

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

The City-County Planning Division Staff has prepared the Findings of Fact for Sundance 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 used for agricultural purposes. There are agricultural water users' facilities near the subject property. On the north of the property, there is the Snow Ditch. This ditch will be within a 36-foot wide easement. A drainage ditch runs along the western edge of the proposed subdivision. This ditch is within the 60-foot road right of way that is part of 48<sup>th</sup> Street West. In the SIA under the heading Irrigation, it states no water rights or shares are being transferred to the property owners within the proposed subdivision. There will be impacts from this subdivision on agriculture use; it will be taking 78.809 acres of ag land out of production.

**2. Effect on local services**

a. **Water and Septic** – The proposed subdivision is located within the City's Long Range Urban Planning Area on its Limits of Annexation Map as an area the City is considering for future annexation. The City's adopted Capital Improvement Plan (CIP) shows a trunk water main project planned for the 48th St West corridor starting in FY21 (June 30, 2020) and under construction the following year in 2021. However, the applicant is pursuing a county development and does not intend to request annexation, request an annexation map amendment for future annexation, or request extension of city utilities to the property. Given the long term expectation of this area being annexed into the City of Billings and the desire for coordinated urban development, the City Engineering Division has agreed, at least in concept, to install - at no expense to the property owner - an extension of water and sewer mains in Central Avenue from the current terminus at Twin Pines Townhomes approximately 1/2 mile east of the subject property. The West Billings Plan (2001) supports development of both county and city subdivisions but recommends that County subdivisions within areas that could be annexed (the Urban Expansion Area) should have a development plan that allows for efficient and effective conversion to city utilities and services. The West Billings Plan also shows a neighborhood services center at the intersection of Central and 48th St. West. Urban residential subdivisions with municipal utilities are 1/2-mile to the east and about 1 mile to the north and west. The established pattern in this area is for new urban growth in areas designated for annexation. This land is within the Long Range Urban Planning Area on the limits of annexation map. The owner has not applied to amend the map to include this property within the "red" petition area for annexation within the next

5 years. In 2001, and then again in 2006, the City and County engaged in area planning efforts for Billings West End. Both plans, the West Billings Neighborhood Plan and the Northwest Shiloh Area Plan, emphasize the need to differentiate between County low-density subdivisions, and to plan for subdivisions that may eventually be annexed to the city.

This subdivision will be served by a community water system from wells located within the proposed County Park. The proposed water system 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. The applicant will provide a copy of the MDEQ approval for the water system at the time of final plat. **(Condition #1)** The maintenance and operation of the proposed system will be the responsibility of the Home Owners Association (HOA). The HOA will be filed with the final plat of the subdivision. **(Condition #2)**

It is proposed that each homeowner will have a septic system on their property within the proposed subdivision. The proposed 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. The applicant will provide a copy of the MDEQ approval for the septic systems at the time of final plat. **(Condition #1)**

b. **Streets and roads** – There will be several new roads within the proposed subdivision. This subdivision is proposed to be a phased subdivision. Phase 1 will include the construction of Leading Light Lane, Sun Basin Road, Sunbeam Circle and Light Street Lane and a portion of Broadwater Avenue. It will also include the construction of the western ends of Liahona Lane, Sunburst Lane, Shining Light Lane and Broadwater Avenue. Broadwater Avenue is identified as a collector and is wider than the other roads within the subdivision. These roads will be public roads and will be built to Yellowstone County road standards.

County Public works has requested a one (1) foot no access strip be placed along the western lots lines along Light Stream Lane with one exception, Lot 14, Block 7. County Public Works is satisfied with the 1 foot no access as it is depicted on the plat submitted for preliminary approval. This is to limit traffic conflicts as much as possible with all the lots on the west side of this same road. **(Condition #3)** County Public Works is satisfied with the other 1 foot no access strips as depicted on the plat submitted for preliminary plat with the noted exception above.

