



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



**AGENDA**

April 23, 2019 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:** APRIL 9, 2019.
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. **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!

- b. Public Hearing. Motion/Recommendation to BOCC. County Major Subdivision. Bar Eleven Estates Subdivision. Production Consulting, LLC, owner. Performance Engineering, agent. Dave Green, Planner II, presenting.

8. **NEW BUSINESS:** (Agenda items new to this meeting).

- a. Discussion. MPO Updates. Planning Board Discussion. Scott Walker Transportation Coordinator.

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, MAY 14, 2019

### **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:** 04/23/2019

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**Information**

**Subject**

**MOTION. MEETING MINUTES:** APRIL 9, 2019.

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**Attachments**

PlnBMinutes\_2019\_04\_09\_DRAFT

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# CITY/COUNTY PLANNING BOARD

*“Serving Billings, Broadview and Yellowstone County”*

**Board Attendance Roster:** Please note: “E” stands for excused absence, “A” stands for un-excused absence, “1” stands for present. **BYLAWS, YELLOWSTONE COUNTY BOARD OF PLANNING, (Amended. May 25, 2004) Section 4. Absences and Removal A.** Each member shall inform the Planning Director at least one day before the meeting of his/her inability to attend a Board or Committee meeting. Such an absence shall be considered an excused absence. If any Board member accrues three (3) or more consecutive unexcused absences from regular meetings, notice of which has been given at his/her usual place of work or residence, or by announcement at a meeting attended by him/her, the President may call such absences to the attention of the Board which may then recommend to the appointing authority that such member be asked to resign and that another person be appointed to serve out the unexpired term. Schedule: (\*\* denotes a Wednesday meeting)

	Position	01/08/2019	01/22/2019	02/12/2019	02/26/2019	03/12/2019	03/26/2019	04/09/2019	04/23/2019	05/14/2019	** 05/29/2019	06/11/2019	06/25/2019	07/09/2019	07/23/2019	08/13/2019	08/27/2019	09/10/2019	09/29/2019	10/08/2019	10/22/2019	11/12/2019	11/26/2019	12/10/2019
<b>Dave Goodridge</b>	Mayor/Billings Ward I	E	1	1	1	E	E	E																
Matt Macrow	Mayor/Billings Ward II	1	1	1	1	1	E	1																
<b>Eric Wallace</b>	Mayor/Billings Ward III	1	1	1	E	E	E	1																
<b>Darell Tunnickliff</b>	Mayor/Billings Ward IV	1	1	1	E	1	1	E																
<b>Jon Thompson</b>	Mayor/Billings Ward V	1	E	1	E	1	1	1																
<b>Troy Boucher</b>	YC District 1	1	E	E	1	1	1	1																
<b>Dennis Cook</b>	YC District 2	1	1	1	1	1	1	1																
<b>Vacant</b>	YC District 3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Vacant</b>	YC District 4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Woody Woods</b>	YC District 5	1	1	1	1	1	1	1																
<b>Vacant</b>	YC District 6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Jarett Hillius</b>	YC District 7	1	1	1	1	1	1	1																
<b>Jerry Williams</b>	Y County Cons. District	1	1		1	1	1	1																
<b>Scott Reiter</b>	<b>Ex-Officio SD2</b>	A	A	A	A	A	A	A																

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## CITY/COUNTY PLANNING BOARD

*“Serving Billings, Broadview and Yellowstone County”*

**April 9, 2019**

*DRAFT- To be approved by a motion on April 23, 2019*

### **Call the Meeting to Order**

Vice President Woody Woods called the meeting to order at 6:00 p.m. on Tuesday, April 9, 2019 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North, Billings, Montana.

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

Vice President Woody Woods called for introductions of the members of the Planning Board and staff.

**Attending Planning staff members:** Wyeth Friday, Director, Planning & Community Services Department; Monica Plecker, Planning Division Manager; Dave Green, Planner II, Tammy Deines, Planning Clerk

**In Attendance:** Craig Dalton, Performance Engineering.

### **Approval of the April 9, 2019 Agenda**

#### **Motion:**

**Board member Cook made a motion and it was seconded by Board member Boucher to approve the April 9, 2019 meeting agenda. The motion was approved with a unanimous voice vote.**

### **Approval of Minutes: March 26, 2019**

#### **Motion, Correction-Matt Macrow was absent on March 26, 2019.**

**Motion was made by Board member Boucher and seconded by Board member Williams to approve the March 26, 2019 meeting minutes as corrected. The motion carried with a unanimous voice vote.**

**Public Comment:** Vice President Woody Woods asked if there was anyone wishing to speak during the public comment portion of the meeting. He stated any member of the public might 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 as no public comments.

