



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



**AGENDA-AMENDED**  
(UPDATED PUBLIC COMMENT INFORMATION)  
May 12, 2020 MEETING TIME: 6:00 p.m.  
Virtual Video Conferencing Environment  
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:** FEBRUARY 25, 2020

**Attachments**

PlnBMinutes\_2020\_02\_25\_DRAFT

4. **PUBLIC COMMENT PERIOD** – The Public may call in during specific Public Comment periods at 406.237.6196. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary.
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: There is no Old Business.**
  - a. **PUBLIC HEARINGS/PUBLIC HEARING PARTICIPATION GUIDELINES.** Due to the COVID-19 health concerns, the format of the Yellowstone County Board of Planning meeting will be held in a virtual videoconferencing environment. The normal hearing room on the 1<sup>st</sup> Floor at 2825 3<sup>rd</sup> Ave North (Miller Building) will be closed during the meeting and no one will be attending this hearing in person. Public comment will be taken only during the Public Comment periods as indicated on the agenda, and during the Public Hearings under the Regular agenda. Comments may be sent to Board via email before 1:00 PM on Tuesday, May 12, 2020. All emails received prior to this time will be read into the record for the public hearing.

The Public may call in during specific Public Comment periods at **(406) 237-6196**. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary. Live coverage can be viewed in two locations; <https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks>

Thank you for participating!

1. **Public Hearing/ Motion and Recommendation to PCC. The Billings Metropolitan Planning Organization (MPO) amendment of the 2018 Billings Urban Long Range Transportation Plan (LRTP). Scott Walker, Transportation Coordinator, presenting.**

**Attachments**

Conversion Graphic

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

- a. Plat Review. Discussion. Homestead Subdivision, a 16-lot major County residential subdivision. Levi and Barbara Britton, applicants. Dave Green, Planner II, presenting.

**Attachments**

Findings of Fact

Proposed Plat

SIA

Attachment A and Variance Request

- b. BUILD grant letter of support. Scott Walker, Transportation Coordinator, presenting.

**Attachments**

Billings 2020 BUILD grant support letter\_PLNB

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 WEDNESDAY, MAY 27, 2020 MEETING**

- a. Public Hearing. Motion/Recommendation to BOCC. Homestead Subdivision, a 16-lot major County residential subdivision. Levi and Barbara Britton, applicants. Dave Green, Planner II, presenting.
- b. Presentation. Discussion. FFY 2020-2024 Billings Urban Area Transportation Improvement Program, (TIP). Scott Walker, Transportation Coordinator, presenting.

### **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 I-Virtual Video Conferencing**

**3.**

**Meeting Date:** 05/12/2020

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**Information**

**Subject**

**MOTION. MEETING MINUTES: FEBRUARY 25, 2020**

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**Attachments**

PlnBMinutes\_2020\_02\_25\_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	01/14/2020	01/28/2020	02/11/2020	02/25/2020	03/10/2020	03/24/2020	04/14/2020	04/28/2020	05/12/2020	** 05/27/2020	06/09/2020	06/23/2020	07/14/2020	07/28/2020	08/11/2020	08/25/2020	09/09/2020	09/22/2020	**10/14/2020	10/27/2020	11/10/2020	11/24/2020	12/08/2020
<b>Dave Goodridge</b>	Mayor/Billings Ward I	1	1	E	1																			
<b>Heidi Jensen-Christison</b>	Mayor/Billings Ward II	-	-	-	1																			
<b>Eric Wallace</b>	Mayor/Billings Ward III	1	1	1	1																			
<b>Darell Tunnickliff</b>	Mayor/Billings Ward IV	1	1	1	E																			
<b>Jon Thompson</b>	Mayor/Billings Ward V	1	E	1	1																			
<b>Troy Boucher</b>	YC District 1	1	E	1	1																			
<b>Dennis Cook</b>	YC District 2	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																			
<b>Vacant</b>	YC District 6	-	-	-	-																			
<b>Jarett Hillius</b>	YC District 7	1	1	1	1																			
<b>Vacant</b>	Y County Cons. District	-	-	-	-																			
<b>Scott Reiter</b>	<b>Ex-Officio SD2</b>		1	E	1																			

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## CITY/COUNTY PLANNING BOARD

*"Serving Billings, Broadview and Yellowstone County"*

**February 25, 2020**

*To be approved by a motion on March 10, 2020*

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

President Woods called the meeting to order at 6:00 p.m. on Tuesday, February 25, 2020 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**

President Woods called for introductions of the members of the Planning Board and staff. He welcomed Heidi Jensen-Christison as the new Planning Board representative for Mayor/Billings Ward II.

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

**In Attendance:** Terry Odegard, Nathan Anderson, Teresa Anderson, Katie Burkhalter, Gary Owen, Sanderson Stewart; Brandon Hill, Gary Oakland, High Sierra II; Charles Felton; Felton & Associates; Amy Darlinton, Northern Engineering and Associates

**Approval of the February 25, 2020 Agenda** A motion was made by Board member Goodridge and seconded by Board member Hillius to approve the February 11, 2020 meeting agenda as submitted. The motion carried with a unanimous voice vote.

### **Approval of Minutes: February 11, 2020**

#### **Motion**

**Board member Cook made a motion and Board member Goodridge seconded the motion to approve the February 11, 2020 as submitted. The motion carried with a unanimous voice vote.**

**Public Comment:** President 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 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. There were no declarations of ex parte communications or conflicts of interest.

