



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



AGENDA

May 22, 2018 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. MEETING MINUTES:** May 8, 2018
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:**
6. **DISCLOSURE OF EX PARTE COMMUNICATION:** Ex Parte Communication Binder is available at the Sign-In and Agenda station.
7. **NEW BUSINESS:** (Agenda items new to this meeting).
 - a. **Presentation. Discussion. Bicycle and Pedestrian Advisory Committee, (BPAC), Annual Presentation** Lora Mattox, Transportation Planner, BPAC members presenting.
8. **OLD BUSINESS** (Agenda items that were not discussed or not completed in a previous meeting or items requiring action).

- a. **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 City Council. Amended Lots 7-17, Coal Creek Subdivision.** CTA, agent for Magnus Land Development, LLC, owner. The proposed subdivision creates 6 new lots for commercial development. The subject property is generally located on the northwest corner of the intersection of Rimrock Road and 62nd Street West. The property is zoned Community Commercial (CC). Dave Green, Planner II, presenting. (PZ-18-00037)
- 2. **Motion/Recommendation to BOCC. Mackenzie Meadows Subdivision, 2nd Filing.** The property is generally located on the south side of Neibauer Road between South 48th Street West and South 56th Street West. This subdivision would create 183 lots from a 167.9-acre parcel for residential and commercial use. The land is currently used for farming. The majority of the land is outside of zoning with a smaller portion of the parcel being developed inside of zoning. Dave Green, Planner II, presenting.(PZ-18-00046)

9. **OTHER BUSINESS:**

- a. (Standing Item) Long Range Strategic Issues and an overview of future City and County issues and projects.

10. **ADJOURNMENT**

FUTURE AGENDA ITEMS FOR TUESDAY, JUNE 12, 2018

- a. **Plat Review. Board Discussion. Crown West Estates Subdivision** A 61.027 acre, 52-lot County major subdivision, generally located at King Avenue and 80th Street West. Levi Britton, owner. Territorial Landworks, agent. Dave Green, Planner II, presenting. (PZ-17-00201)

- b. **Plat Review. Board Discussion. Zimmerman Home Place Subdivision, 2nd Filing.** A 34.66 acre, 17-lot City major subdivision generally located west of the intersection of Zimmerman Trail and Grand Avenue. Performance Engineering, Agent. Billings Opportunities, owner. Dave Green, Planner II, presenting. (PZ-18-00054)

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: 05/22/2018

Information

Subject

MOTION. MEETING MINUTES: May 8, 2018

Attachments

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CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview and Yellowstone County"

MAY 8, 2018

DRAFT-To be approved by a motion on May 22 2018

1. Call the Meeting to Order

President Tunnickliff called the meeting to order at 6:00 p.m. on Tuesday, May 8, 2018, in the Miller Building 1st Floor Conference Room, 2825 3rd 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: Wyeth Friday, Director, Planning & Community Services; Monica Plecker, Planning Division Manager; Dave Green, Planner II; Tammy Deines, Planning Clerk; Darin Swenson, YC Public Works Department

Others in Attendance: Ron Isakson, CTA; Marshall Phil, Blueline Engineering

Approval of the May 8, 2018 Agenda

Motion:

Board member Boucher made a motion and it was seconded by Board member Woods to approve the May 8, 2018 meeting agenda as submitted. The agenda was approved with a unanimous voice vote.

Approval of Minutes: April 24, 2018.

Motion

Board member Cook made a motion and Board member Woods seconded the motion to approve the April 24, 2018 meeting minutes as submitted. The motion carried with a unanimous voice vote.

3. **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 Outside (Ex Parte) Communication– Board Members and Planning Staff.

The Ex Parte Communication Binder is available at the Sign-In and Agenda station. There were no Conflicts of Interest and no Ex Parte Communications reported by the Board.

CITY/COUNTY PLANNING BOARD

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7. OLD BUSINESS: There is no Old Business.

8. NEW BUSINESS

8a. Plat Review. Discussion. Coal Creek Subdivision Lts 7-17. City Major Subdivision. Magnus Land Development, Owner. Ron Isackson, CTA agent. Dave Green, Planner II, presenting.

Dave Green opened this agenda item with an overview of the staff report. A public hearing will be held during the May 15, 2018 Planning Board meeting. City Council will take action on June 25, 2018.

Discussion

President Tunncliff called for questions and discussion from the members of the Board. He asked when the roundabout will be constructed at 62nd Street West and Rimrock Road. Dave Green pointed out the easement on Lot 4-A which will allow for the roundabout. He asked if there will be a left turn movement coming out of the commercial subdivision. Dave Green stated Lot 2-A and Lot-1-A will have limited movement going north. President Tunncliff voiced concern with the potential for safety issues resulting from high vehicle speeds and high levels of traffic.

Ron Isackson, CTA Architects, Bozeman, roni@ctagroup.com

Mr. Isackson said they are amending the subdivision and it will contain six commercial lots with 2 full access points located off of Rimrock Road. There is no set phasing for the project and they are planning around the roundabout construction. Board member Cook asked if neighborhood meetings have been held. Mr. Isackson said the public hearing during the May 22 Planning Board meeting will be the first opportunity for public comment. In response to question by Board member Woods, Mr. Isackson said the improvements on the north side of Rimrock will be carried to 62nd Street West, and cost sharing will take place with the three intersections using a percentage value based on the Traffic Improvement Study. Board member Thompson asked regarding the storm water management and a trail connection. Mr. Isackson explained it is understood that timing may an issue. He commented that until the City's storm water facility is constructed, the storm water will be either managed at an onsite location, on Lot 3-A, or they will work with the multi-family development to the west. The trail system is located to the north of this parcel but he is unsure of connection point at this time. Discussion followed on the benefits of having a trail connection to the commercial sites.

****Planning Board will hold a public hearing ant the next meeting on May 22, 2018. A recommendation will be made at that time.**

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8b. Plat Review. Discussion. Mackenzie Meadow Subdivision, David E. Wagner, owner. Blueline Engineering agent. Dave Green, Planner II, presenting.

Dave Green opened this agenda item with an overview of the staff report. Board member Woods pointed out that the City and County jurisdictional boundary is located between Phase 1 and Phase 2 of this subdivision plat and the developer does not plan to construct sidewalks in the County portion. He said it doesn't make sense to have sidewalks in one phase and not the other. He said the Planning Board went through a long process to update the County Subdivision Regulations to alleviate this type of development. Per Board member Thompson's request, Dave Green pointed out the parkland on the plat map.

Marshall Phil, Blueline Engineering, 2110 Overland Ave, Billings, MT

Mr. Phil said the parkland will be grassy open areas that may be further developed for parkland uses with equipment or gazebos. The remaining area will be used for drain fields. The idea is to do the minimum now, and as time goes on, additional monies may be spent for sidewalks or walkways. There are several access points through the lots to get to these areas. Board member Thompson observed that the dedicated strip of land along Neibauer Road is not large enough for a play area.

Mr. Phil said Abbey Road will have sidewalk through the east side and will end at the lower intersection. President Tunnicliff voiced his disappointment with the developer's intentions not to construct sidewalks throughout the subdivision to alleviate pedestrian safety issues. He commented he intends to vote against this subdivision as 183 lots are proposed with a cavalier attitude for subdivision development. Planning Division Manager Plecker asked if the owner has assumed he would be required to construct the sidewalk as a part of the public improvements. Mr. Phil explained the developer has the option that to construct sidewalks as the individual homes are built. He said the issue with building sidewalks with the subdivision is there is no knowledge of where the driveways should be located. President Tunnicliff commented this process has the homeowner bearing the hidden cost of sidewalk installation. Board member Woods stated it would be better to construct the sidewalks now as people do not pay attention to easements.

Planning Board will hold a public hearing at the next meeting on May 22, 2018. The Board of County Commissioners are scheduled to review and act on the preliminary plat on June 19, 2018. The motion carried with a unanimous voice vote.

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9. OTHER BUSINESS/ANNOUNCEMENTS

9a. Standing Item. Long Range Strategic Issues and an overview of future City and County issues and projects.

1. Project ReCode Director Friday said City Council approved the consultant contract with “Safe Built Studios” for Project ReCode. A kick-off meeting will be held in May and the consultant will begin with an audit of the existing zoning code and the guiding principles developed by the Steering Committee.

2. Director Friday gave a brief overview of the Aspirational City Visit to Allentown, Pennsylvania to get input for the proposed One Big Sky Master Development Plan for the downtown core area.

ADJOURNMENT: 7:10 p.m.

DRAFT-To be approved by a motion on May 22, 2018



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



Planning Board Meeting 2 (4th Tuesday)

Meeting Date: 05/22/2018

Information

INTRODUCTION

On April 2, 2018, CTA, agent for Magnus Land Development, LLC, owner, applied for preliminary major plat approval for Amended Lots 7-17, Coal Creek Subdivision. The proposed subdivision creates 6 new lots for commercial development. The subject property is generally located on the northwest corner of the intersection of Rimrock Road and 62nd Street West. The property is zoned Community Commercial (CC).

RECOMMENDATION

Staff recommends the Planning Board recommend conditional approval of the preliminary plat of Amended Lots 7-17, Coal Creek Subdivision to the City Council, 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 the stormwater system is properly maintained, prior to final plat approval the applicant will add the following to the storm drain section of the SIA:
 - 'The stormwater retention areas and associated improvements will be privately owned and maintained by the HOA. O&M requirements and HOA responsibilities shall be as outlined within the City of Billing Stormwater Management Manual (SWMM), appendices E and F. Retention areas shall be covered with a blanket easement, allowing access by the City. If the HOA fails to maintain the stormwater retention facilities, the City reserves the right to create a maintenance district in the subdivision to maintain the stormwater retention facilities.'
2. To bring the infrastructure section of the SIA into conformance with the subdivision regulations, prior to final plat approval the applicant will work with City Planning and Engineering to either write this section and include documentation to meet the requirements of phasing; or rewrite the portion of the SIA to define what improvements will be constructed initially and what remaining items will be bonded or have an irrevocable letter of credit to guarantee infrastructure installation at a later time.
3. To minimize the effects on local services and to have minimum road width requirements met, prior to final approval the applicant shall change the beginning of the sentence in the SIA under III Transportation A. Streets, at the last bullet point that states, 'The southern half of Signal Peak Avenue' to read, 'The southern half, a minimum of 30 foot asphalt width, of Signal Peak Avenue will be constructed from the western boundary of the subdivision east to 62nd Street West.'

