



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



AGENDA
MAY 11, 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. **MOTION. APPROVAL OF MEETING MINUTES:** APRIL 27, 2021

Attachments

PlnBMinutes_2021_04_27_DRAFT

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!

8. **NEW BUSINESS:** (Agenda items new to this meeting).
 - a. Plat Review. Discussion. Stone Creek Subdivision. County Major Subdivision. Dan Wells, Regal Land Development, applicant. Craig Dalton, Performance Engineering, agent. Dave Green, Planner II presenting.

Attachments

Findings of Fact

Proposed Plat

SIA

9. **OTHER BUSINESS:**
 - a. **Presentation/Discussion. Montana Bureau of Mines and Geology: West Billings Flood Mitigation and Groundwater Recharge Study Updates.** Jon Reiten, Senior Hydrogeologist, Montana Bureau of Mines and Geology

 - 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, MAY 25, 2021

- a. Public Hearing. Motion/Recommendation to BOCC. Stone Creek Subdivision. Dan Wells, Regal Land Development, applicant. Craig Dalton, Performance Engineering, agent. Dave Green, Planner II, presenting.

- b. Presentation. Discussion. Metra Park Master Plan. Tim Goodridge, Assistant General Manager, Metra Park; Jamie Porter, Grounds & Entertainment, Metra Park

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 I (2nd Tuesday)

3.

Meeting Date: 05/11/2021

Information

Subject

MOTION. APPROVAL OF MEETING MINUTES: APRIL 27, 2021

Attachments

PlnBMinutes_2021_04_27_DRAFT

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

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

	Position	01/12/2021	01/26/2021	02/09/2021	02/23/2021	03/09/2021	03/23/2021	04/13/2021	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	1	1	1	1	E															
Heidi Jensen-Christison	Mayor/Billings Ward II	1	1	E	1	1	E	1	E															
Dennie Stephenson	Mayor/Billings Ward III	1	1	1	1	1	1	1	1															
Darell Tunnicliff	Mayor/Billings Ward IV	1	1	1	1	1	1	1	1															
Jon Thompson	Mayor/Billings Ward V	1	E	1	1	E	1	1	1															
Troy Boucher	YC District 1	1	1	1	E	1	E	1	1															
Dennis Cook	YC District 2	1	1	1	1	1	1	1	1															
Vacant	YC District 3	-	-	-	-	-	-	-	-															
Vacant	YC District 4	-	-	-	-	-	-	-	-															
Woody Woods	YC District 5	1	1	1	1	1	1	1	1															
Vacant	YC District 6	-	-	-	-	-	-	-	-															
Jarett Hillius	YC District 7	1	1	1	E	1	1	E	1															
Vacant	Y County Cons. District	-	-	-	-	-	-	-	-															
Scott Reiter	Ex-Officio SD2	-	-	-	1	E		E	E															

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview and Yellowstone County"

April 27, 2021

Virtual Video Conference Format

DRAFT- To be approved by a motion on May 11, 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, April 27, 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 April 27, 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: Wyeth Friday, Director, Planning & Community Services Department; Dave Green, Planner II, Tammy Deines, Planning Clerk

Other Participants: Taylor Kasperick, Performance Engineering; Greg Reid, WWC Engineering, Erin Hettinger, WWC Engineering; Applicant Ron Hill

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 April 27, 2021 Agenda

Board member Cook made a motion and Board member Thompson seconded the motion to approve the April 27, 2021 meeting agenda as submitted. The motion carried with a unanimous voice vote.

CITY/COUNTY PLANNING BOARD

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Approval of Minutes: April 13, 2021

Board member Tunncliff moved and Board member Cook seconded the motion to approve the April 13, 2021 meeting minutes. 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 requesting public comment.

President Woods acknowledged the emails from the public. He reminded participants that the Planning Board deals with parcels and subdivision and zoning is outside if the purview of this Board.

Emails from the public:

Bob & Kristen Engebretson, 2010 Greenbriar Road regarding Lake Hills Subdivision 39th Filing. Emailed to the Board prior to this meeting. Concerns included watershed management and flooding specifically in the area of Sierra Granda Blvd, increased density, and apparent disregard to a common open space in this subdivision.

Mike Craighill, 2118 Lake Hills Drive regarding Lake Hills Subdivision 39th Filing. Offering support for this project and complimenting contractors working in the area for their professionalism and contribution to a visually appealing neighborhood. This email was acknowledged during the April 13, 2021 meeting

****Ed & Marci Zink, Residents, 2020 Greenbriar Road-regarding Lake Hills Subdivision, 39th Filing.** This email was received after this meeting due to technical difficulties. The letter will be included in materials sent to City Council as a part of the staff report). Ed & Marci Zink, Residents, 2020 Greenbriar Road-Mr. Zink voiced concern with the proposed density, the lack of parkland, and potential impacts to public safety, water and sewer systems, and site lines.

Richard Waide, 4029 Rifle Creek Trail regarding Yellowstone Landing Commercial Subdivision. Requesting defeat of the usage change to Heavy Commercial zoning to protect the beauty and sanctity of the area north of the Rims, protect the property values of the residents, and protection of residents and wildlife from escalating traffic problems along the HI way 3 Corridor, including Zimmerman Trail, 27th Street, and beyond. This email was included in the Planning Board meeting packet as an attachment.

CITY/COUNTY PLANNING BOARD

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Lindsay Miller, 2614 Bowles Way, Billings, MT regarding Bitterroot Heights Subdivision. In opposition to zone change to allow for multi-family units and requesting a buffer of single-family units up against existing properties.

7. OLD BUSINESS

7a. Public Hearing. Motion/Recommendation. Yellowstone Landing Commercial Park. City Major Subdivision. Aviation Properties, LLC Taylor Kasperick, agent. Dave Green, Planner II, presenting.