**Disclosure of Outside (Ex Parte) Communication– Board Members and Planning Staff.** The Ex Parte Communication Binder is available at the Sign-In and Agenda station.

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## CITY/COUNTY PLANNING BOARD

*“Serving Billings, Broadview and Yellowstone County”*

7. **OLD BUSINESS**-There is no Old Business.

8. **NEW BUSINESS**

**8a. Plat Review. Discussion. Bar 11 Estates Subdivision, County Major Subdivision, Production Consulting, LLC, owner. Performance Engineering, Agent. Dave Green, Planner II.**

Dave Green introduced this agenda item and gave a brief presentation.

### **INTRODUCTION**

On March 1, 2019, the Planning Division received an application for major plat approval for the proposed Bar Eleven Estates Subdivision. The property is generally located on the South side of Plateau Road approximately .25 miles west of Bitterroot Drive. This subdivision would create 7 lots from a 17.55-acre parcel of land. Lots 5 and 6 are proposed to be developed as a condominium type development, multiple single family dwelling units on a single lot. The proposed lots will be developed as single family residential. The land is currently dry land grass and is zoned Residential 9600 (R-96).

### **RECOMMENDATION**

Staff recommends that the Yellowstone County Planning Board recommend to the Board of County Commissioners to conditionally approve the preliminary plat of Bar Eleven Estates Subdivision and adopt the Findings of Fact as presented in the staff report.

**VARIANCES REQUESTED:** No variances from the City Subdivision Regulations have been requested.

### **PROPOSED CONDITIONS OF APPROVAL**

Staff recommends the following conditions of approval:

### **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 protect public health and safety, prior to final plat approval the applicant will receive approval from the MDEQ for the proposed water systems, septic systems and the proposed storm water management.
2. To ensure compliance with requirements of subdivision regulations, prior to final plat

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## CITY/COUNTY PLANNING BOARD

### *“Serving Billings, Broadview and Yellowstone County”*

approval the applicant will add a paragraph in the SIA under the heading Conditions That Run With The Land to notify future homeowners of their responsibility to install sidewalk along their street frontage.

3. To ensure access to the public to the public park within the subdivision, prior to final plat approval the applicant will provide easement documents that allow the public to drive up the access along the eastern edge of the public park at Lot 7.
4. To minimize the effects on local services, 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.
5. 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.
6. 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.
7. 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.
8. 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**

Vice President Woody Woods called for questions and discussion from the members of the Board. Board member Thompson asked about the easement to the parkland and if it will be improved? Dave Green referred to the posted map and clarified the location of the easement. He explained that this land is dedicated to the County as parkland and a Parkland Maintenance District, (PMD), will be created. Board member Thompson asked if the parkland would be accessible. He stated would like to ensure it is useable parkland and not a drain field. Vice Chairman Woods concurred and said it seems there is an opportunity to use the land for actual parkland instead of a drain field.

Vice President Woods called for presentation by the applicant.

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### **Applicant**

#### **Craig Dalton, Performance Engineering (no address given)**

Mr. Dalton is the agent for applicant/owner, Production Consulting. Mr. Dalton addressed the board and clarified questions about the proposed parkland. He pointed out where the proposed septic system will be located within the parkland and explained why it would be located in the park. Board members raised concerns about the use of parkland for septic systems for the subdivision. It was felt the septic system should be separate from the parkland with an HOA to maintain the septic system. Board member Thompson asked when the easement for the parkland access would be built. Mr. Dalton answered that it will be built when the main paved road is built. There were no further questions from the Planning Board.

\*\*A public hearing for Bar 11 Estates Subdivision will be held during the April 23, 2019 Planning Board meeting.

### 9. OTHER BUSINESS

- **Transportation Updates:** Director Friday said staff would give a presentation and updates on transportation projects and activities during the April 23, 2019 Planning Board meeting.
- **Project ReCode Update:** Vice President Woods gave an update on the County Landscape Code (YC ZC#693), and stated the County Zoning Commission held a public hearing and forwarded a recommendation to the Board of County Commissioners on April 23, 2019. Citizens voiced concerns with the requirement for a landscape profession for landscaping plans over an acre, the point system, and opportunities for substitutions of plant materials if needed. Board member Thompson commented on the need to clearly define the term "landscape professional".
- **Lockwood TEDD:** Director Friday gave some background information on the service providers and stated the Lockwood Water and Sewer District is a standalone system; and the sewer system is connected to the City of Billings Treatment Plant. The TEDD is not in the service area or under the agreement for sewer treatment service. This consideration was brought forward to City Council during Monday's work session. Discussion was held to consider annexation of the TEDD area if sewer service is provided. City Council asked staff to look at

