



YELLOWSTONE COUNTY BOARD OF PLANNING

CITY OF BILLINGS AND
YELLOWSTONE COUNTY, MONTANA



AGENDA

(Amended with new attachments)

FEBRUARY 23, 2021 MEETING TIME: 6:00 p.m.
1st Floor Large Conference Room, Miller Building
2825 3rd Avenue North, Billings, Montana 59101

NOTICE TO THE PUBLIC

****ATTENTION****

Due to the COVID-19 health concerns, this meeting will be held in a virtual videoconferencing environment. The Yellowstone County Board of Planning members will attend the meeting via a remote location, using a virtual meeting method. The regular meeting rooms will be closed during the meeting. In order to honor the Right of Participation and the Right to Know in Article II, sections 8 and 9, of the Montana Constitution, the City/County Planning Division is making every effort to meet the requirements of the open meeting laws.

Citizens are invited to:

- Review the Agenda Packet on the City's website at: <https://ci.billings.mt.us/117/Agendas-Minutes>
- View the meeting live online at Facebook: <https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260>

Public comment will be taken only during the Public Comment periods as indicated on the agenda and during the Public Hearings, if any are scheduled, under the Regular agenda. Comments may be sent to Board via email before 10:00 AM on the meeting date. All emails received prior to this time will be read into the record for the public hearing. Comments may be submitted by:

- Mail: City/County Planning Division, 2825 3rd Ave N 4th Floor, Billings, MT 59101
 - Email: deinest@billingsmt.gov
- Call in during the Public Comment periods as indicated on the agenda:
 - Citizens may call in during specific Public Comment periods at 406.237.6165.All callers will be placed 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 limited to 3 minutes of testimony as is customary. Future delivery methods may be explored as best practice is learned.

Please direct questions to Tammy Deines, Planning Clerk at deinest@billingsmt.gov or 406-247-8610. Thank you!

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. **MEETING MINUTES:** FEBRUARY 9, 2021
4. **PUBLIC COMMENT PERIOD** – As required (3 minute maximum per person). *Any member of the public may be heard on any subject that is not on the agenda. The Planning Board will not take any action on these items at this time, but could choose to add an item to the next meeting's agenda for discussion.*
 - 4a) Comments on items not on agenda and requests to add items to future agendas
 - 4b) Comments on items on the non-public hearing agenda items
5. **DISCLOSURE OF CONFLICT OF INTEREST:**
6. **DISCLOSURE OF EX PARTE COMMUNICATION:** Ex Parte Communication Binder is available at the Sign-In and Agenda station.
7. **OLD BUSINESS** (Agenda items that were not discussed or not completed in a previous meeting or items requiring action).
 - a. **PUBLIC HEARINGS/PUBLIC HEARING PARTICIPATION GUIDELINES.** The County Planning Board welcomes public input on matters brought before the Board. To ensure a fair and effective public comment process, we ask that you consider the following guidelines when presenting your comments: Address the Planning Board directly. You must state your name and address before commenting. This is an opportunity to explain how you will be affected by the decision and why that is an important consequence. By state law, the Planning Board must consider only certain criteria when reviewing subdivisions (76-3-608(a), MCA). Please see the attached guidelines for the criterion. Thank you for participating!
 1. Public Hearing. Motion/Recommendation to City Council. Parkland West Subdivision, 7th Filing. A 16-lot City residential major subdivision. Greg Reid, WWC Engineering. Dave Green, Planner II.
 2. Public Hearing. Motion/Recommendation to BOCC. West Meadows Subdivision, 2nd Filing. County Major Subdivision. WWC Engineering. Dave Green, Planner II, presenting.
 3. Public Hearing. Motion/Recommendation to City Council. Annafeld North Subdivision, 1st Filing. City Major Subdivision. McCall Development. Sanderson Stewart, agent. Dave Green, Planner II, presenting.
 4. Public Hearing. Motion/Recommendation to City Council. Annafeld North Subdivision, 2nd Filing. City Major Subdivision. McCall Development. Sanderson Stewart, agent. Dave Green, Planner II, presenting.
8. **NEW BUSINESS:** (Agenda items new to this meeting).
9. **OTHER BUSINESS:**

- a. Discussion. Planning Board By-Laws - Discussion for President and VP nominations Process Amendments. Planning Board and Planning Staff.
 - b. (Standing Item) Long Range Strategic Issues and an overview of future City and County issues and projects.
10. **ADJOURNMENT**

FUTURE AGENDA ITEMS FOR TUESDAY, MARCH 9, 2021

- a. Plat Review. Discussion. The Grove. A 26-lot County Major Subdivision. Taj Mukadam, applicant. Kolten Knatterud, IMEG/Territorial Landworks, agent. Dave Green, Planner II, presenting.

CITY/COUNTY PLANNING BOARD
1st Floor Large Conference Room, Miller Building
2825 3rd Avenue North, Billings, Montana 59101



Public Hearing Participation Guidelines

The County Planning Board welcomes public input on matters brought before the Board. To ensure a fair and effective public comment process, we ask that you consider the following guidelines when presenting your comments: **Address the Planning Board directly. You must state your name and address before commenting.** This is an opportunity to explain how you will be affected by the decision and why that is an important consequence.

1. Be informed of the process and the requirements of the Board. If you are commenting about a subdivision, please limit your comments to the review criteria.

By state law, the Planning Board must consider only certain criteria when reviewing subdivisions (76-3-608(a), MCA). These criteria include:

-Effect on agriculture and agricultural water user facilities

-Effect on local services

-Effect on the natural environment

-Effect on wildlife and wildlife habitat

-Effect on public health and safety

2. Provide specific information about why you are concerned about the pending application, how the decision will impact the review criteria listed above, and provide suggestions on how to minimize or eliminate the impact.
3. Respect the right of others to participate. Wait until the previous speaker has completed their comments before making your own comments. Do not talk over the person commenting or with other people in attendance.
4. The public hearing is not an opportunity to question or accuse the applicant or their agent. If you have questions of the Board, the applicant or the agent, ask the question directly to the Board during the public hearing portion of the meeting. The Board will respond or request the applicant or agent to respond after the public comment portion of the hearing is closed.
5. After the public comment portion of the hearing is closed, no further comments are allowed unless you are addressed directly by a Board member.
6. You should expect the Board to make a balanced recommendation in accordance with its statutory responsibilities. The Board's ability to make reasonable and thoughtful recommendations is dependent on a fair consideration of everyone's interests.

Thank you for participating.

Planning Board Meeting 2 (4th Tuesday)

Meeting Date: 02/23/2021

Information

Subject

MEETING MINUTES: FEBRUARY 9, 2021

Attachments

PlnBMinutes_2020_02-09_DRAFT

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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	01/12/2021	01/26/2021	02/09/2021	02/23/2021	03/10/2021	03/24/2021	04/14/2021	04/28/2021	05/12/2021	** 05/27/2021	06/09/2021	06/23/2021	07/14/2021	07/28/2021	08/11/2021	08/25/2021	09/09/2021	09/22/2021	**10/14/2021	10/27/2021	11/10/2021	11/24/2021	12/08/2021
Teresa Larsen	Mayor/Billings Ward I	1	1	1																				
Heidi Jensen-Christison	Mayor/Billings Ward II	1	1	E																				
Dennie Stephenson	Mayor/Billings Ward III	1	1	1																				
Darell Tunnickliff	Mayor/Billings Ward IV	1	1	1																				
Jon Thompson	Mayor/Billings Ward V	1	E	1																				
Troy Boucher	YC District 1	1	1	1																				
Dennis Cook	YC District 2	1	1	1																				
Vacant	YC District 3	-	-	-																				
Vacant	YC District 4	-	-	-																				
Woody Woods	YC District 5	1	1	1																				
Vacant	YC District 6	-	-	-																				
Jarett Hillius	YC District 7	1	1	1																				
Vacant	Y County Cons. District	-	-	-																				
Scott Reiter	Ex-Officio SD2	-	-	-																				

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February 9, 2021

Virtural Video Conference Format

DRAFT- To be approved by a motion on February 23, 2021

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 1st Floor at 2825 3rd 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, February 9,, 2021. All emails received prior to this time will be read into the record for the public.

The Public may call in during specific Public Comment periods at (406) 237-6165. 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: <https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks>

Call the Meeting to Order

President Woods called the meeting to order at 6:00 p.m. on Tuesday, February 9, 2021

Introduction of Planning Board Members and Planning Department Staff

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

Participating Planning staff members: Monica Plecker, Planning Division Manager; Dave Green, Planner II, Elyse Monat, Active Transportation Planner; Tammy Deines, Planning Clerk; Darin Swenson, Yellowstone County Public Works

Other Participants: Greg Reid, WWC Engineering; Brad McCall, McCall Development; Greg McCall, McCall Development

Disclosure of Outside (Ex Parte) Communication or Conflicts of Interest– Board Members and Planning Staff. There were no declarations of ex parte communications or conflicts of interest.

Approval of the February 9, 2021 Agenda

Board member Cook made a motion and Board member Stephenson seconded the motion to approve the February 9, 2021 meeting agenda as amended. The motion carried with a unanimous voice vote.

Approval of Minutes: January 26, 2021

Board member Tunnick moved and Board member Cook seconded the motion to approve the January 26, 2021 meeting minutes with a correction on page 6, line 10, and (no-t).

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. President Woods announced the public call in phone number: 406-237-6165.

Planning Clerk Tammy Deines reported no calls with requests for public comment.

7. OLD BUSINESS:**7a. Public Hearing. Motion/Recommendation. Billings Area Bike and Scooter Share Feasibility Study. Elyse Monat, Active Transportation Planner, presenting.**

Active Transportation Planner Elyse Monat opened this agenda item and gave the background and presentation of the staff report.

RECOMMENDATION

Staff recommends the Yellowstone County Planning Board forward a recommendation of approval of the Billings Area Bike and Scooter Share Feasibility Study to the Billings City Council and the Yellowstone Board of County Commissioners with the intent to forward a positive recommendation to the PCC.

BACKGROUND

The MPO hired Alta Planning + Design through a competitive process to conduct the Billings Area Bike and Scooter Share Feasibility Study. The goal of the Billings Area Bike and Scooter Share Feasibility Study is to define what a successful bike and scooter share program would look like for the Billings area. A bike and/or scooter share system is a network of shared bicycles or scooters available for short-term use, usually 15 to 45-minute trips. A user can check out a bicycle or scooter from locations around the city, ride to their destination, and then leave the bicycle or scooter for someone else to use. Bike share and scooter share programs are designed to be a cost-effective, environmentally-friendly, convenient travel option for shorter trips. In a survey of 245 respondents completed as parts of this study, 53% of people said they are interested in seeing bike and scooter share in Billings, 24% are not interested, and 14% need more information. Of the remaining percentage that selected "other," many respondents reported liking the idea of bike share, but not scooter share. Top concerns related to bike and scooter share include safety, lack of bicycle infrastructure, and vandalism. Most Billings community members want to access downtown, parks,

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and restaurant/coffee shops by bike or scooter share. The study recommends Billings implement a hybrid bike share system where the bike/scooter houses the transaction rather than at a station. Stations, also called hubs, consist of branded racks for parking bike share bikes. Though stations are available, the program does not require that a bike be left at a station and it is permitted to be parked anywhere within the service area. The study also recommends using electric-assist or e-bikes to make trips easier for people of all abilities. For a system governance model, the study recommends implementing a turnkey bike share system or a publicly owned and privately operated system. In a turnkey system, the City would hire an experienced company that owns and operates the system. The City would rent equipment and contract with the company for the full range of operations support, including installation, operations, sponsorship, customer service, and maintenance. Alternatively, Billings could purchase the bikeshare fleet and hub infrastructure and contract with a third party to operate the system. During the system launch, the study suggests launching in an initial service area including downtown and MSU Billings, creating an equity program, and establishing strategic partnerships to ensure the success of the system.

Discussion

President Woods called for questions and discussion. There were no questions or discussion from the members of the Board.

Motion

Board member Stephenson made a motion and Board member Cook seconded the motion to forward a recommendation of approval of the Billings Area Bike and Scooter Share Feasibility Study to the Billings City Council and the Yellowstone Board of County Commissioners with the intent to forward a positive recommendation to the PCC.

The motion carried with a unanimous voice vote.

8. NEW BUSINESS

8a. Plat Review. Discussion Parkland West Subdivision, 7th Filing. Dave Green, Planner II, presenting.

Dave Green opened this agenda item with the background and presentation of the staff report.

BACKGROUND

On January 4, 2021, WWC Engineering applied for preliminary major plat approval for Parkland West Subdivision, 7th Filing. The proposed subdivision creates 16 lots for residential development. The subject property is generally located on the east side of South 36th Street West between Crater Lake and Rachelle Circle. The property is part of a Planned Unit Development and is zoned Residential 9600 (R96). The PUD allows R96 zoning to have lots with square footage of 6,500.

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The land is currently dryland grass with residential development to the north, west and east, with a church to the south.

RECOMMENDATION

Staff recommends the Planning Board forward a recommendation of conditional approval of the preliminary plat of ParklandWest Subdivision, 7th Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

PROPOSED CONDITIONS OF APPROVAL

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 question and discussion from the members of the Board. Board member Thompson asked regarding the SIA language for sidewalk construction in the stormwater right-of-way. Dave Green explained this right-of-way was in the previous plat but will not have water. The sidewalk will connect with parkland north of Crater Lake in the future. In response to question by President Woods, Dave Green said the initial plan was for the stormwater to flow into parkland and a lake but neither were developed. The stormwater will be detained on site for this parcel.

**** A public hearing for Parkland West Subdivision, 7th Filing will be held during the February 23, 2021 Planning Board meeting.**

8b. Plat Review. Discussion. West Meadows Subdivision, 2nd filing. County Major Subdivision. WWC Engineering. Dave Green, Planner II, presenting.

Planner Dave green gave the background and presentation of the staff report.

BACKGROUND

On January 4, 2021, the Planning Division received an application for major plat approval for the proposed West Meadows Subdivision, 2nd Filing. The subject property is generally located on the east side of Whistlers Way and south of what will be Central Avenue. This subdivision would create 42 lots from a 50-acre parcel of land. The applicant is proposing to develop a residential subdivision, the land is outside of zoning. The land is currently dryland grass and shrub land.

RECOMMENDATION

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

PROPOSED CONDITIONS OF APPROVAL

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

1. To protect public health and safety, prior to final plat approval, the applicant will receive approval from the MDEQ for the proposed water systems, septic systems and the proposed storm water management.
2. To protect public health and safety and provide for future road maintenance, prior to final plat approval, the applicant will expand existing RSID's 773 and 796 for the new public roads within the subdivision and providing access to the subdivision.
3. To protect public health and safety and to provide fire suppression facilities, prior to final plat approval, the applicant will provide a letter from the Laurel Volunteer Fire Department stating they approve of the use of a pond for fire suppression purposes.
4. To protect public health and safety, prior to final plat approval, the applicant will create the maintenance district for the water pond being used for fire suppression, and to maintain the piping system used to pump water from the pond. The applicant will provide documents that outline the requirement of the maintenance district the water pond for fire suppression needs as outlined in the SIA. The applicant will provide documents that show the county is supportive of such a maintenance district.
5. To protect public health and safety with proper fire suppression, prior to final plat approval, the applicant will coordinate required fire pond installation and location with the Laurel Fire Department. The access to the pond will be a public easement built to accommodate fire trucks in all weather conditions. Lockwood Fire Department will review and approve all fire hydrant locations within the subdivision

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- .6. To protect public safety and to ensure future maintenance of the parkland, prior to final plat approval, the applicant will expand the existing RSID for parkland maintenance for this subdivision.
7. To minimize the effects on local service prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
8. To minimize effects on the natural environment, prior to final plat approval a weed management plan and property inspection shall be completed by the County Weed Department.
9. 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.
10. The final plat shall comply with all requirements of the County Subdivision Regulations, rules, regulations, policies, and resolutions of the Yellowstone County, including laws regarding moving houses onto or off the property, and the laws and Administrative Rules of the State of Montana

Discussion

President Woods called for question and discussion from the members of the Board. In response to question by President Woods, Dave Green stated Laurel Fire Department will provide fire service. President Woods asked if a dry hydrant should be required. Dave Green stated the Laurel Fire Department has said they will accept a pond that is filled by the Cove Ditch. Board member Tunnicliff said he struggles with the proposed pond for fire suppression as there will be no access to water during the off season. He said he doesn't feel an open pond is a reliable source for fire suppression. President Woods said this is a point well taken as home owners are concerned with the availability of fire protection. Board member Larson asked if the pond was for aesthetics or fire suppression and President Woods said it is intended for fire suppression. Board member Thompson asked regarding the pond location. Greg Reid said Lot 1 in the north corner will be used for the pond. Darin Swenson, Yellowstone County Public Works, said the existing pond does not have water. Greg Reid, WWC explained that the existing pond had a one-time filling agreement with Cove Ditch whereas the proposed ditch will have a longterm filling agreement. Darin Swenson said the current pond does not hold water even with the liner. In response to question by President Woods, Greg Reid said Cove Ditch has enough water available to fill the pond. Jarrett Hillius asked about the water balance statement, and Greg Reid stated the sole agency overseeing this will be Laurel Volunteer Fire Department.

** A public hearing for West Meadows Subdivision, 2nd Filing will be held during the February 23, 2021 Planning Board meeting.

8c. Plat Review. Discussion. Annafeld North Subdivision 1st Filing. Dave Green, Planner II, presenting.

Planner Dave Green gave the background and presentation of the staff report.

BACKGROUND

On January 4, 2021, Sanderson Stewart, agent for McCall Development, Inc., applied for preliminary major plat approval for Annafeld North Subdivision, 1st Filing. The proposed subdivision creates 53 new lots for development. The subject property is generally located on the north side of Elysian Road and west of the Hogan Slough. The property has been annexed into the city. The property is zoned Neighborhood Mixed Use (NMU) and the proposed lots will be developed in substantial compliance with this zoning. The Yellowstone County Board of Planning will review the plat at this meeting and conduct public hearing on January 26, 2021.

RECOMMENDATION

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Annafeld North Subdivision, 1st Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

PROPOSED CONDITIONS OF APPROVAL

Staff recommends the following conditions of approval:

1. To minimize impacts on storm water detention facilities and ensure proper maintenance of the proposed system, prior to final plat approval, the applicant will provide an HOA Storm Water Facility Maintenance Agreement for review by the City of Billings Engineering Division. This agreement shall outline the maintenance responsibilities of the storm water facilities.
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.

8d. Plat Review. Discussion. Annafeld North Subdivision, 2nd Filing. Dave Green, Planner II, presenting.

Planner Dave Green gave the background and presentation of the staff report.

BACKGROUND

On January 4, 2021, Sanderson Stewart, agent for McCall Development, Inc., applied for preliminary major plat approval for Annafeld North Subdivision, 2nd Filing. The proposed subdivision creates 50 new lots for development. The subject property is generally located on north side of Elysian Road and east of East Lane. The property has been annexed into the city. The property is zoned Neighborhood Mixed Use (NMU) and the proposed lots will be developed in

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substantial compliance with this zoning. The Yellowstone County Board of Planning will review the plat at this meeting and conduct a public hearing on January 26, 2021.

RECOMMENDATION

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Annafeld North Subdivision, 2nd Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

PROPOSED CONDITIONS OF APPROVAL

Staff recommends the following conditions of approval:

1. To minimize impacts on storm water detention facilities and ensure proper maintenance of the proposed system, prior to final plat approval, the applicant will provide an HOA Storm Water Facility Maintenance Agreement for review by City of Billings Engineering Division. This agreement shall outline the maintenance responsibilities of the storm water facilities.
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 questions and discussion from the members of the Board. President Woods noted the existing Neighborhood Commercial zoning and the new Neighborhood Mixed use through project recode. Dave Green said this was previously was in the county. Brad McCall said he spoke with Zoning Coordinator Nicole Cromwell who suggested this would be a NMU zone. The annexation has been approved in December 2020. Dave Green said he will coordinate with Zoning Coordinator Nicole Cromwell and bring the information back for the next Planning Board meeting. The new code will be administered.

****** A public hearing for Annafeld North Subdivision, 1st Filing will be held during the February 23, 2021 Planning Board meeting.

OTHER BUSINESS:

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

- Division Manager Plecker called attention to the Annual Report and said she hoped the Board has had an opportunity to review it. Hard copies are available upon request.

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- President Woods asked about the zoning jurisdiction boundary amendment. Monica Plecker said the Yellowstone County Growth Policy has to be finished first. She would like to target the second meeting in March for the Board's first review. She said the Board has drafted a letter to the Commissioners, which could be used to start a discussion. President Woods asked for a raise of hands from the members of the Board and all were in favor. Monica Plecker stated she would work with President Woods to get the discussion scheduled.
- Board member Cook asked when the Yellowstone County Cama Detail would be updated to the new zoning code. Monica Plecker said Mike Powell, YC GIS is working on this. Per request of Board member Cook, Division Manager Plecker stated she would provide a summary document for the new zoning code.

ADJOURNMENT: 7:00 PM

Future Agenda Items for February 9, 2021

- Public Hearing. Motion/Recommendation to City Council. Annafeld North Subdivision 1st Filing. City Major Subdivision. Dave Green, Planner II, presenting. Plat Review. Discussion.
- Public Hearing. Motion/Recommendation to City Council. Annafeld North Subdivision 2nd Filing. City Major Subdivision. Dave Green, Planner II, presenting.
- Public Hearing. Motion/Recommendation to BOCC. West Meadows 2nd Filing, County Major Subdivision. Dave Green, Planner II, presenting
- Public Hearing. Motion/Recommendation to City Council. Parkland West Subdivision, 7th Filing. A 16-lot City residential major subdivision. Greg Reid, WWC Engineering. Dave Green, Planner II

DRAFT—TO BE APPROVED BY A MOTION- February 23, 2021

--Tamara L. Deines, Planning Clerk

Planning Board

Date: 02/23/2021
Title: Parkland West Subdivision, 7th Filing - Preliminary Major Plat - Public Hearing
Presented by: David Green
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Staff recommends the Planning Board forward a recommendation of conditional approval of the preliminary plat of Parkland West Subdivision, 7th Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

PROPOSED CONDITIONS OF APPROVAL

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.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On January 4, 2021, WWC Engineering, applied for preliminary major plat approval for Parkland West Subdivision, 7th Filing. The proposed subdivision creates 16 lots for residential development. The subject property is generally located on the east side of South 36th Street West between Crater Lake and Rachelle Circle. The property is part of a Planned Unit Development and is zoned Residential 9600 (R96). The PUD allows R96 zoning to have lots with square footage of 6,500. The land is currently dryland grass with residential development to the north, west and east, with a church to the south.

VARIANCES REQUESTED

No variances from the City Subdivision Regulations have been requested.