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## **CITY/COUNTY PLANNING BOARD**

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### **7. OLD BUSINESS**

**(7-a1). Public Hearing. Motion/Recommendation to City Council Emma Jean Heights Subdivision, 4th Filing. Felton Associates, applicant. Dave Green, Planner II, presenting.**

#### **INTRODUCTION**

On January 2, 2020, Northern Engineering and Consulting Inc., agent for Felton Associates, Inc., applied for preliminary major plat approval for Emma Jean Heights Subdivision, 4<sup>th</sup> Filing. The proposed subdivision creates 43 lots for single-family residential development. This proposal is the forth filing of a master planned subdivision that was originally reviewed in 2006. The subject property is generally located on the west side of Bitterroot Drive, south of Wicks Lane in the northeast Billings Heights. The property is zoned Residential-7000 (R-70).

#### **RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Emma Jean Heights Subdivision, 4<sup>th</sup> Filing to the City Council, 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**

Planning staff recommends the following conditions of approval:

1. 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.
2. 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.
3. 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**

President Woods called for questions and discussion from the members of the Board. There was none. President Woods called for presentation by the applicant.

#### **Charles Felton, PO Box 598, Frenchtown, Montana**

Mr. Felton said he feels Planner Green's presentation covered the request. He said he is anxious for the City to install the proposed storm water line per their agreement.

#### **Public Hearing**

At 6:08 p.m., President Woods opened the public hearing and asked if there is anyone wishing to speak in favor or against Emma Jean Heights Subdivision, 4<sup>th</sup> Filing. There was none. President

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Woods closed the public hearing and called for a motion.

### **Motion**

**Board member Goodridge made a motion and it was seconded by Board member Cook that the Planning Board recommend conditional approval of the preliminary plat of Emma Jean Heights Subdivision, 4<sup>th</sup> Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.**

**Discussion:** There was no discussion on the motion.

**The motion carried with a unanimous voice vote.**

**\*\*This application will be heard by City Council on February 24, 2020.**

**(7a2). Public Hearing. Motion/Recommendation to City Council. High Sierra II Subdivision, 10<sup>th</sup> Filing, City Major Subdivision. Gary Oakland, High Sierra II Inc., Owner/Developer; Gary Owen, Sanderson Stewart, agent. Dave Green, Planner II, presenting.**

### **INTRODUCTION**

On January 2, 2020, High Sierra II, Inc., applied for preliminary major plat approval for High Sierra Subdivision, 10<sup>th</sup> Filing. The proposed subdivision creates 37 lots for single-family residences. The subject property is generally located north of Annandale Road and west of Greenbriar Road in the northwest Billings Heights. The property is zoned Residential-7,000-Restricted (R-70-R).

### **RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of High Sierra Subdivision, 10<sup>th</sup> Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

### **VARIANCES REQUESTED**

No variances have been requested from the City Subdivision Regulations.

### **PROPOSED CONDITIONS OF APPROVAL**

Planning staff recommends the following conditions of approval:

1. To provide for the installation of utilities and mitigate impacts on local services, prior to final plat approval, recordable easement documents shall be provided with the final documents for the temporary turnaround at the end of Chino Circle.
2. To provide for the proper location and installation of a Central Box Unit (CBU), prior to final plat approval, the applicant will coordinate where a CBU would be best for deliveries from the USPS.
3. 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.

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4. 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**

President Woods called for questions and discussion from the members of the Board. President Woods noted the parkland dedication for this parcel is to be met with the 14th Filing of High Sierra Subdivision and asked what will happen should the 14th Filing remain unbuilt. Planner Green explained the applicant plans to start with development of High Sierra Subdivision 14<sup>th</sup> filing. If needed, the applicant may include a letter of credit for parkland for future parks. President Woods voiced concern with potential for loss of the parkland due to failure of development. He commented a bond would ensure development of the parkland in the future. Board member Thompson asked about the road width for Annandale Road. Dave Green said it will be built initially as this project's contribution as a 30-ft surface large enough to handle two-way traffic. Project Engineer Gary Owen explained the dimensions of a minor arterial being a width of 49-feet back-to-back, and 80-feet of right-of-way with a 5-foot boulevard and a provision for a bike lane.

President Woods called for presentation by the applicant.

### **Gary Oakland, 175 N 27th Street, Suite 900, Billings, Montana**

Mr. Oakland commended Dave Green for his presentation of this application. He said the 10th filing is a component of the High Sierra subdivision Master Plan. In response to question by Board member Hillius, Mr. Oakland said maintenance of the temporary storm water detention ponds are the Homeowners Association's responsibility.

### **Gary Owen, Sanderson Stewart 1300 N Transtech Way, Billings, Montana**

Mr. Owen said the detention ponds are maintained by the Home Owners Association with the intent for the City to build permanent storm water facilities that will be maintained by the Home Owners Association as well.

### **Public Hearing**

President Woods opened the public hearing and asked if there is anyone wishing to speak in favor or against High Sierra Subdivision, 10<sup>th</sup> Filing.

### **Terry Odegaard, 2101 Lake Hills Drive, Billings, Montana**

Mr. Odegaard is a retired real estate agent. He voiced concern with the issue of public safety as denoted in the Findings of Fact. Mr. Odegaard feels development should be slowed down until the City can provide sufficient public safety services for this area. He pointed out the high traffic speeds on Lake Hills Drive and that are only two police officers for the area. He stated he is appalled with the lack of services for the rate of development. He stated he would like to meet with the Planning Board Ward II representative. Mr. Odegaard suggested that Mr. Oakland meet with the City Manager to discuss this issue. He said there will continue to be problems and people will be hurt and killed if the City continues to annex and expand without addressing this issue.

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At 6:23 p.m., President Woods closed the public hearing and called for a motion.