4. To eliminate confusion and ensure the correct access is constructed as allowed, prior to final plat approval the applicant will change a sentence in the SIA under the heading E. Access, 62nd Street West sentence b., which says 'The Second full movement access', to read 'The second proposed access will be a 3/4 access and is approximately 650 ft north of the 62nd Street West and Rimrock Road intersection'. The applicant will also change the sentence directly under the heading '62nd Street West' that states 'Two full movements' to read 'One full movement and one 3/4 movement'
5. To minimize the effects on local services and enable more useable roadways, prior to final plat approval the applicants' TIS shall be reviewed and approved by the City of Billings Engineering Division. The approval shall outline any additional requirements that developer will be responsible to construct. This review will also confirm or correct the contributions for street improvement from the developer listed in the SIA.
6. To minimize the effects on local services, prior to final plat approval the subdivider will provide a letter from the United States Postal Service acknowledging its agreement with the placement of mail delivery facilities in the subdivision.
7. To ensure the provision of easements for utilities, prior to final plat approval the subdivider shall provide utility easements on the final plat as requested by the private utility companies.
8. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
9. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

DISCUSSION/STAKEHOLDERS

Staff provided a brief presentation regarding the proposed plat to the Planning Board after which President Darrell Tunnicliff asked if there were any questions from the board to staff. There were two questions for staff. One addressed whether space had been provided from the subject property for the proposed round about at Rimrock and 62nd. The other question was regarding clarification of what a "3/4 access" was. Staff responded this plat is providing the needed right of way for the proposed round about. Staff also, with help from the agents engineer, explained how a 3/4 access functions.

Ron Isaacson from CTA, agent for the applicant, stood to answer questions from the board. There were questions concerning contributions to the round about and the handling of storm water in the subdivision. Mr. Isaacson stated the developer is making contributions to the construction of the round about and to some improvements for other intersections in the area. Addressing the second question regarding management of storm water, he stated the developer will either be able to use the facility proposed for the entire Coal Creek Subdivision, participate in the storm drainage ponds proposed by the City that are across Rimrock Road, or they will be required to have storm water storage systems included with development of each lot. It was suggested by a board member that providing opportunities to move around inside the development and be able to access the trail along Cove Ditch to the north would be a good way of connecting people without the need to drive for services. There were no other questions from the board.

VARIANCES REQUESTED

No variances from the City Subdivision Regulations have been requested as part of this application.

PROCEDURAL HISTORY

- A pre-application meeting was held on March 1, 2018 to discuss the proposal.
- The preliminary plat application was submitted to the Planning Division on April 2, 2018.
- A departmental review meeting was conducted on April 19, 2018.
- The preliminary plat was resubmitted with revisions based on department reviews on April 26, 2018.
- The Planning Board reviewed the plat on May 8, 2018.
- The Planning Board will conduct a public hearing on May 22, 2018, and forward a recommendation to the City Council.
- The City Council will consider the preliminary plat on June 25, 2018.
- The 60 working-day preliminary plat review period ends June 26, 2018.

PLAT INFORMATION

General location:	Northwest corner of the intersection of Rimrock Road and 62nd Street West
Legal Description:	Lots 7-17, Coal Creek Subdivision
Owner/Subdivider:	Magnus Land Development, LLC
Engineer and Surveyor:	CTA
Existing Zoning:	Community Commercial
Existing land use:	Vacant
Proposed land use:	Commercial development
Gross:	14.01 acres
Proposed number of lots:	6
Lot size:	Max: 4.8 acres Min.: 0.85 acres
Parkland requirements:	There are no parkland requirements for this proposed subdivision because it is a commercial subdivision.

Attachments

Findings of Fact
SIA
Proposed Plat

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Amended Lots 7-17, Coal Creek Subdivision. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(H), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302.H.2.]

1. Effect on agriculture and agricultural water user facilities

The land to be subdivided was historically used for pasture land and dryland crops. The 14-acre parcel lies south of the Cove Ditch, at the northwest corner of 62nd St. West and Rimrock Road. The property was annexed into the City limits in 2002 along with approximately 200 adjacent acres. The agricultural lands north of Rimrock Road in this area have become more valuable as residential and commercial properties, and their development may have possibly alleviated some development pressure on irrigated agricultural lands to the south. The Cove Ditch is preserved in an easement to the north of this proposed subdivision. For these reasons, the development of the subject property should have minimal effects on agriculture and agricultural water user facilities in the area.

2. Effect on local services

- a. **Utilities** – All lots will be served by city water lines in the area. Lots 5-A and 6-A, will be served by the 12-inch water main in Signal Peak Avenue tying into the existing 20-inch water main in 62nd Street. This water line will be placed in a public utility easement. The lot owners will be responsible to connect to the water lines at the time of lot development.

Lot 2-A and 4-A will be served by the existing 20-inch water main in 62nd Street West with private service connections. Lots 1-A and 3-A will be served by an existing 12-inch water main in Rimrock Road with private service connections.

All water line installation shall meet City of Billings Public Works Department and Montana DEQ standards, rules, and regulations. This requirement is called out in the SIA under the heading VI. Utilities.

- b. **Sanitary Sewer** – All lots will be served by city sewer lines in the area. Lots 5-A and 6-A, will be served by an 8-inch public sewer main within the public water and sewer main utility easement. The 8-inch sewer line will be placed along Signal Peak Avenue tying into an existing 18-inch sewer main in 62nd Street West. The lot owners will be responsible to connect to the water lines at the time of lot development.

Lot 2-A and 4-A will be served by the existing 18-inch sewer main in 62nd Street West with private service connections. Lots 1-A and 3-A will be served by an existing 18-inch sewer main in Rimrock Road with private service connections.

The services shall meet City of Billings Public Works Department and Montana DEQ Standards, rules, and regulations.

Collection system grades and placement will meet City of Billings Public Works Department and Montana DEQ Standards, rules, and regulations. This requirement is called out in the SIA under the heading VI. Utilities.

Power, natural gas, telephone, and cable will all be located within the right-of-way and utility easements shown on the plat.

- c. **Storm water** – Storm drainage shall be provided by a combination of surface drainage, curb and gutters, and storm drain piping and detention ponds. All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the *Stormwater Management Manual* in place at the time of development. A complete stormwater management plan shall be submitted to the City Engineering Division and Montana Department of Environmental Quality for review and approval at the time of development. This requirement is called out in the SIA under the heading V. Storm Drainage.

This proposed subdivision will use a series of small detentions areas in addition to the community stormwater detention area located on Lot 2 of Coal Creek Subdivision. The community detention facility will collect runoff from the Coal Creek Subdivision and the Amended Lots 7-17 Coal Creek Subdivision. It will be conveyed to the Birely Drain. With the original filing the previous applicant provided documentation to the City of Billings Engineering Department from the Birely Drain Association stating they are allowed to use the drain as historically done and at historic rates of flow. This development will be part of the original agreement for stormwater discharge into the Birely Drain.

This subdivision may be required to participate in the costs of area-wide storm water detention facility, this is acknowledged and included in SIA under the heading of V. Storm Drainage B, a.

The storm water detention network is to be maintained by the HOA that will be created to maintain the streets within the subdivision as well. **(Condition #1)**

The SIA states under the heading IX. Infrastructure Improvements that they will be installing the infrastructure not all at once but as the land develops and there is a demand for the infrastructure. There is a mix of language that refers to what will be built initially and what will be built at a later time using phasing and restricting lot sales. There are also contributions outlined in this section that the developer will be required to contribute to offset impacts to existing roadways.

This does not follow the subdivision regulations for infrastructure installation. It needs to be either phasing of development which requires more documentation, certificates and releases, with dates the phases will be released or install the infrastructure entirely or install what is needed first and bond or provide an irrevocable letter of credit for the remaining infrastructure. The applicant, with input from City Planning and Engineering, will reformat this section of the SIA to meet the requirements of subdivision regulations. **(Condition #2)**

- d. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City’s landfill has adequate capacity for this waste.
- e. **Streets** –All roads within the subdivision shall be privately owned. All streets shall be built in accordance with the City of Billings Engineering site development standards. The private road within the commercial portion of the Subdivision, Signal Peak Avenue, shall be built to commercial road standards having a minimum width of 44 feet back-of-curb to back-of-curb within an 80 foot right of way. The applicant in the SIA under III Transportation A. Streets, at the last bullet point states they will be building the southern half of that street. They will be required to build a minimum of 30-foot asphalt width of that street as required by Engineering regulations. **(Condition #3)**

The applicant is proposing two accesses off of Rimrock Road into the proposed subdivision. One is proposed to be 370 feet west of the intersection of 62nd Street West and Rimrock Road and the second one is proposed to be 650 west of the same intersection. They are also proposing two accesses from 62nd Street West into the proposed subdivision. One is proposed to be 650 feet north of the intersection of 62nd Street West and Rimrock Road and the second one is proposed to be 1,020 feet north of the intersection of the same intersection. In the SIA under the heading E. Access, 62nd Street West it says ‘Two full movements’ and sentence b, it says ‘The Second full movement access is approximately 650 ft north of the 62nd Street West and Rimrock Road intersection.’ That access will only be a ¾ access as stated earlier in the SIA in the Streets Section. **(Condition #4)**

A Traffic Impact Study (TIS) was submitted for this subdivision and will be reviewed and approved by the City of Billings Engineering Division to determine if all the accesses are acceptable and what type of accesses they will be. **(Condition #5)**

The TIS also identified impacts to surrounding roads and intersections. The intersections and roads that will be impacted with each additional phase are addressed in the SIA. Required contributions for impacted roads and intersections have been outlined in paragraph III Transportation D. Those contributions will be reviewed and approved by the City of Billings Engineering Division to determine if they are correct. **(Condition #5)**

The applicant will be constructing the north half of Rimrock Road to a collector standard that will include asphalt, curb, gutter, sidewalks and storm drainage improvements. A cash contribution will be given for improvements on 62nd Street west. The contribution will be for the same improvements as along Rimrock Road but the improvements will take place at a later date. Internal circulation roads will be constructed as required by development. All internal roads will be private.