Planner Dave Green opened this agenda item. He stated a previously conducted Traffic Impact Study required improvements as outlined in the Findings of Fact. The applicant will be required to meet the sidewalk and commercial landscaping required by zoning. City water and sewer will be available and fire hydrant installation will be required. Storm water requirements are for a 50-year event and there will be a detention pond onsite to retain storm water as required. This subdivision will be phased and the applicant will provide the paperwork as part of the conditions of approval.

RECOMMENDATION

Staff proposes the Planning Board recommend conditional approval of the preliminary plat of Yellowstone Landing Commercial Park to the City Council 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 in relation to traffic movement, prior to final plat approval, the applicant will provide City Engineering Department and the Montana Department of Transportation with a Traffic Impact Study, (TIS). Any required improvement identified in the TIS will be installed by the applicant as well as striping AJ Way as outlined in the Findings of Fact.
2. 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.
3. To protect public health and safety and to ensure proper documentation for the proposed phasing of the subdivision, prior to final plat approval the applicant will include the Exhibit and Declaration of Restriction on Transfer documents for future phases.
4. 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.

CITY/COUNTY PLANNING BOARD

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5. 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

An email letter from Citizen Richard Wade, 4029 Rifle Creek Trail, was received voicing concerns with traffic.

Discussion

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

Public Hearing

President Woods opened the public hearing and asked if there is anyone wishing to speak in favor or against Yellowstone Landing Commercial Park Subdivision. There was none. President Woods closed the public hearing and called for a motion.

Motion

Board member Tunnicliff made a motion and Board member Cook seconded the motion to recommend conditional approval of the preliminary plat of Yellowstone Landing Commercial Park to the City Council and adopt the Findings of Fact as presented in the staff report. The motion carried with a unanimous voice vote.

City Council will hear this application on May 24, 2021.

7b. Public Hearing. Motion/Recommendation. Lake Hills Subdivision, 39th Filing. Greg Reid, WWC Engineering, agent. Dave Green, Planner II, presenting.

Planner Dave Green opened this agenda item with an overview of the staff report. He explained the applicant does not own the four lots within the filing area that indicate, "NOT PART OF THIS SUBDIVISION" (Lots 1-3, Block 17, Lot 22, Block 11 of 17th Filing). He pointed out areas that will be finished with sidewalk, including Black Diamond Road. The streets will be widened and built with curb, gutter, and boulevard sidewalk. The water line in Glen Eagles Boulevard will be continued along with the existing sanitary sewer connection. There is a Stormwater Master Plan in place for Lake Hills Subdivision, and the applicant will meet the requirements for storm water management. This subdivision will be served by fire and emergency services. Students will attend in School District #2.

RECOMMENDATION

Staff proposes the Planning Board recommend conditional approval of the preliminary plat of Lake Hills Subdivision, 39th Filing to the City Council, 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.

CITY/COUNTY PLANNING BOARD

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1. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with 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 the 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.

Dave Green noted concerns voiced via email from Bob and Kristen Engebretson, 2010 Greenbriar Road, Billings, MT including the potential development of density in this area, traffic, and watershed management. He explained that the storm water system is designed for up to a 50-year storm event and anything beyond this capacity could cause flooding. He asked the applicant's engineer, Greg Reid, WWC, to give further information.

Greg Reid said the City completed a storm improvement project on Morocco Drive to alleviate flooding and help stormwater flows. The City is planning to add inlets on Glen Eagles Boulevard. Regarding future developments, there is a private contract by a developer that will include a large stormwater pond. All parties are aware of the issue and are taking steps to address it.

City Council will hear this application on May 24, 2021.

Discussion

President Woods called for questions and discussion. Board member Thompson asked if there are storm water inlets at Glen Eagles Boulevard and Sierra Grand. Greg Reid, WWC, said there are no inlets at the location at this time but it will be addressed. Board member Thompson noted there is only one small park located on Burning Tree Drive and asked how the parkland was satisfied initially with Lake Hills Subdivision. Dave Green said he has researched this but has not found this information. He said it might have been an agreement that the golf course may have been accepted as parkland. The documents say it was satisfied at that time. Board member Thompson voiced concern, as there are no parks within walking distance of these properties. Board member Stephenson commented that providing a park in the area might address some of the water retention as well. Dave Green responded that the Parks Department does not like to have a detention area within the parkland due to maintenance. Board member Thompson said in the past the storm water detention and parkland were combined which limited recreational use. Board member Stephenson said it seems reasonable to combine them. Board member Thompson said they typically do not function well together.

Public Hearing

President Woods opened the public hearing and asked if there is anyone wishing to speak in favor or against Lake Hills Subdivision, 39th Filing. Planning Clerk Deines reported no incoming calls. President Woods closed the public hearing and called for a motion.

CITY/COUNTY PLANNING BOARD

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Motion

Board member Hillius made a motion and Board member Cook seconded the motion to recommend conditional approval of the preliminary plat of Lake Hills Subdivision 39th Filing to the City Council and adopt the Findings of Fact as presented in the staff report. The motion carried with Board member Thompson voting against the motion.

7c. Public Hearing. Motion/Recommendation to City Council. Bitterroot Heights Subdivision, 3rd Filing. Rob Neihart, Performance Engineering, and agent. Dave green, Planner II, presenting.

Dave Green clarified and said this property was annexed into the City as Neighborhood 3, (N3), zoning. Traffic will be alleviated with a second exit point through this subdivision. Bolles Way will be contracted to connect with Mary Street with a future filing. Storm water management will be addressed with a previously constructed storm water detention pond. Hawthorne Lane will be improved and widened as buildout occurs. This is served by Fire Station #6 and it is located within School District #2. Sidewalks will be built as the lots are developed.