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## CITY/COUNTY PLANNING BOARD

### *“Serving Billings, Broadview and Yellowstone County”*

issues and options and to return with more information. Director Friday’s involvement is to remind Council of past planning efforts and annexation consideration status, and transportation projects including the Billings Bypass. He stated he has contacted Janet Cornish for input. Vice President Woods commented Council requested an update within 90-days. He said the primary issue with the TEDD area is the sewer services. Lockwood’s sewer agreement with the City is for treatment and the volume is paid for by Lockwood residents. He said a piggyback agreement would be needed with Lockwood to get services for the TEDD area. He said a simple solution is to amend the agreement with Lockwood to send the sewage to the City for treatment and let the TEDD move forward. He pointed out the TEDD area is part of Lockwood proper. A meeting is scheduled on April 14, 2019 with the City Administrator, and the landowners at BSEDA.

- The next meeting will be held as legally advertised on Tuesday, April 23, 2019, 6:00 PM in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Ave. North.

ADJOURNMENT: **6:42 P.M.**

### **Future Agenda Items: Tuesday April 23, 2019**

- A. **Public Hearing. Motion/Recommendation. Bar 11 Estates Subdivision,** County major, Production Consulting LLC owner. Performance Engineering, agent. Dave Green Planner II, presenting.
- B. **MPO Updates. Planning Board Discussion.** Scott Walker Transportation Coordinator

**DRAFT-TO BE APPROVED BY A MOTION ON APRIL 9, 2019**

*--Tamará L. Deines, Planning Clerk*



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



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

**Meeting Date:** 04/23/2019

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**Information**

**INTRODUCTION**

On March 1, 2019, the Planning Division received an application for major plat approval for the proposed Bar Eleven Estates Subdivision. The property is generally located on the south side of Plateau Road approximately .25 miles west of Bitterroot Drive. This subdivision would create 7 lots from a 17.55-acre parcel of land. Lots 5 and 6 are proposed to be developed as condominium type development with multiple single family dwelling units on a single lot. The proposed lots will be developed as single family residential. The land is currently dryland grass and is zoned Residential 9600 (R-96).

**RECOMMENDATION**

Staff recommends that the Yellowstone County Planning Board recommend the Board of County Commissioners conditionally approve the preliminary plat of Bar Eleven Estates Subdivision 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 protect public health and safety, prior to final plat approval the applicant will receive approval from the MDEQ for the proposed water systems, septic systems and the proposed storm water management.
2. To ensure compliance with requirements of subdivision regulations, prior to final plat approval the applicant will add a paragraph in the SIA under the heading Conditions That Run With The Land to notify future home owners of their responsibility to install sidewalk along their street frontage.
3. To ensure public access to the public park within the subdivision, prior to final plat approval the applicant will provide easement documents that allow the public to drive up the access along the eastern edge of the public park at Lot 7.
4. To minimize the effects on local services, 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.
5. 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.
6. 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.
7. 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.
8. 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.

### **PLAT REVIEW DISCUSSION**

Planning staff gave a brief presentation about the proposed subdivision and stood for questions. There were clarifying questions from board members regarding parkland dedication. Staff provided some answers and deferred the others to the applicants agent. There were no further questions for staff.

Planning Board President Darell Tunncliff asked if the agent wished to address the board. The agent, Craig Dalton, addressed the board and clarified question about the proposed park land and why there is a proposed septic system in the park and its location in the park. Board members raised concerns about the use of park land as septic systems for the subdivision. It was felt the septic system should be separate from the park land with an HOA to maintain the septic system. Another question was when the easement for the parkland access would be built. Mr. Dalton answered that it will be built when the main paved road is constructed. There were no further questions from the Planning Board.

### **VARIANCES REQUESTED**

No variance has been requested.