- f. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1501 54th St. West, Station #7. The subdivision is located within the ambulance service area of American Medical Response (AMR).
- g. **Schools** –School District #2 provides educational services to elementary through high school students. Because this is a commercial subdivision there will be no students added to the schools in the area.
- h. **Parks and Recreation** – Commercial subdivisions are not required to provide parkland.
- i. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision and has indicated that centralized mailbox units will be required. The USPS has asked for centralized mailbox units located on Rimrock Road west of 62nd Street West with a safe pull off area for the postal vehicle and worker. **(Condition #6)**

3. Effect on the natural environment

The subject property consists of approximately 14 acres of non-irrigated grassland gently sloping to the southeast. A preliminary Geotechnical Investigation Report was performed, by Rimrock Engineering, and submitted for review. While this report acknowledged the need for additional site-specific reports prior to construction, it provided some general information about the site limitations. A paragraph in the SIA under the heading Conditions that Run with the Land notify future lot owners of the need for future geotechnical studies based on proposed specific site development.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. There is a paragraph in the SIA that warns future lot owners of the presence of deer in the area, which may cause damage to their landscaping. This subdivision should have a minimal effect on wildlife and wildlife habitat.

5. Effect on the public health, safety and welfare

The subdivision is located in an area with no known natural hazards.

B. Was an Environmental Assessment required? [(MCA 76-3-616 and BMCC 23-302.H.1.)]

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616, MCA.

C. Does the subdivision conform to the City of Billings 2016 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. City of Billings 2016 Growth Policy

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

- a. **Essential Investments (relating public and private expenditures to public values):** Neighborhoods that are safe and attractive and provide essential services are much desired (p. 7).
- b. **Prosperity (promoting equal opportunity and economic advancement)**
A diversity of available jobs can ensure a strong Billings' economy. Successful businesses that provide local jobs benefit the community. (p.9)

2. 2014 Urban Area 2014 Transportation Plan

The proposed subdivision adheres to the goals and objectives of the 2014 Functional Class Map and preserves the street network and street hierarchy specified in the plan. It also meets some of the goals of the 2016 City of Billings Growth Policy. In the West Billings Plan this area is identified and an Urban Expansion Area identified as Residential. The western part of the original subdivision is all residential.

3. Billings Area Bikeways and Trail Master Plan (BABTMP)

The proposed subdivision lies within the jurisdiction of the Billings Area Bikeways and Trail Master Plan. A 20-foot wide trail dedication along the north side of the Cove Ditch was previously provided by other subdivisions north of this property. It is encouraged that the applicant provides pedestrian/bike routes out of the commercial areas of this proposed development.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMCC 23-302.H.3.a.]

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302.H.3.e.]

The subject property is located within CC zoning. The lot sizes conform to the requirements of this zone. Other building setbacks and structure specific requirements will be reviewed for compliance at the time of building permit review.

F. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-302.H.3.b.]

The subdivider will coordinate and provided utility easements as requested by MDU and YVEC on the face of the plat. (**Condition #7**)

G. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-302.H.3.c.]

Legal and physical access is provided to the proposed lots from Rimrock Road, 62nd Street West.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Amended Lots 7-17, Coal Creek Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several of the goals and policies of the 2016 Growth Policy and does not conflict with the Transportation or Bikeway and Trail plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

RECOMMENDATION

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Amended Lots 7-17, Coal Creek Subdivision to the City Council, and adopt the Findings of Fact as presented in the staff report.

SUBDIVISION IMPROVEMENTS AGREEMENT

Coal Creek Subdivision Amended Plat Lots 7-17

April 24, 2018

SUBDIVISION IMPROVEMENTS AGREEMENT
Coal Creek Subdivision Amended Plat Lots 7-17
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City of Billings

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SUBDIVISION IMPROVEMENTS AGREEMENT

Coal Creek Subdivision Amended Plat Lots 7-17

This agreement is made and entered into this _____ day of _____, 20____, by and between *Magnus Land Development, LLC*, whose address for the purpose of this agreement is **745 South 56th Street West, Billings, MT 59106**, is hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, at a regular meeting conducted on _____ day of _____, 20____, the Board of Planning recommended conditional approval of a preliminary plat of the Coal Creek Subdivision Amended Plat of Lots 7-17 and;

WHEREAS, at a regular meeting conducted on _____ day of _____, 20____, the City Council conditionally approved a preliminary plat of Coal Creek Subdivision Amended Plat of lots 7-17; and

WHEREAS, a Subdivision Improvements Agreement is required by the City prior to the approval of the final plat.

WHEREAS, the provisions of this agreement shall be effective and applicable to *Coal Creek Subdivision Amended Plat Lots 7-17* upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

THEREFORE, THE PARTIES TO THIS AGREEMENT, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

I. VARIANCES

A. No variance request is being made as part of this development.

II. CONDITIONS THAT RUN WITH THE LAND

A. Lot owners will be required to construct the segment of the required sidewalk that fronts their property at the time of development.

B. Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is possible that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish,

Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

- C. Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.
- D. No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- E. There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts (SID) for only those items specifically identified within this document which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and Owner specifically agree that they are waiving valuable rights and do so voluntarily.
- F. The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the city and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.
- G. Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

III. TRANSPORTATION

A. Streets

- All roads within the subdivision shall be privately owned and built to the City of Billings subdivision regulation standards. These roads shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings' site development ordinance,

and City subdivision regulations.

- The north half of Rimrock Road shall be built to collector standards including asphalt, curb and gutter, and sidewalk. A right turn lane for west bound traffic off of Rimrock Road will be constructed at the intersection of first private approach and Rimrock Road. Storm collection shall be included along the north half of the road with a discharge to the Birely Drain. Water quality standards for Rimrock Road runoff shall be met in accordance with the Billings Stormwater Management Manual (BSMM).
- Cash contribution shall be made for improvements to 62nd Street West. Contributions shall be made for the widening of the west half of 62nd Street West to commercial standards including asphalt, curb and gutter, and sidewalk. Subdivider shall be given credit for materials already in place. Subdivider shall construct, or contribute to the construction, of a median to control turning movements for the $\frac{3}{4}$ shared access located between Lots 1-A and 2-A.
- The southern half of Signal Peak Avenue will be constructed from the western boundary of the subdivision east to 62nd Street West. This will include the installation of the private storm sewer and public water and sewer.

B. Sidewalks

- The Subdivider will install, corner intersection handicap ramps and aprons and will grade all street frontages for sidewalk finished grades.
- The Subdivider shall be responsible for the installation of a 10 foot asphalt trail along the Rimrock Road frontage.
- The Subdivider shall make a cash contribution for sidewalks along 62nd Street West.
- Individual lot owners within the commercial portion of the Subdivision will be responsible for the construction of the sidewalks adjacent to their lot and Signal Peak Avenue at the time of lot construction and shall be included in each building permit. Sidewalks shall be 5-foot boulevard walk style with a boulevard width of 5 feet.

C. Street Lighting

- The Subdivider will be responsible for extending street lighting north along 62nd Street West to the first subdivision approach. Maintenance of the street lights shall be the responsibility of the HOA or through the creation of a street light district.

D. Traffic Control Devices

- Subdivider shall furnish the necessary traffic control devices within and adjacent to the subdivision as required by City Engineering. Traffic control devices shall comply with the Manual on Uniform Traffic Control Devices (MUTCD) and City of Billings Standards.
- Subdivider shall pay intersection impact contributions totaling **\$107,600**.
 - Rimrock Road and 62nd St W: **\$64,375 (25.75% x \$250k)**
 - Rimrock Road and 54th St W: **\$28,750 (11.50% x \$250k)**
 - Grand Avenue and 62nd St W: **\$14,475 (5.79% x \$250k)**

Scheduling for intersection impact contributions is provided in the Phasing

section of this SIA.

- Subdivider shall furnish and install street name signs for streets within the subdivision, or located immediately adjacent thereto, in accordance with the specifications of the City of Billings Publics Works and Fire Departments.

E. Access

Rimrock Road

- Two full movement private road access points will be located along Rimrock Road:
 - a. First subdivision approach is approximately 370 feet west of the 62nd Street West and Rimrock Road intersection.
 - b. Lot 3-A access is approximately 650' west of the 62nd Street West and Rimrock Intersection.
- All access approaches will meet design standards outlined in the City of Billings Standard Modification Drawings.
- A 1-foot no access strip shall run along the boundary of lots fronting Rimrock Road as indicated on the Plat.
- The developer will be required to construct the necessary turn lanes as outlined in the traffic study.