A letter was received from Citizen Lindsay Miller voicing concerns with traffic, zoning, and density. Planner Dave Green stated the zoning matches the N-3 zoning with the existing homes. Increases in traffic should be addressed with the additional exit point in the subdivision.

RECOMMENDATION

Staff proposes the Planning Board recommend conditional approval of the preliminary plat of Bitterroot Heights Subdivision, 3rd Filing to the City Council, 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 minimize the effects on local service, prior to final plat approval the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal, or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
3. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

Discussion

President Woods called for questions and discussion. President Woods commented on the issue of on street parking denoted in the citizen letter.

Public Hearing

President Woods opened the public hearing and asked if there is anyone wishing to speak in favor or

CITY/COUNTY PLANNING BOARD

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against Bitterroot Heights Subdivision, third Filing. City Council will hear this application on May 24, 2021.

Motion

Board member Tunncliff made a motion and Board member Thompson seconded the motion to recommend conditional approval of the preliminary plat of Bitterroot Heights 39th Filing to the City Council and adopt the Findings of Fact as presented in the staff report. The motion carried with a unanimous voice vote.

8. NEW BUSINESS: There is no New Business.

9. OTHER BUSINESS

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

- **May 4, 2021 Metra Park Master Plan Design Meeting and Tour Schedule**

Questions about the public engagement sessions can be directed to Tim Goodridge, Assistant General Manager, MetraPark, at 406-256-2414 or to metrapark@gmail.com.

METRAPARK MASTER PLAN PUBLIC LISTENING SESSIONS

Tuesday, April 20, 5:30 p.m.

Shepherd High School Multipurpose Room
7842 Shepherd Road, Shepherd, MT 59079

Tuesday, April 27th, 5:30 p.m.

Lockwood High School Auditorium
1932 U.S. Hwy 87 E, Billings, MT 59101

Wednesday, April 28th, 5:30 p.m.

Laurel High School Auditorium
203 E 8th St, Laurel, MT 59044

Thursday, April 29th, 5:30 p.m.

Yellowstone Valley Electric Cooperative Community Room
150 Cooperative Way, Huntley, MT 59037

- **May 11, 2021-Presentation/Discussion. Montana Bureau of Mines and Geology: West Billings Flood Mitigation and Groundwater Recharge Study Updates. Jon Reiten, Senior Hydrogeologist, Montana Bureau of Mines and Geology.**
- **May 25, 2021-Presentation. Discussion. Metra Park Master Plan. Tim Goodridge, Assistant General Manager, Metra Park; Jamie Porter, Grounds & Entertainment, Metra Park.** Board member Tunncliff stated the Metra Park Board desires input and ideas from the community. He said landscaping would be considered as well as structural changes.

CITY/COUNTY PLANNING BOARD

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- **May 25, 2021 Planning Board Meeting-** This meeting will be held at the Billings Library Community Room in a hybrid format. Board members may participate in person along with about 15 members of the public. Director Friday said he is unsure of the sustainability of this meeting format as there are many logistical details entailed with this meeting format. The Declaration of Emergency is still in place and legislation was proposed for changes to the public meeting requirements to enable the ability for partial remote/hybrid participation by board members but it did not move forward. When the Declaration is lifted, Boards and Commissions will be required to meet in person and remote participation will not be allowed under the State meeting law requirements. Public participation may be offered remotely. Staff is considering meeting spaces to meet social distancing requirements. *President Woods asked the Board members to contact Wyeth Friday to let him know if they wish to attend in person or virtually.*

ADJOURNMENT: 7:15 PM

DRAFT—TO BE APPROVED BY A MOTION- May 11, 2021

--Tamara L. Deines, Planning Clerk

Planning Board

Date: 05/11/2021
Title: Stone Creek Subdivision - Preliminary Major Plat
Presented by: Monica Plecker
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

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

VARIANCES REQUESTED

No variances are requested for this subdivision.

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 ensure the subdivision water system works properly, prior to final plat approval, the applicant will provide documentation outlining how the system will be maintained and who will be responsible for ensuring it is maintained.
3. To protect public health and safety and keep public roads without obstructions, prior to final plat approval, the applicant will obtain written permission from County Public Works for any type of obstruction, sign or other item, in the public right of way. This requirement will be included in the SIA under the heading III Transportation A. Streets.
4. To protect public health and safety with proper fire suppression, prior to final plat approval, the applicant will submit construction drawings to Billings Fire Department for review and approval of the dry hydrant system. Once installed, the applicant will request Billings Fire Department test the system to ensure it works correctly, and the applicant will obtain a sign-off from Billings Fire Department stating it is functioning correctly. The applicant will also create an RSID for the dry hydrant system.
5. To protect public safety and to ensure future maintenance of the parkland, prior to final plat approval, the applicant follow the requirements of Section 10.6 Yellowstone County Subdivision Regulations to determine the correct amount for the cash in lieu contribution for parkland. The applicant will create and RSID for parkland maintenance for this subdivision. The parkland will also be planted and irrigated to be usable parkland for the residents of the subdivision.
6. 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.
7. 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.
8. 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.
9. 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 April 1, 2021, the Planning Division received an application for major plat approval for the proposed Stone Creek Subdivision. The property is generally located on the north east corner of the intersection of Neibauer Road and South 64th Street West. This subdivision would create 126 lots from an 80.122-acre parcel of land. The applicant is proposing to develop a residential subdivision, the land is outside of zoning. The land is currently farmland.