### **PROCEDURAL HISTORY**

- Pre-application meeting January 24, 2019
- Preliminary plat application submitted to the Planning Division on March 1, 2019
- Departmental review meeting March 14, 2019
- Preliminary plat resubmitted March 21, 2019
- Planning Board plat review April 9, 2019
- Planning Board public hearing April 23, 2019
- Preliminary plat to Yellowstone County Board of County Commissioners on May 14, 2019
- 60 working-day preliminary plat review period ends May 24, 2019

### **PLAT INFORMATION**

General location: Bitterroot Drive	South of Plateau Road approximately .25 miles west of
Legal Description: Lot 1	S02, T01 N, R26 E, W2S2 Lot 1; S02, T01 N, T26 E E2W2
Owner/Subdivider:	Production Consulting, LLC
Engineer/Surveyor:	Performance Engineering
Existing Zoning:	Residential 9600 (R96)
Existing land use:	Dryland grass and shrubs
Proposed land use:	Residential
Gross and Net area:	17.55 acres / 16.37 acres
Proposed number of lots:	7
Max. lot size:	3.49 acres

Min. lot size: 1.19 acres

Parkland requirements: The required parkland dedication is 0.811 acres; the applicant is proposing to dedicate 3.198 acres

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### **Attachments**

Findings of Fact  
Draft SIA  
Proposed Plat

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**PROPOSED YELLOWSTONE BOARD OF COUNTY COMMISSIONERS**  
**FINDINGS OF FACT**

The City-County Planning Division Staff has prepared the Findings of Fact for Bar Eleven Estates Subdivision. 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 not used for agricultural purposes, it is dryland grasses and shrubs. There are no agricultural water users' facilities near the subject property or agriculture activity. In the SIA under the heading Irrigation it states that there are no irrigation ditches within the subdivision.

There will be no impacts from this subdivision on agriculture activities or uses.

**2. Effect on local services**

a. **Water and Septic** –The subdivision is served by County Water District of Billings Heights. For household water use, the applicant is proposing to install an 8-inch water line within the proposed right of way, Yuzu Circle, connected to the existing 12-inch water line in Plateau Road. Lot 1 of the proposed subdivision has an existing well on the property. All lots with street frontage will have water lines to them and there will be multiple water stubs for the condominium development on lots 5 and 6.

There are currently 3 existing individual on-site septic systems within the proposed subdivision. The applicant is proposing an individual on-site septic system for proposed Lot 3. A community on-site septic system shall be installed in the parkland to serve the condominium development on Lots 5 and 6. The community system will be placed in the parkland area with an easement over it for any future needed access for repair and maintenance purposes. The parks department is aware of this proposal and state they are good with the proposal.

The proposed water systems and the septic systems will need to be reviewed and installed in accordance with Section 4.9 of the Yellowstone County Subdivision Regulations and will need to have MDEQ approval. (**Condition #1**)

b. **Streets and roads** – The subdivision will have a road, Yuzu Circle, connected to Plateau Road. This road will be a public road and will be built to Yellowstone County road standards. An RSID will be created for the new road as outlined in the SIA under the heading III Transportation A. Streets. Before construction of the new road, the applicant will have to obtain an access permit from the county and any future accesses off the new internal road will be required to obtain an access permit before construction of a

residence. This requirement is mentioned in the SIA under the heading Conditions That Run With The Land, H. Sidewalks will be built to meet the requirements of the subdivision regulations. The applicant in the SIA states that the developer will install some portions of the sidewalk that do not have houses along the length of road but that individual homes will be required to build sidewalk with construction of the homes. This requirement needs to be included in the Conditions That Run With The Land. **(Condition #2)** An easement document will need to be provided to allow access to the public park on a portion of Lot 3. **(Condition #3)**

c. **Fire and Police services** – The property is within the Billings Urban Service Area (BUFSA). The subdivision has access to public water so they will be installing fire hydrants in locations required by fire code and approved by BUFSA.

The Yellowstone County Sheriff's Department will provide law enforcement services.

d. **Solid Waste disposal** – The Billings Landfill has capacity for solid waste disposal. Solid waste will be collected and disposed of by a private garbage collection company. Each lot owner will be responsible for arranging for collection.

e. **Storm water drainage** – Storm water drainage shall satisfy Yellowstone County Storm Water Management requirements and DEQ. A storm water plan will have to be reviewed and approved by the DEQ to ensure the proposed stormwater management is feasible and will work satisfactorily. **(Condition #1)**

f. **School facilities** – The proposed subdivision is located in Independent School District for Elementary age students. At the time of writing this report, staff had not receive any comments from Independent School District concerning this proposed subdivision. School District #2 will provide educational services for Middle and High School students, Medicine Crow for middle and Skyview for high school. At the time of writing this report, staff has not received any comment from School District #2.

g. **Parks and recreation** – This proposed subdivision is required to provide parkland. Because of the different types of housing and lots being proposed for this subdivision, condominium and single lots, the parkland dedication is broken down into three different calculations. The applicant has done that in the SIA under the heading VIII. Parks/Open Space. The total required parkland dedication is 0.811 acres. The applicant is proposing to dedicate 3.198 acres. Within the parkland dedication, a community drain field for proposed Lots 5 and 6 will be installed. There will be an easement over the drain field that will allow access for repairs and maintenance.

h. **Postal Service** – The applicant will be required to coordinate the location of the delivery boxes and provide enough space for the delivery vehicle to pull out of traffic for safety. **(Condition #4)**

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

### **3. Effects on the natural environment**

The development will use noxious weed control measures to prevent the spread of noxious weeds to adjacent developed or agricultural land. According to SIA Section IX., Weed Management, the developer will submit a weed management plan prior to final plat approval. **(Condition #5)**

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 not required for this subdivision pursuant Section 9.2 C of the County Subdivision Regulations.