62nd Street West

- Two full movement private road accesses will be located along 62nd Street West:
 - a. The Signal Peak Avenue access is approximately 1,020 ft north of the 62nd Street West and Rimrock Road intersection;
 - b. The second full movement access is approximately 650 ft north of the 62nd Street West and Rimrock Road intersection.
- All access approaches will meet design standards outlined in the City of Billings Standard Modification Drawings.
- A 1-foot no access strip shall run along the boundary of lots fronting 62nd Street West as indicated on the Plat.

Emergency Access

- In the event that Signal Peak is not fully constructed at one time, at minimum, a temporary emergency turnaround shall be constructed for road lengths less than 1,000 feet.

IV. EMERGENCY SERVICE

The Billings Fire Department currently provides fire protection for the subdivision.

At the time of future lot development construction of buildings made of combustible materials shall have adequate fire apparatus access roads and fire hydrant(s) in place to meet fire suppression requirements. Prior to issuance of a building permit for construction using combustible materials (i.e. lumber, plywood, wood trusses, etc.), fire apparatus access roads, and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the City of Billings.

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150 feet of the furthest portion of a building under construction as measured along an approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of twenty (20) feet wide.
- An operational fire hydrant shall be located within 600 feet of the furthest portion of a residence under construction or within 400 feet of the furthest portion of a commercial building under construction as measured along the access roads to the site.
- The above requirements do not alter or effect the current minimum subdivision requirements for apparatus access and watersupply.

Emergency access to the subdivision will occur at the locations described in Section III. TRANSPORTATION, Subsection E, Access. Approaches and internal roads are designed to accommodate emergency vehicles described previously.

V. STORM DRAINAGE

- A. Storm drainage shall be provided by a combination of surface drainage, curb and gutters, and storm drain piping. All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the *Stormwater Management Manual* in place at the time of development. A complete stormwater management plan shall be

Submitted to the City Engineering Division and Montana Department of Environmental Quality (as required) for review and approval at the time of development.

- B. Amended Plat of Lots 7-17 Coal Creek Subdivision shall utilize a series of small detention areas in addition to the community stormwater detention area located on Lot 2 of the Coal Creek Subdivision for stormwater management. The community drainage and detention facilities shall be operated and maintained by the Subdivision's Home Owner's Association. The community detention area will collect runoff from the Coal Creek Subdivision and the Amended Plat of Lots 7-17 Coal Creek Subdivision and convey it to the Birely Drain. Private storm facilities located on lots in the Amended Plat of Lots 7-17 Coal Creek Subdivision shall be operated and maintained by the respective lot owners.
- a. If the City constructs a storm water management facility on the land south of RimRock Road and adjacent to the Birley Drain, the Subdivider may direct runoff from the subdivision to the City's storm water management area. If the City does not proceed with construction of a storm water management facility prior to the development of subdivision, subdivider must construct detention on site. The water quality storm must be mitigated for each parcel on site.
- i. If storm water detention is directed to City's storm water facility, parcels shall make a cash contribution for stormwater improvements at a rate of \$0.24/sf of gross area of the parcels. Contributions shall be made to the City prior to the issuances of the parcels first building permit.
- C. Storm drainage for the north half of Rimrock Road adjacent to the Coal Creek Subdivision shall be conveyed thru a series of catch basins which will route runoff through a drainage main and discharge to the Birely Drain. Runoff from the south half of Rimrock Road is currently managed by the borrow ditch which ultimately drains to the Birely Drain. Improvements to the south half of Rimrock Road shall occur upon annexation of parcels adjacent to the roadway.

VI. UTILITIES

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water mains and sanitary sewers to the Public Works Department – Engineering Division. The extension of/connection to water mains and sanitary sewers is subject to the approval conditions of the applications. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any plans and specifications. The appropriate water and wastewater construction fees and franchise fee in effect shall be submitted with the applications.

The Subdivider/Owner acknowledges that the subdivision shall be subject to the applicable System Development Fees in effect at the time new water and/or sanitary sewer service connections are made or when a building permit is issued for new construction.

It is acknowledged that all fees stated above are subject to the Franchise Fee in effect at the time of payment.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc.) shall be in accordance with design standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality. Signal Peak Avenue will be privately owned with public water and sanitary sewer mains located within them, a standard Perpetual Right of Way Easement between the City and the property owner shall be completed and recorded with the Yellowstone County Clerk and Recorders office.

A. Water

Lots 5-A and 6-A will be serviced by a 12-inch public water main placed within the public water and sewer utility easement. The 12-inch main will run along Signal Peak Avenue tying into the existing 20-inch water main in 62nd Street. Valve and hydrant placement shall meet City of Billings Public Works Department and Montana DEQ standards, rules, and regulations. Installation of main will be by private contract.

Lots 2-A will be served by the existing 20-inch water main in 62nd Street with private service connections installed at the time of site development. Valve and hydrant placement shall meet City of Billings Public Works Department and Montana DEQ standards, rules, and regulations.

Lots 1-A, 3-A, and 4-A will be served by the existing 12-inch water main in Rimrock Road with private service connections. Valve and hydrant placement shall meet City of Billings Public Works Department and Montana DEQ standards, rules, and regulations.

B. Sanitary Sewer

Lots 5-A and 6-A will be serviced by an 8-inch public sewer main placed within the public water and sewer utility easement. The 8-inch sewer main will run along Signal Peak Avenue tying into the existing 18-inch sewer main in 62nd Street. The services shall meet City of Billings Public Works Department and Montana DEQ standards, rules, and regulations. Installation of main will be by private contract.

Lots 2-A and 4-A will be served by the existing 18-inch sewer main in 62nd Street with private service connections installed at the time of site development. The services shall meet City of Billings Public Works Department and Montana DEQ standards, rules, and regulations.

Lots 1-A and 3-A will be served by the existing 18-inch sewer main in Rimrock Road with private service connections. The services shall meet City of Billings Public Works Department and Montana DEQ standards, rules, and regulations.

C. Power, Telephone, Gas, and Cable Television

Power, natural gas, telephone, and cable will all be located within the right-of-way and utility easements shown on the plat.

VII. IRRIGATION

There are no irrigation rights for this property.

VIII. SOILS/GEOTECHNICAL STUDY

- A. A geotechnical analysis was performed for this property on August 12, 2016 by Rimrock Engineering, Inc. Sub-surface conditions vary across the site. Since specific structure types and locations have not been identified, performing site specific geotechnical investigations should be considered and is recommended.
- B. Construction restrictions due to the results of the study may include over excavation and controlled re-compaction, placement of granular backfill, or specific structural considerations, depending upon the actual structural loads to be built in a particular location.

- C. Assessment of a specific lot and mitigation efforts, if any, of these conditions shall be the responsibility of the lot owner. The City may require the owner of a lot to include a lot specific geotechnical investigation report with the building permit submittal.

IX. INFRASTRUCTURE IMPROVEMENTS

Subdivider is responsible for the construction of the north half of Rimrock Road along the frontage of the subdivision. Road improvements shall include widening of the asphalt to a collector road width as well as installation of curb and gutter, storm drain, and completion of the trail and/or sidewalk from Phase 1 of the Coal Creek subdivision. A right turn lane will be installed for west bound traffic at the intersection of the first approach into Phase 2 and Rimrock Road. Stormwater collected in RimRock Road storm drain will be discharged to the Birely Drain.

Contributions for intersection impacts shall be for the Lots being developed in Amended Plat of Lots 7-17 Coal Creek Subdivision. Intersection impact contributions are as follows:

- Rimrock Road and 62nd St W: **\$64,375**
- Rimrock Road and 54th St W: **\$28,750**
- Grand Avenue and 62nd St W: **\$14,475**

The Subdivider agrees not to sell or convey any lots in the subdivision to be served by the Amended Plat of Lots 7-17 Coal Creek Subdivision improvements, and the Subdivider further acknowledges that no building permits for lots within the subdivision shall be issued until a private contract has been executed for the construction and installation of the public improvements to serve said lots, and to provide necessary access and traffic circulation for the traffic generated by those lots. As used herein, the lots to be served by the said subdivision are particularly described as follows:

Lots 1-A through 6-A, inclusive, located in Amended Plat Lots 7-17 Coal Creek Subdivision, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (6 lots total).

X. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a special improvement district or private contracts secured by letters of credit or a letter of commitment to lend funds from a commercial lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said special improvement district or private contract, and the improvements shall be installed as approved by the city engineers and the City of Billings Public Works.

XI. LEGAL PROVISIONS

- A. Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by the City of Billings.
- B. The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.
- C. The covenants, agreements, and all statements in this Agreement apply to and shall be binding on the heirs, personal representatives, successors and assigns of the respective parties.
- D. In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.
- E. Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.
- F. Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals on the date first above written.

“SUBDIVIDER”

Magnus Land Development, LLC

By: _____

Title: _____

STATE OF MONTANA)

: ss

County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the _____ of *Magnus Land Development, LLC*, who executed the foregoing instrument and acknowledged to me that he executed the same.

Notary Public in and for the State of Montana

Printed Name: _____

Residing at: _____

My commission expires: _____

This agreement is hereby approved and accepted by the City of Billings, this _____ day of _____, 20 .