### **Motion**

**Board member Goodridge made a motion and it was seconded by Board member Hillius that the Planning Board recommend conditional approval of the preliminary plat of High Sierra Subdivision, 10<sup>th</sup> Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.**

**Discussion:** There was no discussion on the motion.

**The motion carried with a unanimous voice vote.**

**\*\*This application will be heard by City Council on February 24, 2020.**

**(7a3-7a5). Public Hearings. Motion/Recommendation to City Council. High Sierra II Subdivision, 14<sup>th</sup>, 15<sup>th</sup>, 16<sup>th</sup> Filings, Dave Green, Planner II.**

**Dave Green gave the staff presentation below on High Sierra II Subdivision, 14<sup>th</sup>, 15<sup>th</sup>, and 16<sup>th</sup> Filings.**

**7-(a3). High Sierra II Subdivision, 14th Filing, City Major Subdivision. Gary Oakland, High Sierra II Inc., Owner/Developer; Gary Owen, Sanderson Stewart, agent. Dave Green, Planner II, presenting.**

**INTRODUCTION** On January 1, 2020, Sanderson Stewart, agent for High Sierra II, Inc., applied for preliminary major plat approval for High Sierra Subdivision, 14<sup>th</sup> Filing. The proposed subdivision creates 90 lots for residential development on a 37.3-acre parcel of land. This proposal is part of a larger approved master plan of High Sierra Subdivision. The subject property is generally located north of west of Gleneagles Boulevard and north of Matador Avenue in the northwest Billings Heights. The property is zoned Residential-7,000-Restricted (R-70-R).

### **RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of High Sierra Subdivision, 14<sup>th</sup> Filing to the City Council, 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**

Planning staff recommends the following conditions of approval:

1. 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

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2. 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.
3. 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**

President Woods called for questions and discussion from the member of the Board. In response to question by Board member Thompson, Dave Green explained that the developer would contribute to several intersections. The contribution will be a percentage of the cost of the improvements planned for the intersection. Gary Owen said a Traffic Impact Study identifies the contribution and the City Engineering Division requires funds comparable to a similar intersection with signalization.

President Woods called for presentation by the applicant.

### **Gary Oakland, 175 N 27th Street, Suite 900, Billings, Montana**

There were no further questions for Mr. Oakland. Mr. Oakland asked the Board to forward a unanimous recommendation of conditional approval to City Council.

### **Public Hearing**

President Woods opened the public hearing and asked if there is anyone wishing to speak in favor or against High Sierra Subdivision, 14<sup>th</sup> Filing. There was none.

At 6:33 p.m., President Woods closed the public hearing and called for a motion.

### **Motion**

**Board member Goodridge made a motion and it was seconded by Board member Cook that the Planning Board recommend conditional approval of the preliminary plat of High Sierra Subdivision, 14<sup>th</sup> Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.**

**Discussion:** There was no discussion on the motion.

**The motion carried with a unanimous voice vote.**

**\*\*This application will be heard by City Council on February 24, 2020.**

**(7-a4). Public Hearing. Motion Recommendation to City Council High Sierra II Subdivision, 15th Filing, City Major Subdivision. Gary Oakland, High Sierra II Inc., Owner/Developer; Gary Owen, Sanderson Stewart, agent. Dave Green, Planner II, presenting.**

### **INTRODUCTION**

On January 1, 2020, Sanderson Stewart, agent for High Sierra II, Inc., applied for preliminary major plat approval for High Sierra Subdivision, 15<sup>th</sup> Filing. The proposed subdivision creates 27 lots for residential development on a 7.058-acre parcel of land. This proposal is part of a larger approved

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## **CITY/COUNTY PLANNING BOARD**

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master plan of High Sierra Subdivision. The subject property is generally located north of west of Gleneagles Boulevard and north of Matador Avenue in the northwest Billings Heights. The property is zoned Residential-7,000-Restricted (R-70-R).

### **RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of High Sierra Subdivision, 15<sup>th</sup> Filing to the City Council, 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**

Planning staff recommends the following conditions of approval:

1. 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
2. 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.
3. 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**

President Woods called for discussion and questions from the members of the Board. There was none.

### **Public Hearing**

President Woods opened the public hearing and asked if there is anyone wishing to speak in favor or against High Sierra Subdivision 15<sup>th</sup> Filing.

### **Nathan Anderson, 1109 Vera Cruz Circle, Billings, Montana**

Mr. Anderson reported water seeping out from the base of the fire hydrant, as a natural spring and a pond are located there. He said he found water seepage when he dug an 18” fencing hole in his backyard and the adjacent parcel is frequently flooded. Mr. Anderson voiced concern with children’s safety and the traffic speeds. He asked about this development’s impact on the fire fighters’ and police officer’s resources. He stated there are no firebreaks from Virginia Road to the north and no nearby fire station. He asked what will be done if the public safety mill levy does not pass and spoke about the developer building homes with no public safety services. He challenged Board members to drive Glen Eagles Boulevard and experience a 15-20 minute wait. Mr. Anderson reiterated his concerns with ground impacts from the natural spring and the deep water at the

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intersection of Matador and Vesca Way; the need for passage of the public safety mill levy; and traffic control to limit speeds and avoid fatalities due to traffic speeds.

### **Rebuttal/Discussion**

#### **Gary Owen, Sanderson Stewart 1300 N Transtech Way, Billings, Montana**

Board member Thompson asked if the water is coming from a known source. Gary Owen stated they are aware of the spring and they are planning to address the issue with the street development. They plan to run storm drain to pick up the spring and funnel the water out of the area. They are also aware of the runoff on Matador and the storm water design will pick up water and move it northward. The projected timeline for development of this filing is 2-3 years.