PROCEDURAL HISTORY

- Pre-application meeting November 12, 2020
- Preliminary plat application submitted to Planning Division April 1, 2021
- Departmental review meeting April 15, 2021
- Preliminary plat resubmitted April 22, 2021
- Planning Board plat review May 11, 2021
- Planning Board public hearing May 25, 2021
- Preliminary plat to Yellowstone County Board of County Commissioners June 22, 2021
- 60 working-day preliminary plat review period ends June 25, 2021

PLAT INFORMATION

General location:	Northeast corner of the intersection of Neibauer Road and South 64th Street West
Legal Description:	S20, T01 S, R25 E, W2SW
Owner/Subdivider:	Regal Land Development, Inc
Engineer/Surveyor:	Performance Engineering, LLC
Existing Zoning:	outside zoning
Existing land use:	Farmland
Proposed land use:	Residential
Gross and Net area:	80.122 acres / 57.517 acres
Proposed number of lots:	126
Max. lot size:	1.02 acres
Min. lot size:	0.34 acres
Parkland requirements:	Their required parkland dedication is 5.264 acres; the applicant is proposing to dedicate 3.604 acres of parkland. The balance is to be a cash-in-lieu contribution.

STAKEHOLDERS

There are no stakeholder responses at this time. Stakeholder input will be received at a public hearing scheduled for this subdivision on May 25.

ALTERNATIVES

In accordance with state law, the Board of County Commissioners has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed subdivision ends on June 25, 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 Plan

FISCAL EFFECTS

This subdivision will have no fiscal impact on the City/County Planning Division.

Attachments

Findings of Fact
Proposed Plat
SIA

FINDINGS OF FACT

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

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

1. Effect on agriculture and agricultural water users' facilities

The subject property is used for agricultural purposes. There will be no water shares or rights available to the lots within this subdivision. Irrigation facilities associated with this property will not be altered with the development of the land. It will take 80.122 acres of ag land out of production.

2. Effect on local services

a. **Water and Septic** – The proposed subdivision is not located within any public water system. This subdivision will be served by a community water system from wells located within the proposed County Park. The proposed water system will need to be reviewed and installed in accordance with Section 4.9 of the Yellowstone County Subdivision Regulations and will need to have MDEQ approval. The applicant will provide a copy of the MDEQ approval for the water system at the time of final plat. **(Condition #1)** It is proposed that the maintenance and operation of the water system will be the responsibility of the Home Owners Association (HOA) through a contracted third party. The HOA will be filed with the final plat of the subdivision. **(Condition #2)**

It is proposed that lots will have a septic system on them within the proposed subdivision. The proposed septic systems will need to be reviewed and installed in accordance with Section 4.8 of the Yellowstone County Subdivision Regulations and will need to have MDEQ approval. The applicant will provide a copy of the MDEQ approval for the septic systems at the time of final plat. **(Condition #1)**

b. **Streets and roads** – There will be several new roads within the proposed subdivision. These roads will be public roads and will be built to Yellowstone County paved road standards within 60-foot rights of way. Road names will be determined prior to final plat.

Additional right of way will be provided for both Neibauer Road and South 64th Street West to meet the county requirements for Principal Arterial Street width.

No road within the subdivision is to have any sign or planter built within the right of way or any other item that would be an obstacle in the road without specific written permission from Yellowstone County Public Works. **(Condition #3)**

A TIS was submitted with this subdivision. In the executive summary it says: “As proposed, the Stone Creek Subdivision would not create any new roadway capacity problems in this area. All roadways and intersections will continue to operate within acceptable levels of service with the development of the Stone Creek Subdivision. No roadway improvements will be necessary to serve this project”. The TIS will be reviewed by County Public Works prior to final plat approval.

1. c. **Fire and Police services** – The property is within the Billings Urban Fire Service Area (BUFSA). The developer will be installing a 30,000-gallon dry hydrant system with Phase 1 construction located on Lot 11, Block 5 along the east side of Road C. The tank shall be built to Billings Fire Department standards. Billings Fire Department will review and approve drawings of the tank before installation. It will be tested to ensure it is in working order before final plat. **(Condition #4)**

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 is required 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 kindergarten through 8th grade and School District #2 for West High School. School District #8 responded to the request for information indicating Elementary and Middle school can handle the student population increase.

- g. **Parks and recreation** – This proposed subdivision is required to provide parkland. The applicant in the SIA under the heading VIII. Parks/Open Space has outlined the requirements of parkland. The total required parkland dedication is 5.264 acres. The applicant is proposing to dedicate 3.604 acres. The applicant is proposing to do a cash in lieu contribution for the difference, which is 1.66 acres. The applicant will follow the requirements of Section 10.6 YCSR. The estimated contribution will be submitted to the County Park Board for review and approval prior to cash in lieu contribution. Within the parkland dedication, a community well for the subdivision will be installed, this proposal has been reviewed by the County Park Board and they raised no concerns with the wells in the park. The applicant will also create an RSID for maintenance, the park RSID needs to be formed that does not include any other RSID. The dedicated park land must be planted and irrigated. **(Condition #5)**

This subdivision is also identified in the Billings Area Bike Trail and Master Plan (BABTMP). A future trail is identified on both South 64th Street and Neibauer Road. There is no trail identified within the proposed subdivision.

h. **Postal Service** –Mailbox location for the proposed subdivision will be coordinated with the USPS. It will require CBU boxes and room for a vehicle to safely pull off the road for postal delivery. The applicant will be required to coordinate with the USPS to ensure they are providing what is needed for a safe and efficient mailbox location. **(Condition #6)**

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 two phases within this subdivision. Those phases are outlined in the SIA under the heading, X. Phasing of Improvements. Phase 1 will begin with final plat of the proposed subdivision, Phase 2 is planned to be opened by June 1, 2030. Phase openings require a public hearing with the possibility of additional conditions of approval should a need for additional conditions be demonstrated with the building of Phase 1 or other unforeseen issues that may arise in the area.