PROCEDURAL HISTORY

- Pre-application meeting October 29, 2020
- Preliminary plat application submitted to Planning Division January 4, 2021.
- Departmental review meeting January 14, 2021
- Preliminary plat re-submittal January 21, 2021
- Planning Board plat review February 9, 2021
- Planning Board public hearing February 23, 2021
- Preliminary plat to City Council March 22, 2021
- 60 working-day preliminary plat review period ends March 31, 2021

PLAT INFORMATION

General location:	The east side of South 36th Street West between Crater Lake and Rachelle Circle
Legal Description:	Parkland West 1st Filing, Lot 1A, Block 6
Owner/Subdivider:	Rod Lorenz
Engineer and Surveyor:	WWC Engineering
Existing Zoning:	R96
Existing land use:	Vacant land
Proposed land use:	Residential
Gross and Net area:	2.8046 acres / 2.8046 acres
Proposed number of lots:	16
Parkland requirements:	Parkland requirements were met with the Parkland West 1st Filing

STAKEHOLDERS

A brief presentation was given to the planning board about the proposed subdivision. After the presentation Planning Board President Woods called for question and discussion from the members of the Board. Board member Thompson asked a question regarding the SIA language for sidewalk construction in the stormwater right-of-way. Dave Green explained this right-of-way was part the previous plat but will not have stormwater. The sidewalk will connect with parkland north of Crater Lake in the future. In response to a question from President Woods, Dave Green said the initial plan for Parkland West was for the stormwater to flow into the dedicated parkland and into a lake but neither are developed at this time. For this subdivision, the stormwater will be detained on site.

ALTERNATIVES

One of the purposes of the City's subdivision review process is to identify potential negative effects of property being subdivided. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various City departments, private service/utility providers and the affected school district(s), have reviewed this application and provided input on effects and mitigation. The Findings of Fact, which are presented as an attachment, discuss potential negative impacts of the subdivision and conditions of approval are recommended as measures to further mitigate any impacts. In this case, there were found to be minimal impacts from this proposed subdivision.

In accordance with state law, the City Council has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed subdivision ends on March 31, 2012. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within

this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 working day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve;
- or 3. Deny the Preliminary Plat

FISCAL EFFECTS

This subdivision will have no fiscal effect on the Planning Division.

Attachments

3A Prelim Public H Delores Jacobson
3A Prelim Public H Joann Callahan
3A Prelim Public H Ken Callahan
Findings of Fact
Preliminary Plat
SIA

Dear Billings City Council David Green,

I am writing as a resident at 290 Wind Cave Circle. I received a certified letter stating this was coming up in a Yellowstone County Planning Commission Meeting.

My concern regarding this development is: Infrastructure - is there enough to support another 16 homes in this immediate area. Will there be special assessments added to my property as a result of this development? What about emergency services? There is a new development south of this planned development that is adding to the emergency services and infrastructure demands. Where is the greenspace in this plan? Has there been a traffic study done for this area? With an additional 16 homes, I am very concerned about the flow of traffic and people just cutting through a residential neighborhood just to avoid the traffic on Monad.

I am asking that you deny this development.

Thank you,
Delores Jacobson

Dear Billings City Council - David Green,

I am writing as the new homeowner at 290 Wind Cave Circle. When I researched purchasing this home, I asked about any new development happening in the immediate area. I was assured there were no new developments and no upcoming special assessments. I purchased this home in November 2020. In February, the former owner received a certified letter stating this was coming up in a Yellowstone County Planning Commission Meeting.

My concern regarding this development is: Infrastructure - is there enough to support another 16 homes in this immediate area. Will there be special assessments added to my property as a result of this development? What about emergency services? There is a new development south of this planned development that is adding to the emergency services and infrastructure demands. Where is the greenspace in this plan? Has there been a traffic study done for this area? With an additional 16 homes, and the street going through to Banff, I am very concerned about the flow of traffic and people racing through a residential neighborhood just to avoid the traffic on Monad.

I am asking that you deny this development.

***JoAnn M. Callahan, Owner
290 Wind Cave Circle
Billings, MT 59102***

Dear Billings City Council,

I am writing as the new homeowner at 290 Wind Cave Circle. My wife researched purchasing this home, she asked about any development happening in the immediate area. We were assured there was no new developments and no upcoming special assessments. That was in November 2020. In February, the former owner and my current tenant received a certified letter stating this was coming up in a Yellowstone County Planning Commission Meeting.

My concern regarding this development is: Infrastructure - is there enough to support another 16 homes in this immediate area. Will there be special assessments added to my property as a result of this development? What about emergency services? There is a new development south of this planned development that is adding to the emergency services and infrastructure demands. Where is the greenspace in this plan? Has there been a traffic study done for this area? With an additional 16 homes, I am very concerned about the flow of traffic and people just cutting through a residential neighborhood just to avoid the traffic on Monad.

Used to own 290 Wind Cave Circle and when we purchased it back in I think 2004 we were told then there was no building around our homes and it was all park land. What has happened and how allowed this to change?

I am asking that you deny this development.

Ken Callahan
Industrial Services Manager
121 8th Ave West
Williston ND 58801
Office: 701-572-1620
Cell: 701-770-5030

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Parkland West Subdivision, 7th Filing. These findings are based on the preliminary plat application and supplemental documents; addressing the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(8), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302 (8)(b)]

1. Effect on agriculture and agricultural water user facilities

The subject property is not used as farmland. The original Descro Subdivision, 7th Filing was platted in 1982 and is a Planned Unit Development. The land has not been used for farming for quite some time. This proposed subdivision will have no effect on agriculture or water user facilities.

2. Effect on local services

- a. **Utilities** – Water service will be provided by the City of Billings. There are two existing water lines, one in Crater Lake on the north and one in Rachelle Circle on the south. Both water lines are 8 inch and will be extended the entire length of Rachelle Circle and extended to the end of the subdivision on the east. Water service stubs will be provided for all new proposed lots within the subdivision. New fire hydrants will be installed in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality (MDEQ). These requirements are outlined in the SIA under the heading VI. Utilities.
- b. **Sewer** - Sanitary sewer service will be provided by the City of Billings. There are two existing sewer lines, one in Crater Lake on the north and one in Rachelle Circle on the south. Both sewer lines are 8 inch and will be extended the entire length of Rachelle Circle and extended to an existing manhole beyond the end of paving on Crater Lake to the east. Sewer service stubs will be provided for all new proposed lots within the subdivision. The subdivider will install new sewer line services for in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department and MDEQ. These requirements are outlined in the SIA under the heading VI. Utilities.

Private utilities will be extended during construction of the roads and located within the right of way and utility easements shown on the plat.

- c. **Storm water** –The applicant is proposing to maintain storm water on site and with the use of a detention pond to the east of the subdivision. All drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater*

Management Manual and will be subject to review and approval by the City Engineering Division.

- d. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City’s landfill has adequate capacity for this waste.
- e. **Streets** – This subdivision will take access off South 36th Street West to Crater Lake and Rachelle Circle. Crater Lake and Rachelle Circle will be built within a 60-foot-wide right of way. They will be built to a City of Billings standard residential street of 34 feet from back of curb to back of curb. They will be built to meet the requirements of the City of Billings Engineering Division and receive their approval before any construction. This requirement is outlined in the SIA under the heading III Transportation A. Streets.

Sidewalks will be built with this subdivision and will be 5-foot-wide boulevard sidewalks.

- f. **Emergency services** – The Billings Police and Fire Department will respond to emergencies within the proposed subdivision. The nearest fire station is located at 605 24th St. West (Station #5). The developer will install fire hydrants at the required locations to meet regulations outlined in Fire Code.

The Billings Police noted in comments that “continued development will eventually require additional resources to maintain current levels of service”. The subdivision is located within the ambulance service area of American Medical Response (AMR).

- g. **Schools** – This subdivision is in School District #2. The schools that will be affected are Central Heights Elementary, Will James Middle School and West High School. At the time this staff report was written there were no comments received from School District #2.
- h. **Parks and Recreation** – Parkland dedication requirements were met with the Parkland West 1st Filing.
- i. **Mail Delivery** - The United States Postal Service (USPS) will provide postal service to the subdivision. The applicant will need to coordinate location of CBU with the USPS. **(Condition #1)**

3. Effect on the natural environment

The subject property is relatively level land and is in an area that has been experiencing development for many years. There should be minimal effect on the natural environment. In the SIA there is a paragraph notifying the future lot owner there may be limitations or special requirements of the lot soils that should be investigated before construction on the lots.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. This land has been experiencing development for many years and there is minimal habitat on the land. This subdivision should have a minimal effect on wildlife and wildlife habitat. There is a paragraph in the SIA that warn lot owners there may be some interface with animals.

5. Effect on the public health, safety and welfare

There should be no impacts to public health, safety and welfare because of this subdivision.

B. Was an Environmental Assessment required? [(MCA 76-3-616 and BMCC 23-902]

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616 (2), MCA.

C. Does the subdivision conform to the City of Billings 2016 Growth Policy, the 2018 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-(8)]

1. City of Billings 2016 Growth Policy

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

Essential Investments (relating public and private expenditures to public values): Infill development and development near existing City infrastructure may be the most cost effective. (p. 6)

Home Base (healthy, safe and diverse housing options): Homes that are safe and sound support a healthy community. (p. 9)

2. 2018 Billings Urban Area Long Range Transportation Plan

The proposed subdivision adheres to the goals and objectives of the Transportation Plan and preserves the street network and street hierarchy specified in the plan.

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

The proposed subdivision lies within the jurisdiction of the BABTMP. There is no trail identified within the proposed subdivision. There is a trail along Monad Road to the south and a future trail along South 36th Street West is identified as a future location for a bike lane.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMCC 23-302(8)(b)(1)]

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

E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302 (8)(b)(5)]

The subject property will conform to the requirements of current zoning. When the lots are sold, and they submit for a building permit, additional requirements of zoning will be reviewed with the permit process.

F. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-302 (8)(b)(2)]

The subdivider has provided utility easements for private utility companies. Private utility companies will have locations available to them for installation of their services.

G. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-302 (8)(b)(3)]

Legal and physical access to the proposed lots is provided from South 36th Street West to Crater Lake and Rachelle Circle. Each lot will have access from street frontage on Crater Lake and Rachelle Circle.

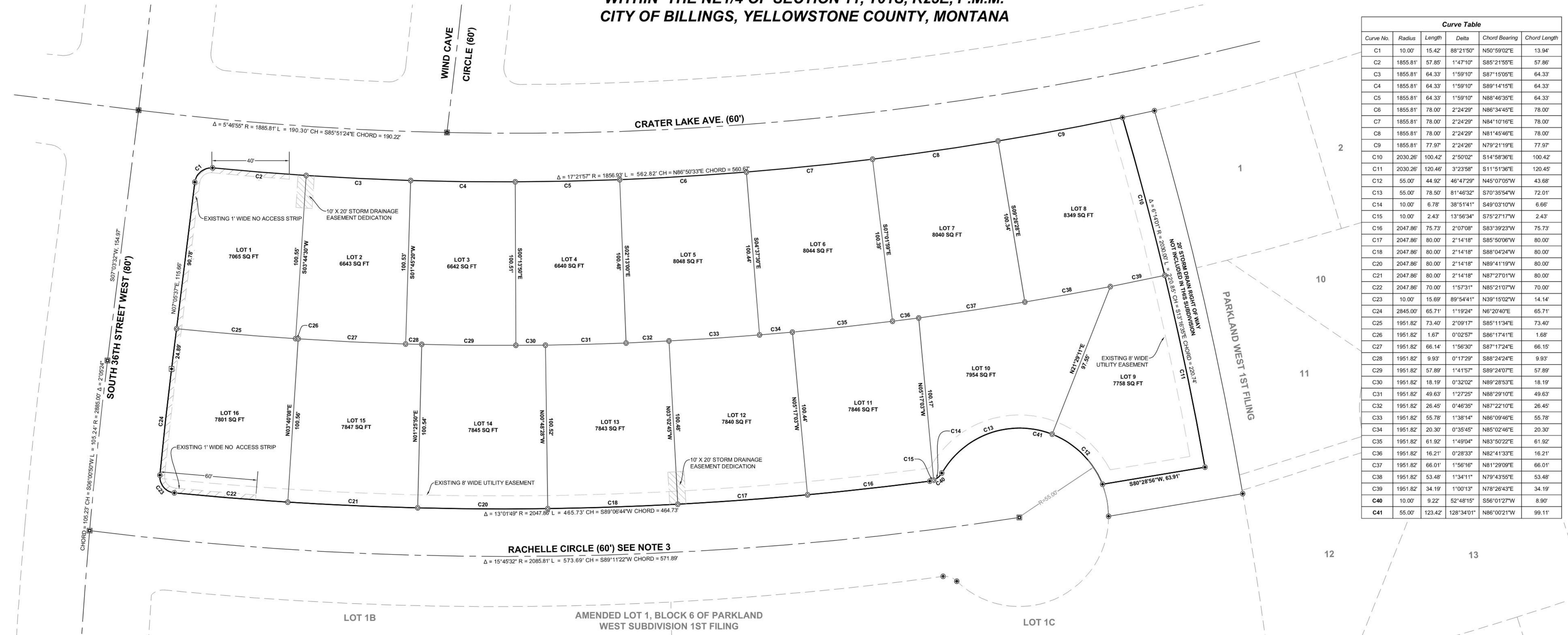
CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Parkland West Subdivision, 7th Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several of the goals and policies of the 2016 Growth Policy and does not conflict with the Transportation Plan or Billings Area Bikeways and Trail Master Plan.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

RECOMMENDATION

Staff recommends the Planning Board forward a recommendation of conditional approval of the preliminary plat of Parkland West Subdivision, 7th Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

PLAT OF PARKLAND WEST SUBDIVISION, 7TH FILING
BEING LOT 1A OF AMENDED LOT 1, BLOCK 6 OF PARKLAND WEST SUBDIVISION 1ST FILING, DOCUMENT NO. 3115231,
WITHIN THE NE1/4 OF SECTION 11, T01S, R25E, P.M.M.
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA



Curve Table					
Curve No.	Radius	Length	Delta	Chord Bearing	Chord Length
C1	10.00'	15.42'	88°21'50"	N50°59'02"E	13.94'
C2	1855.81'	57.85'	1°47'10"	S85°21'55"E	57.86'
C3	1855.81'	64.33'	1°59'10"	S87°15'05"E	64.33'
C4	1855.81'	64.33'	1°59'10"	S89°14'15"E	64.33'
C5	1855.81'	64.33'	1°59'10"	N88°46'35"E	64.33'
C6	1855.81'	78.00'	2°24'29"	N86°34'45"E	78.00'
C7	1855.81'	78.00'	2°24'29"	N84°10'16"E	78.00'
C8	1855.81'	78.00'	2°24'29"	N81°45'46"E	78.00'
C9	1855.81'	77.97'	2°24'28"	N79°21'19"E	77.97'
C10	2030.26'	100.42'	2°50'02"	S14°58'36"E	100.42'
C11	2030.26'	120.46'	3°23'58"	S11°51'36"E	120.45'
C12	55.00'	44.92'	46°47'29"	N45°07'05"W	43.68'
C13	55.00'	78.50'	81°46'32"	S70°35'54"W	72.01'
C14	10.00'	6.78'	38°51'41"	S49°03'10"W	6.66'
C15	10.00'	2.43'	13°56'34"	S75°27'17"W	2.43'
C16	2047.86'	75.73'	2°07'08"	S83°39'23"W	75.73'
C17	2047.86'	80.00'	2°14'18"	S85°50'06"W	80.00'
C18	2047.86'	80.00'	2°14'18"	S88°04'24"W	80.00'
C20	2047.86'	80.00'	2°14'18"	N89°41'19"W	80.00'
C21	2047.86'	80.00'	2°14'18"	N87°27'01"W	80.00'
C22	2047.86'	70.00'	1°57'31"	N85°21'07"W	70.00'
C23	10.00'	15.69'	89°54'41"	N39°15'02"W	14.14'
C24	2845.00'	65.71'	1°19'24"	N6°20'40"E	65.71'
C25	1951.82'	73.40'	2°09'17"	S85°11'34"E	73.40'
C26	1951.82'	1.67'	0°02'57"	S86°17'41"E	1.68'
C27	1951.82'	66.14'	1°56'30"	S87°17'24"E	66.15'
C28	1951.82'	9.93'	0°17'29"	S88°24'24"E	9.93'
C29	1951.82'	57.89'	1°41'57"	S89°24'07"E	57.89'
C30	1951.82'	18.19'	0°32'02"	N89°28'53"E	18.19'
C31	1951.82'	49.63'	1°27'25"	N88°29'10"E	49.63'
C32	1951.82'	26.45'	0°46'35"	N87°22'10"E	26.45'
C33	1951.82'	55.78'	1°38'14"	N86°09'46"E	55.78'
C34	1951.82'	20.30'	0°35'45"	N85°02'46"E	20.30'
C35	1951.82'	61.92'	1°49'04"	N83°50'22"E	61.92'
C36	1951.82'	16.21'	0°28'33"	N82°41'33"E	16.21'
C37	1951.82'	66.01'	1°56'16"	N81°29'09"E	66.01'
C38	1951.82'	53.48'	1°34'11"	N79°43'55"E	53.48'
C39	1951.82'	34.19'	1°00'13"	N78°26'43"E	34.19'
C40	10.00'	9.22'	52°48'15"	S56°01'27"W	8.90'
C41	55.00'	123.42'	128°34'01"	N86°00'21"W	99.11'

CERTIFICATE OF CITY ATTORNEY

This Subdivision Plat has been reviewed by the City Attorney's Office and is acceptable to form.

Dated this _____ day of _____, 2021

Reviewed by _____

ERRORS AND OMISSIONS REVIEW

Reviewed for errors and omissions in calculations and drafting this _____ day of _____, 2021, pursuant to section 76-3-611(2)(a), M.C.A.

Examining Land Surveyor _____

Reg. No. _____

CERTIFICATE OF COUNTY TREASURER

I hereby certify, pursuant to Section 76-3-611(1)(b), M.C.A., that all real property taxes and special assessments assessed and levied on the land described on this Subdivision Plat and encompassed by the proposed division have been paid.

Dated this _____ day of _____, 2021

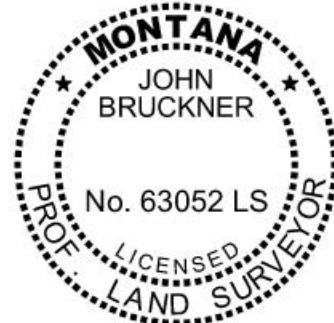
TREASURER
YELLOWSTONE COUNTY, MONTANA

CERTIFICATE OF SURVEYOR

The undersigned, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of March 2020, a survey was performed under his supervision of a tract of land to be known as PARKLAND WEST SUBDIVISION, 7TH FILING, in accordance with the request of the owner thereof and in conformance with Montana Subdivision and Platting Act; said subdivision being in accordance with the Landowner's Certificate and as shown on the plat; that the monuments found and set are of the character and occupy the positions hereon.

Dated the _____ day of _____, 2021

John Bruckner
Registration Number 63052 LS



CERTIFICATE OF CITY ENGINEER'S OFFICE

I hereby certify that I have examined the annexed plat and find that it conforms with Section 76-4-125(1)(d) MCA, removing sanitary restrictions since the plat is inside a master planning area and is provided with municipal facilities for the supply of water and disposal of sewage and solid waste.

Dated this _____ day of _____, 2021

CITY ENGINEER'S OFFICE _____

NOTICE OF APPROVAL

STATE OF MONTANA)
County of Yellowstone) ss

This plat has been approved for filing by the Yellowstone County Board of Planning and conforms to the recommendations of this board.

Date _____ President _____

Executive Secretary _____

CERTIFICATE OF FILING BY CLERK AND RECORDER

LEGAL DESCRIPTION AND PROPERTY OWNER CERTIFICATE OF DEDICATION

State of Montana)
County of Yellowstone) ss

KNOW ALL BY THESE PRESENTS: That we, the undersigned owners, do hereby certify that we, have caused to be surveyed, subdivided, and platted into lots blocks roads and alleys and other divisions and dedications, as shown by this plat hereunto included, the following described tract of land, to wit:

The parcel situated in the NE1/4 of Section 11, T01S, R25E, P.M.M., City of Billings, Yellowstone County, Montana, and more particularly described as Lot 1A of Plat of Amended Lot 1 of Parkland West Subdivision 1st Filing, Document No. 3115231. Said tract being 2.805 acres in area, more or less.

The above described tract of land is to be known and designated as PARKLAND WEST SUBDIVISION, 7TH FILING, City of Billings, Yellowstone County, Montana. The undersigned do hereby grant unto all utility companies, as such are defined and established by Montana Law, and cable television companies, an easement for the location, maintenance, repair, removal of lines over, under and across the areas designated on the plat as Utility Easement to have and hold forever.

DATED THIS _____ DAY OF _____, 2021

Lorenz Construction, LLC

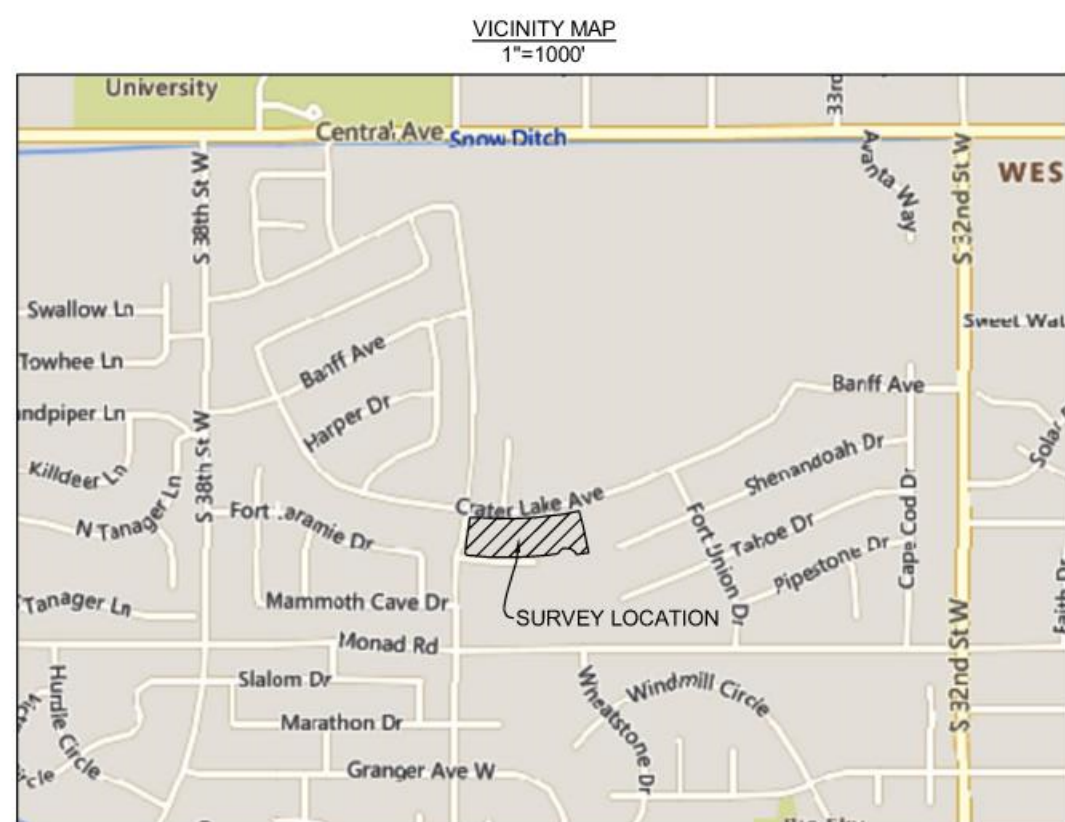
Owner, Rod Lorenz

ACKNOWLEDGMENTS

State of Montana)
County of Yellowstone) ss

on this _____ day of _____, 2021, before me, the undersigned a notary public for the State of _____, personally appeared Rod Lorenz, Owner of Lorenz Construction, LLC known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

Notary Public for the State of _____



NOTES

- BASIS OF BEARING: NAD83(2011) MONTANA STATE PLANE COORDINATE SYSTEM, GRID
- DISTANCES: GROUND, INTERNATIONAL FOOT
- RACHELLE CIRCLE SHOWS A RECORD WIDTH OF 60 FEET PER THE AMENDED PLAT OF LOT 1, BLOCK 6 FILED AS DOCUMENT # 3115231. THE MONUMENTS FOUND IN THIS SURVEY AS WELL AS A CHECK OF RECORD PLAT DIMENSIONS FIND THE WIDTH OF RACHELLE CIRCLE TO BE +/- .99 FEET.