#### **C. Does the subdivision conform to the Yellowstone County 2008 Growth Policy, the 2019 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan Update? [BMCC 23-302.H.4.]**

##### **1. Yellowstone County - 2008 Growth Policy**

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

- Goal: Improved public services and facilities. (p. 7)

*The subdivision will provide new homes in an area of the county that is growing and there is public water service that is good for future development.*

- 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. 2019 Urban Area Transportation Plan**

The subject property is outside the study area of the Transportation Plan. As proposed, there are only neighborhood streets associated with this subdivision.

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

The proposed subdivision is outside the study area of the BBTMP. The subdivider will not be required to provide for any bike lanes or trails.

**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 subdivision is within Residential 9600 zoning.

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

Private utilities are to be installed in the public road right-of-way by North West Energy and MDU. Should the private utility companies require easements the applicant will be required to coordinate the easements needed with the private utility companies.  
**(Condition #6)**

**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 Plateau Road for all lots. The internal street, Yuzu Circle, will provide access to Lots 3, 4, 5 and 6

**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.

**RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Bar Eleven Estates Subdivision, to the Board of County Commissioners, and adopt the Findings of Fact as presented in the staff report.

**SUBDIVISION IMPROVEMENTS AGREEMENT**  
***Bar Eleven Estates Subdivision***  
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**Yellowstone County**

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# SUBDIVISION IMPROVEMENTS AGREEMENT

## Bar Eleven Estates Subdivision

This agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between *Production Consulting, LLC.*, whose address for the purpose of this agreement is **PO Box 51120, Billings, MT 59105**, hereinafter referred to as “Subdivider,” and **YELLOWSTONE COUNTY, Montana**, hereinafter referred to as “County.”

### WITNESSETH:

**WHEREAS**, the plat of *Bar Eleven Estates Subdivision*, located in Yellowstone County, Montana, was submitted to the Yellowstone County Board of Planning; and

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Board of Planning recommended conditional approval of a preliminary plat of *Bar Eleven Estates Subdivision*; and

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Yellowstone County Board of County Commissioners conditionally approved a preliminary plat of *Bar Eleven Estates Subdivision*; 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 *Bar Eleven Estates Subdivision* 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 not requested any variance from the Yellowstone County Subdivision Regulations.

### **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 at no cost to the County 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. Lot owners are required to obtain an access permit prior to any home construction.

### **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**

- Yuzu Circle is being dedicated as public 60-foot wide right-of-way to Yellowstone County as part of this subdivision.
- Maintenance of said road will be funded through the creation of a RSID. The public dedication documents and RSID waiver will be filed with the final plat documents.
- All roads within the subdivision shall be built to grade with a satisfactory subbase, base course and asphalt surface. The street design cross-section shall be a 24-foot asphalt width street with 2-foot wide gravel shoulders. The design cross-sections of said streets shall be submitted to, and approved by, Yellowstone County Public Works. An RSID will be created for future maintenance of all public (or common) constructed improvements prior to final plat approval.
- Developer shall install the first 75 feet of sidewalk from the intersection of Plateau Road along Yuzu Circle on both sides of the road in addition to the sidewalk surrounding the cul-de-sac of Yuzu Circle to the northern lot line of Lot 2's frontage.
- Each unit on Lots 5 and 6 shall construct 70 feet of 5-foot sidewalk along its frontage. Sidewalk shall evenly straddle the building, and extend to the next adjacent units sidewalk (if existing). Units located on the most northern and southern ends of Lots 5 and 6 shall extend sidewalk to tie-into the existing sidewalk installed by the developer as described above.