“CITY”
CITY OF BILLINGS
MONTANA

By: _____
Mayor

Attest: _____
City Clerk

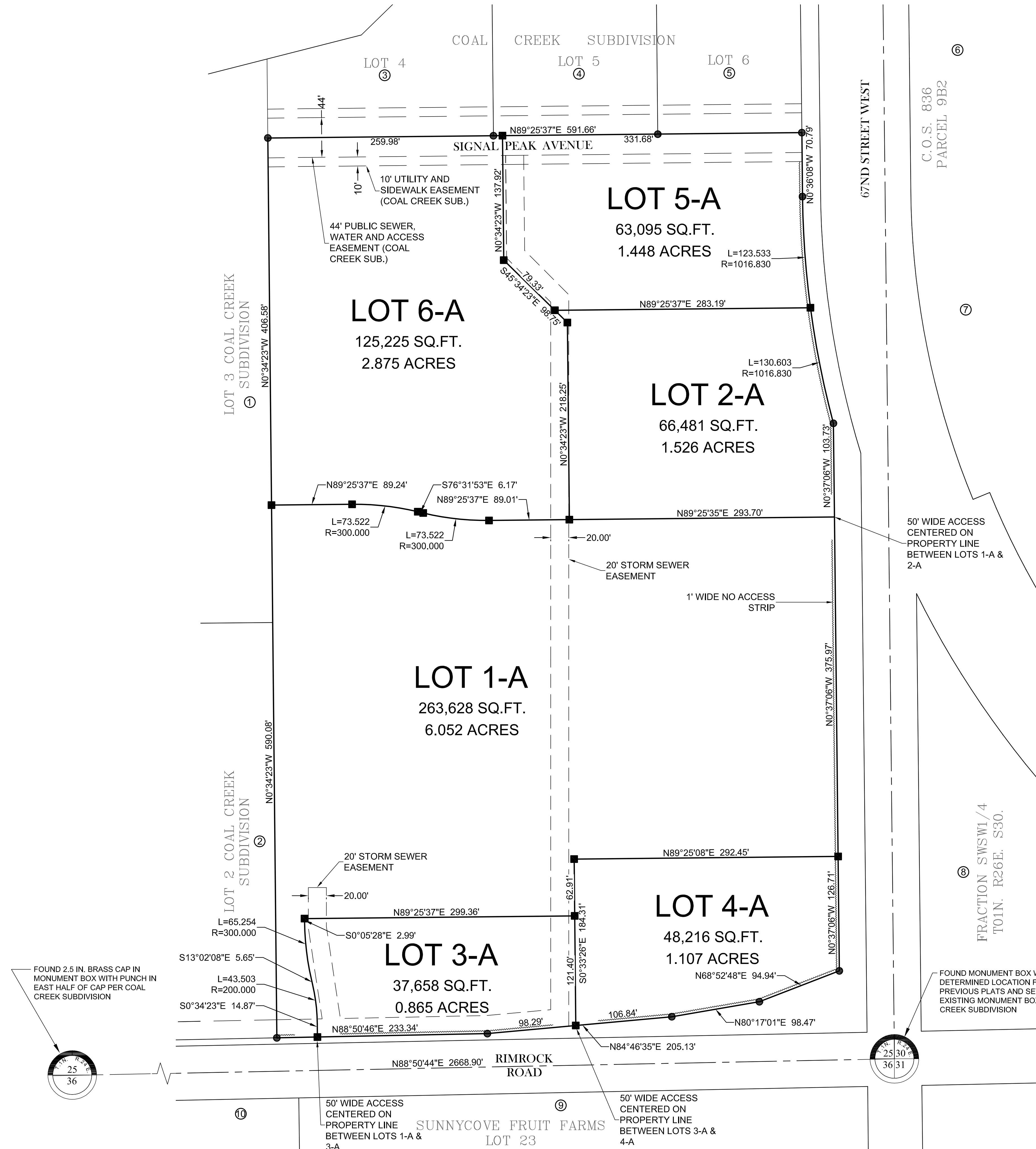
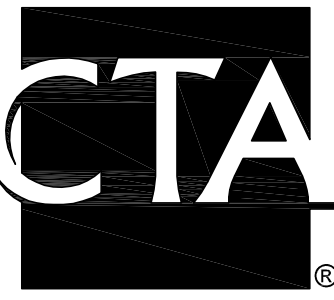
STATE OF MONTANA)
 : ss
County of Yellowstone)

On this _____ day of _____, 20 , before me, a Notary Public in and for the State of Montana, personally appeared _____, and _____, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

PRELIMINARY PLAT OF
 AMENDED PLAT OF LOTS 7 - 17
COAL CREEK SUBDIVISION

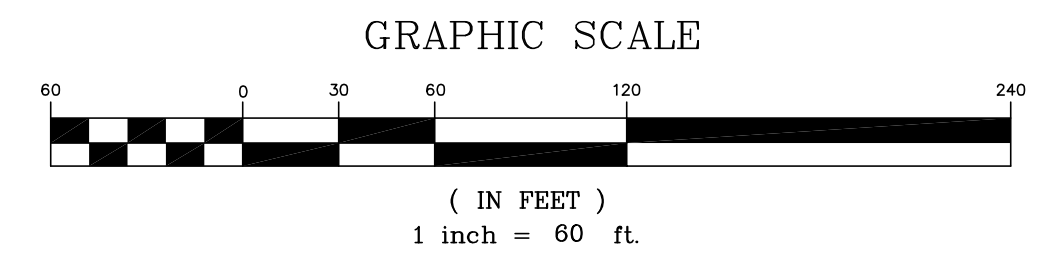
BEING A SUBDIVISION OF LOTS 7 - 17 OF COAL CREEK SUBDIVISION IN THE SOUTHEAST ONE-QUARTER
 OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 24 EAST, P.M.,M.,
 CITY OF BILLINGS, COUNTY OF YELLOWSTONE, STATE OF MONTANA.



- LEGEND**
- PROPERTY BOUNDARY - SUBJECT
 - - - PROPERTY BOUNDARY - ADJACENT
 - 1 FOOT NO ACCESS STRIP
 - - - SECTION LINE
 - 1 FOOT NO ACCESS STRIP

OWNER/SUBDIVIDER
 MAGNUS LAND DEVELOPMENT LLC.
 ENGINEER/SURVEYOR
 CTA ARCHITECTS ENGINEERS
 PLAT PREPARED
 FEBRUARY 2018

BASIS OF BEARINGS
 COAL CREEK SUBDIVISION PLAT



SITE DATA
 NUMBER OF LOTS: 6
 MAXIMUM LOT AREA: 6.052 ACRES
 MINIMUM LOT AREA: 0.865 ACRES
 AREA OF PARKLAND: 0 SQ.FT.
 LINEAR FEET OF STREETS: 0 FT.
 NET ACREAGE OF LAND TO BE SUBDIVIDED: 13.873 ACRES
 GROSS ACREAGE OF LAND TO BE SUBDIVIDED: 13.873 ACRES
 EXISTING ZONING: CC - COMMUNITY COMMERCIAL
 PROPOSED ZONING: CC - COMMUNITY COMMERCIAL
 EXISTING LAND USE: AGRICULTURAL
 PROPOSED LAND USE: SHOPPING CENTER

ADJOINING PROPERTY OWNERS

- ① MAGNUS LAND DEVELOPMENT LLC, 745 S 56TH STREET W., BILLINGS, MT 59106
- ② MAGNUS LAND DEVELOPMENT LLC, 745 S 56TH STREET W., BILLINGS, MT 59106
- ③ MAGNUS LAND DEVELOPMENT LLC, 745 S 56TH STREET W., BILLINGS, MT 59106
- ④ MAGNUS LAND DEVELOPMENT LLC, 745 S 56TH STREET W., BILLINGS, MT 59106
- ⑤ MAGNUS LAND DEVELOPMENT LLC, 745 S 56TH STREET W., BILLINGS, MT 59106
- ⑥ YELLOWSTONE COUNTRY CLUB, 5707 BOBBY JONES BLVD., BILLINGS, MT 59106
- ⑦ JOHN AND CATHERINE MICHUNOVICH, 4305 HUCKLEBERRY LANE S., BILLINGS, MT 59106
- ⑧ YELLOWSTONE COUNTRY CLUB, 5707 BOBBY JONES BLVD., BILLINGS, MT 59106
- ⑨ GRANATA ROCCO, HOOGBOOMSTEENWEG # 25
- ⑩ GRANATA ROCCO, HOOGBOOMSTEENWEG # 25

AMENDED PLAT OF LOTS 7 - 17
 COAL CREEK SUBDIVISION
 CITY OF BILLINGS, STATE OF MONTANA

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PRINCIPAL MERIDIAN
 MONTANA
 YELLOWSTONE COUNTY

T	Sec.	R.
25	1N	24E

FOR: MAGNUS LAND DEVELOPMENT LLC.

02.28.2018
 DRAWN BY: EJV
 REVISIONS

PRELIMINARY PLAT OF
 AMENDED PLAT OF
 LOTS 7 - 17
 COAL CREEK SUBDIVISION



THIS SURVEY VICINITY MAP



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



Planning Board Meeting 2 (4th Tuesday)

Meeting Date: 05/22/2018

Information

INTRODUCTION

On April 2, 2018, the Planning Division received an application for major plat approval for the proposed Mackenzie Meadows Subdivision, 2nd Filing. The property is generally located on the south side of Neibauer Road between South 48th Street West and South 56th Street West. This subdivision would create 183 lots from a 167.9-acre parcel for residential and commercial use. The land is currently used for farming. The majority of the land is outside of zoning with a smaller portion of the parcel being developed inside of zoning.

RECOMMENDATION

Staff recommends that the Yellowstone County Board of Planning recommend that the Board of County Commissioners conditionally approve the preliminary plat of Mackenzie Meadows Subdivision, 2nd Filing and adopt the Findings of Fact as presented in the staff report.

PROPOSED CONDITIONS OF APPROVAL

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact.