LEGEND

- SET 5/8" REBAR W/ PURPLE PLASTIC CAP (BRUCKNER 63052 LS)
- FOUND #6 REBAR
- FOUND YELLOW PLASTIC CAP "ENG. INC BILLINGS, MT"
- FOUND CENTERLINE MONUMENT
- SET CENTERLINE MONUMENT
- UTILITY EASEMENT LINE
- 1" NO ACCESS STRIP



0 30' 60'
SCALE: 1"=30'

PARKLAND WEST SUBDIVISION, 7TH FILING

PREPARED BY: **WWC ENGINEERING**
550 S. 24TH STREET W, SUITE 201
BILLINGS, MT 59102
www.wwcengineering.com

NO.	REVISION	BY	DATE	DESIGNED BY	DRAWN BY	CHECKED BY

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT
DISTRICTS**

Parkland West Subdivision, 7th Filing

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**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS**

Parkland West Subdivision, 7th Filing

This agreement is made and entered into this ____ day of _____, 20__, by and between Rod Lorenz, whose address for the purpose of this agreement is **2050 Broadwater Ave, Suite D, Billings, MT 59102**, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, at a regular meeting conducted on ____ day of _____, 20__, the Board of Planning recommended conditional approval of a preliminary plat of Parkland West Subdivision, 7th Filing; and

WHEREAS, at a regular meeting conducted on ____ day of _____, 20__, the City Council conditionally approved a preliminary plat of Parkland West Subdivision, 7th Filing; and

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

WHEREAS, the provisions of this agreement shall be effective and applicable to Parkland West Subdivision, 7th Filing upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

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

I. VARIANCES

There are no variances being requested.

II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

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

- B.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is 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.
- C.** Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction. Refer to Section IX for additional information regarding soil characteristics of the site.
- 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.** The Subdivider and subsequent contractors/builders acknowledge that a Stormwater Pollution and Prevention Plan (SWPPP) may be required to be filed with the city and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.
- F.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

III. TRANSPORTATION

A. Streets

- Rights-of-way widths of 60 feet for Rachelle Circle and Crater Lake Avenue were dedicated in previous filings.
- Private Contract P – 762 shall construct public streets and curb & gutter within the Subdivision. All roads shall be 34 feet back-of-curb to back-of-curb. These access roads shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings' site development

ordinance and shall be reviewed and approved by City Engineering prior to construction.

B. Sidewalks

- Individual lot owners will be responsible for the construction of the sidewalks adjacent to their lot at the time of lot construction and shall be included in each building permit.
- 5-foot boulevard walk shall be constructed on the north frontage of Lot 1C of Parkland West Subdivision 1st Filing Private Contract P-762.
- An 8-foot sidewalk shall be constructed within the 20-foot Storm Drain Right-of-Way.
- Sidewalk shall be 5-foot wide with 5-foot boulevard planting strip between the sidewalk and the curb.

C. Street Lighting

- No street lighting is proposed for the development; however, street lighting is included in the waiver of right to protest.

D. Traffic Control Devices

- Traffic control is not required for this subdivision but are included in the waiver of right to protest

E. Access

- Location to the lots will be from drive approaches installed at the time of lot development.
- There are existing 1-foot no access strips adjacent to the subdivision.
 - The north property line of Lot 1 of Block 1 has a 40 foot no access strip from the radius point on Crater Lake Avenue adjacent to South 36th Street West extending east. This easement length shall be reduced to 15 feet on the filing of Parkland West Subdivision, 7th Filing.
 - The south property line of Lot 16 of Block 1 has a 50 foot no access strip on Rachelle Circle extending from the property line adjacent to South 36th Street West to the east. This easement shall be reduced to 20 feet on the filing of Parkland West Subdivision, 7th Filing.

F. Billings Area Bikeway and Trail Master Plan (BABTMP)

- This subdivision is located within the jurisdiction of the BABTMP, but no future trail corridors are identified within this subdivision area. There is an existing bike lane on Monad Road and a future bike lane on 36th Street West.

G. Public Transit

- This subdivision does not require improvements to ensure public transit service. The nearest public transit stop is at the intersection of Monad Road and South 36th Street West.

IV. EMERGENCY SERVICE

Emergency service to the Subdivision will be provided via Rachelle Circle and Crater Lake Avenue.

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

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150 feet of the furthest portion of a building under construction as measured along the approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of twenty (20) feet wide.
- An operational fire hydrant shall be located within 600 feet of the furthest portion of a residence under construction or within 400 feet of the furthest portion of a commercial building under construction as measured along the access roads to the site.
- The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.
- A gravel turnaround will be constructed east of Lot 8 on Crater Lake Avenue. Drawings shall be submitted and approved by City Engineering and Fire Department prior to construction.

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the Stormwater Management Manual in place at the time of development. All Future stormwater improvements will be reviewed and approved by the Engineering Division to comply with said plan. The new storm drainage improvements shall be constructed as part of Private Contract P – 762.

As part of the Parkland West Subdivision, 7th Filing, the developer shall install stormwater improvements as included herein. Developer shall extend the 21" Storm Drain on Crater Lake Avenue beyond the eastern property line as required for construction of a temporary turnaround at the end of Crater Lake Avenue. The Crater Lake Avenue storm main shall discharge to a temporary storm pond constructed within the public right of way. The temporary storm pond shall be sized as required by the Stormwater Management Manual. Storm infiltration basins or storm gardens shall be installed on Rachelle Circle to meet the

requirements of the Storm Water Manual. The storm gardens will be front yard depressions with yard inlets to a below grade boulder pit and shall have curb cuts to allow flows into the property. Sidewalks shall pass flows beneath in a manner approved by the City Engineer. An 8' sidewalk shall be constructed to bypass flows from the end of Rachelle Circle to Crater Lake Avenue within the 20' Storm Drain Right-of-Way on the east side of the property.

Such stormwater facilities including piping, inlets, structures, vegetation shall be maintained through the Parkland West Subdivision, 7th Filing HOA as outlined in the HOA Stormwater Maintenance Agreement.

VI. UTILITIES

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

It is acknowledged that the properties subject to this Subdivision Improvements Agreement shall be subject to the appropriate water and wastewater local and interior construction fees in effect at the time of payment. Fees shall be paid for the lots in each phase as applied for in the extension application and as per the first paragraph above.

The Developer/Owner acknowledges that the subdivision shall be subject to the applicable System Development in effect at the time new water and/or sanitary sewer service connections are made.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc) shall be in accordance with design standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality.

A. Water

There are existing 8-inch water mains located in Rachelle Circle and Crater Lake Avenue that currently terminate on the east side of the existing pavement. Private Contract P – 762 will extend the 8-inch water mains along the length of Rachell Circle and Crater Lake Avenue beyond the proposed paving surface of the Subdivision. Water services will be installed for all lots within the subdivision.

B. Sanitary Sewer

There are existing 8-inch sanitary mains located in Rachelle Circle that currently terminates approximately 10 feet beyond the existing pavement and Crater Lake Avenue that currently terminates at a manhole in the intersection of Crater Lake Avenue and Wind Cave Circle. Private Contract P – 762 will extend the 8-inch sanitary main along the length of Rachelle Circle and sufficient to provide service to all proposed lots on Rachelle Circle. The 8-inch sanitary main on Crater Lake Avenue will be extended to a manhole constructed beyond the proposed paving surface of the Subdivision. Sewer services will be installed for all lots within the subdivision.

C. Power, Telephone, Gas, and Cable Television

Private utility facilities (power, natural gas, telephone, and cable) will be installed during construction and located within the right-of-way and utility easements shown on the plat.

VII. PARKS/OPEN SPACE

The parkland requirements were previously met by Parkland West Subdivision, 1st Filing.

VIII. IRRIGATION

No irrigation ditch, field laterals, or irrigation easement exist in this subdivision.

IX. SOILS/GEOTECHNICAL STUDY

A Geotech Investigation will be performed for the subdivision and information will be provided here.

X. PHASING OF IMPROVEMENTS

There are no intended phasing improvements.

XI. FINANCIAL GUARANTEES

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

XII. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

A. Subdivider agrees to guarantee all public improvements for a period of two years from the date of final acceptance by the City of Billings.

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

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

“SUBDIVIDER”

Rod Lorenz

By: _____

Title: _____

STATE OF MONTANA)
 : ss
County of)

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

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

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

“CITY”
CITY OF BILLINGS
MONTANA

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA)
 : ss
County of Yellowstone)

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

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

Waiver of Right to Protest

FUTURE SPECIAL IMPROVEMENT DISTRICTS

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more special improvement district(s) for a period of no more than twenty years from the recording of this waiver, for street light maintenance and energy, and for the construction of streets, street widening, sidewalks, survey monuments, street name signs, curb and gutter, street lights, driveways, traffic signals, and traffic control devices, parks and park maintenance, trails, sanitary sewer lines, water lines, storm drains (either within or outside the area), and other improvements incident to the above which the City of Billings may require.

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

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

Parkland West Subdivision, 7th Filing

Signed and dated this ____ day of _____, 20__.

Subdivider/Owner

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this ____ day of _____, 20__, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be Rod Lorenz, the person who executed the forgoing instrument and acknowledged to me that he/she executed the same.

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

Planning Board

Date: 02/23/2021
Title: West Meadows Subdivision, 2nd Filing - Preliminary Major Subdivision - Public Hearing
Presented by: David Green
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

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

PROPOSED CONDITIONS OF APPROVAL

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

1. To protect public health and safety, prior to final plat approval, the applicant will receive approval from the MDEQ for the proposed water systems, septic systems and the proposed storm water management.
2. To protect public health and safety and provide for future road maintenance, prior to final plat approval, the applicant will expand existing RSID's 773 and 796 for the new public roads within the subdivision and providing access to the subdivision.
3. To protect public health and safety and to provide fire suppression facilities, prior to final plat approval, the applicant will provide a letter from the Laurel Volunteer Fire Department stating they approve of the use of a pond for fire suppression purposes.
4. To protect public health and safety, prior to final plat approval, the applicant will create the maintenance district for the water pond being used for fire suppression and to maintain the piping system used to pump water from the pond. The applicant will provide documents that outline the requirement of the maintenance district. The water pond for fire suppression needs as outlined in the SIA. The applicant will provide documents that show the county is supportive of such a maintenance district.
5. To protect public health and safety with proper fire suppression, prior to final plat approval, the applicant will coordinate required fire pond installation and location with the Laurel Fire Department. The access to the pond will be a public easement built to accommodate fire trucks in all weather conditions. Laurel Fire Department will review and approve all fire suppression measures within the subdivision.
6. To protect public safety and to ensure future maintenance of the parkland, prior to final plat approval, the applicant will expand the existing RSID for parkland maintenance for this subdivision.
7. To minimize the effects on local service prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
8. To minimize effects on the natural environment, prior to final plat approval a weed management plan and property inspection shall be completed by the County Weed Department.
9. 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.
10. 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.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On January 4, 2021, the Planning Division received an application for major plat approval for the proposed West Meadows Subdivision, 2nd Filing. The subject property is generally located on the east side of Whistlers Way and south of what will be Central Avenue. This subdivision would create 42 lots from a 50-acre parcel of land. The applicant is proposing to develop a residential subdivision, the land is outside of zoning. The land is currently dryland grass and shrub land.

VARIANCES REQUESTED

No variances are requested for this subdivision.

PROCEDURAL HISTORY

- Pre-application meeting July 30, 2020
- Completeness review submitted December 14, 2020
- Preliminary plat application submitted to Planning Division January 4, 2021
- Departmental review meeting January 14, 2021
- Preliminary plat resubmitted January 21, 2021
- Planning Board plat review February 9, 2021
- Planning Board public hearing February 23, 2021
- Preliminary plat to Yellowstone County Board of County Commissioners March 16, 2021
- 60 working-day preliminary plat review period ends March 31, 2021

PLAT INFORMATION

General location:	East side of Whistlers Way and south of what will be Central Avenue
Legal Description:	Lot 1A of west Meadows Subdivision Amended Plat
Owner/Subdivider:	Wineridge Inc.
Engineer/Surveyor:	WWC Engineering
Existing Zoning:	Outside of zoning
Existing land use:	Dryland Grass
Proposed land use:	Residential
Gross area:	50 acres
Proposed number of lots:	42
Max. lot size:	2.00 acres

Min. lot size: 0.65 acres
Parkland requirements: There is an existing park within the proposed subdivision. No additional parkland is required.

STAKEHOLDERS

A brief presentation of the proposed subdivision was given to the Planning Board. President Woods called for question and discussion from the members of the Board. In response to question by President Woods, Dave Green stated Laurel Fire Department will provide fire service. President Woods asked if a dry hydrant should be required. Dave Green stated the Laurel Fire Department has said they will accept a pond that is filled by the Cove Ditch since the subdivision regulations do allow for alternative methods if they are approved by the Fire Department. Board member Tunnickliff said he struggles with the proposed pond for fire suppression as there will be no access to water during winter. He said he doesn't feel an open pond is a reliable source for fire suppression. President Woods said this is a point well taken as homeowners are concerned with the availability of fire protection. Board member Larson asked if the pond was for aesthetics or fire suppression and President Woods said it is intended for fire suppression. Board member Thompson asked a question regarding the pond location. Greg Reid said Lot 1 in the north corner will be used for the pond. Darin Swenson, Yellowstone County Public Works, said an existing pond in another part of this subdivision does not have water in it most of the time. Greg Reid, with WWC Engineering, explained that the existing pond had a one-time filling agreement with Cove Ditch whereas the proposed pond will have a long term filling agreement. Darin Swenson said the current pond does not hold water even with the liner. In response to question by President Woods, Greg Reid said Cove Ditch has enough water available to fill the pond. Jarrett Hillius asked about the water balance statement. Greg Reid stated the sole agency overseeing this will be Laurel Volunteer Fire Department.

ALTERNATIVES

One of the purposes of the County's subdivision review process is to identify potential negative effects of property being subdivided. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various County departments, private service/utility providers and the affected school district(s), have reviewed this application and provided input on effects and mitigation. The Findings of Fact, which are presented as an attachment, discuss potential negative impacts of the subdivision and conditions of approval are recommended as measures to further mitigate any impacts. In this case, there were found to be some impacts from this proposed subdivision.

In accordance with state law, the Board of County Commissioners has 60 working days to act upon this major preliminary plan. The 60 working day review period for the proposed subdivision ends on March 31, 2021. State and County subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The County may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 working day review period, the Board of County Commissioners is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

FISCAL EFFECTS

This subdivision will have no fiscal effect on the Planning Division.

Attachments

Findings of Fact
Preliminary Plat
SIA

FINDINGS OF FACT

The City-County Planning Division Staff has prepared the Findings of Fact for West Meadows Subdivision, 2nd Filing. These findings are based on the preliminary plat application and supplemental documents addressing the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Yellowstone County Subdivision Regulations (YCSR).

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health and safety (76-3-608 (3) (a) MCA) (Section 3.2 (H) (2) YCSR)

1. Effect on agriculture and agricultural water users' facilities

The subject property is not used for farming purposes. Cove Ditch runs through the proposed subdivision. It is within a 66-foot-wide ditch easement. This easement will allow the Cove Ditch company to maintain the ditch as needed. According to the SIA under the heading VIII, Irrigation "there are no definitive plans for water share transfer at this time." Mitigation measures will be taken to ensure the protection of the Cove Ditch. These are outlined in the SIA under the same heading as referenced earlier in the paragraph. There will be no affect on water user facilities with this subdivision.

2. Effect on local services

a. **Water and Septic** – The proposed subdivision is not located within any public water district. It is proposed that each lot will have a cistern on it for domestic water use. The proposed cisterns in the subdivision will be reviewed and receive approval from Montana Department of Environmental Quality (MDEQ). The applicant will provide a copy of the MDEQ approval for the septic systems at the time of final plat. **(Condition #1)** Maintenance of the individual cisterns will be the responsibility of the home owner.

It is proposed that each lot, within the proposed subdivision, will have a septic system. The proposed septic systems will need to be reviewed and installed in accordance with Section 4.9 of the Yellowstone County Subdivision Regulations and will need to have MDEQ approval. The applicant will provide a copy of the MDEQ approval for the septic systems at the time of final plat. **(Condition #1)** Maintenance of the individual septic systems will be the responsibility of the home owner.

b. **Streets and roads** – There will be several new roads within the proposed subdivision. These roads will be public roads and will be built to Yellowstone County Paved road standards within 60-foot-wide rights-of-way.

There is an RSID that will be expanded to include the paved roads within this subdivision, RSID 773. That RSID expansion paperwork will be submitted with the final plat. **(Condition #2)**

The subdivision is required to have a second access in and out for public safety. The applicant states they are proposing to dedicate the undeveloped section of Homewood Park Drive to Central Avenue and Central to Whistler Way. Prior to dedication of the

road it will need to be built to a county gravel road standard to be accepted by the county. The applicant will expand the existing RSID, 796, for the maintenance of South 80th Street. The existing RSID will also cover maintenance of the second access. **(Condition #2)**

A TIS is has been submitted for this subdivision. It will be reviewed by County Public Works for impacts to the roads and intersections in the area.

c. **Fire and Police services** – The property is within the Laurel Urban Fire Service Area (LUFSA). LUFSA has approved the use of a pond for fire suppression needs in this subdivision. **(Condition #3)** The applicant is proposing to create a maintenance district to maintain the pond and fire suppression equipment in the pond. The maintenance district will have a contract with the Cove Ditch Company for water to fill the pond, should the ditch not provide enough water on a year-round basis the maintenance district will be responsible for filling the pond with water from a water company. The pond will have an access point for fire suppression vehicles to connect to fire suppression piping coming out of the pond. The pipe apparatus in the pond will have a filtering system. **(Condition #4)** This is outlined in the SIA under the heading IV Emergency Service. The Location of the pond and the access to it is to be shown on the plat and coordinated with the Laurel Fire Department prior to installation. **(Condition #5)**

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

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

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

f. **School facilities** – The proposed subdivision is located within Elder Grove School District #8 for K-8. School District #2 will provide educational services for High School students. School District #8 has capacity for additional students. School District #2, West High School is currently over capacity.

g. **Parks and recreation** – This proposed subdivision is required to provide parkland. There is an existing parkland dedication within this proposed subdivision. There is no additional parkland dedication required. The applicant will be required to expand or create an RSID for the park maintenance with final plat. **(Condition #6)**

h. **Postal Service** – The USPS responded to request for comments; Mailbox set up will need to be a centralized box location with other mailboxes located on 80th and Monad. If there are any questions they can contact the USPS. The applicant will be required to coordinate with the USPS to ensure they are providing what has been requested.

(Condition #7)

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

j. **Phasing of Development** - The applicant is proposing to phase this subdivision. There will be 2 phases, those two phases are outlined in the SIA under the heading XI Phasing of Improvements. Phase 1 will include the construction of the pond for the fire suppression needs of the subdivision. A sentence about the fire suppression system being installed in Phase 1 is in the SIA under the heading IV Emergency Service.

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 #8)**

There are no apparent or known natural hazards on the property.

4. Effects on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. A paragraph in the ‘Conditions that Run with the Land’ section of the SIA warns future lot owners of the likely presence of wildlife in the area and their potential to damage residential landscaping.

5. Effects on public health and safety

Plans and designs for the water and septic system will be reviewed and approved by MDEQ prior to final plat approval to ensure public health and safety.

Fire and emergency services are provided for this proposed subdivision from Lockwood Fire Department and the Yellowstone County Sheriff’s department.

B. Was an environmental assessment required? If yes, what, if any, significant adverse impacts were identified? (76-3-603 MCA) (Chapter 9, YCSR)

An environmental assessment was required for this subdivision pursuant Section 9.2 C of the County Subdivision Regulations. In the environmental assessment it was determined that the impacts to the environment which include, agricultural, water user facilities, natural environment wildlife and habitat, will be minimal. The land is not used for agricultural purposes, the Cove Ditch is within an existing 60-foot-wide easement for maintenance and protection. There are no known endangered species on the land.

C. Does the subdivision conform to the Yellowstone County 2008 Growth Policy, the 2018 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan Update? [BMCC 23-302.H.4.]

1. Yellowstone County - 2008 Growth Policy

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

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

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

- Goal: New developments that are sensitive and compatible with the character of adjacent County town sites. (p. 6)

There is residential development directly adjacent to the subject property.

- Goal: Controlled weed populations. (p. 9)

The developer shall complete a weed management plan and shall provide a re-vegetation plan for any ground disturbed by development.

2. 2018 Urban Area Transportation Plan

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

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

The subject property is not within the Billings Area Bikeway and Trail Master Plan Update.

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 not within a zoned area of Yellowstone County.

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. Should the private utility companies require easements the applicant will be required to coordinate the easements needed with the private utility companies.

**H. Does the proposed subdivision provide for Legal and Physical Access to all lots?
[MCA 76-3-608 (3) (d) and Section 3.2 (H) (3) (c) (d), YCSR]**

Legal and physical access will be provided for the new proposed lots from Whistler Way. The internal streets will provide access to individual lots.

CONCLUSIONS OF FINDINGS OF FACT

- This subdivision does not create adverse impacts that warrant denial of the subdivision.
- Impacts to agriculture, agriculture water user facilities, local services, public health and safety, the natural environment, and wildlife should be minimal, and can be mitigated by reasonable conditions of final plat approval.
- The subdivision conforms to some of the goals of the Growth Policy.
- The applicant has complied with the MSPA and YCSR processes and the subdivision conforms to the law requirements.