#### **B. Traffic Control Devices**

- 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 Department.
- 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 Bar Eleven Estates Subdivision will be provided from the north via Plateau Road.
- Access to Lots 4, 5 and 6 will be provided off Yuzu Circle.
- Access to Lot 7 (Parkland) will be provided via a 32-foot access easement extending from Yuzu Circle.
- Access Lots 1 and 2 will be provided via an existing 30-foot access easement from Plateau Road. Lot 2 shall not take access from Yuzu Circle.
- Should the driveway for the future dwelling on Lot 3 extend further than 150 feet from the parkland cul-de-sac, an approved turn around shall be

supplied at the end of the driveway in accordance with the fire department and county subdivision regulations.

**D. Billings Area Bikeway and Trail Master Plan**

- No bike trail is identified in the area of this subdivision and no trail easement is being provided.

**IV. EMERGENCY SERVICE**

The Billings Urban Fire Service Area (BUFSA) currently provides fire protection and paramedic services 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 allow for 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 Billings Urban Fire Service Area.

At a minimum, the following:

1. 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.
2. The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of 20-feet wide.
3. 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.
4. The above requirements do not alter or effect the current minimum subdivision requirements for apparatus access and water supply.

**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 the Montana Department of Environmental Quality (MDEQ), or its designee.

**VI. UTILITIES**

**A. Water**

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

designee.

- Lot 1 is currently being served by an existing well. The remaining lots will be served by an 8-inch public main placed within the roadway. The 8-inch main will connect to the existing 12-inch main located in Plateau Road. Valves and hydrants will be placed to meet Heights Water District and Montana DEQ standards, rules, and regulations.
- A Montana DEQ approval letter will be submitted with the final plat.

#### **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.

- There are currently three individual on-site sewer systems within the subdivision. An additional individual on-site sewer systems shall be installed to serve Lot 3. A community on-site sewer system shall be installed to serve Lot 5 and Lot 6. A utility easement for the community drainfield will be located within the parkland area.
- A Montana DEQ approval letter will be submitted with the final plat.

#### **C. Power, Telephone, Gas, and Cable Television**

- Power, natural gas, telephone, and cable will all be located within the public right-of-way.

### **VII. PARKS/OPEN SPACE**

- The parkland requirement for the subdivision are as follows:
  - i. 11% of the area of the net land proposed to be developed at a density of one dwelling unit per half acre or less. This applies to Lot 5 and Lot 6. The net area of the two lots is 4.047 acres, which requires 0.445 acres of parkland.
  - ii. 5% of the area of the net land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres. This applies to Lot 1, Lot 2, and Lot 4. The net area of the three lots is 5.494 acres, which requires 0.275 acres of parkland.
  - iii. 2.5% of the area of the net land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres. This applies to Lot 3. The net area of lot 3 is 3.633 acres, which requires 0.091 acres of parkland.
  - iv. Total parkland dedicated is 3.198 acres.
- The proposed parkland will consist primarily of open space covered with native vegetation.
- A utility easement shall overlay the parkland area for the purposes of constructing a communal drainfield for the benefit of Lots 5 and 6.

Following construction of the drainfield, disturbed area shall be reseeded with native grasses.

- The Park Maintenance District created from the previous Bar 11 Subdivision will be expanded to maintain the parkland designated in the Bar Eleven Estates Subdivision. Access to the parkland will be from the 32-foot access easement along the east side of the Subdivision.

#### **VIII. IRRIGATION**

- There are no irrigation ditches within the subdivision and none of the proposed lots will have water rights assigned to them.

#### **IX. WEED MANAGEMENT**

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

- 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**

- Soil data was obtained from the NRCS web soil survey. Soils consist of Blacksheep-Twilight complex, McRae loam, Rentsac-Cabbart complex, and Cabbart-Bonfri loams.
- A geotechnical study is not required by the Yellowstone County Subdivision Regulations as part of this plat. 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 limitation for proposed construction on the lots, which may require a geotechnical survey prior to construction.

#### **XI. 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.

## **XII. LEGAL PROVISIONS**

- A.** Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by Yellowstone County.
- 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.
- G.** Subdivider agrees to create any required (or expansion of existing) RSID(s) for future maintenance of all public (or common) constructed improvements prior to final plat approval.

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

“SUBDIVIDER”

*Production Consulting, 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 *Production Consulting, 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: \_\_\_\_\_

This agreement is hereby approved and accepted by Yellowstone County, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

“COUNTY”  
COUNTY OF YELLOWSTONE  
MONTANA

County of Yellowstone  
Board of County Commissioners

By: \_\_\_\_\_  
Chairman

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

Attest: \_\_\_\_\_  
County Clerk and Recorder

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 Board of County Commissioners and the County Clerk and Recorder, respectively, of Yellowstone County, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of Yellowstone County, Montana.