President Woods closed the public hearing and called for a motion.

### **Motion**

**Board member Goodridge made a motion and it was seconded by Board member Wallace that the Planning Board recommend conditional approval of the preliminary plat of High Sierra Subdivision, 15<sup>th</sup> Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.**

**Discussion:** There is no discussion on the motion.

**The motion carried with a unanimous voice vote.**

**\*\*This application will be heard by City Council on February 24, 2020.**

**(7a-5) Public Hearing. Motion/Recommendation to City Council. High Sierra II Subdivision, 16<sup>th</sup> Filing, City Major Subdivision. Gary Oakland, High Sierra II Inc., Owner/Developer; Gary Owen, Sanderson Stewart, agent. Dave Green, Planner II, presenting.**

### **INTRODUCTION**

On January 1, 2020, Sanderson Stewart, agent for High Sierra II, Inc., applied for preliminary major plat approval for High Sierra Subdivision, 16<sup>th</sup> Filing. The proposed subdivision creates 14 lots for residential development on a 2.425-acre parcel of land. This proposal is part of a larger approved master plan of High Sierra Subdivision. The subject property is generally located north of west of Gleneagles Boulevard and north of Matador Avenue in the northwest Billings Heights. The property is zoned Residential-7,000-Restricted (R-70-R).

### **RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of High Sierra Subdivision, 16<sup>th</sup> Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

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### **VARIANCES REQUESTED**

No variances from the City Subdivision Regulations have been requested.

### **PROPOSED CONDITIONS OF APPROVAL**

Planning staff recommends the following conditions of approval:

1. 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.
2. 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.
3. 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:** There were no questions or discussion from the members of the Board.

President Woods called for presentation by the applicant.

### **Gary Oakland, 175 N 27th Street, Suite 900, Billings, Montana**

Mr. Oakland stated he feels Planner Green has covered this application with the staff presentation and asked the Board to forward a recommendation of approval of this subdivision application.

### **Public Hearing**

At 6:45 pm, President Woods opened the public hearing and asked if there is anyone wishing to speak in favor or against High Sierra Subdivision, 16<sup>th</sup> Filing. There was none. President Woods closed the public hearing and called for a motion.

### **Motion**

**Board member Goodridge made a motion and it was seconded by Board member Wallace that the Planning Board recommend conditional approval of the preliminary plat of High Sierra Subdivision, 16<sup>th</sup> Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.**

**Discussion:** There is no discussion on the motion.

**The motion carried with a unanimous voice vote.**

**\*\*This application will be heard by City Council on February 24, 2020.**

**9. OTHER BUSINESS**

**9b. Long Range Strategic Issues and an overview of future City and County issues and projects.**

**1. Announcement: March 5, 2020 4:30 PM-2nd Public Meeting Inner Belt Loop Corridor Study at the Billings Library Community Room.**

Public comment will be taken to work towards finalizing the document. Planning Board members are encouraged to attend. Staff will email an announcement to Board members prior to this event.

**2. Project Re: Code** Staff is working with the consultant to finalize sections of the zoning code and will provide them to the public. A schedule will be comprised for late February and March for discussion items during Zoning Commission meetings. Final drafts of the sections will be available for public review. Division Manager Monica Plecker spoke to outstanding items within the code that staff is addressing. Staff gave a presentation to the Yellowstone County Tavern Association and explained ways to get involved from this point forward. Attendees voiced concerns with the definition language related to casino and the major concern is devaluation of liquor licenses. Board member Jensen-Christison commented she thinks the license values may change but not go down. Discussion followed on the 2017 legislative session cap on new liquor licenses and the community's perception of additional licenses. Director Friday stated the reality is there are no new licenses but owners are wishing to move the current licenses. Division Manager Plecker commented the Tavern Association forwarded separation distance ideas to ensure there are no encroachment of uses on exiting licensed facilities. Director Friday stated staff has reached out to groups within the community for input on the code including Homeowners Associations and Task Forces.

**3. Status Update. Woody Woods, Lockwood TEDD-Tuesday, February 18, 2020 City Council agenda**

Lockwood Sewer District and BSEDA gave presentations on expansion of the sewer service boundary. The City voiced concern and discussed the need to require waivers. A motion passed 7-4 to include waivers in negotiations. Board member Woods said property owners have requested estimates from the TEDD Advisory Board for a treatment system. There is the possibility of obtaining Lockwood Sewer & Water for water services and installing individual sewage treatment systems. Board member Woods said he does not feel the City Administrator will push hard to get the MOU started knowing the property owners would have to annex in the future. The property owners will have the final say in this matter. Discussion followed by members of the Board on the possibility of future incorporation of Lockwood.

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## CITY/COUNTY PLANNING BOARD

*"Serving Billings, Broadview and Yellowstone County"*

**4. Planning & Community Services Department Annual Report:** Director Friday stated digital copies are available and have been distributed to the Governing Boards, and the advisory Boards and Commissions. Hard copies were provided to the Board.

**5. Request. Board member Cook:** Board member Cook asked about the standing of a Lake Hills multi-family development under dispute due to the Covenants and Restrictions for the property. Division Manager Plecker said this is related to Canal Vista Subdivision, which has been re-platted and has received preliminary plat approval. She said staff is unaware of civil matters. Board member Cook requested staff e-mail him a copy of the Canal Vista Subdivision preliminary plat.