RECOMMENDATION

Staff recommend that the Planning Board recommend conditional approval of the preliminary plat of West Meadows Subdivision, 2nd Filing to the Board of County Commissioners, and adopt the Findings of Fact as presented in the staff report, the SIA and Waiver.

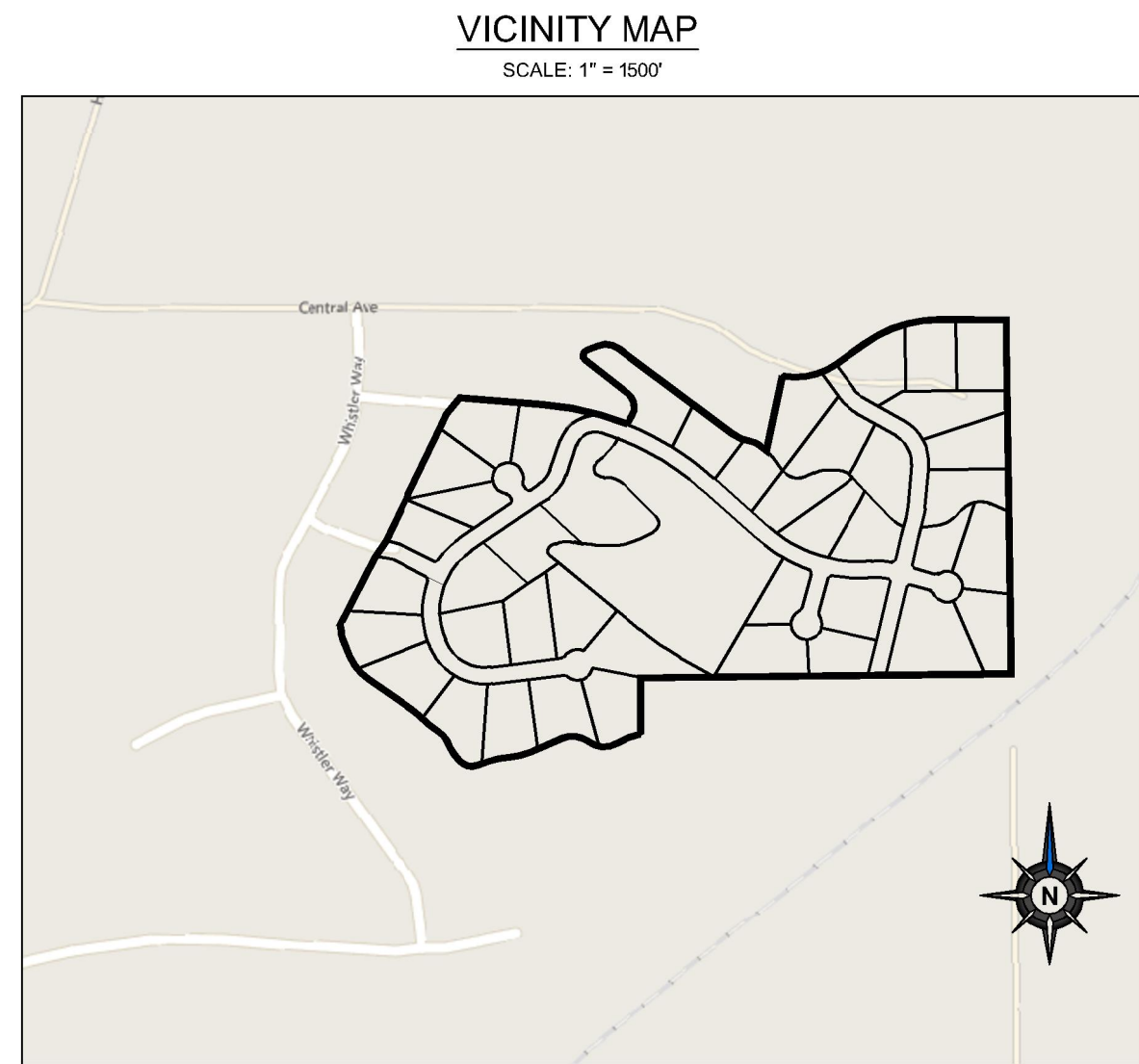
**LOT 1A OF WEST MEADOWS SUBDIVISION AMENDED PLAT
SITUATED IN THE N1/2NE1/4 OF SECTION 12, T.1S., R.24E., P.M.M.
YELLOWSTONE COUNTY, MONTANA**

A circular professional seal for a land surveyor. The outer ring contains the text "MONTANA" at the top and "PROF. LAND SURVEYOR" at the bottom, separated by two stars. The inner circle contains the name "JOHN BRUCKNER" at the top, the license number "No. 63052 LS" in the center, and the words "LICENSED" and "LAND SURVEYOR" at the bottom.

Line Table		
Line No.	Length	Bearing
L14	38.15	S55°45'55"W
L15	16.41	N34°14'05"E
L16	16.41	S34°14'05"E
L17	9.14	S23°19'16"E
L18	9.14	N23°19'16"W
L19	55.49	S63°31'30"W
L20	57.42	N88°14'28"W
L21	18.74	S67°03'03"W
L22	65.44	S83°56'09"W
L23	35.73	S41°30'32"E
L24	71.80	N66°53'22"W
L25	63.99	S35°20'22"E
L26	38.43	S66°20'16"W
L27	43.36	S89°24'50"W

Curve No.	Radius	Length	Delta	Chord Bearing	Chord Length
C56	969.90'	351.62'	20°46'19"	N59°33'33"W	349.71'
C56	530.00'	210.42'	22°44'51"	S59°32'49"E	209.05'
C57	10.00'	14.83'	84°59'29"	S28°25'48"E	13.52'
C58	12.00'	10.72'	51°10'51"	S40°25'18"W	10.37'
C59	55.00'	271.05'	282°21'41"	S75°100°07"E	68.96'
C60	12.00'	10.72'	51°10'51"	N10°45'32"W	10.37'
C61	10.00'	14.87'	85°45'07"	N57°42'27"E	13.61'
C62	530.00'	151.79'	16°24'32"	S87°37'16"E	151.27'
C63	170.00'	53.55'	18°02'49"	S86°48'07"E	53.33'
C64	10.00'	15.57'	89°12'19"	S33°12'53"E	14.47'
C65	10.00'	16.16'	92°36'36"	N59°48'09"E	14.05'
C66	12.00'	10.72'	51°10'51"	S48°18'08"E	10.37'
C67	55.00'	271.05'	282°21'42"	N16°06'27"E	68.96'
C68	10.00'	10.72'	51°10'51"	S80°31'02"W	10.37'
C69	10.00'	15.25'	87°23'24"	N30°11'15"W	13.82'
C70	80.00'	59.24'	42°25'37"	S62°43'21"W	57.90'
C71	90.00'	112.47'	71°36'05"	S77°18'35"W	105.30'
C72	220.00'	33.08'	8°36'52"	N00°11'25"E	33.05'
C73	124.00'	189.24'	66°06'55"	N28°10'29"W	178.92'
C74	160.00'	53.44'	25°31'01"	N48°28'25"W	53.01'
C75	10.00'	15.71'	90°00'00"	N09°17'05"E	14.45'
C76	10.00'	12.87'	73°44'21"	S72°35'05"E	12.10'
C77	180.00'	80.16'	25°31'01"	S48°28'25"E	79.51'
C78	104.00'	120.01'	66°06'55"	S28°10'29"E	113.47'
C79	160.00'	24.06'	8°36'52"	S09°11'25"W	24.00'
C80	10.00'	16.01'	91°42'53"	S56°50'40"W	14.36'
C81	230.00'	74.15'	18°28'20"	N86°35'21"W	73.84'
C82	470.00'	390.90'	47°39'12"	S71°59'59"E	379.74'
C83	1029.90'	362.86'	20°11'16"	N58°16'00"W	361.01'
C84	110.00'	31.60'	16°27'37"	N43°43'10"W	31.56'
C85	60.00'	81.86'	78°10'20"	S74°34'32"E	75.60'
C86	120.00'	40.93'	23°04'32"	S77°52'34"W	48.01'
C87	50.00'	48.40'	46°51'56"	S67°09'11"E	39.77'
C88	100.00'	48.97'	28°03'34"	N57°44°59"W	48.49'

Line Table		
Line No.	Length	Bearing
(L50)	158.39	S62°56'32"E
(L51)	303.01	N82°44'18"E
(L52)	9.14	S23°19'16"E
(L53)	327.40	S55°45'55"W
(L54)	108.60	S34°14'05"E
(L55)	113.35	S18°42'59"W
(L56)	263.16	N48°10'23"W
(L57)	215.34	N14°49'53"E
(L58)	578.40	S13°29'51"W
(L59)	195.72	N73°53'33"W
(L60)	150.57	S04°52'59"W
(L61)	160.42	S61°13'56"E
(L62)	109.55	S35°42'55"E



1/4	SEC.	TWP.	RGE.
	12	01S	24E

WEST MEADOWS SUBDIVISION, 2ND FILING

JOB# 2020-098

REVISIONS	
Date	By

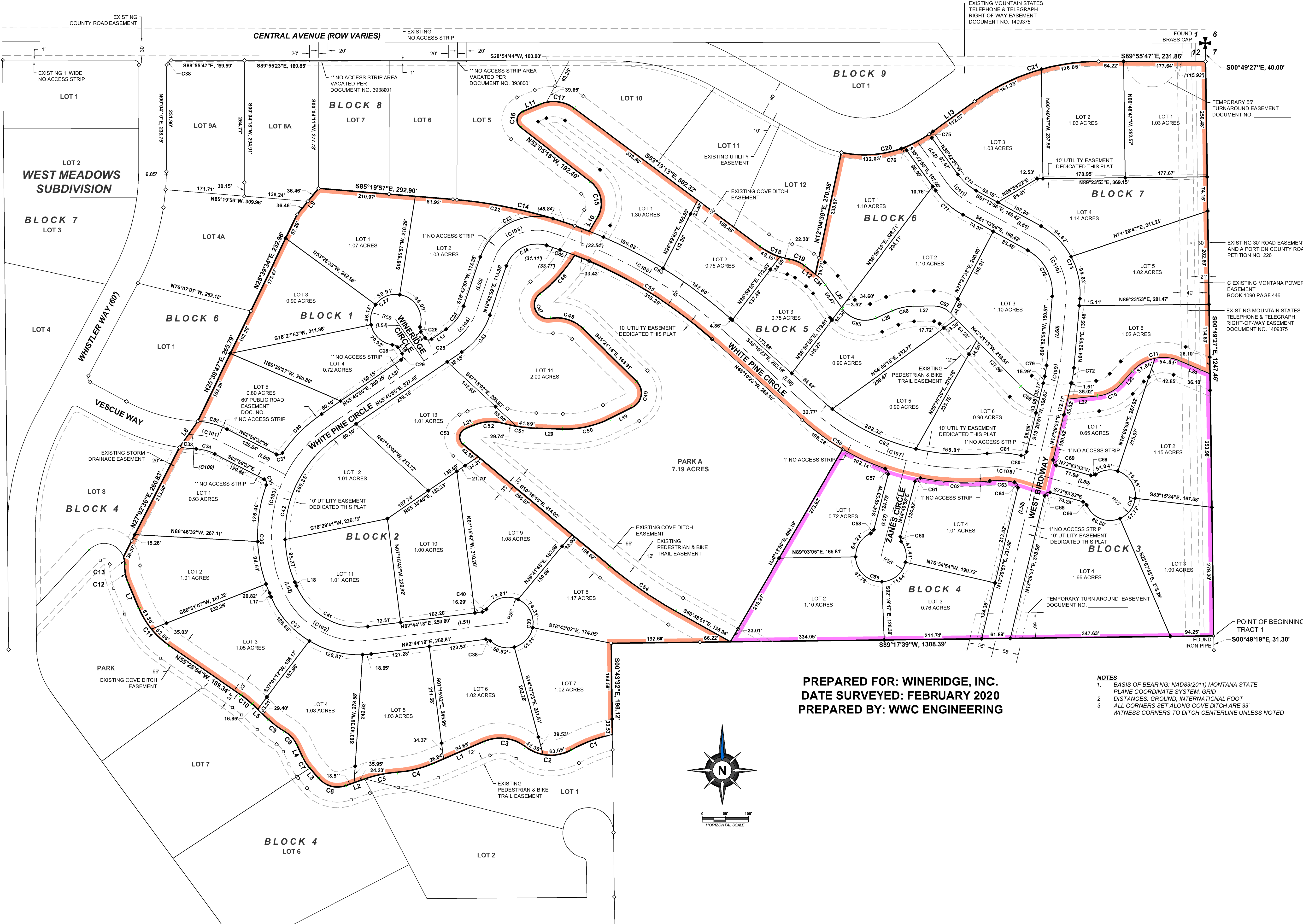
550 S 24th STREET W, SUITE 201
BILLINGS, MT 59102
(406) 894-2210

Drawn by:	AMR	Checked by:	JPS	Date:	OCTOBER 2020	Scale:	1" = 100'
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PLOTTED BY: MGR, MGR, JACB
 2021/02/01
 PLOT FILE: K:\Bidding\MTWRROD - WCCO2020 2nd Filing\West Meadows Subdiv\2020\DWG\Subdivision\Title\West Meadows_Subdiving.dwg

WEST MEADOWS SUBDIVISION, 2ND FILING

LOT 1A OF WEST MEADOWS SUBDIVISION AMENDED PLAT
SITUATED IN THE N1/2NE1/4 OF SECTION 12, T.1S., R.24E., P.M.M.
YELLOWSTONE COUNTY, MONTANA



PREPARED FOR: WINERIDGE, INC.
DATE SURVEYED: FEBRUARY 2020
PREPARED BY: WWC ENGINEERING

NOTES
1. BASIS OF BEARING: NAD83(2011) MONTANA STATE
PLANE COORDINATE SYSTEM, GRID
2. DISTANCES: GROUND, INTERNATIONAL FOOT
3. ALL CORNERS SET ALONG COVE DITCH ARE 33'
WITNESS CORNERS TO DITCH CENTERLINE UNLESS NOTED

LEGEND

✦

SECTION CORNER

FOUND BRASS CAP

○

SECTION 1/16 CORNER

FOUND ALUMINUM CAP

□

FOUND ALUMINUM CAP

◇

FOUND REBAR

○

FOUND BRASS CAP

◆

SET 3/4" REBAR W/ PURPLE PLASTIC CAP (BRUCKNER, 63052 LS)

■

SET 3/4" REBAR W/ ALUMINUM CAP (63052 LS)

—

PHASE I

—

PHASE II

—

PUBLIC ROAD EASEMENT

DOC. NO.

EXISTING EASEMENTS

PROPERTY BOUNDARY

EASEMENT DEDICATED THIS PLAT

1/4	SEC.	TWP.	RGE.
1/4	12	01S	24E

WEST MEADOWS
SUBDIVISION, 2ND FILING

JOB#: 2020-098

REVISIONS

AMR

JPS

OCTOBER 2020

1" = 100'

550 S 24th STREET W, SUITE 201
BILLINGS, MT 59102
(406) 594-2210

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

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SUBDIVISION IMPROVEMENTS AGREEMENT

West Meadows Subdivision, 2nd Filing

This agreement is made and entered into this ____ day of _____, 2021, by and between Wineridge, Inc., whose address for the purpose of this agreement is **P.O. Box 81508, Billings, MT 59108**, hereinafter referred to as "Subdivider," and YELLOWSTONE COUNTY, Montana, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, at a regular meeting conducted on ____ day of _____, 2021, the Board of Planning recommended conditional approval of a preliminary plat of *West Meadows Subdivision, 2nd Filing*; and

WHEREAS, at a regular meeting conducted on ____ day of _____, 2021, the Yellowstone County Board of County Commissioners conditionally approved a preliminary plat of West Meadows Subdivision, 2nd Filing; and

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

WHEREAS, the provisions of this agreement shall be effective and applicable to West Meadows Subdivision, 2nd Filing upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirement 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. There are no variance requests with this 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 1972 Yellowstone County Soil Survey, indicate that

there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.

- C. No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- D. There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.
- E. Culverts and associated drainage swales shall not be filled in or altered by the subdivider or subsequent lot owners.
- F. When required by road improvements, all fences and irrigation ditches in the public right-of-way adjacent to this subdivision shall be removed or relocated outside of the public right-of-way and any relocation outside of the public right-of-way shall be subject to securing and recording easements.
- G. Subdivider may obtain water rights from the High Ditch Company or Cove Ditch Company to be used for a community irrigation system that would be operated and maintained through a Homeowners Association of the West Meadows Subdivision 2nd Filing. This is not a County required improvement.
- H. The Burlington Northern Railroad right-of-way is located along the southeasterly boundary of the site and is in active operation. Noise from the moving trains is clearly audible within the subdivision.
- I. Future maintenance of all public (or common) improvements shall be done through one (1) or more Rural Special Improvement Districts (RSIDs) created as part of the SIA for this subdivision. The subdivision, is located in a RSID; RSID#773M.

III. TRANSPORTATION

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

A. Streets

Streets shall be built to grade with a satisfactory engineered subbase, base course, and asphalt surface. The internal subdivision streets will be 28 feet wide (24-foot wide paved surface with 2-foot side gravel shoulders) public

streets with drainage ditches on both sides. Culverts shall be provided to convey stormwater across roadways and driveways. The engineered design cross-sections of said streets shall be submitted to Yellowstone County Public Works Department. Improvements of streets shall be as outlined in Section XI in this SIA.

1. Interior Curbs and Gutters: Curbs and gutters within the subdivision will not be installed.
2. Street Name Signs: Street name signs for streets within the subdivision or located immediately adjacent thereto shall be furnished and installed in accordance with the specifications of the County Public Works Department and in compliance with MUTCD standards.

B. Traffic Control Devices

1. No traffic signals are required for this subdivision.
2. The Subdivider shall furnish and install all necessary traffic control devices in accordance with the Manual of Uniform Traffic Control Devices.

C. Access

A 60-foot wide right-of-way shall be dedicated by Subdivider for all internal streets. A right-of-way-dedication for Central Avenue was completed previously under the West Meadows Subdivision, which includes not only the petitioned right-of-way of Central Avenue, but an additional 10' of dedicated right-of-way. This dedication is not to be changed by this package.

Dedicated rights-of-way are closed until approval by the County Public Works Department. No permits for approaches to the roadway will be issued prior to approval by the County Public Works Department except as outlined herein.

All driveway approaches shall be piped in accordance with the approach standards of Yellowstone County Public Works. ROW culvert sizes are shown MDEQ storm water design report.

The County Public Works Department will issue permits for approaches to the public roadway (Central Avenue and Whistler Way) prior to opening of the dedicated rights-of-way, if the required public improvements outlined herein are secured by letter of credit or a letter of commitment to lend funds from a commercial lender.

D. Billings Area Bikeway and Trail Master Plan (BABTMP)

The subdivision is not within the area of the BABTMP.

E. Survey Monuments

Survey monuments shall be installed as required by Yellowstone County and the Montana Subdivision and Platting Act.

F. Maintenance

RSID 773M was adopted in 2012 for purposes of maintenance of all street improvements including signage, surfacing, culverts, weed control, and fire protection facilities located within the dedicated rights-of-way and dedicated park areas as indicated on the plat. The associated estimated costs will be used for maintenance.

IV. EMERGENCY SERVICE

Fire Protection Service: The entire West Meadows Subdivision 2nd Filing is located within the Laurel Volunteer Fire District (LVFD) and as such, the LVFD provides fire service to the area. A dedicated fire suppressant system for LVFD use will be constructed during Phase I of the Subdivision. The pond will be located within an easement area on Lot 1 of Block 5 of West Meadows Subdivision 2nd Filing. The pond shall have suction piping and a dry hydrant connection meeting LVFD approval. The suction piping shall be constructed to be off of the bottom of the pond as approved by LVFD and shall have a straining device on the piping with openings as approved by LVFD. The pond is to be maintained year round by a Maintenance District formed by the Developer. The Maintenance District shall have a contract with Cove Ditch to allow filling of the pond. Should the pond not be able to be filled by the ditch, the Maintenance District shall fill the pond by water truck if necessary. Access to the pond shall be constructed during Phase I of the Subdivision and shall be to County standards. Access shall be to the top slope of the pond and shall have standard signage at the fire department connection meeting LVFD approval. A Maintenance District shall also provide year round maintenance of the access, signage, suction line, and pond for reliability of use.

Access to the individual properties via the collector road shall be addressed within the 2012 International Fire Code, Fire Department Access. The driveways leading to the structures located on these individual properties shall provide a minimum unobstructed width of 12 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches when any portion of an exterior wall of the first story of a building is located less than 150 feet from a road. These roads shall be all-weather surface roads.

Driveways leading to structures located on individual properties when any portion of an exterior wall of the first story of a building is located in excess of 150 feet from the road shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches, and roads in excess of 150 feet from the road in length that dead end shall be provided with turnarounds with an inside turning radii of not less than 30 feet and an outside turning radii of not less than 45 feet. These roads shall be all-weather surface roads.

V. STORM DRAINAGE

All storm water facilities located within or adjacent to the subdivision are an integral part of the street drainage system and shall remain so until such time as a storm drain trunk system becomes available and is utilized by the subdivision.

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

VI. UTILITIES

A. Water

Public water service is not available to the subdivision at this time. The subdivision will be served by individual cisterns for each lot. The systems shall be located as shown on the site layout approved by DEQ. Installation and maintenance of said systems shall be the responsibility of the lot purchaser.

B. Septic System

Municipal public sewer service is not available in the subdivision at this time. The subdivision will be served by individual on-site wastewater disposal systems as approved by DEQ. These systems shall be located and installed as shown on the site layout approved by DEQ. Installation and maintenance of said systems shall be the responsibility of the lot purchaser.

C. Power, Telephone, Gas, and Cable Television

Telephone, gas, electrical power, and cable television lines (where said utilities are available and existing to the subdivision) shall be installed as required and prior to street paving.

VII. PARKS/OPEN SPACE

As part of the West Meadows Subdivision, the Subdivider made a park contribution of land of 6.42 acres. The required land contribution is 2.87 acres for West Meadows Subdivision 2nd Filing. The park dedication made as part of the original West Meadows Subdivision was not vacated as part of the West Meadows Amended Subdivision package and is to be considered the park land dedication for the West Meadows Subdivision 2nd Filing.

RSID#773M was previously created for maintenance of public infrastructure within the West Meadows Subdivision. The irrigation system in the park of the West Meadows Subdivision 2nd Filing will be required to be maintained with the Park RSID to be created with this subdivision.

VIII. IRRIGATION

Concurrent with the recordation of the final plat, the Subdivider shall grant irrigation ditch easements, as depicted on the face of the plat, for the Cove Ditch, which currently exists on the property. The Cove Ditch will be maintained by the Cove

Ditch Company. The ditch easements will be 66 feet. There are no definitive plans for water share transfer at this time.