1. To provide for needed maintenance of internal ditches for downstream water users, prior to final plat approval, the applicant will add language in the SIA under IX Irrigation that states the ditches will be accessible for future maintenance until a time in the future when there are no longer downstream users.
2. To protect public health and safety, prior to final plat approval the applicant will receive approval from the MDEQ for the proposed water wells, community septic system and the proposed storm water management.
3. To protect public health and safety and provide efficient traffic movement, prior to final plat approval the applicant will submit a TIS to County Public Works for review and approval. Should the TIS identify any road widening or turn lanes required on Neibauer Road or South 56th Street West, the applicant will install those required improvements with oversight from County Public Works.
4. To provide for future maintenance of all public roads, parkland and trail easements within Mackenzie Subdivision, prior to final plat approval the applicant will create an RSID-M for the public roads and an RSID-M for the parkland.
5. To protect public health and safety and to ensure a usable dry hydrant system, prior to final plat approval the applicant will provide construction drawings to the BUFSA for the dry hydrant system and receive approval before construction begins within a public easement. The system must be tested and approved by the BUFSA after installation and an RSID created for the maintenance of the dry hydrant system.
6. To protect the surrounding lands and not introduce noxious weeds into the subdivision, prior to final plat approval the applicant will add language to the SIA describing the re-vegetation plan for the public parks and what type of seed will be used.

7. To minimize the effects on local service, prior to final plat approval the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
8. To minimize effects on the natural environment, prior to final plat approval a weed management plan and property inspection shall be completed by the County Weed Department.
9. To ensure correct zoning for the proposed lots in the zoned area of the subdivision, prior to final plat approval the applicant will go through the zone change process to have correct zoning for the proposed lot sizes.
10. To ensure the placement of easements for private utility providers, prior to final plat approval the applicant will coordinate with private utility companies to provide needed easements within the proposed subdivision.
11. 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.
12. The final plat shall comply with all requirements of the County Subdivision Regulations, rules, regulations, policies, and resolutions of the Yellowstone County, including laws regarding moving houses onto or off the property, and the laws and Administrative Rules of the State of Montana.

DISCUSSION/STAKEHOLDERS

Staff gave a brief presentation regarding the proposed subdivision to the Planning Board. President Darrell Tunnicliff asked the board if there were any questions for staff. Staff was asked to point out the different parks on the plan and staff identified them. The most concerning issue to some board members was the fact the developer will not be providing sidewalks in the portion of the subdivision that is outside of zoning.

Mr. Marshall Phil, agent for the applicant, stood to answer questions about the proposed subdivision. He first answered a question about the proposed parks that are also the community septic areas for the subdivision. They will be native grasses and not developed with amenities. At some time in the future, there could be some development by either the HOA or the developer. Concerning the sidewalks, he stated the developer will be installing sidewalks in the zoned part of the subdivision but not in the unzoned area. Also, there will be sidewalk along the east side of Abby Drive, the portion that is in zoning. It was stated by a board member that they find it very disappointing that a developer would only do the minimum that is required and not be willing to make a neighborhood nice and safe for all residents. There was no further discussion.

VARIANCES REQUESTED

No variances are requested for this subdivision.

PROCEDURAL HISTORY

- A pre-application meeting was held on March 8, 2018.
- The preliminary plat application was submitted to the Planning Division on April 2, 2018.
- A departmental review meeting was conducted on April 19, 2018.
- The preliminary plat was resubmitted with revisions based on department reviews on April 26, 2018.
- The Planning Board reviewed the plat on May 8, 2018.
- The Planning Board will conduct a public hearing on May 22, 2018, and forward a recommendation to the Board of County Commissioners.
- The Yellowstone County Board of County Commissioners will be considering the application at its regular meeting on June 19, 2018.
- The 60 working-day preliminary plat review period ends June 26, 2018.

PLAT INFORMATION

General location:	South side of Neibauer Road between South 48th Street West and South 56th Street West
Legal Description:	Parcel 2 of COS 3185 and S28, T01S, R25E, S2NW
Owner/Subdivider:	SAMM LLC and David E. Wagner
Engineer/Surveyor:	Blueline Engineering
Existing Zoning:	Outside of zoning and Agriculture Open Space Zoning
Existing land use:	Farming
Proposed land use:	Residential and Commercial
Gross and Net area:	167.9 acres / 125.9 acres
Proposed number of lots:	183
Max. lot size:	11.5 acres
Min. lot size:	0.46 acres
Parkland requirements:	The applicant is required to provide 7.1 acres for parkland. The applicant is proposing to provide 11.5 acres

Attachments

Findings of Fact
SIA draft
Proposed Plat

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 Lot 10, 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.

SUBDIVISION IMPROVEMENTS AGREEMENT
Mackenzie Meadows Subdivision, 2nd Filing
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(Yellowstone County)

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SUBDIVISION IMPROVEMENTS AGREEMENT

(Mackenzie Meadows Subdivision, 2nd Filing)

This agreement is made and entered into this ____ day of _____, 20__, by and between (*SAMM LLC.*), whose address for the purpose of this agreement is **225 S 54TH ST W, BILLINGS, MT 59106**, hereinafter referred to as "Subdivider," and **YELLOWSTONE COUNTY, Montana**, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, at a regular meeting conducted on ____ day of _____, 20__, the Board of Planning recommended conditional approval of a preliminary plat of (*Mackenzie Meadows Subdivision, 2nd Filing*); and

WHEREAS, at a regular meeting conducted on ____ day of _____, 20__, the Yellowstone County Board of County Commissioners conditionally approved a preliminary plat of (*Mackenzie Meadows Subdivision, 2nd Filing*); and

WHEREAS, a Subdivision Improvements Agreement is required by the County prior to the approval of the final plat.

WHEREAS, the provisions of this agreement shall be effective and applicable to (*Mackenzie Meadows Subdivision, 2nd Filing*) upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the Yellowstone County Subdivision Regulations, the rules, regulations, policies, and resolutions of Yellowstone County, and the laws and administrative rules of the State of Montana.

THEREFORE, THE PARTIES TO THIS AGREEMENT, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

I. VARIANCES

- Subdivider has requested no variances.

II. CONDITIONS THAT RUN WITH THE LAND

- A. Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide

damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

- B. Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.
- C. No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- D. There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.
- E. Culverts and associated drainage swales shall not be filled in or altered by the subdivider or subsequent lot owners.
- F. When required by road improvements, all fences and irrigation ditches in the public right-of-way adjacent to this subdivision shall be removed or relocated outside of the public right-of-way and any relocation outside of the public right-of-way shall be subject to securing and recording easements.
- G. Future maintenance of all public (or common) improvements shall be done through one (1) or more RSID(s) created as part of the SIA for this subdivision.
- H. A pipeline easement crosses through Lots 19 through 50 inclusive, Block 2; Lots 2 through 9 inclusive, Block 9. No fences, buildings, sheds, or other permanent structures can be built within this easement.

III. TRANSPORTATION

The subdivider agrees to guarantee all improvements for a period of one (1) year from the date of final acceptance by Yellowstone County.

A. Streets

- Abby Road will have an 80' roadway dedication all other internal roads will have 60' roadway dedications.
- All roads will be built to meet current Yellowstone County regulations at time of construction.
- The roadway will be 3" of pavement over 3" of 1 ½ in minus crushed gravel over 12" of 3 in minus pitrun over a compacted subgrade.
- Sidewalks will be on the eastside of Abby Road on Block 2, Lots 1 through 5 inclusive; and Block 4, Lots 6, 7, 8, 9.
- Sidewalks will be included on both sides of Callies Street, Callies Circle, Isabella Street, Isabella Circle, and the part of Bunter Street east of Abby Road.
- A RSID will be created for the maintenance of the road and sidewalks.
- The HOA will function as the Ad Hoc Committee for the RSID's.

B. Traffic Control Devices

- A traffic impact study was performed for the subdivision. The study intersections are expected to operate at an acceptable level of service with and without site generated traffic during existing and future conditions. No intersections or roadway improvements are required to accommodate traffic generated by the subdivision.
- Street name and stop signs for streets within the subdivision, or located immediately adjacent thereto, shall be furnished and installed in accordance with the specifications of the Yellowstone County Public Works Departments and MUTCD.
- Stop signs will be included at the access intersection of Abby Road and Neibauer Road, and at the access intersection of Abby Road and South 56th Street West.
- Stop signs will be included at the intersection of Abby Road and Callies Street, Bunter Street, Hunter Hall Street, and Costello Street.
- No traffic signals are anticipated within this subdivision.
- The Subdivider shall furnish and install all necessary traffic control devices in accordance with the Manual of Uniform Traffic Control Devices and approved by the Yellowstone County Public Works Department.

C. Access

- Access to the subdivision is provided from Neibauer Road and South 56th Street West, both 60' arterial streets. All new lots will be accessed from the internal streets. No improvements are planned for these roads.
- Abby Road is a Collector street all other internal roads are Local streets. All subdivision roads shall be 24' paved top.
- Lot 3, Block 10 shall have a 60' access easement off Abby Road.
- Lot 2, Block 10, and Lot 1, Block 10 shall have a 44' access easement extended from the 60' easement off Abby Road.
- Lots 6-8, inclusive, Block 10 shall have a 60' access easement off Abby Road.

D. Heritage Trail Plan

- Neibauer Road and South 56th Street West are identified Arterial Bike Routes.
- Abby Road is identified as a primary bikeway. No improvements are planned.
- Along the BBWA is an identified Proposed Multi-Use Trail. This will be a natural trail with a 10' trail easement.
- A trailway is planned along the length of the BBWA through the subdivision. This will be a natural trail with a 10' trail easement.

IV. EMERGENCY SERVICE

- Abby Road will serve as main access to the subdivision with connections to both 56th Street West and Neibauer Road. Both these roads are 60' arterial roads. No improvements are planned at this time.
- Both accesses will be built to Yellowstone County Paved Road specifications. It will include 24' of 3" pavement over 3" of 1 ½ in minus crushed gravel over 12" of 3 in minus pitrun over a compacted subgrade. The roadway will also include 2' graveled shoulders with barrow ditches.
- A 30,000-gallon water storage tank/dry hydrant has been shown on parkland of Block 6 on the north side of Abby Road. It will service the entire subdivision minus Lot 9, Block 9, and Lot 8 Block 10. The Subdivider shall submit the dry hydrant system plans and specifications to the Billings Fire Department for review and approval prior to construction. The dry hydrant system shall be installed by the Subdivider and inspected and approved by the Billings Fire Department. An RSID will be responsible for future maintenance of all public (or common) constructed improvements.
- Lot 9, Block 9, and Lot, 8 Block 10 will be serviced from the dry-hydrant tank located in Conrad Park Subdivision to the north.
- All lots in the subdivision that benefit from the dryhydrant located on the parkland of Block 6 will participate in the maintenance RSID.
- The HOA will function as the Ad Hoc Committee for the RSID.
- All lots in the subdivision that benefit from the Conrad Park Subdivision dry-hydrant will participate in the Conrad Park Subdivision maintenance RSID.