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 #7)**

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 Billings 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 A of

the County Subdivision Regulations. Although there is a potential for wildlife in the area this is a parcel that has been used for farming purposes for many years and the natural habitat that may have been on it no longer exists, with the possible exception of small wildlife creatures living the surrounding grassy road edges.

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: Active, safe neighborhoods with a high quality of life. (p. 16)
The subdivision will provide open space and sidewalks for the people who build homes in this subdivision. The density will allow for people to watch out for each other.

- Goal: Safe roadways supportive of vehicles, bicycles and pedestrians. (p. 15)
The proposed road within the subdivision will also have sidewalks for pedestrians and children on bikes.

- Goal: Controlled weed populations. (p. 9)
The developer shall complete a weed management plan and shall provide a re-vegetation plan for any ground disturbed by development.

2. 2018 Urban Area Transportation Plan

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

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

The subject property is within the Billings Area Bikeway and Trail Master Plan Update. There are no trails identified within the subdivision.

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 lots are subject to DEQ review.

**F. Does the proposed subdivision meet any applicable Zoning Requirements?
[Section 3.2 (H) (3) (e), YCSR]**

The proposed subdivision is within outside of zoning.

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

Private utilities are to be installed in the private road and utility easements by private utility companies. Should the private utility companies require easements the applicant will be required to coordinate the easements needed with the private utility companies. Well and septic will be reviewed and approved by MDEQ prior to final plat.

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

Legal and physical access will be provided for the new proposed lots from South 64th Street West and Hesper Road. Internal streets will provide access to individual lots.

CONCLUSIONS OF FINDINGS OF FACT

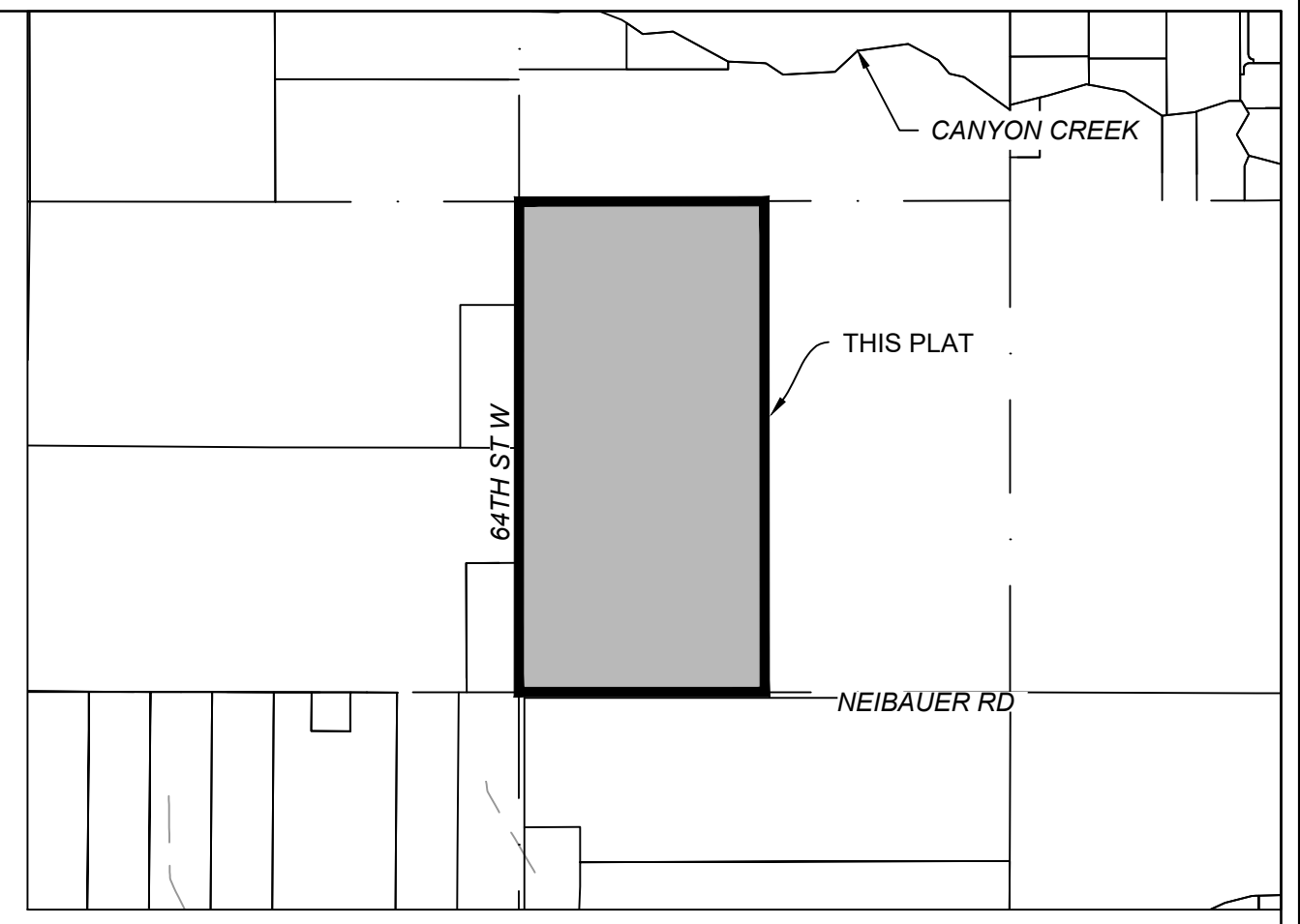
- This subdivision does not create adverse impacts that warrant denial of the subdivision.
- Impacts to agriculture, agriculture water user facilities, local services, public health and safety, the natural environment, and wildlife should be minimal, and can be mitigated by reasonable conditions of final 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