The mitigation efforts to protect the ditches during construction include:

- Maintenance of easements where feasible
- Standard erosion and sediment control measures will be used, and spill prevention best management practices (BMPs), and other BMPs will be used during construction.

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.
- The Subdivider shall provide restoration of the areas disturbed during construction of the improvements outlined herein, as follows:

Dryland Prairie Mix that may be seeded by either broadcast or drill.

X. SOILS/GEOTECHNICAL STUDY

Lot owners should be aware that soil characteristics within the area of this subdivision, as described in 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.

XI. PHASING OF IMPROVEMENTS

The Subdivider requests to file the West Meadows Subdivision 2nd Filing as a Phased Subdivision. Completion of Phases will be per the following schedule.

- Phase I – April 2021
- Phase II – December 2027

Phase II will be platted and constructed by the Subdivider in the future. The Subdivider agrees not to sell or convey any lots in the Subdivision until the necessary installation of the public improvements to serve said lots and necessary access and traffic circulation for the traffic generated by those lots is provided. All phases must either be constructed prior to final plat or have financial guarantees prior to final plat as outlined in Section XII. Completion of each phase will be conducted in accordance with Yellowstone County Subdivision Regulations and Montana Code Annotated, as applicable.

Pursuant to the foregoing agreement, the Subdivider shall execute and record a Declaration of Restrictions on Transfers and Conveyances for each Phase, to be recorded concurrently with the recording of this Agreement. Said Declaration notifies all third parties that said lots may not be legally sold, conveyed or transferred until a Release executed by the Yellowstone County and substantially in the form of a Release has been recorded in the office of the Clerk and Recorder of Yellowstone County, Montana. No lots shall be released until a Certificate substantially in the form of a Certificate executed by Yellowstone County Department of Public Works stating that the above conditions have been met, which Certificate must accompany any request for a Release. By the acceptance and recording of the Agreement, the County does hereby authorize the Department of Public Works and the County Commissioners to review any request for Release and to execute such Certificates and Releases as may be necessary to evidence a Release from the restriction against sale, conveyance, and transfer of lots in the Subdivision.

Subdivider agrees to install postal service boxes for the proposed subdivision adjacent to the existing postal service boxes located near the intersection of South 80th Street West and Monad Road. Postal boxes will meet the requirements of the USPS for pad and box construction.

In accordance with the forgoing, the Subdivider and County agree as follows:

- A.** Phase I of infrastructure shall consist of the development of Lots 1 through 5 of Block 1, Lots 1 through 14 of Block 2, Lots 1 through 6 of Block 5, Lots 1 through 3 of Block 6, Lots 1 through 7 of Block 3. This phase shall include Vescue Way and Wineridge Circle in its entirety, White Pine Circle to the intersection of West Bird Way, and West Bird Way from the intersection to White Pine Circle to Central Avenue.

The Phase I improvements shall include the Phase I street improvements and the Phase I private utility improvements as described in this agreement. Easements for storm water control facilities inside of Phase I will be provided with the Final Plat of Phase I.

Improvements listed herein shall be installed and constructed utilizing a private contract guaranteed with appropriate monetary securities/guarantees. Said security/guarantee shall be in conformance with the requirements as outlined within the Yellowstone County Regulations.

- B.** Phase II of infrastructure shall consist of the development of Lots 1 through 4 of Block 3 and Lots 1 through 4 of Block 4. This phase shall include Zanes Circle, the remainder of White Pine Circle and the remainder of West Bird Way.

The Phase II improvements shall include the Phase II street improvements and the Phase II private utility improvements as described in this agreement. Easement for the storm water control facilities inside of Phase II will be provided with the Final Plat of Phase II.

Improvements listed herein shall be installed and constructed utilizing a private contract guaranteed with appropriate monetary securities/guarantees. Said security/guarantee shall be in conformance with the requirements as outlined within the Yellowstone County Regulations.

XII. FINANCIAL GUARANTEES

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

In the event that all required improvements are not installed and constructed prior to final plat approval, the Subdivider shall provide a monetary security guarantee in the amount of 125% of the estimated total cost by one (1) of the methods listed in Chapter 5 of the Yellowstone County Subdivision Regulations.

XIII. LEGAL PROVISIONS

- A.** Subdivider agrees to guarantee all public improvement for a period of one year from the date of the 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 agree 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 improvement 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"

WINERIDGE, INC

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this _____ day of _____, 2021 _____,
known to me to be the _____ of WINERIDGE INC., who executed the
foregoing instrument and acknowledged to me that he/she executed the same.

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

This agreement is hereby approved and accepted by Yellowstone County, this _____ day of _____, 2021.

"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 _____, 2021, 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: _____

Planning Board

Date: 02/23/2021
Title: Annafeld North Subdivision, 1st Filing - Preliminary Major Plat - Public Hearing
Presented by: David Green
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Staff recommends that the Planning Board conduct a public hearing and recommend conditional approval of the preliminary plat of Annafeld North Subdivision, 1st Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

PROPOSED CONDITIONS OF APPROVAL

Staff recommends the following conditions of approval:

1. To minimize impacts on storm water detention facilities and ensure proper maintenance of the proposed system, prior to final plat approval, the applicant will provide an HOA Storm Water Facility Maintenance Agreement for review by the City of Billings Engineering Division. This agreement shall outline the maintenance responsibilities of the storm water facilities.
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.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On January 4, 2021, Sanderson Stewart, agent for McCall Development, Inc., applied for preliminary major plat approval for Annafeld North Subdivision, 1st Filing. The proposed subdivision creates 53 new lots for development. The subject property is generally located on the north side of Elysian Road and west of the Hogan Slough. The property has been annexed into the city. The property is zoned Neighborhood Mixed Use (NMU) and the proposed lots will be developed in substantial compliance with this zoning. The Yellowstone County Board of Planning reviewed the plat at its meeting on February 9 and will conduct a public hearing at this meeting.

VARIANCES REQUESTED

No variance from City Subdivision Regulations has been requested.

PROCEDURAL HISTORY

- Pre-application meeting November 12, 2020
- Preliminary plat application submitted to the Planning Division on January 4, 2021.
- Departmental review meeting January 14, 2021
- Preliminary plat resubmittal January 21, 2021
- Planning Board plat review February 9, 2021
- Planning Board public hearing February 23, 2021
- Preliminary plat to City Council March 22, 2021
- 60 working-day preliminary plat review period ends March 31, 2021

PLAT INFORMATION

General location: North of Elysian Road and west of the Hogan Slough.
Legal Description: Lot 1, QFC Subdivision, 1st Filing
Owner/Subdivider: McCall Development, Inc.
Engineer and Surveyor: Sanderson Stewart
Existing Zoning: Neighborhood Mixed Use (NMU) and Mixed Residential 2 (NX2)
Existing land use: Sod Farm
Proposed land use: Residential
Gross and Net area: 17.85 acres / 14.04 acres
Proposed number of lots: 53
Lot size: Max: 9.03 acres
Min.: 2,212 square feet

Parkland requirements: In accordance with 76-3-621(6)(a), MCA the overall development provides for land permanently set aside for park. These parks will be private and maintained by the HOA. The development meets or exceeds the 11% net land area dedication requirement.

STAKEHOLDERS

A brief presentation was given to the planning board regarding the proposed subdivision. President Woods called for questions and discussion from the members of the Board. President Woods noted the existing Neighborhood Commercial zoning and the new Neighborhood Mixed Use through project recode. Dave Green said this was previously in the county. Brad McCall said during the development of Project Re:Code he spoke with Zoning Coordinator Nicole Cromwell and the two determined this property would be NMU and NX2 zoning. The annexation was approved in December 2020. Dave Green said he will coordinate with Zoning Coordinator Nicole Cromwell and bring the information back for the next Planning Board meeting. President Wood stated he was glad to see the new code was being used to meet the needs of this subdivision.

ALTERNATIVES

One of the purposes of the City's subdivision review process is to identify potential negative effects of property being subdivided. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various City departments, private service/utility providers and the affected school district(s), have reviewed this application and provided input on effects and mitigation. The Findings of Fact, which are presented as an attachment, discuss potential negative impacts of the subdivision and conditions of approval are recommended as measures to further mitigate any impacts. In this case, there were

found to be minimal impacts from this proposed subdivision.

In accordance with state law, the City Council has 60 working days to act upon this major preliminary plan. The 60 working day review period for the proposed subdivision ends on March 31, 2021. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 working day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plan

FISCAL EFFECTS

This subdivision will have no fiscal effect on the Planning Division.

Attachments

Findings of Fact
Preliminary Plat
SIA

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Annafeld North Subdivision, 1st Filing. These findings are based on the preliminary plat application and supplemental documents; addressing the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(8), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302 (8)(b)]

1. Effect on agriculture and agricultural water user facilities

The subject property is currently used as sod farmland it has been rezoned and is annexed into the City. This proposed development will remove about 17.85 acres of sod farming land out of production. Perimeter ditches and drains shall remain in place and not be altered by the subdivider or subsequent owners. Any irrigation facilities will continue to provide irrigation to the remaining sod farm area to the north. The subdivision should not affect agricultural water users' facilities, but it will take land out of agricultural production.

2. Effect on local services

- a. **Utilities** – Water service will be provided by the City of Billings. The developer will install new water mains in all the new local streets, new individual services to all of the lots, and new fire hydrants in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality (MDEQ).

This subdivision will be installing an 8-inch water line in all the internal streets of this proposed filing. There will be connections provided for each lot within the subdivision. The main water lines will create a looped system to maintain equal water pressures throughout the development as the subdivision is constructed as outlined in the SIA under the heading VI Utilities.

Sanitary sewer service will be provided by the City of Billings. All sanitary sewer lines will ultimately connect to an existing 24-inch gravity sewer trunk main that is in the south east corner of the subdivision. The subdivider will install new sewer mains in the local streets and individual services for each lot in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department and MDEQ as outlined in the SIA under the heading VI Utilities.

Private utility companies, such as gas and electric, will provide service to the subdivision. Easements have been shown on the face of the plat that are acceptable to these utility providers. Some of the private utility lines will go in the carriage ways / alleys.

- b. **Storm water** – Storm water drainage is proposed to be handled by curb and gutters that discharge into storm drainage piping as well as surface conveyance in some areas. The storm drainage pipes will discharge into a stormwater detention area that is located within a private park. This park will be deeded to the HOA and maintained by them. All drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the City Engineering Division.

Storm water facilities within the subdivision will be maintained by the Home Owners Association (HOA) as outlined by the City of Billings Engineering Division regulations. The applicant will submit an Operating and Maintenance manual to be followed by the HOA. The applicant will have the HOA documents completed and reviewed by the Engineering Division for the maintenance of the storm water systems before final plat approval. **(Condition #1)**

- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** – All internal streets are proposed to be built to City standards providing the required road width, curb/gutters, and boulevard sidewalks. They will be built to meet the requirements of the City of Billings Engineering Division and receive their approval before any construction. Road within the subdivision that currently are not named will be named before final plat.

Elysian Road is designated as a collector on the Functional Classification Map. Elysian Road will be improved along the first filing with curb and gutter along with pavement widening. The widening will include a travel lane, center turn lane / center median and a parking lane. Storm drainage will be handled with curb and gutters draining as approved by City Engineering. All proposed improvements on Elysian Road will be submitted to City Engineering for review and approval prior to construction. This is all outlined in the SIA under the heading III Transportation A Streets.

A TIS to account for any roads or connections that will be impact by this subdivision has been submitted to City Engineering. In the SIA under the heading, III Transportation it discusses impacts to Mullowney Land and Elysian Road and the impacts to East Lane and Elysian Road to be completed on the south side with the required storm water drainage with curb and gutter. Impacts to the surrounding roads and the required contributions to those roads and intersections is all outlined in the SIA under the heading III Transportation A Streets.

- e. **Emergency services** – The Billings Police and Fire Department will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 S. 24th St. West (Station #5). The Fire Department has reviewed the proposed subdivision and is satisfied with what is being proposed. The applicant

will be installing fire hydrants at the required locations to meet regulations outlined in Fire Code. The Billings Police noted in comments that “continued development will eventually require additional resources to maintain current levels of service”. The subdivision is located within the ambulance service area of American Medical Response (AMR).

- f. **Schools** – School District #23, Elysian School provides educational services to elementary through middle school students. Elysian School has indicated that they currently have additional capacity for students. West High School would serve as the high school for this subdivision. A response from School District #2 indicates that West High School is currently over capacity.
- g. **Parks and Recreation** – Residential subdivisions creating lots with housing densities less than one dwelling unit per ½-acre are required by State and local laws to dedicate 11% of the net land area (or provide an equivalent cash contribution) for parkland. Additional provisions in subdivision regulations allow dedication of parkland to be waived. Consideration for waiving dedication of parkland occurs if the subdivision provides for a development with land permanently set aside for park and recreational uses enough to meet the needs of the persons who will ultimately reside in the development. Consideration for waiving dedication of parkland occurs if the land and any improvements set aside for park purpose equals or exceeds the area otherwise required.

The applicant is proposing to have parkland throughout this development that will be installed with the development of each filing. It will be privately owned and maintained by the Homeowners’ Association for the subdivision. The developer is also providing a park on the north east corner of the subdivision.

- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision; they have indicated centralized mailbox units will be required. A paragraph in the SIA acknowledges this and indicates the developer’s intent to coordinate mailbox locations with the postal service.

3. Effect on the natural environment

The subject property is relatively level farm land adjacent to urban development on its south and east sides. A geotechnical study was performed for the subdivision, dated December 2020, a summary of the information from that study will be included in the SIA under the heading VIII. Soils/Geotechnical Study. The subdivision should have a minimal effect on the natural environment.

4. Effect on wildlife and wildlife habitat

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

5. Effect on the public health, safety and welfare

There should be no impacts to public health, safety and welfare because of this subdivision.

B. Was an Environmental Assessment required? [(MCA 76-3-616 and BMCC 23-902)]

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616 (2), MCA.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2016 Growth Policy, the 2019 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-(8)]

1. City of Billings 2016 Growth Policy

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

Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods):

Neighborhoods that are safe and attractive and provide essential services are much desired (p.8). Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels. (p.8)

Home Base (healthy, safe and diverse housing options) A mix of housing types that meet the needs of a diverse population is important. (p.9) Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings.

2. 2019 Urban Area Transportation Plan

The proposed subdivision adheres to the goals and objectives of the Transportation Plan and preserves the street network and street hierarchy specified in the plan.

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

The proposed subdivision lies within the jurisdiction of the BABTMP. There is a long-range bike lane identified on Elysian Road and on East Lane. The applicant has constructed a multi-use pathway along the entire frontage of the property along the south side of Elysian Road and a pedestrian bridge has been constructed over Hogan Slough. The developer to the east also constructed a pathway along the south side of Elysian Road so there will be a multi-use pathway constructed from Muldowney Lane to East Lane for multi modal users and youth to get to Elysian School. There will be no requirement for additional trail from this subdivision.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMCC 23-302(8)(b)(1)]

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and to the design standards specified in the local subdivision regulations.

The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302 (8)(b)(5)]

The subject property will be in City zoning district Neighborhood Mixed Use (NMU). The proposed subdivision lots meet the requirements of zoning and further zoning compliance will take place with the submittal of buildings on specific lots.

F. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-302 (8)(b)(2)]

The subdivider has provided utility easements as requested by MDU and NWE on the face of the plat.

G. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-302 (8)(b)(3)]

Legal and physical access is provided to the proposed lots from Elysian Road, the new proposed internal roads and connections to the other road within Annafeld North Subdivision, 1st Filing.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Annafeld North Subdivision, 1st Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several of the goals and policies of the 2016 Growth Policy and does not conflict with the Transportation Plan or Billings Area Bikeways and Trail Master Plan.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

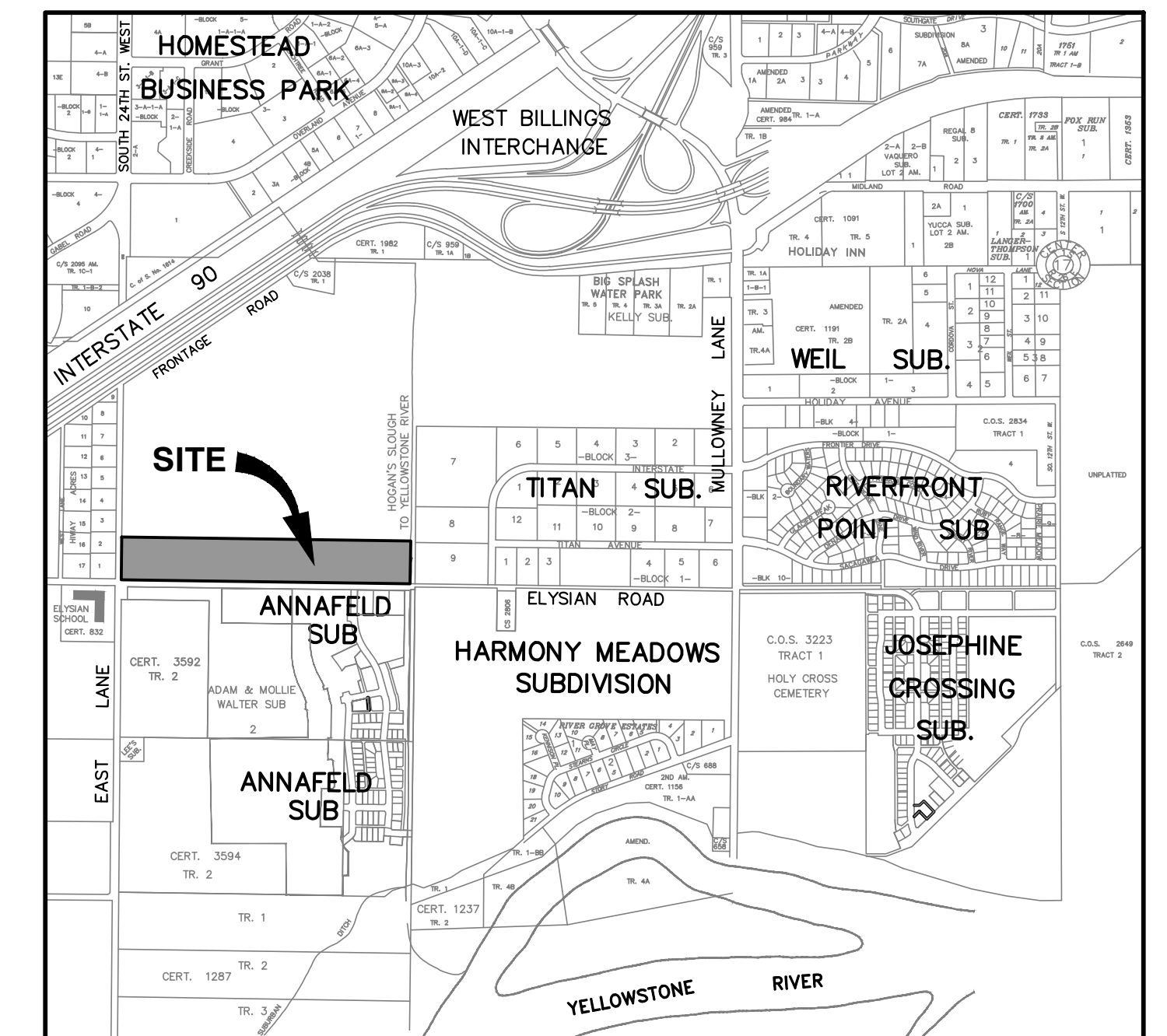
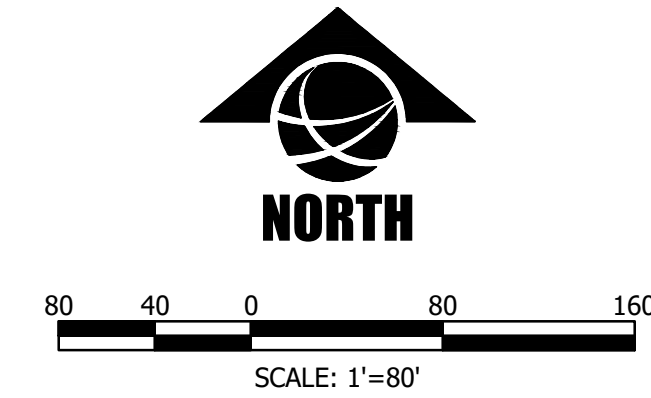
RECOMMENDATION

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Annafeld North Subdivision, 1st Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

BEING LOT 1 OF QFC SUBDIVISION, FIRST FILING,
BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED BY : **SANDERSON STEWART** 

BILLINGS, MONTANA

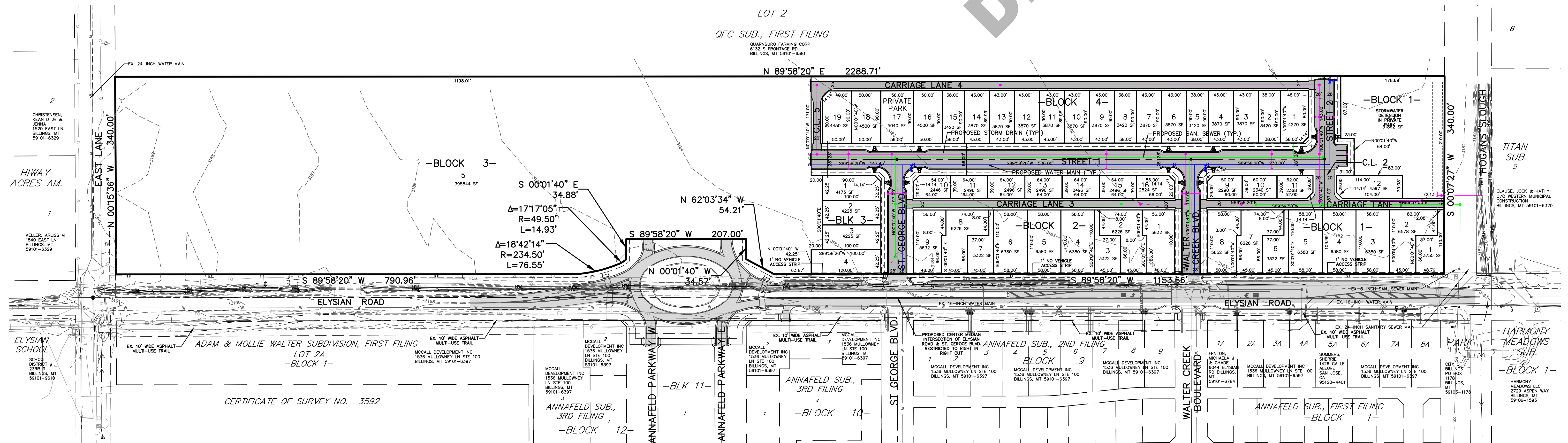


VICINITY MAP
NOT TO SCALE

GROSS AREA = ±17.85 ACRES
NET AREA = ±13.73 ACRES
NUMBER OF LOTS = 53
MINIMUM LOT SIZE = 2,290 SF
MAXIMUM LOT SIZE = 395,844 SF
LINEAL FEET OF STREETS = 1,508 L.F.
PARKLAND REQUIREMENT = ±0.552 ACRES
PARKLAND DEDICATION = ±0.7315 ACRES
EXISTING ZONING = NEIGHBORHOOD COMMERCIAL
SURROUNDING ZONING:

	EAST	= HIGHWAY COMMERCIAL
	WEST	= RESIDENTIAL 15000
EXISTING LAND USE		= VACANT
PROPOSED LAND USE		= RESIDENTIAL

- NOTE: ALL CURVES ARE TANGENT AND ALL PROPERTY LINES INTERSECTING CURVES ARE RADIAL UNLESS OTHERWISE NOTED.



Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS
ANNAFELD NORTH SUBDIVISION, FIRST FILING
CITY OF BILLINGS
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Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS
ANNAFELD NORTH SUBDIVISION, FIRST FILING**

THIS AGREEMENT is made and entered into this ____ day of _____, 20__, by and between **MCCALL DEVELOPMENT, INC.**, whose address for the purpose of this agreement is 1536 Mullooney Lane, Suite 100; Billings, Montana 59101, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, the plat of Annafeld North Subdivision, First Filing located in Yellowstone County, Montana was submitted to the Yellowstone County Board of Planning; and

WHEREAS, at a regular meeting conducted on the __ day of _____, 20__, the Board of Planning recommended conditional approval of a preliminary plat of Annafeld North Subdivision, First Filing; and

WHEREAS, at a regular meeting conducted on the __ day of _____, 20__, the City Council conditionally approved a preliminary plat of Annafeld North Subdivision, First Filing; and

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

WHEREAS, a Development Agreement between the Subdivider and the City is of record in the office of the Clerk and Recorder, under Document No. _____; and

WHEREAS, the provisions of this agreement shall be effective and applicable to Annafeld North Subdivision, First Filing upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

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

I. VARIANCES

None requested

II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

- A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development.
- B.** 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.
- C.** Lot owners should be aware that this subdivision is built with a “traditional neighborhood” design. The dwellings will have the garage set in the rear of the lots. The access will be provided to the garages by means of a paved alley.
- D.** Lot owners should be aware that this subdivision is adjacent to wildlife habitat. Consequently, owners are advised that wildlife indigenous to the area is found on the property and may impact the developed property and interface with domestic animals, residents, and visitors. Owners may also 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. Any impacts associated with wildlife and any damage arising there from is the responsibility of the lot owners.

- E.** No water rights have been transferred to the individual lot owners but may be held by the Subdivider and/or the homeowners association. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners without the permission of the controlling ditch company.
- F.** Lot owners should be aware they may be required to participate in a park maintenance district administered by the homeowners association for Annafeld North Subdivision, First Filing.
- G.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for any construction on lots. Best Management Practices are defined within Chapter 28-201, BMCC and detailed in the City of Billings *Stormwater Management Manual*.
- H.** Lot owners should be aware that Hogan's Slough adjacent to the subdivision is a major stormwater outfall for Billings west end. There is a possibility that the slough could overtop during a major storm event. Based upon the existing topography near Hogan's Slough and the Elysian Road Bridge, it is anticipated that the channel would overtop northeast of Elysian Road and flow east prior to overtopping Elysian Road. There is the possibility however that Elysian Road could be overtopped during a major storm event. If that occurs, flows not carried within the Hogan's Slough channel would be carried within the subdivision streets. The elevation of residential dwellings and commercial structures must be established in recognition of the City's policy that storm runoff flows are allowed to a depth of 18-inches in the gutter flowline of adjacent streets during the major storm. Higher house finished floor elevations may be required on a lot by lot basis.
- I.** The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and the State Department of Environmental Quality (DEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by DEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the City of Billings *Stormwater Management Manual*.

III. TRANSPORTATION

A. Streets

1. All internal access roads and site improvements within the subdivision will be in accordance with the City of Billings Site Development Ordinance, City Zoning Ordinance, International Building Code, the *Stormwater Management Manual*, and other applicable City codes, rules, and regulations.
2. All internal streets within the subdivision shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All public roads will be built to provide a 34-foot back-to-back curb street width. The design cross-sections of said streets shall be submitted to, and approved by, the City of Billings Public Works Department. The street improvements will be completed by private contract or SID.
3. Elysian Road is designated as a collector on the Billings/Yellowstone County Functional Classification Map. Curb and gutter will be constructed on the north side of Elysian Road adjacent to the First Filing, excluding the large lot for future 2nd Filing (Lot 5, Block 3). Improvements will also include the construction of necessary pavement widening to construct westbound travel lane, center turn lane/center median and parking lane adjacent the subdivision. A full access will be provided at Walter Creek Boulevard and Elysian Road. A restricted right in right out access with a center median will be provided at St. George Boulevard and Elysian Road. Storm drain shall be installed as necessary, draining directly to Hogan's Slough and/or routed internally through the subdivision. The design cross-section of said street shall be submitted to, and approved by, the City of Billings Public Works Department. Elysian Road improvements will be completed by private contract or SID.
4. A traffic accessibility study has been completed for the Annafeld North Subdivision, First Filing. All required intersection improvement contributions identified therein shall be completed by the Subdivider at the Subdivider's expense. Based on the additional lots created with Annafeld North Subdivision, First Filing, the percent of traffic contribution and associated costs to these intersections is as follows:

Muldowney Lane/Elysian Road	2.50%	\$6,250.00
Elysian Road/East Lane	1.08%	\$2,700.00

These cash contributions for the intersection improvements will be made prior to final plat approval. The percentage contributions and dollar amounts are as outlined within the Traffic Impacts Study for Annafeld North Subdivision, First Filing as submitted with the preliminary plat.

B. Alleys

All alleys within the subdivision shall be built to grade with a satisfactory subbase, base course, and asphalt surface or concrete surface. All alley approaches constructed with asphalt shall be replaced with concrete by the Subdivider at the time when home construction is complete. In the event asphalt approaches within the subdivision are not replaced with concrete within three years of the date of recording of the final plat, the City may construct the concrete approaches and assess the Subdivider for the costs associated with the approach construction. Alley pavement widths shall be 12-feet. The design cross-sections of said alleys shall be submitted to, and approved by, the City of Billings Public Works Department. No trees are allowed to be planted in the alley. In addition, no shrubs taller than two feet are allowed to be planted in alleys.

C. Sidewalks

Subdivider shall install handicap access ramps, where necessary, during street construction. Construction of sidewalks along frontage of the lots shall be installed by the lot owner at the time of lot development. Sidewalks along the street frontage shall be minimum 5-foot-wide and separated with a boulevard width not less than five feet. Developer shall construct the 5-foot-wide boulevard sidewalk adjacent to private parks (Lot 13, Block 1 and Lot 17, Block 4) at the time of private park development.

In the event that portions of the required sidewalks within the subdivision are not constructed within three years of the date of recording of the final plat, the City may construct the remaining sidewalks and assess the individual lot owners for the costs associated with the sidewalk construction.

D. Street Lighting

Street lighting is not required for this subdivision; however, it is anticipated that street lighting will be installed for First Filing by private contract or SID. A Street Light Maintenance District will be created for operation and maintenance of the lighting at a future date and is included in the waiver of right to protest.

E. Traffic Control Devices

1. Street name signs for streets within the subdivision, or located immediately adjacent thereto, shall be furnished and installed in accordance with the specifications of the City of Billings Public Works and Fire Departments.
2. No traffic signals are required within this subdivision.
3. The Subdivider shall furnish and install all necessary traffic control devices in accordance with the Manual on Uniform Traffic Control Devices and approved by the City of Billings Public Works Department.

F. Access

Access to the subdivision will be provided by Walter Creek Boulevard and St. George Boulevard. Alley access is also provided to all residential lots within the subdivision.

G. Billings Area Bikeway and Trail Master Plan

A multi-use trail has been constructed along the south boundary of Elysian Road. Said multi-use trail extends from the east boundary of the subdivision to the easterly right-of-way line of East Lane.

H. Public Transit

There are no MET Transit routes that service this subdivision at this time. The nearest established route is at the intersection of Elysian Road and Mallowney Lane. No improvements with regard to MET Transit vehicles are anticipated at this time.

IV. EMERGENCY SERVICE

A. Fire Hydrants

Emergency service will be provided by the City. Placement of fire hydrants will be as required by the City of Billings Fire Department.

B. Construction of Buildings

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

At a minimum, the following is required:

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

C. Building Location

All buildings shall be located on each lot so that the furthest portion of each building is within 150-feet from an approved fire department access road over an approved route excluding all carriage lanes and alleyways.

V. STORM DRAINAGE

Storm drainage for the public streets shall be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains, and with discharge to a new detention facility that is located within the subdivision in a

private park on Lot 13, Block 1. This detention facility has been sized to accept additional runoff generated from the future Annafeld North Subdivision, Second Filing. The detention facility on site will be sized to store the stormwater generated by Annafeld North Subdivision, First and Second Filing. Treatment for the water quality runoff will be provided in the stormwater detention facility. The stormwater detention facility will discharge to Hogan's Slough. Stormwater management facilities for the subdivision must be able to pass flows generated outside the subdivision area without inundating existing and proposed home sites. All drainage improvements shall comply with the provisions of the *Stormwater Management Manual* and Section 23-706, BMCC, a stormwater management plan shall be submitted to and approved by the Engineering Division prior to filing of the final plat.

The stormwater detention area is to be located within a private park lot deeded to the Annafeld North Subdivision HOA and will be an integral part of the public street drainage system. The drainage system improvements will be in accordance with the recommendations of the stormwater analysis and report prepared and submitted with the improvement plans and specifications. Maintenance of the stormwater detention area and associated drainage facilities shall be by the Annafeld North Subdivision HOA.

VI. UTILITIES

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

The Subdivider/owner acknowledges that the subdivision shall be subject to the applicable system development fees in effect at the time new water and/or sanitary sewer service connections are made.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc.) shall be in accordance with design standards, specifications, rules, regulations of, and as approved by the City of Billings Public Works Department, Fire Department, and the Montana Department of Environmental Quality.

A. Water

The Annafeld North Subdivision water system consists of a looped water main located in each of the local streets. The subdivision water system will consist of new 8-inch water mains in Walter Creek Boulevard, St. George Boulevard, Street 1 (temporary name) and Street 2 (temporary name). A new 8-inch water main will also be installed parallel to the existing 16-inch water main Elysian Road to serve Lots 1-8, Block 1 and Lots 1-9, Block 2. A stub for future connection will be provided in Street 2 (temporary name). Future filing of Annafeld North Subdivision will provide the opportunity to make additional connections to the trunk main in Elysian Road providing water main looping.

B. Sanitary Sewer

Sanitary sewer service to Annafeld North Subdivision, First Filing will be provided by connecting to the existing 24-inch trunk sanitary sewer located in the south east corner of the subdivision. A stub for future connection will be provided in Street 2 (temporary name). All sanitary sewer construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality, and will be approved by the Public Works Department, Distribution, and Collection Division.

C. Power, Telephone, Gas, and Cable Television

Private utility facilities currently exist to serve the subdivision. The private utility facilities will be installed within the alley right-of-way and by easements included on the plat, as requested by the utility companies, to provide routes to the alleys.

VII. PARKS/OPEN SPACE

Per Section 76-3-621 of the Montana Code Annotated, 0.533 acres of parkland dedication is required for Annafeld North Subdivision, First Filing. The parkland provided with the platting of Annafeld North Subdivision, First Filing is 0.847 acres. The excess parkland dedication will be applied to the parkland provided for Annafeld North Subdivision, Second Filing. The Subdivider proposes to dedicate land as private parks. The private parks will be maintained by the Annafeld North Subdivision Homeowners Association (HOA).

VIII. HOMEOWNER'S ASSOCIATIONS

A homeowner's association (HOA) will be established for this subdivision. The HOA will have the following responsibilities:

A. Contact Information

HOA shall provide contact information of the senior board official to the City Engineering Department upon the establishment of the HOA and/or changing of board members.

B. Stormwater Drainage Facilities

The HOA shall be responsible for the maintenance of the mechanical filtration stormwater manholes. The HOA shall share the cost of maintenance of the community stormwater facilities.

IX. POSTAL DELIVERY

The Subdivider shall provide centralized delivery boxes with sufficient pullout to accommodate a mail carrier vehicle. The location of the boxes shall be reviewed and approved by the United States Postal Service.

X. SOILS/GEOTECHNICAL STUDY

A soils/geotechnical study is being performed for the subdivision. The report dated December 2020, will be available for review at the City of Billings Planning Department. Lot owners and contractors/builders will be encouraged to review the report and its recommendations.

XI. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements by private contracts secured by letters of credit or a letter of commitment to lend funds from a commercial lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

XII. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

- A.** Subdivider agrees to guarantee all public improvements for a period of two years from the date of substantial completion.
- 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 run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees of the respective parties.
- D.** In the event it becomes necessary for either party to this agreement to retain an attorney to enforce any of the terms or conditions of this agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.
- E.** Any amendments or modifications of this agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this agreement.
- F.** Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

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

“SUBDIVIDER”

MCCALL DEVELOPMENT, INC.

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of Yellowstone)

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

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

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

“CITY”

CITY OF BILLINGS, MONTANA

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA)
 : ss
County of Yellowstone)

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

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

**WAIVER OF RIGHT TO PROTEST
FUTURE SPECIAL IMPROVEMENT DISTRICTS**

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more special improvement district(s) for a period of no more than twenty years from the recording of this waiver, for street light maintenance and energy, and for the construction of streets, street widening, sidewalks, survey monuments, street name signs, curb and gutter, street lights, driveways, traffic signals, and traffic control devices, parks and park maintenance, trails, sanitary sewer lines, water lines, storm drains (either within or outside the area), and other improvements incident to the above which the City of Billings may require.

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

The real property hereinabove mentioned that is the subject of this waiver is more particularly described as follows:

ANNAFELD NORTH SUBDIVISION, FIRST FILING

SUBDIVIDER/OWNER

MCCALL DEVELOPMENT, INC.

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this ____ day of _____, 20__, before me, a Notary Public in and for the State of _____, personally appeared _____, known to me to be the person who executed the foregoing instrument as the _____ of **MCCALL DEVELOPMENT, INC.** and acknowledged to me that he/she executed the same.

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

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

Planning Board

Date: 02/23/2021
Title: Annafeld North Subdivision, 2nd Filing - Preliminary Major Plat - Public Hearing
Presented by: David Green
Department: Planning & Community Services
Presentation: Yes

Information**RECOMMENDATION**

Staff recommends that the Planning Board conduct a public hearing and recommend conditional approval of the preliminary plat of Annafeld North Subdivision, 2nd Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

PROPOSED CONDITIONS OF APPROVAL

Staff recommends the following conditions of approval:

1. To minimize impacts on storm water detention facilities and ensure proper maintenance of the proposed system, prior to final plat approval, the applicant will provide an HOA Storm Water Facility Maintenance Agreement for review by City of Billings Engineering Division. This agreement shall outline the maintenance responsibilities of the storm water facilities.
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.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On January 4, 2021, Sanderson Stewart, agent for McCall Development, Inc., applied for preliminary major plat approval for Annafeld North Subdivision, 2nd Filing. The proposed subdivision creates 50 new lots for development. The subject property is generally located on north side of Elysian Road and east of East Lane. The property has been annexed into the city. The property is zoned Neighborhood Mixed Use (NMU) and the proposed lots will be developed in substantial compliance with this zoning. The Yellowstone County Board of Planning will conduct a public hearing at this meeting.

VARIANCES REQUESTED

No Variance from City Subdivision Regulations has been requested.

PROCEDURAL HISTORY

- Pre-application meeting November 12, 2020
- Preliminary plat application submitted to the Planning Division on January 4, 2021.
- Departmental review meeting January 21, 2021
- Preliminary plat re-submittal January 28, 2021
- Planning Board plat review February 9, 2021
- Planning Board public hearing February 23, 2021
- Preliminary plat to City Council March 22, 2021
- 60 working-day preliminary plat review period ends March 31, 2021

PLAT INFORMATION

General location: North of Elysian Road and east of East Lane
Legal Description: Lot 5, Block 3, Annafeld North Subdivision, 1st Filing
Owner/Subdivider: McCall Development, Inc.
Engineer and Surveyor: Sanderson Stewart
Existing Zoning: Neighborhood Mixed Use (NMU) and Mixed Residential 2 (NX2)
Existing land use: Sod Farm
Proposed land use: Residential
Gross and Net area: 9.03 acres / 5.69 acres
Proposed number of lots: 50
Lot size: Max: 9,393 square feet
Min.: 1,732 square feet

Parkland requirements: In accordance with 76-3-621(6)(a), MCA the overall development provides for land permanently set aside for park. These parks will be private and maintained by the HOA. The development meets or exceeds the 11% net land area dedication requirement.

STAKEHOLDERS

A brief presentation was given to the planning board regarding the proposed subdivision. President Woods called questions and discussion from the members of the Board. President Woods noted the existing Neighborhood Commercial zoning and the new Neighborhood Mixed Use through project recode. Dave Green said this was previously in the county. Brad McCall said he worked with Zoning Coordinator Nicole Cromwell during Project Re:Code and the two determined this property would be NMU and NX2 zoning. The annexation has been approved in December 2020. Dave Green said he will coordinate with Zoning Coordinator Nicole Cromwell and bring the information back for the next Planning Board meeting. President Wood stated he was glad to see the new code was being used to meet the needs of this subdivision.

ALTERNATIVES

One of the purposes of the City's subdivision review process is to identify potential negative effects of property being subdivided. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various City departments, private service/utility providers and the affected school district(s), have reviewed this application and provided input on effects and mitigation. The Findings of Fact, which are presented as an attachment, discuss potential negative impacts of the subdivision and conditions of approval are recommended as measures to further mitigate any impacts. In this case, there were found to be minimal impacts from this proposed subdivision.

In accordance with state law, the City Council has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed subdivision ends on March 31, 2012. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 working day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

FISCAL EFFECTS

This subdivision will have no fiscal effect on the Planning Division.

Attachments

Findings of Fact
Proposed Plat
SIA

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Annafeld North Subdivision, 2nd Filing. These findings are based on the preliminary plat application and supplemental documents; addressing the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(8), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302 (8)(b)]

1. Effect on agriculture and agricultural water user facilities

The subject property is currently used as sod farmland it has been rezoned and is annexed into the City. This proposed development will remove about 9.03 acres of sod farming land out of production. Perimeter ditches and drains shall remain in place and not be altered by the subdivider or subsequent owners. Any irrigation facilities will continue to provide irrigation to the remaining sod farm area to the north. The subdivision should not affect agricultural water users' facilities.

2. Effect on local services

- a. **Utilities** – Water service will be provided by the City of Billings. The developer will install new water mains in all the new local streets, new individual services to all of the lots, and new fire hydrants in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality (MDEQ).

This subdivision will be installing an 8-inch water line in all the internal streets of this proposed filing. There will be connections provided for each lot within the subdivision. The main water lines will create a looped system to maintain equal water pressures throughout the development as the subdivision is constructed as outlined in the SIA under the heading VI Utilities.

Sanitary sewer service will be provided by the City of Billings. The subdivider will install new 8-inch sewer mains in the local streets and individual services for each lot in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department and MDEQ as outlined in the SIA under the heading VI Utilities.

Private utility companies, such as gas and electric, will provide service to the subdivision. Easements have been shown on the face of the plat that are acceptable to these utility providers. Some of the private utility lines will go in the carriage ways / alleys.

- b. **Storm water** – Storm water drainage is proposed to be handled by curb and gutters that discharge into storm drainage piping as well as surface conveyance in

some areas. The storm drainage pipes will discharge into a stormwater detention area that is located within a private park in the Annafeld North Subdivision, 1st Filing. This park will be deeded to the HOA and maintained by them. All drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the City Engineering Division.

Storm water facilities within the subdivision will be maintained by the Home Owners Association (HOA) as outlined by the City of Billings Engineering Division regulations. The applicant will submit an Operating and Maintenance manual to be followed by the HOA. The applicant will have the HOA documents completed and reviewed by the Engineering Division for the maintenance of the storm water systems before final plat approval. **(Condition #1)**

- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City’s landfill has adequate capacity for this waste.
- d. **Streets** – All internal streets are proposed to be built to City standards providing the required road width, curb/gutters, and boulevard sidewalks. They will be built to meet the requirements of the City of Billings Engineering Division and receive their approval before any construction. Roads within the subdivision that currently are not named will be named before final plat.

Elysian Road is designated as a collector on the Functional Classification Map. Elysian Road will be improved along the second filing with curb and gutter along with pavement widening. The widening will include a travel lane, center turn lane / center median and a parking lane. A roundabout will be constructed with the second filing in Elysian Road. It will connect the roads coming out of Annafeld subdivision on the south and on the north, Annafeld Parkway East and West. Storm drainage will be handled with curb and gutters draining as approved by City Engineering. All proposed improvements on Elysian Road will be submitted to City Engineering for review and approval prior to construction. This is all outlined in the SIA under the heading III Transportation A Streets.

A TIS to account for any roads or connections that will be impact by this subdivision has been submitted to City Engineering. In the SIA under the heading, III Transportation it discusses impacts to Mullowney Land and Elysian Road and the impacts to East Lane and Elysian Road to be completed on the south side with the required storm water drainage with curb and gutter. Impacts to the surrounding roads and the required contributions to those roads and intersections is all outlined in the SIA under the heading III Transportation A Streets.

- e. **Emergency services** – The Billings Police and Fire Department will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 S. 24th St. West (Station #5). The Fire Department has reviewed the proposed subdivision and is satisfied with what is being proposed. The applicant

will be installing fire hydrants at the required locations to meet regulations outlined in Fire Code. The Billings Police noted in comments that “continued development will eventually require additional resources to maintain current levels of service”. The subdivision is located within the ambulance service area of American Medical Response (AMR).

- f. **Schools** – School District #23, Elysian School provides educational services to elementary through middle school students. Elysian School has indicated that they currently have additional capacity for students. West High School would serve as the high school for this subdivision. A response from School District #2 indicates that West High School is currently over capacity.
- g. **Parks and Recreation** – Residential subdivisions creating lots with housing densities less than one dwelling unit per ½-acre are required by State and local laws to dedicate 11% of the net land area (or provide an equivalent cash contribution) for parkland. Additional provisions in subdivision regulations allow dedication of parkland to be waived. Consideration for waiving dedication of parkland occurs if the subdivision provides for a development with land permanently set aside for park and recreational uses enough to meet the needs of the persons who will ultimately reside in the development. Consideration for waiving dedication of parkland occurs if the land and any improvements set aside for park purpose equals or exceeds the area otherwise required.

The applicant is proposing to have parkland throughout this development that will be installed with the development of each filing. It will be privately owned and maintained by the Homeowners’ Association for the subdivision. The developer also provided a park on the north east corner of Annafeld Subdivision 1st Filing. The parkland proposed with both subdivisions is the correct amount for both filings.

- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision; they have indicated centralized mailbox units will be required. A paragraph in the SIA acknowledges this and indicates the developer’s intent to coordinate mailbox locations with the postal service.

3. Effect on the natural environment

The subject property is relatively level farm land adjacent to urban development on its south and east sides. A geotechnical study was performed for the subdivision, dated December 2020, a summary of the information from that study will be included in the SIA under the heading VIII. Soils/Geotechnical Study. The subdivision should have a minimal effect on the natural environment.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. There is a paragraph in the SIA that warns future lot owners of the presence of wildlife habitat in the area, and wildlife indigenous to the area may cause damage to their landscaping or

interface with domestic animals, residents, and visitors. This subdivision should have a minimal effect on wildlife and wildlife habitat.

5. Effect on the public health, safety and welfare

There should be no impacts to public health, safety and welfare because of this subdivision.

B. Was an Environmental Assessment required? [(MCA 76-3-616 and BMCC 23-902)]

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616 (2), MCA.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2016 Growth Policy, the 2019 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-(8)]

1. City of Billings 2016 Growth Policy

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

Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods):

Neighborhoods that are safe and attractive and provide essential services are much desired (p.8). Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels. (p.8)

Home Base (healthy, safe and diverse housing options) A mix of housing types that meet the needs of a diverse population is important. (p.9) Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings.

2. 2019 Urban Area Transportation Plan

The proposed subdivision adheres to the goals and objectives of the Transportation Plan and preserves the street network and street hierarchy specified in the plan.

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

The proposed subdivision lies within the jurisdiction of the BABTMP. There is a long-range bike lane identified on Elysian Road and on East Lane. The applicant has constructed a multi-use pathway along the entire frontage of the property along the south side of Elysian Road and a pedestrian bridge has been constructed over Hogan Slough. The developer to the east also constructed a pathway along the south side of Elysian Road so there will be a multi-use pathway constructed from Mallowney Lane to East Lane for multi modal users and youth to get to Elysian School.

There is a trail identified on East Lane. A new 10-foot-wide multi-use path will be constructed on the east side of East Lane adjacent to Annafeld North Subdivision, 2nd Filing.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMCC 23-302(8)(b)(1)]

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

E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302 (8)(b)(5)]

The subject property will be in City zoning district Neighborhood Mixed Use (NMU). The proposed subdivision lots meet the requirements of zoning and further zoning compliance will take place with the submittal of buildings on specific lots.

F. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-302 (8)(b)(2)]

The subdivider has provided utility easements as requested by MDU and NWE on the face of the plat.

G. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-302 (8)(b)(3)]

Legal and physical access is provided to the proposed lots from Elysian Road, the new proposed internal roads and connections to the other road within Annafeld North Subdivision, 1st Filing.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Annafeld North Subdivision, 2nd Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several of the goals and policies of the 2016 Growth Policy and does not conflict with the Transportation Plan or Billings Area Bikeways and Trail Master Plan.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

RECOMMENDATION

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Annafeld North Subdivision, 2nd Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

PRELIMINARY PLAT OF
**ANNAFELD NORTH SUBDIVISION,
SECOND FILING**

BEING LOT 5, BLOCK 3, OF ANNAFELD NORTH SUBDIVISION, FIRST FILING,
BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : MCCALL DEVELOPMENT, LLC

PREPARED BY : **SANDERSON STEWART**

DECEMBER, 2020

BILLINGS, MONTANA

PLAT DATA

- FOUND SURVEY MONUMENT, REBAR WITH "SANDERSON STEWART" CAP OR AS NOTED.
- EXISTING BRASS CAP IN CAST IRON MONUMENT BOX.
- ✕ SET 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "SANDERSON STEWART"
- SET INTERSECTION MONUMENT, 5/8"x18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "SANDERSON STEWART BILLINGS MT". WILL BE REPLACED WITH BRASS CAP MONUMENT BOX UPON COMPLETION OF STREET IMPROVEMENTS.

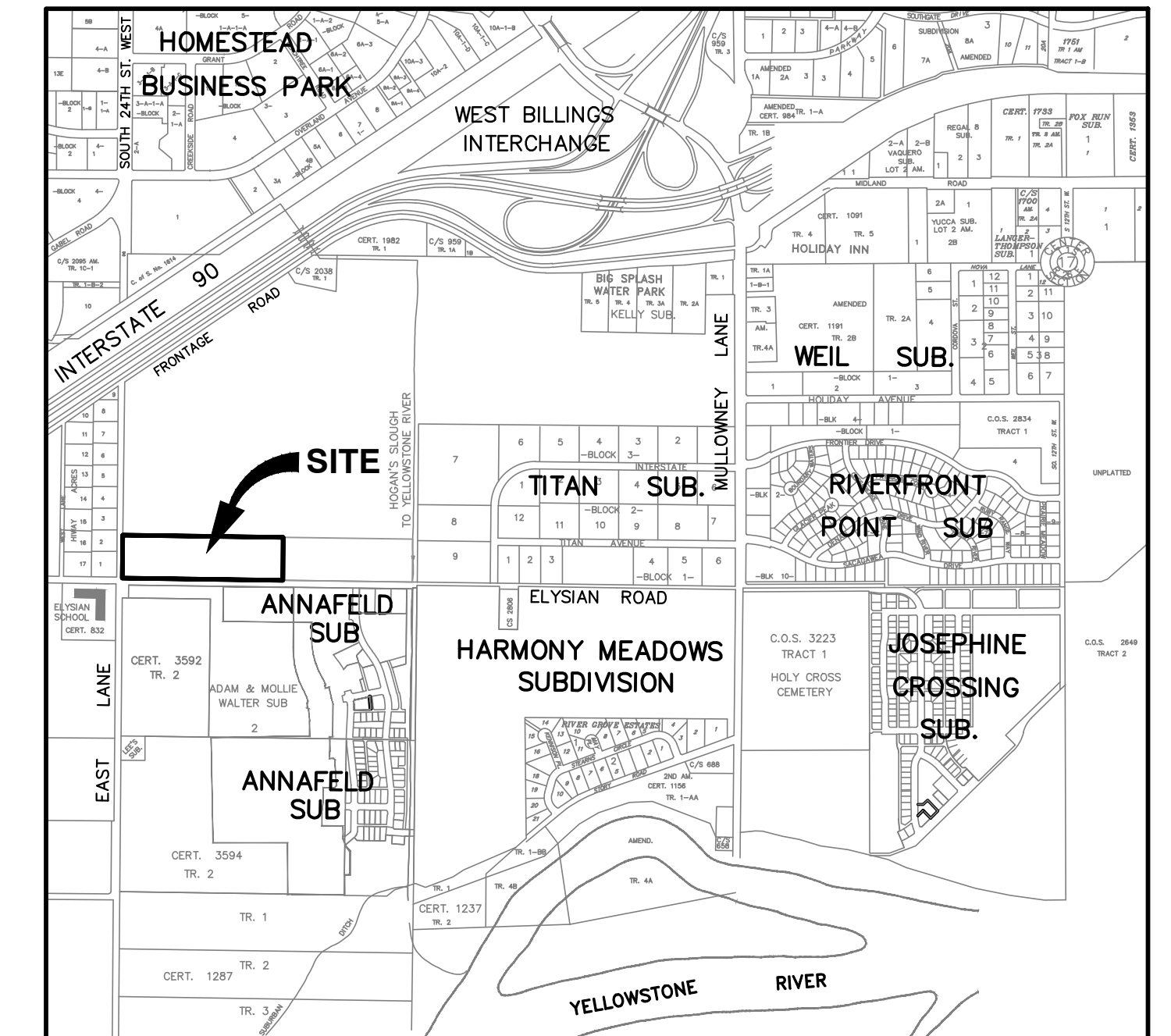
NOTE: ALL CURVES ARE TANGENT AND ALL PROPERTY LINES INTERSECTING CURVES ARE RADIAL UNLESS OTHERWISE NOTED.

GROSS AREA = ±9.09 ACRES
NET AREA = ±5.69 ACRES
NUMBER OF LOTS = 50
MINIMUM LOT SIZE = 2,758 SF
MAXIMUM LOT SIZE = 9,393 SF
LINEAL FEET OF STREETS = 1,732 L.F.
PARKLAND REQUIREMENT = ±0.624 ACRES
PARKLAND DEDICATION = ±0.381 ACRES WITH EXCESS DEDICATION WITH ANNAFELD NORTH, 1ST FILING

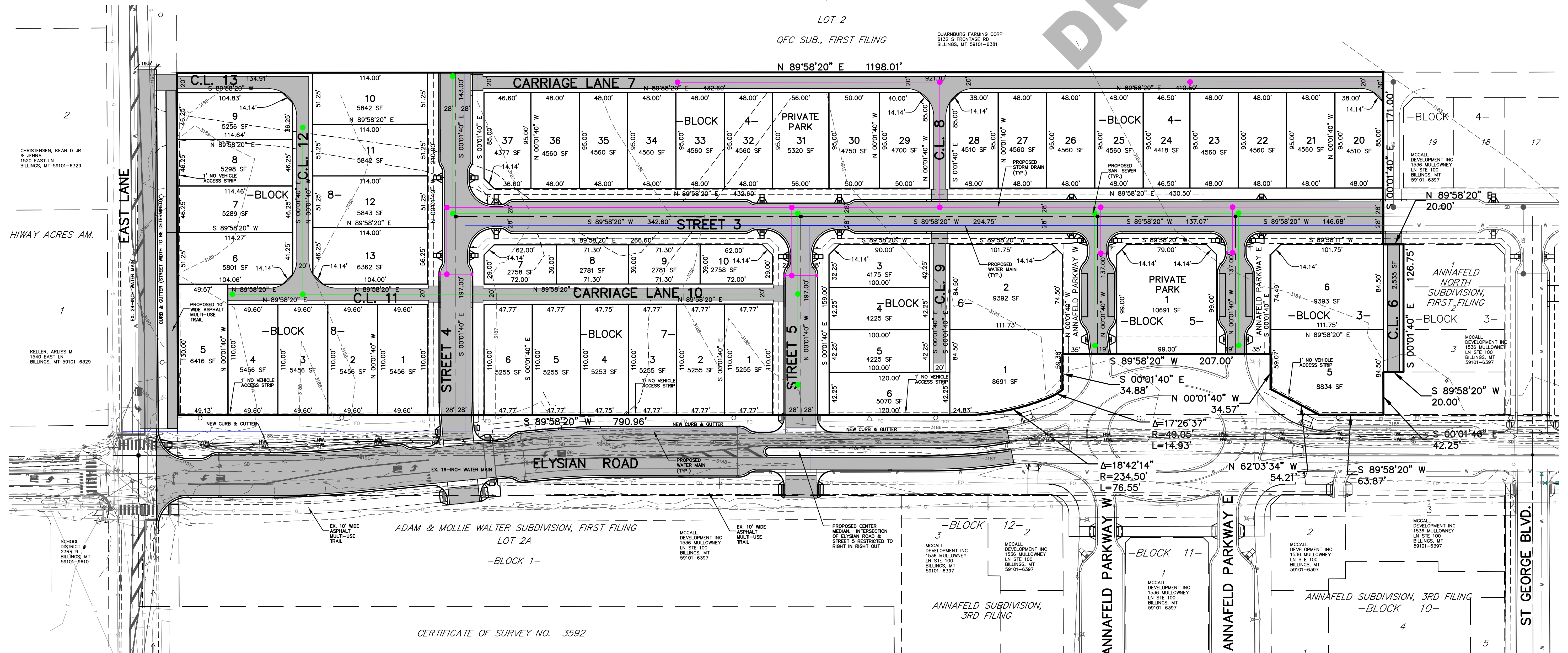
EXISTING ZONING = NEIGHBORHOOD COMMERCIAL
SURROUNDING ZONING:
NORTH = HIGHWAY COMMERCIAL
SOUTH = P.U.D
EAST = NEIGHBORHOOD COMMERCIAL
WEST = RESIDENTIAL 15000
EXISTING LAND USE = VACANT
PROPOSED LAND USE = RESIDENTIAL/COMMERCIAL



50 25 0 50 100
SCALE: 1"=50'



VICINITY MAP
NOT TO SCALE



CERTIFICATE OF SURVEY NO. 3592

Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS
ANNAFELD NORTH SUBDIVISION, SECOND FILING
CITY OF BILLINGS
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Return to:
Sanderson Stewart
1300 North Transtech Way
Billings, MT 59102

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS
ANNAFELD NORTH SUBDIVISION, SECOND FILING**

THIS AGREEMENT is made and entered into this ____ day of _____, 20__, by and between **MCCALL DEVELOPMENT, INC.**, whose address for the purpose of this agreement is 1536 Mullooney Lane, Suite 100; Billings, Montana 59101, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, the plat of Annafeld North Subdivision, Second Filing located in Yellowstone County, Montana was submitted to the Yellowstone County Board of Planning; and

WHEREAS, at a regular meeting conducted on the __ day of _____, 20__, the Board of Planning recommended conditional approval of a preliminary plat of Annafeld North Subdivision, Second Filing; and

WHEREAS, at a regular meeting conducted on the __ day of _____, 20__, the City Council conditionally approved a preliminary plat of Annafeld North Subdivision, Second Filing; and

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

WHEREAS, a Development Agreement between the Subdivider and the City is of record in the office of the Clerk and Recorder, under Document No. _____; and

WHEREAS, the provisions of this agreement shall be effective and applicable to Annafeld North Subdivision, Second Filing upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

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

I. VARIANCES

None requested

II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

- A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development.
- B.** 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.
- C.** Lot owners should be aware that this subdivision is built with a “traditional neighborhood” design. The dwellings will have the garage set in the rear of the lots. The access will be provided to the garages by means of a paved alley.
- D.** Lot owners should be aware that this subdivision is adjacent to wildlife habitat. Consequently, owners are advised that wildlife indigenous to the area is found on the property and may impact the developed property and interface with domestic animals, residents, and visitors. Owners may also 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. Any impacts associated with wildlife and any damage arising there from is the responsibility of the lot owners.

- E.** No water rights have been transferred to the individual lot owners but may be held by the Subdivider and/or the homeowners association. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners without the permission of the controlling ditch company.
- F.** Lot owners should be aware they may be required to participate in a park maintenance district administered by the homeowners association for Annafeld North Subdivision, Second Filing.
- G.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for any construction on lots. Best Management Practices are defined within Chapter 28-201, BMCC and detailed in the City of Billings *Stormwater Management Manual*.
- H.** Lot owners should be aware that Hogan's Slough adjacent to the subdivision is a major stormwater outfall for Billings west end. There is a possibility that the slough could overtop during a major storm event. Based upon the existing topography near Hogan's Slough and the Elysian Road Bridge, it is anticipated that the channel would overtop northeast of Elysian Road and flow east prior to overtopping Elysian Road. There is the possibility however that Elysian Road could be overtopped during a major storm event. If that occurs, flows not carried within the Hogan's Slough channel would be carried within the subdivision streets. The elevation of residential dwellings and commercial structures must be established in recognition of the City's policy that storm runoff flows are allowed to a depth of 18-inches in the gutter flowline of adjacent streets during the major storm. Higher house finished floor elevations may be required on a lot-by-lot basis.
- I.** The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and the State Department of Environmental Quality (DEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by DEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the City of Billings *Stormwater Management Manual*.

III. TRANSPORTATION

A. Streets

1. All internal access roads and site improvements within the subdivision will be in accordance with the City of Billings Site Development Ordinance, City Zoning Ordinance, International Building Code, the *Stormwater Management Manual*, and other applicable City codes, rules, and regulations.
2. All internal streets (excluding Annafeld Parkway East and Annafeld Parkway West) within the subdivision shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All public roads will be built to provide a 34-foot back-to-back curb street width. The design cross-sections of said streets shall be submitted to, and approved by, the City of Billings Public Works Department. The street improvements will be completed by private contract or SID.
3. Annafeld Parkway East and Annafeld Parkway West will be designed for one-way traffic with a minimum drive aisle of 20-feet and parallel parking on both sides of the street. The street shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. The design cross-section of said street shall be submitted to, and approved by, the City of Billings Public Works Department. The street improvements will be completed by private contract or SID.
4. Elysian Road is designated as a collector on the Billings/Yellowstone County Functional Classification Map. Curb and gutter will be constructed on the north side of Elysian Road adjacent to the Second Filing. Improvements will also include the construction of necessary pavement widening to construct westbound travel lane, center turn lane/center median and parking lane adjacent the subdivision. A full access will be provided at Elysian Road and Street 4 (temporary name). A restricted right in right out access with a center median will be provided at Street 5 (temporary name) and Elysian Road. A roundabout will be constructed at the intersection of Elysian Road and Annafeld Parkway East and West. Storm drain shall be installed as necessary, draining directly to Hogan's Slough and/or routed internally through the subdivision. The design cross-section of said street shall be submitted to, and approved by, the City of Billings Public Works

Department. Elysian Road improvements will be completed by private contract or SID.

5. East Lane is designated as a collector on the Billings/Yellowstone County Functional Classification Map. Curb and gutter will be constructed on the east side of East Lane adjacent to the Second Filing. Improvements will also include the construction of necessary pavement widening to construct northbound travel lane, center turn lane/center median and parking lane adjacent the subdivision. Storm drain shall be installed as necessary, draining directly to Hogan's Slough and/or routed internally through the subdivision. The design cross-section of said street shall be submitted to, and approved by, the City of Billings Public Works Department. East Lane improvements will be completed by private contract or SID.
6. A traffic accessibility study has been completed for the Annafeld North Subdivision, Second Filing. All required intersection improvement contributions identified therein shall be completed by the Subdivider at the Subdivider's expense. Based on the additional lots created with Annafeld North Subdivision, Second Filing, the percent of traffic contribution and associated costs to these intersections is as follows:

Muldowney Lane/Elysian Road	5.58%	\$13,950.00
Elysian Road/East Lane	2.25%	\$5,625.00

These cash contributions for the intersection improvements will be made prior to final plat approval. The percentage contributions and dollar amounts are as outlined within the Traffic Impacts Study for Annafeld North Subdivision, Second Filing as submitted with the preliminary plat.

B. Alleys

All alleys within the subdivision shall be built to grade with a satisfactory subbase, base course, and asphalt surface or concrete surface. All alley approaches constructed with asphalt shall be replaced with concrete by the Subdivider at the time when home construction is complete. In the event asphalt approaches within the subdivision are not replaced with concrete within three years of the date of recording of the final plat, the City may construct the concrete approaches and assess the Subdivider for the costs associated with the approach construction. Alley pavement widths shall be 12-feet. The design cross-sections of said alleys shall be submitted to, and

approved by, the City of Billings Public Works Department. No trees are allowed to be planted in the alley. In addition, no shrubs taller than two feet are allowed to be planted in alleys.

C. Sidewalks

Subdivider shall install handicap access ramps, where necessary, during street construction. Construction of sidewalks along frontage of the lots shall be installed by the lot owner at the time of lot development. Sidewalks along the street frontage shall be minimum 5-foot-wide and separated with a boulevard width not less than five feet. Developer shall construct the 5-foot-wide boulevard sidewalk adjacent to private parks (Lot 31, Block 4 and Lot 1, Block 5) at the time of private park development.

In the event that portions of the required sidewalks within the subdivision are not constructed within three years of the date of recording of the final plat, the City may construct the remaining sidewalks and assess the individual lot owners for the costs associated with the sidewalk construction.

D. Street Lighting

Street lighting is not required for this subdivision; however, it is anticipated that street lighting will be installed for Second Filing by private contract or SID. A Street Light Maintenance District will be created for operation and maintenance of the lighting at a future date and is included in the waiver of right to protest.

E. Traffic Control Devices

1. Street name signs for streets within the subdivision, or located immediately adjacent thereto, shall be furnished and installed in accordance with the specifications of the City of Billings Public Works and Fire Departments.
2. No traffic signals are required within this subdivision.
3. The Subdivider shall furnish and install all necessary traffic control devices in accordance with the Manual on Uniform Traffic Control Devices and approved by the City of Billings Public Works Department.

F. Access

Access to the subdivision will be provided by Annafeld Parkway East and West, Street 4 (temporary name) and Street 5 (temporary name). Alley access is also provided to all residential lots within the subdivision.

G. Billings Area Bikeway and Trail Master Plan

A multi-use trail has been constructed along the south boundary of Elysian Road. Said multi-use trail extends from the east boundary of the subdivision to the easterly right-of-way line of East Lane. A new 10-foot-wide multi-use path will be constructed on the east side of East Lane adjacent to Annafeld North Subdivision, Second Filing. The multi-use path improvements will be completed by private contract or SID.

H. Public Transit

There are no MET Transit routes that service this subdivision at this time. The nearest established route is at the intersection of Elysian Road and Mallowney Lane. No improvements with regard to MET Transit vehicles are anticipated at this time.

IV. EMERGENCY SERVICE

A. Fire Hydrants

Emergency service will be provided by the City. Placement of fire hydrants will be as required by the City of Billings Fire Department.

B. Construction of Buildings

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

At a minimum, the following is required:

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

C. Building Location

All buildings shall be located on each lot so that the furthest portion of each building is within 150-feet from an approved fire department access road over an approved route excluding all carriage lanes and alleyways.

V. STORM DRAINAGE

Storm drainage for the public streets shall be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains, and with discharge to the detention facility that is located within the Annafeld North Subdivision, First Filing, in a private park on Lot 13, Block 1. This detention facility in Annafeld North Subdivision, First Filing has been sized to accept additional runoff generated from Annafeld North Subdivision, Second Filing. The detention facility on site will be sized to store the stormwater generated by Annafeld North Subdivision, First and Second Filing. Treatment for the water quality runoff will be provided in the stormwater detention facility. The stormwater detention facility will discharge to Hogan's Slough. Stormwater management facilities for the subdivision must be able to pass flows generated outside the subdivision area without inundating existing and proposed home sites. All drainage improvements shall comply with the provisions of the *Stormwater Management Manual* and Section 23-706, BMCC, a stormwater management plan shall be submitted to and approved by the Engineering Division prior to filing of the final plat.

The stormwater detention area is located within a private park lot deeded to the Annafeld North Subdivision HOA and will be an integral part of the public street drainage system. The drainage system improvements will be in accordance with the recommendations of the stormwater analysis and report prepared and submitted with the improvement plans and specifications. Maintenance of the stormwater

detention area and associated drainage facilities shall be by the Annafeld North Subdivision HOA.

VI. UTILITIES

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

The Subdivider/owner acknowledges that the subdivision shall be subject to the applicable system development fees in effect at the time new water and/or sanitary sewer service connections are made.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc.) shall be in accordance with design standards, specifications, rules, regulations of, and as approved by the City of Billings Public Works Department, Fire Department, and the Montana Department of Environmental Quality.

A. Water

The Annafeld North Subdivision water system consists of a series of looped water mains located in each of the local streets. The subdivision water system will consist of new 8-inch water mains in Street 3 (temporary name), Street 4 (temporary name) and Street 5 (temporary name). A new 8-inch water main will also be installed parallel to the existing 16-inch water main Elysian Road to serve Lots 1-6, Block 7 and Lots 1-5, Block 8. A stub for future connection will be provided in Street 4 (temporary name).