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions of the Section 4.7, Yellowstone County Subdivision Regulations, and a stormwater management plan shall be submitted to and approved by MDEQ, or its designee.

- Intersections shall have storm manholes with infiltration facilities.
- Barrow ditches on all the roads shall convey stormwater to the manholes.

- An RSID shall be created for care and maintenance of the storm facilities.
- The HOA will function as the Ad-Hoc Committee for the RSID.
- The first, second, and third phase stormwater improvements of the Subdivision shall consist of any conveyance, storage, or discharge facility which is an integral part of each phase's drainage system as describe in the Stromwater Management Plan approved by the Montana Department of Environmental Quality. Said improvements shall hereinafter be referred to as the Phase I, II, and III stormwater improvements respectively.
- Maintenance of the stormwater facility shall include the maintenance of all stormwater conveyance, storage, and discharge facilities located within the dedicated rights-of-way, dedicated easements, and parks as indicated on the plat.

VI. UTILITIES

A. Water

In accordance with Section 4.9 Yellowstone County Subdivision Regulations, all proposed water systems must obtain approval by they MDEQ, or its designee.

- The subdivision will be serviced by shared water wells.
- Department of Environmental Quality approval letter to be submitted with final plat.
- The water system including the well, pump, valve and all water line leading to the valve will be maintained and controlled by Mackenzie Meadows Water Works.
- All line leading from the valve to the home will be maintained and controlled by the homeowner.
- At time of construction a connection fee will be collected by Mackenzie Meadows Water Works.
- A monthly fee will be collected by Mackenzie Meadows Water Works.

B. Septic System

In accordance with Section 4.8 Yellowstone County Subdivision Regulations, all proposed sanitary sewer systems must obtain approval by the MDEQ, or its designee.

- The subdivision will be serviced by 13 multi-user drainfields, and a number of individual drainfields.
- The drainfields and their replacement areas will be located on the northern Parkland areas, and the Parkland areas in Blocks 1, 2, 6.
- Lots 31 through 43 inclusive, Block 2, shall have individual drainfields.
- Sewer lines running through the subdivision shall be in the right-of-way but not beneath the asphalt.
- State Department of Environmental Quality approval letter to be submitted with final plat

- The septic system including the septic tank, valves, sewer mains, drainfields and all associated lines will be maintained and controlled by Mackenzie Meadows Water Works.
- The lines leading from the homes to the septic tanks will be owned and controlled by the homeowners.
- At time of construction a connection fee will be collected by Mackenzie Meadows Water Works.
- A monthly fee will be collected by Mackenzie Meadows Water Works.

C. Power, Telephone, Gas, and Cable Television

- The private utilities shall be installed within the provided easements. 8-foot wide utility easements have been shown on the plat adjacent to all streets within the subdivision per the request of the utility companies

VII. PARKS/OPEN SPACE

- A total of 7.0934 acres is required for parkland in this subdivision 11.500 acres will be provided by park and trail dedications on the subdivision.
- The northern border lots and all other lots housing the multi-user drainfields will be designated parkland. These will be undeveloped natural parklands.
- A trail along the BBWA will also be designated parkland. This will be an undeveloped natural parkland.
- A trail along the western border of Block 1 and Block 2 to connect the BBWA trail to the northern parkland will also be designated parkland. This will be an undeveloped natural parkland.
- Parks and trails improvements will be completed on or before the completion of phase II.
- All parkland will be seeded.
- An RSID will be created for the maintenance of the parkland.
- The HOA will function as the Ad Hoc Committee for the RSID.

VIII. IRRIGATION

- All internal irrigation facilities will be removed during construction. All perimeter irrigation facilities will remain. No water rights will be transferred to the lot owners.

IX. WEED MANAGEMENT

All noxious weeds on the latest Yellowstone County Noxious Weed List shall be controlled on all properties in the subdivision.

- A Weed Management Plan must be filed and updated as needed for approval by the Yellowstone County Weed Department. Said weed management plan

shall contain the noxious weeds being addressed and the plan for the control of those weeds. All associated cost for noxious weed control is the responsibility of the owner of record.

- A revegetation plan shall be submitted as part of the management plan. A seeding recommendation can be obtained from the Yellowstone County Weed Department pursuant to Section 7-22-2152, MCA. The Yellowstone County Weed Department reserves the right to revise these recommendations based on the required site inspection.

X. SOILS/GEOTECHNICAL STUDY

- A geotechnical study is not required for the subdivision.

XI. PHASING OF IMPROVEMENTS

The Subdivider did not desire to commence development of all lots within the subdivision, but does desire to file the approved final plat of Mackenzie Meadows Subdivision, 2nd Filing and to sell and convey lots in said subdivision in phases. In accordance with the foregoing, the Subdivider and County agree as follows:

• PHASE I

The Phase I improvements will be constructed utilizing a private contract prior to final plat approval. The Phase I improvements include the excavation and paving of Abby Road within Mackenzie Meadows Subdivision. All of the portion of Hunter Hall Street within the boundary of Phase 1 shall be paved. The portion of Jessica Street within the boundary of Phase 1 shall be paved. The portion of Micks Street within the boundary of Phase 1 shall be paved. The portion of Bunter Street within the boundary of Phase 1 shall be paved. The portion of Colter Street within the boundary of Phase 1 shall be paved. All construction activities for the roads in Phase I will be restricted to using Abby Road as their access to the subdivision

The Subdivider and County agreed that the final plat may be filed, but the Subdivider will construct and/or provide monetary guarantee as outlined herein for Phase I improvements. The Phase I improvements referred to herein will be installed using a private contract, secured by an irrevocable letter of credit. The letter of credit will be in place prior to recording the final plat or commencement of the private contract. As used herein, the lots to be served by Phase I are more particularly described as follows:

Lots 5 through 29, inclusive, Block 1; Lots 1 through 19, inclusive, Block 6; Lots 1 through 16 inclusive, Block 7; Lots 1 through 16 inclusive, Block 8; Lots 1 through 16 Block 9; Lots 1 through 8, inclusive, Block 10, all in Mackenzie Meadows Subdivision in

Yellowstone County, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (100 lots total).

• **PHASE II**

Phase II will begin at or before April 1, 2020. The Phase II improvements include the paving of the portions of Bunter Street, Callies Street, and Costello Street that fall within the boundaries of Phase II. All construction activities for the roads in Phase II will be restricted to using Abby Road as their access to the subdivision. This will be stated in the construction documents and approved by the Yellowstone County Public Works Department. This restriction will be enforced by the engineer.

The Subdivider has not yet installed the Phase II improvements. The Subdivider agreed not to sell or convey any lots in the subdivision to be served by the Phase II improvements, and the Subdivider further acknowledges that no construction on lots within Phase II will begin until the private contract is executed for the construction and installation of the public improvements to serve said lots, and to provide necessary access and traffic circulation for the traffic generated by those lots. As used herein, the lots to be served by the said Phase II are more particularly described as follows:

Lots 1 through 5 inclusive, Lots 36 through 51 inclusive, Block 2; Lots 6 through 9, inclusive, Block 4; Lots 1 through 9, inclusive, Block 5, all in Mackenzie Meadows Subdivision, 2nd Filing in Yellowstone County, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (34 lots total).

• **PHASE III**

Phase III shall begin at or before April 1, 2022. The Phase III improvements include the paving of the portions of Callies Street, Callies Circle, Bunter Street, Isabella Street, and Isabella Circle that fall within the boundaries of Phase III. All construction activities for the roads in Phase III will be restricted to using Abby Road as their access to the subdivision. This will be stated in the construction documents and approved by the Yellowstone County Public Works Department. This restriction will be enforced by the engineer.

The Subdivider has not yet installed the Phase III improvements. The Subdivider agreed not to sell or convey any lots in the subdivision to be served by the Phase III improvements, and the Subdivider further acknowledges that no construction on lots within Phase III will begin until the private contract is executed for the construction and installation of the public improvements to serve said lots, and to provide necessary access and traffic

circulation for the traffic generated by those lots. As used herein, the lots to be served by the said Phase III are more particularly described as follows:

Lots 6 through 19 inclusive, Lots 20 through 35 inclusive, Block 2; Lots 1 through 13, inclusive, Block 3; Lots 1 through 5, inclusive, Lot 10, Block 4, all in Mackenzie Meadows Subdivision, 2nd Filing in Yellowstone County, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (49 lots total).

Pursuant to the foregoing agreement, the Subdivider has executed and recorded a Declaration of Restriction on Transfers and Conveyances for said Phase II, and III lots (attached hereto) to be recorded concurrently with the recording of this agreement. Said Declaration notifies all third parties that said lots may not be legally sold, conveyed, or transferred until a release executed by Yellowstone County and substantially in the form of Exhibit A attached hereto has been recorded in the office of the Clerk and Recorder of Yellowstone County, Montana. No lots shall be released until a certificate substantially in the form of Exhibit B attached hereto has been executed by the Department of Public Works stating that the above conditions have been met, which certificate must accompany any request for a release. By the acceptance and recording of the agreement, the County does hereby authorize the Department of Public Works, County Commissioners, and Clerk and Recorder to review any request for release and to execute such certificates and releases as may be necessary to evidence a release from the restriction against sale, conveyance, and transfer of lots in the subdivision. The release of each phase will go through a public hearing before release can be completed.