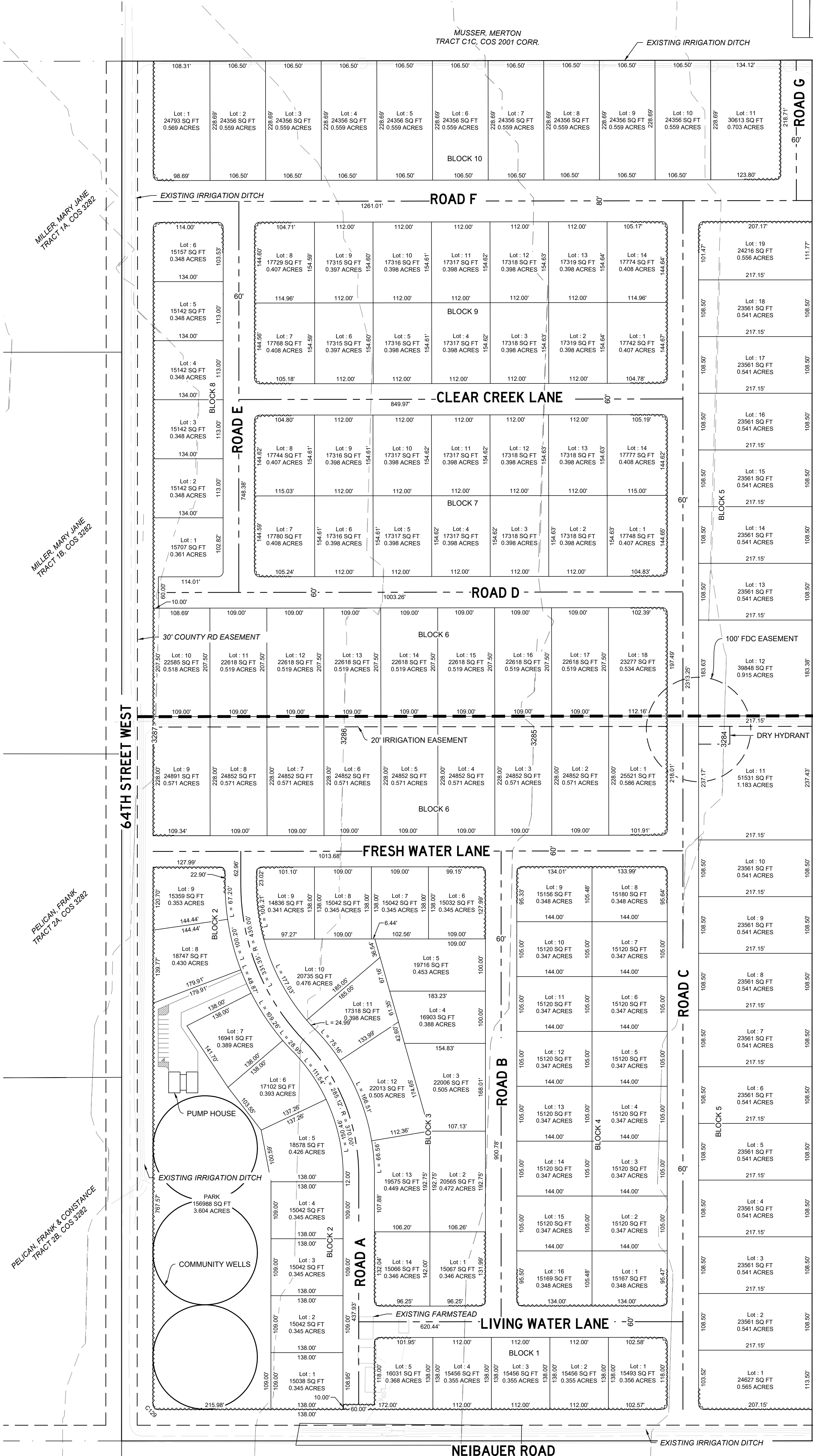
Staff proposes that the Planning Board recommend conditional approval of the preliminary plat of Stone Creek Subdivision, to the Board of County Commissioners, and adopt the Findings of Fact as presented in the staff report, the SIA and Waiver.

PRELIMINARY PLAT OF STONE CREEK SUBDIVISION BEING AN UNPLATTED TRACT LOCATED IN THE W2SW OF SECTION 20, TOWNSHIP 01S, RANGE 25E YELLOWSTONE COUNTY, MONTANA P.M.M.

PREPARED FOR : REGAL LAND DEVELOPMENT, INC
PREPARED BY : PERFORMANCE ENGINEERING, LLC
DATE: APRIL 2021

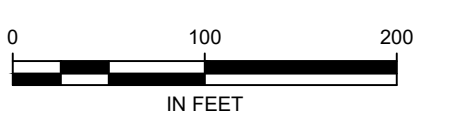
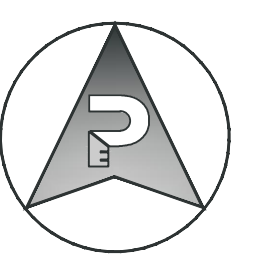


VICINITY MAP



SITE DATA	
# OF LOTS	126
MAXIMUM LOT AREA	± 44,357 SF
MINIMUM LOT AREA	± 15,038 SF
PARKLAND AREA REQUIRED	± 5.264 AC
PARKLAND AREA PROVIDED	± 3.604 AC
LINEAL FEET OF STREETS	± 9,816 LF
NET LOT ACREAGE	± 57.517 AC
GROSS ACREAGE	± 80.122 AC
EXISTING ZONING	UNZONED
EXISTING LAND USE	AGRICULTURE
PROPOSED LAND USE	RESIDENTIAL
SANITARY SEWER	INDIVIDUAL SEPTIC
WATER	COMMUNITY WELL
FIRE SERVICE AREA	BUFSA