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

**Waiver of Right to Protest**

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more Rural Special Improvement Districts (RSID's), which Yellowstone County may require for a period of no more than twenty years from the date of this document's recording.

This Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned are parties, and shall run with the land and shall be binding upon the undersigned, their successors and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

*Bar Eleven Estates Subdivision*

Signed and dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Production Consulting, LLC.

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

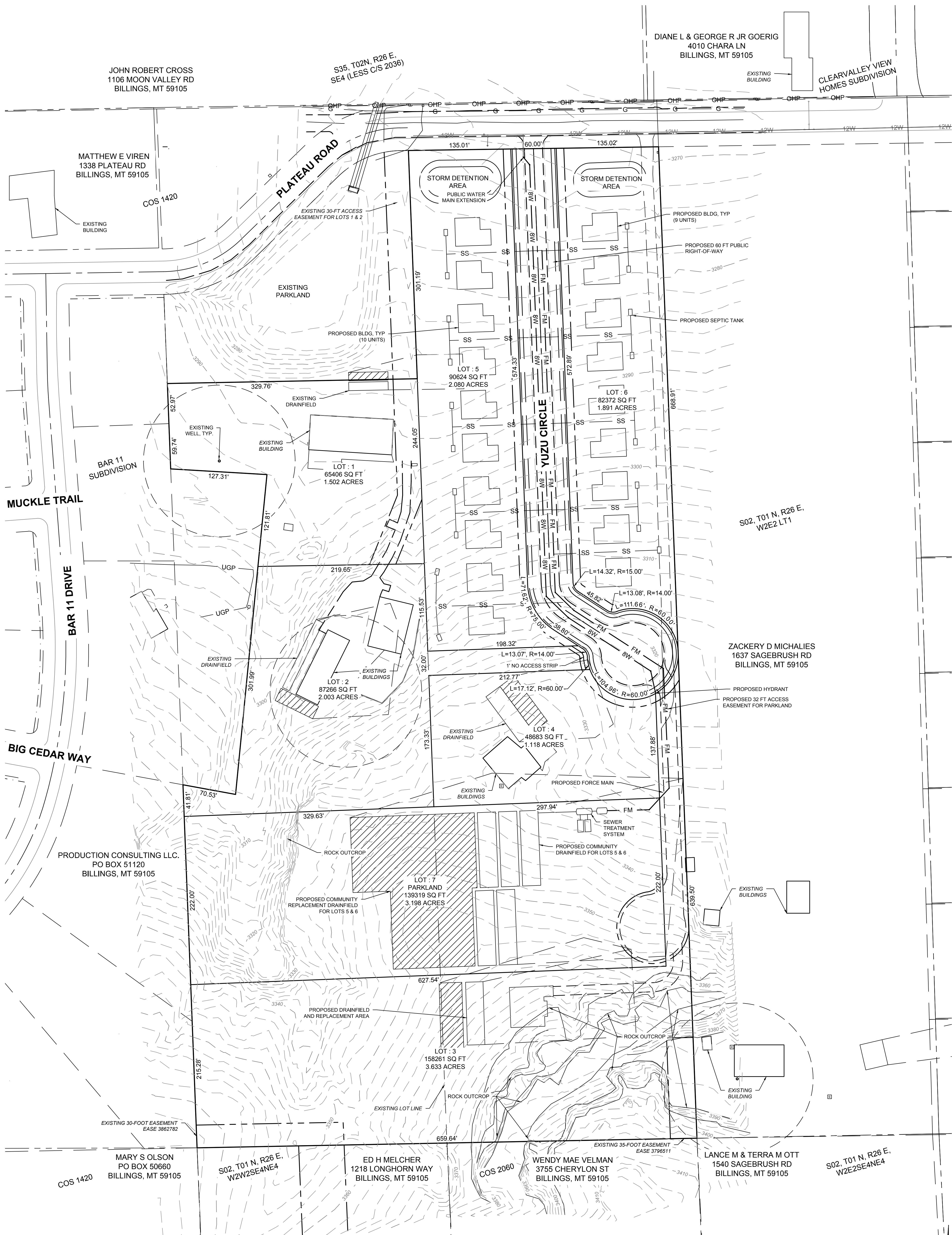
On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of *Production Consulting, LLC.*, who executed the forgoing instrument and acknowledged to me that he executed the same.