XII. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements by private contracts secured by bonds, irrevocable letters of credit, sequential development, or any other method that may be acceptable to the Planning Board and Board of County Commissioners. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said private contract, and the improvements shall be designed by and constructed under the supervision of a professional engineer competent in civil engineering, licensed in the state of Montana. Upon completion of the improvements, the consulting Engineer shall file with the Public Works Department, a statement certifying that the improvements have been completed in accordance with approved, seal stamped, record drawings, along with all required post-construction certification per Section 4.6.C. of the Yellowstone County Subdivision Regulations.

(In the event that all required improvements are not installed and constructed prior to final plat approval, the Subdivider shall provide a monetary security guarantee

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals on the date first above written.

“SUBDIVIDER”

Samm LLC

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this _____ day of _____, 20__, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the _____ of *Samm LLC*, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

**DECLARATION OF RESTRICTION ON TRANSFERS AND
CONVEYANCES**

MACKENZIE MEADOWS SUBDIVISION, 2ND FILING

THIS DECLARATION is made this ____ day of _____, _____, by
_____ hereinafter referred to as "Declarant,"

WITNESSETH

WHEREAS, the Declarant is the owner of all of the lots in Mackenzie Meadows Subdivision, 2nd Filing situated in Section 28, Township 1N, Range 25E, PMM., Yellowstone County Montana, hereinafter referred to as the "Subdivision"; and

WHEREAS, in connection with the filing of the plat for the Subdivision, the Declarant executed that certain Subdivision Improvements Agreement dated the ____ day of _____, _____ to Yellowstone County, which Agreement contains restrictions against the sale, conveyance or transfer of certain lots in the Subdivision until such time as the private contract has been executed providing for the installation and construction of required public improvements; and

WHEREAS, in order to move fully evidence the restriction against sale, conveyance, or transfer and to give third parties notice of such restrictions, the Declarant desires to execute and record this Declaration of Restrictions.

NOW, THEREFORE, in consideration of these premises, the Declarant, for itself and its successors and assigns, does hereby declare:

1. Except as hereinafter provided, the Declarant does hereby agree and declare that the following described lots shall not be sold, transferred, or conveyed to any third party unless and until a release has been executed and recorded in accordance with the provision hereinafter appearing:

Phase II:

Lots 1 through 5 inclusive, Lots 36 through 51 inclusive, Block 2; Lots 6 through 9, inclusive, Block 4; Lots 1 through 9, inclusive, Block 5, all in Mackenzie Meadows Subdivision, 2nd Filing in Yellowstone County, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (34 lots total).

Phase III:

Lots 6 through 19 inclusive, Lots 20 through 35 inclusive, Block 2; Lots 1 through 13, inclusive, Block 3; Lots 1 through 5, inclusive, Lot 10,

Block 4, all in Mackenzie Meadows Subdivision, 2nd Filing in Yellowstone County, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana (49 lots total).

2. It is the express purpose and intent of this Declaration to restrict or preclude sale, transfer, or conveyance of the above-described lots until such time as the private contract has been executed and necessary funding guarantees provided, as the case may be, providing for the construction and installation of those public improvements required under the above Subdivision Improvements Agreement which by reference thereto is hereby incorporated herein as though fully set forth at this point. It is anticipated, however, that the Declarant will develop Mackenzie Meadows 2nd Subdivision, in distinct phases, upon providing for the installation and construction of the public improvement necessary to serve the particular phase. In that regard a release of some but not all of the above described lots may be executed and recorded from time to time, in accordance with the provisions hereinafter appearing, and upon the recording of said release, the covenants and restrictions contained herein with respect to the lots described in said release shall be deemed canceled and terminated, and of no further force and effect.
3. Upon compliance with the requirements for a private contract specified above, a release for the lot or lots affected thereby shall be executed and recorded by Yellowstone County, pursuant to the provisions contained in the said Subdivision Improvements Agreement. The execution and recording of said release shall be deemed conclusive evidence to all third parties purchasing or acquiring any lot described therein that the restriction against sale, conveyance, or transfer of said lot has been removed.
4. UNTIL SUCH RELEASE IS EXECUTED AND RECORDED, THIS DECLARATION SHALL SERVE AS NOTICE TO ALL THIRD PARTIES PURCHASING OR ACQUIRING ANY OF THE ABOVE-DESCRIBED LOTS OF THE EXPRESS RESTRICTIONS AGAINST ANY SUCH SALE, CONVEYANCE OR TRANSFER, AND OF THE TERMS AND CONDITIONS OF THE SAID SUBDIVISION IMPROVEMENTS AGREEMENT, AND SHALL FURTHER SERVE AS NOTICE THAT YELLOWSTONE COUNTY MAY ENFORCE ANY AND ALL LEGAL RIGHTS AND REMEDIES SPECIFIED IN THE SUBDIVISION IMPROVEMENTS AGREEMENT SHOULD THE TERMS OF THIS DECLARATION BE VIOLATED.
5. The terms, conditions, and restrictions contained in this Declaration shall not preclude or restrict the ability of the Declarant to (a) sell, convey, and transfer all of the above-described lots, all of the lots in one phase, or those lots remaining subject to the terms of this Declaration, as one unit or group,

Return to:
BlueLine Engineering
2110 Overland Avenue, Suite 119B
Billings, MT 59102

EXHIBIT B

RELEASE

Mackenzie Meadows Subdivision, 2nd Filing

THIS RELEASE is made this _____ day of _____, 20____, by the undersigned, **SAMM, LLC**, and **YELLOWSTONE COUNTY**, a municipal corporation.

WHEREAS, the hereinafter described real property is subject to that certain Declaration of Restriction on Transfers and Conveyances (the "Declaration") dated, _____, 20____, and recorded _____, 20____, under Document No. _____, in the office of the Yellowstone County Clerk and Recorder; and

WHEREAS, said real property is also subject to the terms of that certain Subdivision Improvements Agreement by and between the undersigned dated _____, 20____, and recorded _____, 20____, under Document No. _____, in the office of the Yellowstone County Clerk and Recorder; and

WHEREAS, in accordance with the provisions of said Subdivision Improvements Agreement and the Declaration, a private contract has been executed and necessary funding guarantees have been provided, as the case may be, providing for the installation and construction of all required public improvements to serve the hereinafter described real property.

NOW, THEREFORE, in consideration of these premises, the undersigned do hereby declare and agree that all restrictions and conditions contained in said Declaration are hereby released and discharged, and shall be of no further force and effect, as the same relate to the following real property situated in Yellowstone County, Montana:

Lot(s) _____

all in Mackenzie Meadows Subdivision, 2nd Filing, in Yellowstone County, Montana, according to the official plat on file and of record in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. _____.

IN WITNESS WHEREOF, the parties have executed this release as of the day and year first above written.

SAMM, LLC

By: _____

Its: _____

STATE OF MONTANA)
 : ss.
County of Yellowstone)

On this ____ day of _____, 2018, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the _____ of SAMM, LLC, the corporation which executed the foregoing instrument and acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

Notary Public in and for the State of Montana
Printed name: _____
Residing at: _____
My commission expires: _____

Return to:
BlueLine Engineering
2110 Overland Avenue, Suite 119B
Billings, MT 59102

CERTIFICATE

Mackenzie Meadows Subdivision, 2ND FILING

The undersigned, the duly authorized representative of the Department of Public Works, Yellowstone County, Montana, does hereby certify that a private contract has been executed and necessary funding guarantees have been provided to construct and install the public improvements required to serve the following described property in Yellowstone County, Montana:

Lot(s) _____

, all in Mackenzie Meadows Subdivision 2nd Filing in Yellowstone County, according to the official plat on file in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. _____ (____ lots total).

This certificate is being executed to show compliance with the terms of that certain Subdivision Improvements Agreement dated this ___ day of _____, 20___, by and between Sann, LLC and Yellowstone County, and that certain Declaration of Restriction on Transfers and Conveyances, dated this ___ day of _____, 20___, covering Mackenzie Meadows Subdivision, 2nd Filing, and to provide the basis for the execution and recording of a release from the terms of said Declaration pursuant to the terms of said Agreements.

Dated this ___ day of _____, 2018.

DEPARTMENT OF PUBLIC WORKS
YELLOWSTONE COUNTY, MONTANA

By: _____

Title: _____

PRELIMINARY PLAT OF MACKENZIE MEADOWS SUBDIVISION, 2ND FILING

BEING LOT 5, BLOCK 1, MACKENZIE MEADOWS SUBDIVISION, 1ST FILING
AND THE S 1/2, NW OF SECTION 28, T. 1 N., R. 25 E., P.M.M.
YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: SAMM, LLC
SURVEYOR: NORTH STAR LAND SERVICES, P.C.
ENGINEER: BLUELINE ENGINEERING LLC
MARCH, 2018
BILLINGS, MONTANA

SUBDIVISION DETAILS:

GROSS AREA	=	167.891 ACRES
NET AREA	=	127.092 ACRES
ROAD AREA	=	29.299 ACRES
PARK AREA	=	11,500 ACRES
NUMBER OF LOTS	=	183
MINIMUM LOT SIZE	=	0.459 ACRES
MAXIMUM LOT SIZE	=	7.023 ACRES
ROAD LENGTH	=	16,404.00 LF
EXISTING ZONING	=	NONE/AG
SURROUNDING ZONING	=	
NORTH	=	AG/AS
SOUTH	=	AG
EAST	=	AG
WEST	=	NONE
EXISTING LAND USE	=	AG
PROPOSED LAND USE	=	RESIDENTIAL