PHASE 2
PHASE 1



**SUBDIVISION IMPROVEMENTS AGREEMENT
STONE CREEK SUBDIVISION
Table of Contents
(Yellowstone County)**

I.	VARIANCES.....	2
II.	CONDITIONS THAT RUN WITH THE LAND.....	2
III.	TRANSPORTATION.....	3
	A. Streets.....	3
	B. Sidewalks	4
	C. Traffic Control Devices	4
	D. Access	4
	E. Billings Area Bikeways and Trail Master Plan (BABTMP)	4
IV.	EMERGENCY SERVICE	5
V.	STORM DRAINAGE.....	5
VI.	UTILITIES.....	5
	A. Water.....	5
	B. Septic System.....	6
	C. Power, Telephone, Gas, and Cable Television	6
VII.	PARKS/OPEN SPACE.....	6
VIII.	IRRIGATION	7
IX.	SOILS/GEOTECHNICAL STUDY	7
X.	PHASING OF IMPROVEMENTS.....	7
XI.	FINANCIAL GUARANTEES	7
XII.	LEGAL PROVISIONS.....	8

SUBDIVISION IMPROVEMENTS AGREEMENT

Stone Creek Subdivision

This agreement is made and entered into this ____ day of _____, 20__, by and between *REGAL LAND DEVELOPMENT, INC*, whose address for the purpose of this agreement is **P.O. Box 80445, 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 _____, 20__, the Board of Planning recommended conditional approval of a preliminary plat of *Stone Creek Subdivision*; and

WHEREAS, at a regular meeting conducted on ____ day of _____, 20__, the Yellowstone County Board of County Commissioners conditionally approved a preliminary plat of *Stone Creek Subdivision*; and

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

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

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

I. VARIANCES

Subdivider has requested, and the County hereby grants, the following variances by the Board of County Commissioners from the strict interpretation of the County’s Subdivision Regulations (Chapter 11, Yellowstone County Subdivision Regulations):

1. No variances requested.

II. CONDITIONS THAT RUN WITH THE LAND

- A.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

- B.** Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.
- C.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- D.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned by the completion of the conditions set forth in the Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.
- E.** Culverts and associated drainage swales shall not be filled in or altered by the Subdivider or subsequent lot owners.
- F.** When required by road improvements, all fences and irrigation ditches in the public right-of-way adjacent to this subdivision shall be removed or relocated outside of the public right-of-way and any relocation outside of the public right-of-way shall be subject to securing and recording easements.
- G.** Future maintenance of all public (or common) improvements shall be done through one (1) or more RSID(s) created as part of the SIA for this subdivision.
- H.** Lot owners or their agent will obtain an Access Permit from County Public Works prior to any construction on any lot within the subdivision. The application will include a site plan showing the desired location of the access and show that it meets the requirements outlined by the DEQ storm water requirements for the subdivision. Failure to do so will result in the lot owner or their agent removing what has been installed and locating the access in an approved location at the lot owner's expense.
- I.** It is the obligation of the property owners within this subdivision to pay for the maintenance of the community water system whether it is handled by a third-party contractor or through the HOA.

III. TRANSPORTATION

A. Streets

Right-of-way Widths: All the streets within Stone Creek Subdivision are public roadways and have a minimum right-of-way width of 60 feet. 64th Street West and

Neibauer Road are public roadways classified as principal arterial roads and shall have minimum right-of-way width of 120 feet.

Pavements Widths and Surface Types: All streets shall be built to grade with a satisfactory engineered subbase, base course, and asphalt surface. All internal roads shall have a minimum pavement width of 24 feet with 2-foot gravel shoulders. The engineered designed cross-sections of said streets shall be submitted to the Yellowstone County Public Works Department.

Other Required Street Improvements: Drainage ditches shall be constructed adjacent to the roadways in accordance with Yellowstone County Public Works standards and DEQ requirements to convey stormwater. Culverts shall be provided to convey stormwater across roadways and driveways.

B. Sidewalks

Individual lot owners are responsible for the installation of sidewalks within the designated private sidewalk easements located along lot frontages as shown on the plat. Sidewalks shall be 5' wide and installed at the time of lot development. The subdivision HOA will be responsible for the maintenance and repair of sidewalks following initial installation.

C. Traffic Control Devices

Traffic Control Devices: Subdivider shall furnish the necessary traffic control devices within and adjacent to the subdivision as required by the County. Traffic control devices shall comply with the Manual on Uniform Traffic Control Devices (MUTCD) and County standards.

Street Name Signs: Subdivider shall furnish and install street name signs for streets within the subdivision, or located immediately adjacent thereto, in accordance with the specifications of the County Publics Works and Fire Departments.

D. Access

Access to Stone Creek Subdivision shall be provided by a single primary access off Neibauer Road and two primary access points off 64th Street West. A 60-foot minimum right-of-way shall be dedicated to the public by Subdivider for all internal streets.

No Access strips shall be provided along the frontages of 64th Street West and Neibauer Road with exception to access point depicted on the Plat. Additional no access strips along internal roads are provided as depicted on the Plat.

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

The subdivision is located within the planning area of the Billings Area Bikeway and Trail Master Plan. The plan identifies a long-range bike lane along 64th Street West and Neibauer Road.

IV. EMERGENCY SERVICE

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply in place to allow for fire suppression requirements. Prior to the 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 Billings Urban Fire Service Area (BUFSA).