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

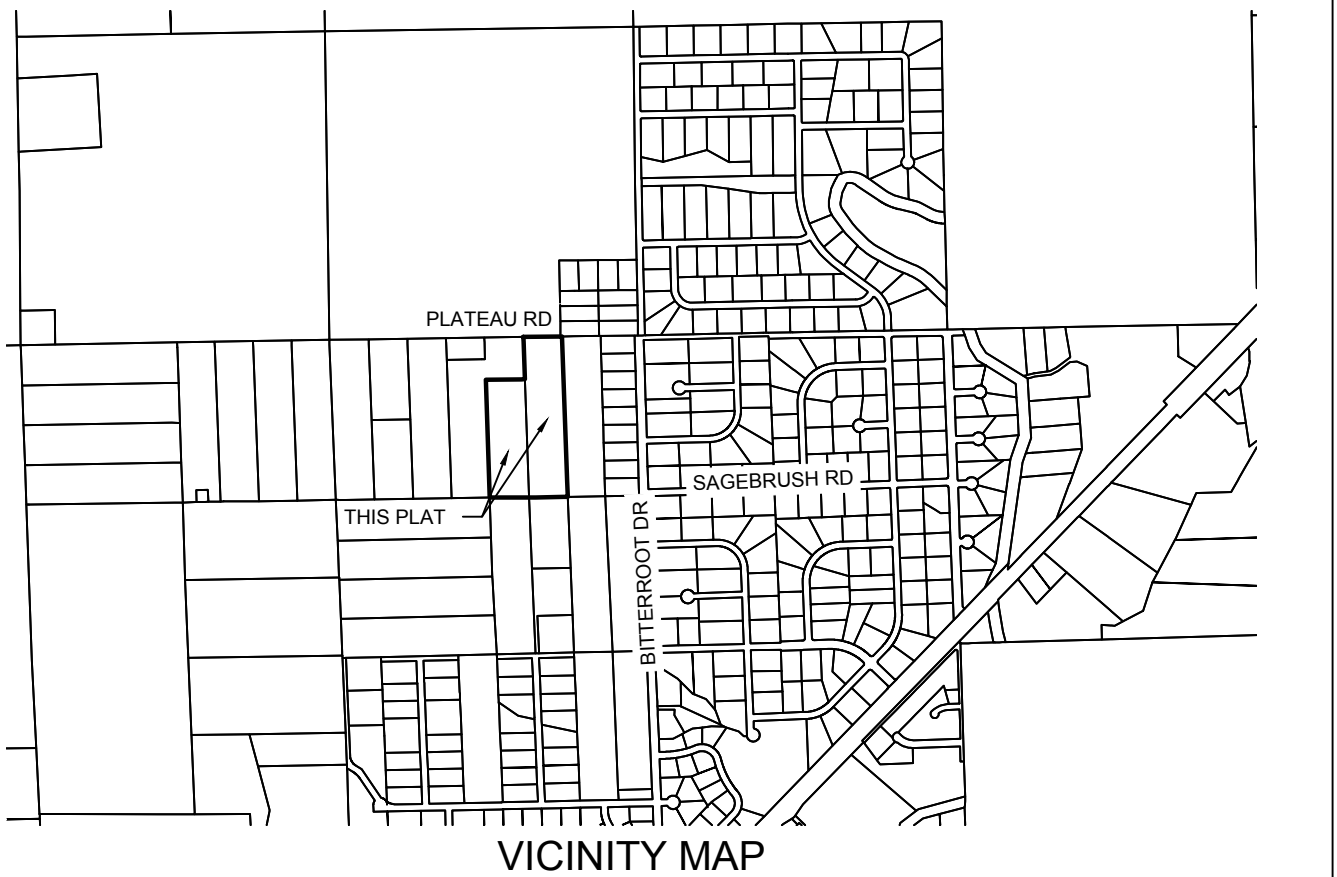
\_\_\_\_\_  
Notary Public in and for the State of Montana

Printed name: \_\_\_\_\_  
Residing in Billings, Montana  
My commission expires: \_\_\_\_\_

PRELIMINARY PLAT OF  
**BAR ELEVEN ESTATES SUBDIVISION**  
 BEING LOCATED IN THE NE 1/4 OF THE NE 1/4 OF SECTION 2, TOWNSHIP 01 NORTH,  
 RANGE 26 EAST, P.M.M., YELLOWSTONE COUNTY, MONTANA



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EXISTING LAND USE: RESIDENTIAL  
 EXISTING ZONING: RESIDENTIAL (R96)  
 PROPOSED LAND USE: RESIDENTIAL  
 PROPERTY OWNER: PRODUCTION CONSULTING, LLC.

7100 COMMERCIAL AVE., SUITE 4  
 BILLINGS, MT 59101  
 OFFICE - 406-384-0080  
 www.performance-ec.com



SHEET  
**1 OF 1**

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