**ADJOURNMENT: 7:15 PM**

**DRAFT—TO BE APPROVED BY A MOTION ON FEBRUARY 25, 2020**

*--Tamara L. Deines, Planning Clerk*



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



**Planning Board Meeting I-Virtual Video Conferencing**

**7. a. 1.**

**Meeting Date:** 05/12/2020

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**Information**

**PROBLEM/ISSUE STATEMENT**

The Yellowstone County Board of Planning is being asked to review, conduct a public hearing, and then provide a recommendation to the Policy Coordinating Committee on an amendment to the Billings Long Range Transportation Plan (LRTP) to ensure a road project in downtown may move forward. Late this winter, City Finance, Planning and Engineering staff working with the Downtown Billings Partnership recognized the opportunity to extend the life of the Downtown Urban Renewal District (URD) to maximize the community benefits as well as complete public infrastructure improvements downtown. The District life may be extended via bonding for a project that would be funded by Urban Renewal District funds through a bond. Using guidance in the City Council's adopted 2020 Priorities and the recently completed Downtown Area Traffic and Circulation Study, staff identified the conversion of North 29th Street and North 30th Street from one-way to two way between Montana Avenue and 6th Avenue North. The City Council at its April 20 Work Session was presented with this proposal and directed staff to move the process forward for consideration at future regular business meetings.

Since the Montana Department of Transportation also identifies North 29th Street and North 30th Street as Urban Routes, action by the Montana Transportation Commission is required to approve City construction on these roadways. To complete this approval at the State level, the Billings Metropolitan Planning Organization must amend its Billings Long Range Transportation Plan (LRTP) to ensure these roadway projects are properly identified in the Plan.

The schedule for review and adoption of the plan amendment includes actions by the: Technical Advisory Committee; Yellowstone County Board of Planning (conducts public hearing); Board of County Commissioners; City Council; and Policy Coordinating Committee (PCC). Given the tight schedule to ensure this amendment gets to the Montana Transportation Commission meeting on June 25, the Planing Board is being asked at this meeting to review the Plan amendment, conduct a public hearing, and make a recommendation to the PCC.

Following the local approval process, the amended LRTP will then be sent to the Montanan Department of Transportation and Federal Highway Administration staff overseeing Montana for review and concurrence. From that review, it will be presented to the State of Montana's Transportation Commission on June 25.

**BACKGROUND**

Please see the Problem/Issue Statement of this memo for the background for this LRTP amendment.

## **FINANCIAL IMPACT**

The MPO is working with Kittelson & Associates to complete the amendment to the LRTP. Kittelson was the consultant on the MPO's latest LRTP update in 2018 and is working with staff to complete this amendment to the Plan for no charge to the community. Approval of the LRTP amendment by the Planning Board, City, County and PCC will be a first step in the local approval process that will lead to review and action by the Transportation Commission in June. Approval by the Commission will allow the City to bond for approximately \$1.9 million in TIF dollars to complete the one-way to two-way conversion.

## **RECOMMENDATION**

Staff recommends the Planning Board conduct a public hearing and forward a recommendation on the amendment to the LRTP to the Policy Coordinating Committee.

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## **Attachments**

Conversion Graphic

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# North 29<sup>th</sup> and North 30<sup>th</sup> Conversion





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



**Planning Board Meeting I-Virtual Video Conferencing**

**8. a.**

**Meeting Date:** 05/12/2020

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**Information**

**INTRODUCTION**

On March 2, 2020, the Planning Division received an application for major preliminary plat approval for the proposed Homestead Subdivision. The property is generally located approximately 1,500 feet south of the intersection of South 80th Street West and King Avenue West. This subdivision would create 16 lots from a 71.75-acre parcel of land. The applicant is proposing to develop a residential subdivision. The land is outside of zoning and is currently dry farmland.

The applicant requested a 30 day delay due to a need for the City-County Planning Division to make arrangements to develop a way to have public meetings electronically to meet requirements of separation because of the COVID-19 virus. The Planning Board will conduct its plat review of this subdivision at this meeting and conduct a public hearing and make a recommendation to the Board of County Commissioners on the preliminary plat at its May 27 meeting.

**RECOMMENDATION**

Staff recommends that the Yellowstone County Planning Board recommend to the Board of County Commissioners to conditionally approve the preliminary plat of Homestead Subdivision, deny the variance request, 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 ensure public health and safety, prior to final plat approval the applicant will receive DEQ approval for the proposed storm water management system and for the proposed water and septic systems for each lot.
2. To protect public health and safety, and provide a safe irrigation water delivery system, prior to final plat approval the applicant will add language in the SIA under the heading VIII Irrigation defining how the irrigation water will be made available to each lot east of the High Ditch.
3. To protect public health and safety and provide for future Dry hydrant maintenance, prior to final plat approval the applicant will expand the existing RSID for the dry hydrant system in Shop World subdivision for the 14 lots on the east side of High Ditch. They will also expand the Tanglewood RSID for their fire suppression system for the two new lots with frontage of South 84th Street West.
4. 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.

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. 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.
7. 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.

## **VARIANCES REQUESTED**

A variance is being requested for this subdivision. The applicant has requested a variance from Yellowstone County Subdivision Regulations 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.

Staff is recommending denial of the variance requests.

Further explanation and analysis can be found in Attachment A.

