [MCA 76-3-608 (3) (d) and Section 3.2 (H) (3) (c) (d), YCSR]

Legal and physical access will be provided for the new proposed lots from Abby Drive and other internal roads within the subdivision. All driveway approaches to the lots must be approved by the Yellowstone County Public Works Department prior to installation.

CONCLUSIONS OF FINDINGS OF FACT

- This subdivision 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, and can be mitigated by reasonable conditions of final plat approval.
- The subdivision conforms to some of the goals of the Growth Policy.
- The applicant has complied with the MSPA and YCSR processes and the subdivision conforms to the law requirements.