B. Sanitary Sewer

Sanitary sewer service to Annafeld North Subdivision, Second Filing will be provided by connecting to the existing 8-inch sanitary sewer main located in the Street 3 (temporary name). A stub for future connection will be provided in Street 4 (temporary name). All sanitary sewer construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality, and will be approved by the Public

Works Department, Distribution, and Collection Division.

C. Power, Telephone, Gas, and Cable Television

Private utility facilities currently exist to serve the subdivision. The private utility facilities will be installed within the alley right-of-way and by easements included on the plat, as requested by the utility companies, to provide routes to the alleys.

VII. PARKS/OPEN SPACE

Per Section 76-3-621 of the Montana Code Annotated, 0.624 acres of parkland dedication is required for Annafeld North Subdivision, Second Filing. The parkland provided with the platting of Annafeld North Subdivision, Second Filing is 0.381 acres. The remaining parkland was previously dedicated with Annafeld North Subdivision, First Filing. The Subdivider proposes to dedicate land as private parks. The private parks will be maintained by the Annafeld North Subdivision Homeowners Association (HOA).

VIII. HOMEOWNER'S ASSOCIATIONS

A homeowner's association (HOA) will be established for this subdivision. The HOA will have the following responsibilities:

A. Contact Information

HOA shall provide contact information of the senior board official to the City Engineering Department upon the establishment of the HOA and/or changing of board members.

B. Stormwater Drainage Facilities

The HOA shall be responsible for the maintenance of the mechanical filtration stormwater manholes. The HOA shall share the cost of maintenance of the community stormwater facilities.

IX. POSTAL DELIVERY

The Subdivider shall provide centralized delivery boxes with sufficient pullout to accommodate a mail carrier vehicle. The location of the boxes shall be reviewed and approved by the United States Postal Service.

X. SOILS/GEOTECHNICAL STUDY

A soils/geotechnical study is being performed for the subdivision. The report dated December 2020, will be available for review at the City of Billings Planning Department. Lot owners and contractors/builders will be encouraged to review the report and its recommendations.

XI. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements by private contracts secured by letters of credit or a letter of commitment to lend funds from a commercial lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

XII. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

- A.** Subdivider agrees to guarantee all public improvements for a period of two year from the date of substantial completion.
- 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 run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees of the respective parties.
- D.** In the event it becomes necessary for either party to this agreement to retain an attorney to enforce any of the terms or conditions of this agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.
- E.** Any amendments or modifications of this agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this agreement.
- F.** Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

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

“SUBDIVIDER”

MCCALL DEVELOPMENT, INC.

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of Yellowstone)

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

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

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

“CITY”

CITY OF BILLINGS, MONTANA

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA)
 : ss
County of Yellowstone)

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

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

**WAIVER OF RIGHT TO PROTEST
FUTURE SPECIAL IMPROVEMENT DISTRICTS**

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more special improvement district(s) for a period of no more than twenty years from the recording of this waiver, for street light maintenance and energy, and for the construction of streets, street widening, sidewalks, survey monuments, street name signs, curb and gutter, street lights, driveways, traffic signals, and traffic control devices, parks and park maintenance, trails, sanitary sewer lines, water lines, storm drains (either within or outside the area), and other improvements incident to the above which the City of Billings may require.

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

The real property hereinabove mentioned that is the subject of this waiver is more particularly described as follows:

ANNAFELD NORTH SUBDIVISION, SECOND FILING

SUBDIVIDER/OWNER

MCCALL DEVELOPMENT, INC.

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of Yellowstone)

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

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

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

Planning Board Meeting 2 (4th Tuesday)

Meeting Date: 02/23/2021

Information

Subject

Discussion. Planning Board By-Laws - Discussion for President and VP nominations Process Amendments. Planning Board and Planning Staff.

Attachments

Planning Board By-Laws 2012 _Adopted

BY-LAWS

YELLOWSTONE COUNTY BOARD OF PLANNING **“Serving Yellowstone County, City of Billings, and Town of Broadview”**

Adopted March 12, 1985

Amended September 12, 1989

Amended: June 8, 1993

Amended: February 22, 1994

Amended: February 27, 1996

Amended: July 24, 2001

Amended: September 24, 2002

Amended: May 25, 2004

Amended: July, 2012

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ARTICLE I

NAME AND LOCATION

Section 1. Name

The name of this Board shall be the Yellowstone County Board of Planning (hereinafter referred to as the Board).

Section 2. Location

The Board offices are located on the fourth floor of the Parmly Billings Library, 510 North Broadway (N. 29th Street), Billings, Montana.

ARTICLE II

DEFINITION OF TERMS

As used in these by-laws.

1. Board: The Yellowstone County Board of Planning
2. City: Billings and Broadview
3. City Council: The governing bodies of Billings and Broadview
4. County: Yellowstone County, Montana
5. County Commissioners: The governing body of Yellowstone County
6. Town: Broadview
7. Town Council: The governing body of Broadview
8. Master Plan: As defined by Section 76-1-601 Montana Codes Annotated
9. Planning Director: That individual so designated by the County Commissioners and City Of Billings
10. Plat: A subdivision of land into lots, streets, and areas marked upon the earth and represented on paper, and includes re-plats and amended plats.

ARTICLE III

AUTHORITY, POWERS, AND DUTIES

Section 1. Authority

The Yellowstone County Board of Planning is authorized under Section 76-1-101 through 76-1-104 and 76-1-111 Montana Codes Annotated and the Yellowstone County Agreement on Planning dated December 10, 1984, and as amended on October 24, 1990, October 1, 1995 and as amended in April of 2002.

Section 2. Powers and Duties

A. Role of the Board:

1. To assure the promotion of public health, safety, convenience, order, or the general welfare and for the sake of efficiency and economy in the process of community development, the planning board shall prepare a Growth Policy master plan and shall serve in an advisory capacity to the local governing bodies establishing the planning board.
2. The Board may also propose policies for:
 - a. Subdivision plats;
 - b. The development of public ways, public places, public structures, and public and private utilities;
 - c. The issuance of improvement location permits on platted and unplatted land;
 - d. The laying out and development of public ways and services and to platted and unplatted lands.
 - e. Long range plans
 - f. Flood plane and floodway area
3. The role of the Board shall be to recommend planning policy to the County, Billings, and Broadview.
4. The Board shall prepare a Growth Policy for the jurisdictional area, as defined in Section 76-1-601 Montana Code Annotated.
5. The Board shall serve as the Metropolitan Planning Organization for the Billings Urban Transportation Area.
6. The Board shall perform other planning related functions as requested by the parties hereto.
 - a. Prescribe uniform rules pertaining and hearings
 - b. Adopt by-laws, which set forth the Board's policies and procedures.
 - c. Recommend an annual work program.
 - d. Keep an accurate and complete record of all proceedings.
7. The Board may, from time to time, comment upon plans and planning related policies subject to review or adoption by Federal or State agencies, and/or may recommend that the County and Cities make appropriate comment on the same.

ARTICLE IV

JURISDICTIONAL AREA

Section 1.

The jurisdictional area of the Board will include all the area in Yellowstone County including the incorporated limits of Billings and Broadview but excluding the incorporated limits of Laurel and the existing jurisdictional area surrounding Laurel.

ARTICLE V

OBJECTIVES AND POLICIES

The objectives of the Board as established by State Law, are to enable units of local government within Yellowstone County (except Laurel) to cooperate in promoting the orderly development of those units and their environs by planning for the improvement of the present health, safety, convenience, and welfare of their citizens and the future development of their communities to the end that highway systems be carefully planned, that new community centers grow only with adequate highway, utility, health, educational, and recreational facilities; that the needs of agriculture, industry, and business be recognized in future growth; that residential areas provide healthy surroundings for family life; and that the growth of the community be commensurate with the promotion of the efficient and economical use of public funds.

ARTICLE VI

MEMBERSHIP AND TERMS OF APPOINTMENT

Section 1. Composition

The Board shall consist of citizen members and may include elected officials.

Section 2. Membership

The Board shall consist of fifteen (15) members.

Seven (7) members are to be appointed by the County Commissioners – one (1) from each geographical area determined by the County Commissioners.

Five (5) members are to be appointed by the Mayor of Billings from within the city limits of Billings.

One (1) member to be appointed by the County Commissioners from the governing board of a soil conservation district or a state cooperative grazing district.

Two (2) ex-officio non-voting representatives. One from School District #2 and the County Superintendent of Schools.

Section 3. Terms

Members of the Board shall be appointed to 2-year terms pursuant to Section 76-1-203 MCA.

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.
- B. 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.

Section 5. Vacancies

Vacancies occurring on the Board shall be filled by the governing body having appointed them for the unexpired term.

ARTICLE VII

BOARD OFFICER, TERMS, AND DUTIES

Section 1. Officers

The officers of the Board shall consist of a President, Vice President, and Executive Secretary.

Section 2. Election of Officers

The President and Vice President shall be elected by a majority of the Board members present and voting at the first regular scheduled meeting in January. The terms of office of the President and Vice President shall commence on February 1.

Section 3. Board President

The President shall preside over all regular and special meetings of the Board and may vote in the case of a tie or to create a tie. The President shall also sign such documents and communications of behalf of the Board, as the Board may authorize and are of such a nature as to require the signature of the President. The President may in absence delegate such responsibility to the Vice President. The President shall have the authority to appoint in ARTICLE IX Committees. The President shall be an "ex-officio" member of all committees except the nominating committee, and shall retain

voting rights on these committees, and shall be counted as a member for purposes of comprising a quorum.

Section 4. Board Vice President

The Vice President, in the absence of the President, shall preside over any regular or special meeting of the Board and at the direction of the President, sign such documents and communications on behalf of the Board, as the Board may have authorized the President to sign.

Section 5. Office Vacancy

If the office of the President becomes vacant, then the Vice President shall fill the unexpired term. On assuming this office, the President shall appoint a nominating committee to present their nominations for Vice President.

Section 6. Officer Absences

If the President and Vice President are absent from any regular meeting, the Executive Secretary shall call the meeting to order and a quorum of members shall elect a temporary chairperson for the meeting.

Section 7. Removal of Officers

If the Board votes no confidence in an officer, a motion to remove said officer shall be brought before the Board at its next meeting. Should the motion pass, a new officer shall be elected to serve the remainder of the term of office.

Section 8. Terms of Office

All officers shall serve a term of one (1) year. Any officer may serve for successive terms.

Section 9. The Director of Planning

The Director of Planning shall function as Executive Secretary (Appendix B), whose duties may include:

- A. Keeping true and correct copies of the minutes of all regular and special board meetings, and the minutes of any committee meetings.
- B. Administering the affairs of the Board in accordance with adopted Board policies and policies of the County.
- C. Recommending policies, ordinances, or resolutions, which may be necessary to accomplish the objectives of the Board and implement the goals of the Growth Policy.
- D. Representing the Board before any other board, commission or committee, or citizen's organization.

- E. Preparing in the name of the Board correspondence, official notices, and agendas.
- F. Signing all plats and affixing the official seal of the board thereon only after such plat has been approved in accordance with the requirements of the Subdivision Regulations, adopted policies and procedures of the Board and only after all requirements have been satisfied.
- G. Reporting at the Board's request the progress and status of any program or project for which the Board has responsibility and changes in State or Federal guidelines, which may affect any of the Board's programs, or status.
- H. Preparing an annual report, this shall include a summary of the Board's activities during the previous year.

ARTICLE VIII

MEETINGS, QUORUMS, AND PROCEDURES

Section 1. Regular Meetings

Regular meeting of the Board shall be held on the second and fourth Tuesday of each month at 6:00 p.m. in the conference room of the fourth floor of the Parmly Billings Library or in such other place and time as shall be advertised in a conspicuous location in the South lobby of the Parmly Library on the day of the regular meeting. Regular meetings of the Board and its committees are open to the public and testimony or correspondence may be received from any citizen at any public meeting. Regular and special meetings shall be recorded and all records shall be available for public inspection during normal business hours at the Planning Office on the fourth floor of the Parmly Billings Library.

Section 2. Quorums

- A. A majority of voting members shall constitute a quorum.
- B. No action of the Board is official, however, unless authorized by a majority of voting members in attendance of the Board at a regular or properly called special meeting. Official action can only be conducted when there is a quorum present at any meeting.

Section 3. Special Meetings

Special meetings of the Board may be called by the President or by any two members upon request to the Executive Secretary three (3) working days prior to the date of the special meeting. The Executive Secretary shall then notify all members of the special meeting and the topic(s) to be considered.

Section 4. Agendas

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. Each agenda shall contain the following standing items:

- 1 **CALL TO ORDER.** Welcome and introduction of new and returning Board Members and staff
- 2 **APPROVAL OF AGENDA**, including any additions or deletions to agenda
- 3 **MEETING MINUTES**
- 4 **PUBLIC COMMENT PERIOD** – As required (3 minute maximum per person)
 - a. Comments on items not on agenda and requests to add items to future agendas
 - b. Comments on items on the non-public hearing agenda items
- 5 **DISCLOSURE OF CONFLICT OF INTEREST**
- 6 **DISCLOSURE OF EX PARTE COMMUNICATION**
- 7 **OLD BUSINESS** (items that were not discussed or not completed in a previous meeting or items requiring action)
- 8 **NEW BUSINESS** (items that are new to this meeting)
- 9 **UNSCHEDULED BUSINESS** (items added by the Board)
- 10 **AGENDA ITEMS FOR NEXT BOARD MEETING**
- 11 **ADJOURNMENT**

An agenda item that requires formal action by the Board must first have been discussed at a previous business meeting. On items added to the Agenda by a majority vote of members present, the Board may choose to take action at the same meeting if the item is not of significant interest to the public. To consider an item brought before the Board under Unscheduled Business the item must be placed on the agenda by motion at the beginning of the meeting and approved by a majority vote of the members present. The Board will not take formal action at that meeting but can choose to discuss the item and place it on future agenda for formal action. Agendas and copies of the minutes of all regular meetings shall be distributed to each member of the Board no later than the Friday preceding the meeting date. In addition, all agencies, organizations and individuals that may have an interest in any matter before the Board shall be notified of the upcoming meeting. At the beginning of each meeting the public shall be given the opportunity to address the Board on any item that is not on the current agenda. The Board will not take action on the item at that time, but could choose to add the item to the next regular meeting's agenda for discussion.

Section 5. Public Hearings

The Board shall cause to be published a Notice of Public Hearing containing the date, time, location, and purpose pursuant to statutory requirements in a newspaper of general circulation for each hearing held by the Board.

A. Public Hearings for Subdivisions

1. When a preliminary plat application is set for a public hearing pursuant to a public notice, the matter shall be heard even though no one in favor or in opposition to the application appears at the hearing, unless the Board has received a written request from the subdivider, twenty-four (24) hours prior to the public hearing, to continue such

hearing at a later time due to good and sufficient reason, or to withdraw or to postpone the application for reason approved by the Board.

2. Each person who speaks at the public hearing shall stand and furnish his/her name and address to the Board and shall thereby become a part of the record.
3. Each preliminary plat application shall be heard in the following order:
 - a. A Planning Department staff member shall summarize pertinent data and present or amplify the recommendations of staff and department heads.
 - b. The applicant, or his representative, shall present the application to the Board, and summarize the proposed subdivision and, if applicable, the following criteria of public interests:
 - i. Effects on Agriculture
 - ii. Effects on Local Services.
 - iii. Effects on Natural Environment.
 - iv. Effects on Wildlife Habitat and Wildlife.
 - v. Effects on Public Health and Safety.
 - vi. Effects on Agricultural Users Facilities.
 - c. Persons in favor or opposed to the application shall be heard or written comments received up and until the time of the close of the public hearing.

B. Other Public Hearings

1. All other public hearings shall be conducted in accordance with the following procedure unless the Board determines by a majority vote to follow some different procedure:
 - a. The Board shall first hear a report on the subject item from the Planning Department staff, which report may include a recommendation as to the action to be taken by the Board.
 - b. The Board shall then hear and/or receive written or oral statements from the public in the following order:
 - i. Proponents of the proposal.
 - ii. Opponents of the proposal.
 - iii. Members of the public who, being neither proponents nor opponents of the proposal wish to make a general statement or comment regarding the same.
 - iv. The Board shall then hear any brief rebuttal to previous comments, testimony, or statements.
 - v. The Board shall then hear any brief final comments, statements, or recommendations, if any, from the Planning Department staff.
 - vi. Any person wishing to speak a second time may do so only during the proper course of the proceedings, only after all persons wishing to speak

have been heard, and only with the permission of the President or the approval of the majority of the Board members.

2. Prior to hearing and/or receiving oral statements, comments, or testimony from the public, the Board may, by majority vote, impose reasonable and prudent limitations on the time allotted for each person's oral statement, comments, or testimony.
3. The Board or any member thereof, may at any time question any person about his/her statements, comments, or testimony.
4. After hearing any and all statements, comments, and testimony as above provided, the President shall close the public testimony portion of the hearing. After closure, and after such discussion as may be appropriate, the Board may vote upon a recommendation for the item under consideration.
5. Subject to any time constraints imposed by law, the Board may, at any stage of a public hearing or proceeding, continue the same to a later date in order to allow or facilitate full public participation, to obtain additional information, to properly consider or deliberate any matter, or for any other lawful reason. In the case of such continuance, the time and place of all further proceedings in regard thereto shall be immediately fixed and announced to the Planning Department staff and the public, in which case no further legal notice of the hearing need be given.

C. Informal Hearings

The Board, by majority vote, may follow some other procedures for the conduct of hearings.

Section 6. Quarterly Meetings

The Board may hold quarterly meetings with the City Administrator, Mayor and City Council, and the Board of County Commissioners. These meetings shall be for bringing all said parties together to discuss planning issues and concerns. Any proposed amendment to the Interlocal Agreement on Planning shall be placed on the agenda for the first available quarterly meeting prior to action by either the City or the County. Quarterly meetings shall be held on the second Tuesday of the first month of each quarter at a time to be mutually agreeable to all of the parties. The responsibility for preparation and distribution of agendas, meeting notices, etc., shall be with the Planning Department.

Section 7. Interlocal Agreement

If any party to the Interlocal Agreement on Planning proposes an amendment to said agreement, the Board of Planning shall first be provided a copy of the amendment along with the recommendations(s) for revision. The Board shall request that a joint meeting be held with all of the signatory parties to the Agreement to discuss any proposed amendments, prior to any action by the signatory parties. The Board shall then provide a recommendation to all signatory parties to the agreement. The Board can recommend approval, denial, or modification of any such proposed amendments.

ARTICLE IX

COMMITTEES AND ADVISORY COMMITTEES

Section 1. Committees

The President is responsible for selecting the chairman and individual members of the committee.

A. Plat Review Committee

The committee shall consist of the entire Planning Board.

B. Nominating Committee

The President shall at the first regular meeting in November appoint three (3) members who will present their recommendations for new officers at the first meeting in December as the first order of business following the approval of the minutes. Nominations from the floor may be made at this time. The President shall not be a member of the Nominating Committee.

C. Special Committees

Special committees for any purpose may be appointed by the President or created by motion of the Board to create and direct the President to appoint its members.

Section 2. Advisory Committees

Citizen Advisory Committees may be established in each of the geographical areas from which a Board member is appointed. The purpose of the committees is to provide advice to the Board on planning related matters of interest to their areas.

Section 3. Committee Action

In no case shall a committee take official action unless a quorum is present.

ARTICLE X

LEGAL ASSISTANCE

The Board shall seek legal assistance from the attorneys for the appropriate governing body.

ARTICLE XI

FINANCING

Section 1. Board Financing

As provided through MCA 76-1-306 the governing body shall assign staff employed by the governing body to assist the planning board in conducting its duties. The planning board may delegate to assigned staff the authority to perform ministerial acts in all cases except when final action of the planning board is necessary. The governing body may make contracts for special or temporary services and any professional service. The following MCA sections also govern the fiscal administration of the Planning Board:

76-1-401. Fiscal Administration.

- (1) To effectuate the purpose of this chapter, the board shall have the power and duty to:
 - (a) supervise the fiscal affairs and responsibilities of the board;
 - (b) prepare and submit to the governing bodies represented on the board an annual budget in the same manner as other departments of the city and county governments and shall be limited in all expenditures to the provisions made therefore by the governing bodies represented upon the board.
- (2) The planning board shall have authority to expend, under regular city or county procedure as provided by law, all sums appropriated to it for purposes and activities authorized by this chapter.

76-1-402. Funding of board operation.

- (1) After a city council has by ordinance, a board of county commissioners has by ordinance and resolution, or a city council and board of county commissioners have by ordinance and resolution created a planning board, the governing bodies represented upon such board may appropriate funds to carry out the duties of the planning board.
- 2) When a planning board has been created by agreement of more than one governmental unit, the governing bodies of the governmental units which have created the board shall agree upon the proportion of expenditures to be borne by each such unit and may budget and appropriate the funds necessary for the respective shares thus agreed upon.

Section 2. Financial Summary

The Planning Director shall provide a financial summary of the Department budget to the Board as requested.

ARTICLE XII

PROGRAM DEVELOPMENT

Each year, under direction of the Board, the Planning Department shall prepare a Unified Planning Work Program (UPWP).

The UPWP shall outline all proposed work activities for the year and indicate funding sources for each.

The primary purpose of the UPWP shall be to maintain certification as the Metropolitan Planning Organization (MPO) through the Montana Department of Transportation and the Federal Highway Administration (FHWA). The secondary purpose shall be to provide the Board and administrative guide to monitor yearly work activities of the Planning Department.

ARTICLE XIII

MISCELLANEOUS

Section 1. Conflict of Interest

Any member(s) having a financial or personal interest in a matter before the Board for discussion or vote shall publicly disclose the nature and extent of such interest and absent himself from the meeting until discussion on the matter has ended and a vote, if any, is taken. In such circumstances, the secretary shall note in the minutes that a conflict of interest was acknowledged and the Board member(s) was absent during the discussion and voting.

Section 2. Travel

Authorization of travel of any Board member to attend a conference, convention, or other meetings necessary to carry out the affairs of the Board must be approved by the Board and the appropriate governing body represented by the board member. Upon return, the Board member must submit a written summary of the expenditures and activities.

Section 3. Distribution of Planning Studies

Pertinent studies of interest to certain entities may be distributed to interested parties and local media. Additional copies may be made available to the public at the cost of publication or duplication.

Section 4. Plan Study and Adoption

The Board shall formally adopt all plans or studies by resolution. Such resolution shall clearly state the authorization for the particular plan or study, the findings of fact, which necessitated its preparation and the recommendation to the respective governing bodies relative to action necessary to implement the objects of the plan or study.

Section 5. By-Law Amendments

Amendments to the By-Laws of the Yellowstone County Board of Planning may be initiated by any member of the Board. Such amendments must be submitted, in writing, at a regular meeting and approved by a two-thirds vote of the members present.