## **PROCEDURAL HISTORY**

- Pre-application meeting December 5, 2019
- Preliminary plat application submitted to Planning Division March 2, 2020
- Departmental review meeting March 19, 2020
- Preliminary plat resubmitted March 26, 2020
- 30 Day delay due to COVID-19 Virus and adjustments to public meeting requirements
- Planning Board plat review May 12, 2020
- Planning Board public hearing Wednesday May 27, 2020
- Preliminary plat to Yellowstone County Board of County Commissioners June 16, 2020
- 60 working-day preliminary plat review period ends June 26, 2020

## **PLAT INFORMATION**

General location: Approximately 1,500 feet south of the intersection of South 80th Street West and King Avenue West

Legal Description: Parcel 3 of COS 3676

Owner/Subdivider: Levi Britton

Engineer and Surveyor: IMEG corp

Existing Zoning: Outside zoning

Existing land use: Farm Land

Proposed land use: Residential

Gross and Net area: 71.75 acres / 70.94 acres

Proposed number of lots: 16

Lot size: Max: 6.07 acres  
Min.: 2.49 acres

Parkland requirements: The required parkland dedication is 1.56 acres; the applicant is proposing to make a cash in lieu contribution.

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### **Attachments**

Findings of Fact

Proposed Plat

SIA

Attachment A and Variance Request

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## 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.



**SUBDIVISION IMPROVEMENTS AGREEMENT**

***Homestead Acres Subdivision***

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**SUBDIVISION IMPROVEMENTS AGREEMENT**

***Homestead Acres Subdivision***

**This agreement** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between Levi & Barbara Britton, whose address for the purpose of this agreement is **941 South 84<sup>th</sup> Street West, 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 Homestead Acres 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 Homestead Acres 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 Homestead Acres 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**

- A. Subdivider has requested, and the County hereby grants, the following variances by the Board of County Commissioners from the strict interpretation of the County’s Subdivision Regulations (Chapter 11, Yellowstone County Subdivision Regulations):
  - 1. No variances have been requested for Homestead Acres Subdivision.

## **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.** There are no existing water rights and thus no water rights have been transferred to the lot owners. The irrigation ditch that exists on and adjacent to this development is for the benefit of lots within this subdivision and other properties. The irrigation ditch 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.** The lot owner has obtained three Access Permits from County Public Works prior to any construction on any lot within the subdivision. The Access Permit application included a site plan showing the desired location of the accesses and showing that they meet the requirements outlined by the DEQ storm water requirements for the subdivision.

### **III. TRANSPORTATION**

#### **A. Streets**

The following roads exist surrounding the subdivision:

- South 80<sup>th</sup> Street West is an existing road located adjacent to and east of the property.
- South 84<sup>th</sup> Street West is an existing road located adjacent to and west of the property.
- Fire Tank Street is an existing standard asphalt private road, located within a 60' private access easement that ends at the northern boundary of this property.

The Subdivision proposes the following roads:

- Standard asphalt 24-foot-wide private road maintained by the Property Owners Association and to be known as Wisner Avenue, located within a 60' private access easement through the center of the property. Wisner Avenue will culminate in a cul-de-sac.
- An extension of existing Fire Tank Street is proposed with this subdivision as a standard asphalt 24-foot-wide private road maintained by the Property Owners Association, located within a 60' private access easement to connect with Wisner Avenue.

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

- One stop sign will be installed at the intersection of proposed Wisner Avenue and South 80<sup>th</sup> Street West.

#### **C. Access**

- Fourteen of the homes are proposed to be accessed off of individual driveways accessing Wisner Avenue. Wisner Avenue will connect with South 80<sup>th</sup> Street West, providing access to these fourteen homes. Two homes are proposed to be accessed off of individual driveways from South 84<sup>th</sup> Street West. Access widths will be permitted and constructed in accordance with County Regulations.

### **IV. EMERGENCY SERVICE**

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply (Fire Suppression Tank) in place to allow for fire suppression requirements. Fire apparatus access roads and water supply requirements shall be provided in accordance with the Fire Protection Requirements as noted in the Yellowstone County Subdivision Regulations.

There is one existing dry hydrant located within the adjacent Shop World 1 Subdivision. This dry hydrant is located within a half mile of Lots 1-7 and Lots 10-16.

There are currently two dry hydrants located in the adjacent master planned development for Tanglewood Estates Subdivision that are utilized for water supply for fire suppression. One is located in the large lake and the other is located in the smaller lake. The Laurel Fire Department maintains an agreement with the Yellowstone Boys and Girls ranch to utilize the 40,000-gallon water tank for fire suppression for surrounding properties. Proposed Lots 8 and 9 are located within a half mile of this fire suppression system.

## **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.

- Stormwater detention facilities are proposed within Homestead Acres Subdivision. Increased stormwater will be mitigated with culverts, roadside ditches and drainage swales as well as the detention facilities proposed within the development.

## **VI. UTILITIES**

### **A. Water**

In accordance with Section 4.9 Yellowstone County Subdivision Regulations, the following has been proposed:

- One thousand five hundred (1,500) gallon water cisterns have been proposed for each lot.
- The Montana Department of Environmental Quality approval letter will be submitted with the final plat.

### **B. Septic System**

In accordance with Section 4.8 Yellowstone County Subdivision Regulations, the following has been proposed:

- Individual subsurface wastewater treatment systems have been proposed for each lot.
- The Montana Department of Environmental Quality approval letter will be submitted with the final plat.

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

A ten (10) foot wide utility easement on lots one through seven and lots ten through sixteen provides utility access to all lots. Lots eight and nine will utilize the existing South 84<sup>th</sup> Street right-of-way for utilities.

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

In accordance with Section 10.2 Yellowstone County Subdivision Regulations, cash-in-lieu of parkland is proposed for approximately 1.56 acres. This number is equal to 5% of the area of the net land proposed to be subdivided into parcels larger than one acre but not larger than three acres (1 Lot), and 2.5% of the area of the net land proposed to be subdivided into parcels larger than three acres but not larger than five acres. The total amount of cash to be provided will be in accordance with Section 10.6 Yellowstone County Subdivision Regulations.