No road within the subdivision is to have any sign or planter built within the right of way or any other item that would be an obstacle in the road without specific written permission from Yellowstone County Public Works. **(Condition #4)**

An RSID will have to be created for the new roads. **(Condition #5)** 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 roads 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, I. At final plat, the applicant will include a

copy of all access permits obtained from the county for this subdivision and any homes built before final plat. **(Condition #6)**

A TIS was submitted with the originally submitted subdivision. Since there have been changes to the proposed subdivision the TIS is no longer addressing the layout of the subdivision or the number of lots within the subdivision. A new TIS will be submitted and reviewed and accepted by County Public Works prior to final plat approval. **(Condition #7)**

Sidewalks will be built to meet the requirements of the subdivision regulations. The applicant, in the SIA, states that the developer will install sidewalks along the frontages of the parkland areas and corner intersection handicap ramps with aprons. Individual lot owners will be required to build sidewalk with construction of the homes. This requirement is noted in the SIA under Conditions that run with the Land A. The developer will provide a bond for a 2-year period for the construction of the sidewalks in each phase. One month prior to the expiration of the bond, the applicant will either begin installation of the remaining sections of sidewalk within the open phase or the county will call the bond and install remaining sections of sidewalk within the open phase. **(Condition #8)**

c. **Fire and Police services** – The property is within the Billings Urban Service Area (BUFSA). The developer will be installing a 30,000-gallon dry hydrant system with Phase 1 construction located on Lot 22 and a small portion of Lot 23, Block 1 along the west side of Light Stream Lane. The tank shall be built to BUFSA standards. BUFSA will review and approve drawings of the tank before installation. It will be tested to ensure it is in working order before final plat. **(Condition #9)**

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

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 within School District #2 boundaries. School District #2 will provide educational services for Elementary, Middle and High School students. Meadowlark for elementary, Ben Steele for middle and West for high school. School District #2 responded to the request for information indicating all three of the mentioned schools are over maximum capacity.

g. **Parks and recreation** – This proposed subdivision is required to provide parkland. The applicant in the SIA under the heading VIII. Parks/Open Space has outlined the

requirements of parkland. The total required parkland dedication is 5.076 acres. The applicant is proposing to dedicate 3.258 acres. The applicant is proposing to do a cash in lieu contribution for the difference, which is 1.818 acres. The applicant will follow the requirements of Section 10.6 YCSR. The estimated contribution will be submitted to the County Park Board for review and approval. **(Condition #10)** Within the parkland dedication, a community well for the subdivision will be installed, this proposal has been reviewed by the County Park Board and they raised no concerns with the wells in the park.

**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 #11)**

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

**j. Phasing of Development** - The applicant is proposing to develop this subdivision in phases. Specifics of the proposed phasing and what improvements will be installed with each phase is identified in the SIA under the heading X. Phasing of Improvements.

Montana subdivision regulations require developers proposing to do phasing in the subdivision to set a date when they plan to proceed with each phase. This developer has provided proposed dates for phase 2 and 3 to begin by June 1, 2030.

At or before this date 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.

Each phase will need to have a Certificate and Release for the phases to be submitted with the final plat, these documents need to be included at final plat. **(Condition #12)**

**k. Preliminary Plat Restrictions** – Subdivision regulations outline the option of building in a preliminarily approved subdivision. State law 76-3-303 MCA and in Yellowstone County Subdivision Regulations (YCSR) Section 1.7, the procedure allowing construction before final plat is outlined. The applicant is required to follow those regulations if there is an intent to build homes before final plat. The requirement to follow all legal requirements of subdivision is noted in the SIA under XIII, Legal Provisions, F.

### **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. Prior to final plat approval, the applicant will apply for and obtain a weed management plan with the County Weed Department. That plan will be submitted with final plat approval. **(Condition #13)**

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 2018 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: Predictable land use decisions that are consistent with neighborhood character and land use patterns. (p. 6)

*The subdivision is consistent with the type of residential development in the surrounding area.*

- 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. 2018 Urban Area Transportation Plan**

The subject property maintains the road 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 subject property is within the study area of the Transportation Plan. The proposed street layout is conforming to that plan. Broadwater Avenue is identified as a collector and the subdivision will be providing the required 80-foot right of way for the collector

road width.

**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 15,000 zoning with one lot zoned Neighborhood Commercial.

**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 Yellowstone Valley Electric Cooperative and MDU. Should the private utility companies require easements the applicant will be required to coordinate the easements needed with the private utility companies.

**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 Central Avenue and 48<sup>th</sup> Street West for all lots. The internal streets will provide access to individual lots.

**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 Sundance Subdivision, to the Board of County Commissioners, and adopt the Findings of Fact as presented in the staff report.