

## FINDINGS OF FACT

The City-County Planning Division Staff has prepared the Findings of Fact for Homestead 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 west side of the property, there is the High Ditch. The applicant is showing a 75-foot wide easement over the ditch. In the SIA under the heading Irrigation, it states there will be a water share from the High Ditch will be used to supply irrigation water to the lots east of the ditch. Each lot will be responsible for a pump to obtain the water for spray irrigation, no flood irrigation will be allowed. A Homestead irrigation district will be created to maintain the irrigation system for the subdivision. In the SIA under the heading, VIII Irrigation the applicant will define how the water from the High Ditch will be carried to each lot for individual use. **(Condition #1)** There will be impacts from this subdivision on agriculture use; it will be taking 71.75 acres of ag land out of production.

#### **2. Effect on local services**

a. **Water and Septic** –There are not any water or sewer district in the area of this proposed subdivision. The applicant is proposing to use a 1,500-gallon cistern on each lot. The SIA states that the water systems will be in accordance with Section 4.9 of the Yellowstone County Subdivision Regulations. They will also receive an approval letter from the MDEQ to be submitted with the final plat. **(Condition #2)**

The applicant is proposing to have a septic system on each lot. The SIA states that the septic systems will be in accordance with Section 4.8 of the Yellowstone County Subdivision Regulations. They will also receive an approval letter from the MDEQ to be submitted with the final plat. **(Condition #2)**

b. **Streets and roads** – There will be new roads within the proposed subdivision. One is a connection to an existing road from the subdivision to the north, Fire Tank Street. The main road into the subdivision makes a connection to South 80<sup>th</sup> Street West, Wisner Avenue. The roads within the subdivision are private roads and will be maintained by the residents through an HOA. The subdivision to the north also has private roads. All the lots, with the exception of Lots 8 and 9, will have access off Wisner Avenue. Lots 8 and 9 will have access off South 84<sup>th</sup> Street West.

County Public works has requested a one (1) foot no access strip be placed along the lots with frontage on South 80<sup>th</sup> Street West, this is shown on the proposed plat.

The applicant has asked for a variance from the requirement to provide a future connection to property to the south that is currently undeveloped. **Section 4.6.B.1 Relation to Undeveloped Areas.** *When a proposed subdivision adjoins undeveloped land, streets within the proposed subdivision shall be arranged to allow access to the adjoining undeveloped land. Street right-of-way within the proposed subdivision shall be provided to the boundary lines of the tract to be developed, unless prevented by topography, other physical conditions, or adjoining land cannot be further subdivided or developed.*

Staff is recommending denial of the requested variance.  
See Attachment A for further explanation and analysis.

c. **Fire and Police services** – The property is within the Laurel Urban Service Area (LUFSA). The developer will be using a 30,000-gallon dry hydrant system that was installed by the subdivision to the north. The dry hydrant is on the north boundary of the proposed subdivision on Fire Tank Street. This subdivision will be added to the RSID for the existing dry hydrant system. **(Condition #3)** Lots 8 and 9 will be part of the existing fire district with Tanglewood Estates Subdivision. Lots 8 and 9 will become part of the maintenance district for the fire suppression of Tanglewood Estates Subdivision. **(Condition #3)**

The Yellowstone County Sheriff's Department state they 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 #2)**

f. **School facilities** – The proposed subdivision is located within Elder Grove School District for K-8 and in School District #2 for High School. Elder Grove School is in the process of constructing a new building to accommodate the growth in the area. West High School in School District #2 will provide educational services 9<sup>th</sup> through 12<sup>th</sup> grade.

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 1.56 acres because of the large lot sizes. The applicant is proposing to do a cash in lieu contribution for the parkland dedication. 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. This requirement is outlined in the SIA under the same heading as mentioned earlier in this paragraph.

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

i. **Historic features** – No known historic 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. 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 #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 LUFSA 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 (EA) was required for this subdivision. The EA submitted the many topics required by the Subdivision regulations for an EA. Of those covered, the topics of main concern are effects on wildlife, existing vegetation and surface water. Because this property is farmland, the wildlife and existing vegetation have long ago been eliminated from the property. Any animals or vegetation that remains on the property is along the banks of the High Ditch.

## **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 to the west in the 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 (BATMP)**

The subject property is outside of the study area of the BATMP.

### **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 outside 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 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. There are utility easements shown on the face of the plat for private utilities.

**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 South 80<sup>th</sup> Street West onto Wisner Avenue that will provide access for all lots but two. Lots 8 and 9 will have access off South 84<sup>th</sup> Street West.

**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 conditional approval of the preliminary plat of Homestead Subdivision, to the Planning Board, deny the variance request and adopt the Findings of Fact as presented in the staff report, the SIA and Waiver.