### **VIII. IRRIGATION**

This subdivision is located within the High Ditch Company Irrigation District. There is no existing easement for the High Ditch located on this property; however, a 75' easement has been proposed along the irrigation ditch. No additional mitigation efforts have been proposed for the ditch.

Irrigation water will be supplied by the High Ditch located on this property. A single water share will be obtained from the High Ditch Company, and water from the ditch will be routed through an easement to a service for the fourteen lots located east of the High Ditch. A Homestead Acres irrigation water user district will be formed to utilize and allocate the maintenance costs to each lot. Individual pumping systems will be installed by property owners to boost the water pressure for different forms of sprinkler irrigation. No flood irrigation will be allowed. The two lots west of the High Ditch will obtain individual pumping contracts from the High Ditch Company for irrigation needs.

### **IX. WEED MANAGEMENT**

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

The weed plan shall include the following and shall be referenced in this SIA:

- 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 soils/geotechnical study was not required but owners of the lots will be encouraged to perform a site-specific geotechnical investigation that is specific to the type of structure contemplated prior to construction.

### **XI. PHASING OF IMPROVEMENTS**

Homestead Acres Subdivision proposes that all 16 lots will be developed in a single phase.

## **XII. FINANCIAL GUARANTEES**

As all infrastructure will be private, no financial guarantee is proposed.

## **XIII. 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”

Levi J. Britton

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

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

STATE OF \_\_\_\_\_ )  
: ss  
County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of \_\_\_\_\_, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of Levi J. Britton, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

Barbara L. Britton

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

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

STATE OF \_\_\_\_\_ )  
: ss  
County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of \_\_\_\_\_, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of Barbara L. Britton, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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



Barbara L. Britton

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

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

STATE OF \_\_\_\_\_ )

: ss

County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of \_\_\_\_\_, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of Barbara L. Britton, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

Printed Name: \_\_\_\_\_

Residing at: \_\_\_\_\_

My commission expires: \_\_\_\_\_

## Attachment A

### Staff Analysis and Recommendation

County Planning, County Public Works, County Legal staff have reviewed the request for a variance from **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.

The applicant has requested this variance, see Request Letter included below this analysis, because they feel the existing irrigation ditch on the property to the south is a hindrance to future development to the south. They also feel the properties to the south have many opportunities for multiple connections to existing roads around them.

Below are the comments from County Public Works and County Legal.

Although we agree that the ditch does run somewhat east and west, it also runs a fair bit north and south. We are unable to determine exactly what the hardship is that they are requesting relief from. The ditch appears to be on the other property and they are not being asked to cross-said ditch. It appears that the proposed connection to the south could be situated in an area that the ditch would not be an issue; therefore, we feel that we cannot support this variance.

After reviewing the proposed subdivision, we do not think a variance is justified. The ditch only runs parallel to the property line for a short distance. There seems to be ample space to provide an access to a large amount of the adjoining undeveloped land along the southern border without having to deal with the ditch.

*1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;* There are two different properties to the south of this proposed subdivision. One 20-acre parcel and the other one that is 133 acres. The large parcel does have multiple street frontages around the outer edge of the land. The 20-acre parcel has frontage only on South 80<sup>th</sup> Street West. The granting of the variance would not be detrimental to public health, safety and general welfare at this time. Should either property to the south develop it may hinder the ability to develop without a connection to the north. The subdivision regulations require connections to undeveloped land to ensure neighborhood connections and not the creation of residential islands. The regulation is looking to the future of possibilities not the immediate condition.

*2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced;* There are no particular physical surroundings, shape or topographical condition of the land that would prevent the applicant from providing a future connection to the

south. The ditch mentioned in the applicants request is on the property to the south and would not hinder this applicant from providing a connection for the future.

*3. The variance will not result in an increase in taxpayer burden;* The variance request will not increase taxpayers burden.

*4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or Growth Policy;* The subdivision is outside of zoning and will not cause a nonconformance with zoning. The 2008 Yellowstone County Growth Policy does not directly address this specific issue.

*5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.* The variance application provided by the agent suggest the alternative is that there are many frontages on the 133 acre parcel that they are able to have more than one way in and out should they develop. They also suggest that the same is true for the 20-acre parcel. While this is true at this time there is no way of knowing how the properties to the south may develop or if they will develop as two large developments or if they will be broken into smaller pieces and sold to multiple developers. The subdivision regulations require connections to undeveloped land to ensure neighborhood connections and not the creation of residential islands. The regulation is looking to the future of possibilities not the immediate condition.

Therefore, staff is recommending denial of the proposed variance, and recommends that the Planning Board recommend denial to the Board of County Commissioners.

## Variance Request #1 – Street Right-of-Way

**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 or other physical conditions.

*A variance is being pursued to relieve the applicant from the requirement to provide street right-of-way within the proposed subdivision, to the boundary lines of the tract to be developed. There is an existing irrigation ditch located on the parcel immediately south of the subject property. This ditch runs east to west and is a physical condition that would hinder future adjoining right-of-way onto the subject property. It is also worth noting that the 133-acre parcel to the south of the subject property already has opportunities for access off S. 80<sup>th</sup> St. West, Hesper Road, and S. 84<sup>th</sup> St. West. The 20-acre parcel immediately to the south of the subject property also already has existing access off S. 80<sup>th</sup> Street West. Due to the existing east to west irrigation ditch and the multiple alternative access opportunities on the properties located south of the subject property, a variance is being pursued to relieve the applicant from providing street right-of-way to the southern boundary line of the tract to be developed.*

1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;

*The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties. Homestead Acres Subdivision proposes one new access point onto S. 80<sup>th</sup> Street West, and to extend the private access easement to the existing road at the northern boundary of the tract to be developed. This will provide a safe access onto the subdivision roadways to the north for fourteen of the proposed lots on the east side of the irrigation ditch. The two proposed lots on the west side of the irrigation ditch are proposed to have individual access off S. 84<sup>th</sup> Street West. This will also provide safe access onto the surrounding roadways. The variance will not be injurious to other adjoining properties as they have several alternative access opportunities as noted above.*

2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced;

*Undue hardship to the owner would result if the strict letter of the regulation was enforced as there is an existing irrigation ditch running east to west on the property located immediately south of the subject property. This is a physical and topographical condition unique to this property. This ditch would hinder a future adjoining right-of-way onto the subject property.*

3. The variance will not result in an increase in taxpayer burden;

*An increase in taxpayer burden will not result from approving this variance. The subdivider proposes to construct the proposed roadways within Homestead Acres. If the properties located*

***to the south are developed at a future time, there are existing alternative access opportunities on the existing surrounding roadways.***

4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or Growth Policy; and

***Approving this variance will not place the subdivision in nonconformance with the growth policy. The property is unzoned so approving the variance will not place the subdivision in nonconformance with any adopted zoning regulations.***

5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.

***The alternative design proposed for Homestead Acres is equally effective as it is proposed to connect with existing roadways to the north, east and west. The lots to the south already have opportunities to connect to the south, east and west. The existing irrigation ditch located on these properties hinders a future adjoining right-of-way onto the subject property.***

**Planning Board Meeting I-Virtual Video Conferencing**

**8. b.**

**Meeting Date:** 05/12/2020

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**Information**

**Subject**

BUILD grant letter of support. Scott Walker, Transportation Coordinator, presenting.

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**Attachments**

Billings 2020 BUILD grant support letter\_PLNB

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# YELLOWSTONE COUNTY BOARD OF PLANNING

PLANNING DIVISION  
2825 3<sup>RD</sup> AVENUE NORTH, 4<sup>TH</sup> FLOOR

BILLINGS, MONTANA 59101

PHONE: (406)247-8676 FAX: (406) 657-8327



May 7, 2020

The Honorable Elaine L. Chao  
U.S. Department of Transportation  
1200 New Jersey Ave, SE  
Washington, DC 20590

RE: Letter of Support for the 2020 BUILD Discretionary Grant: Northwest Billings Connector and Marathon Trail, Billings Montana

Dear Secretary Chao:

I am writing this letter to express our support for the City of Billings Montana Northwest Billings Connector and Marathon Trail request for 2020 DOT BUILD Discretionary grant funds. The Planning Board is an integral part of the Billings Metropolitan Planning Organization, representing the City and County in reviewing and recommending transportation planning and project programming for Billings and the surrounding areas to our elected officials.

The Northwest Billings Connector and Marathon Trail project is a multimodal system of roadway and separated non-motorized parkways located in northwest Billings. The Northwest Connector is a future roadway link to/from the Billings Heights to Billings West End. The two non-motorized parkway segments, located at the terminus of the Northwest Connector, are vital connections to the citywide non-motorized system.

The Planning Board has reviewed and approved multiple studies that identify this program of projects, including the Rims to Valley Bike/Ped Feasibility Study. The Planning Board also approved the 2017 Billings Area Bikeway and Trail Master Plan Update to improve mobility and recreation opportunities in the Billings Community.

Our beautiful Rimrocks create a challenging obstacle to providing safe and connected routes for our community. The Connector will provide the motorized and non-motorized route for a safe connection between the Heights and West End, and the Stagecoach segment will provide the needed route from the top of the Rimrocks to the Valley below. The Skyline segment will feature stunning vistas of the Billings skyline and mountains in the distance. The project is intended to provide the following benefits:

- Vehicle and non-motorized alternatives to the congested artery of 6<sup>th</sup> Avenue N./4<sup>th</sup> Avenue N./3<sup>rd</sup> Avenue N./1<sup>st</sup> Avenue N. that currently provides the primary connectivity between areas of Billings and Billings Heights.
- Increased connectivity that addresses the natural barrier created by the Rimrocks, a 600-foot sandstone cliff created by the shoreline of an ancient ocean.

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- Separate facilities to reduce conflicts between motorized and non-motorized modes within the compressed artery that connects Billings and the Billings Heights. Present conflicts are observed in vehicle-pedestrian and/or vehicle-bicycle crashes that result in injuries, including fatalities.
- Dramatically improved access to primary residential and employment areas adjacent to the Billings International Airport.
- Enhanced active transportation and recreation-based economic opportunities.

The City of Billings, non-profit Billings TrailNet, the Billings Chamber of Commerce, and Big Sky Economic Development have made substantial investments totaling more than thirteen million dollars into the Northwest Billings Connector and Marathon Trail over the course of several years. Partners funded planning studies, preliminary engineering, and construction of initial project phases. Funding from the 2020 BUILD Discretionary grant will complete the Northwest Billings Connector and connect existing sections of the Marathon Trail to create nearly 25 miles of continuous parkways.

Construction of the Northwest Billings Connector will greatly benefit the Billings and Yellowstone County and we are writing to express our support.

Please give this 2020 BUILD Discretionary Grant proposal your full attention, and if I can answer anything further, please let me know. I may be reached at [wwoods1945@gmail.com](mailto:wwoods1945@gmail.com).

Sincerely,

Woody Woods  
Planning Board  
Yellowstone County Board of Planning