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.
- The subdivision shall install a 30,000-gallon water storage tank with dry hydrant according to the specification of the BUFSA. No structure is to be constructed within 100 feet of the Fire Department Connection (FDC) point at the dry hydrant. The system design shall be reviewed and approved by the BUFSA prior to construction of the system. Tank and dry hydrant are to be inspected, acceptance tested, and approved by the BUFSA prior to any building construction occurring on the lots served by the system. The tank and dry hydrant require the formation of a new RSID for maintenance thereof. The new RSID will consist of all proposed lots within the Subdivision.

The above requirements do not alter or effect the current minimum subdivision requirements for apparatus access and water supply.

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions of the Section 4.7, Yellowstone County Subdivision Regulations, and a stormwater management plan shall be submitted to and approved by the Montana Department of Environmental Quality (MDEQ), or its designee.

VI. UTILITIES

A. Water

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

- The Subdivision shall be supplied by community wells. Water will be conveyed to the individual lots utilizing a water distribution system.
- The community water supply system shall conform to the standards set forth by the Yellowstone City-County Health Department and MDEQ.
- The operation and maintenance of the community water system shall be contracted by the Subdivision Home Owners Association(s) or Subdivider.

- A MDEQ approval letter will be submitted with the final plat.

B. Septic System

In accordance with Section 4.8 of the Yellowstone County Subdivision Regulations, all sanitary sewer systems must obtain approval by the Montana Department of Environmental Quality, or its designee.

Municipal public sanitary sewer service is not available in the subdivision at this time. The subdivision will be served by individual wastewater disposal systems as approved by Montana Department of Environmental Quality. These systems shall be located and installed as shown on the site layout approved by Montana Department of Environmental Quality submitted with the final plat.

Individual septic tanks, dosing tanks, and drainfields will be the responsibility of the future lot owner at the time of lot development.

C. Power, Telephone, Gas, and Cable Television

Power, natural gas, telephone, and cable will be located within the public right-of-way and utility easements shown on the plat.

All power, natural gas, telephone, and cable (where said utilities are actually available and existing to the subdivision) shall be installed prior to street paving. Extension of private utilities into each lot shall be the responsibility of the individual lot owners. The location of all such off-site facilities within the existing public rights-of-way shall be subject to approval of the County Public Works Department and shall be installed underground. The Subdivider shall coordinate installation with various utility companies.

VII. PARKS/OPEN SPACE

Section 76-3-621 of the Montana Subdivision and Platting Act covers the park dedication requirement. Per 10.2(A) of the Yellowstone County Subdivision Regulations:

- Lots 0.50 acres or less, 11% dedication: $28.719 \text{ acres} \times 11\% = 3.159 \text{ acres}$
- Lots 0.50 – 1.0 acres, 7.5% dedication: $26.597 \text{ acres} \times 7.5\% = 1.995 \text{ acres}$
- Lots 1.0 acres – 3.0 acres, 5% dedication: $2.201 \text{ acres} \times 5\% = 0.110 \text{ acres}$
- Lots greater than 3.0 acres, 2.5% dedication: $0.00 \text{ acres} \times 2.5\% = 0.00 \text{ acres}$

Section 76-3-621 of the Montana Subdivision and Platting Act covers the park dedication requirement. Required parkland dedication is 5.264 acres, Subdivider is proposing to dedicate 3.604 acres of parkland area to the public. The remainder of the parkland requirement will be fulfilled by way of cash-in-lieu. A Park Maintenance District will be created for the maintenance of the parkland area.

VIII. IRRIGATION

Subdivider agrees there will be not irrigation water available to this Subdivision. No water shares will be transferred to the individual lot owners. Access to the existing ditches and drains on the perimeter of the property for maintenance and operation shall remain. Any modification to the ditches or drains shall be agreed upon by the respective ditch and drain owners.

IX. SOILS/GEOTECHNICAL STUDY

A geotechnical study is not required by the Yellowstone County Subdivision Regulations as part of this plat. Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitation for proposed construction on the lots, which may require a geotechnical survey prior to construction.

X. PHASING OF IMPROVEMENTS

Improvements for the subdivision are to be developed in two (2) phases. The phases are defined as follows:

A. Phase I

- Lots 1-5, Block 1; Lots 1-9, Block 2; Lots 1-14, Block 3; Lots 1-16, Block 4; Lots 1-11, Block 5; Lots 1-9, Block 6
- All internal roads fronting said lots shall be completed. Two points of ingress/egress shall be provided for the Subdivision.

B. Phase II – Opened by June 1, 2030

Lots 12-19, Block 5; Lots 10-18, Block 6; Lots 1-14, Block 7; Lots 1-6, Block 8; Lots 1-14, Block 9; Lots 1-11, Block 10

All remaining roads servicing the Subdivision shall be completed.

Utilities for each lot will be constructed at the time of phase development.

XI. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements by private contracts secured by bonds, irrevocable letters of credit, sequential development, or any other method that may be acceptable to the Planning Board and Board of County Commissioners. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said special improvement district or private contract, and the improvements shall be designed and constructed under the supervision of a professional engineer competent in civil engineering, licensed in the State of Montana. Upon completion of the improvements, the consulting Engineer shall file with the Public Works Department, a statement certifying

that the improvements have been completed in accordance with approved, seal stamped, record drawings, along with all required post-construction certification per Section 4.6.C of the Yellowstone County Subdivision Regulations.

(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.

XII. LEGAL PROVISIONS

- A.** Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by Yellowstone County.
- B.** The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.
- C.** The covenants, agreements, and all statements in this Agreement apply to and shall be binding on the heirs, personal representatives, successors and assigns of the respective parties.
- D.** In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.
- E.** Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.
- F.** Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.
- G.** Subdivider agrees to create any required (or expansion of existing) RSID(s) for future maintenance of all public (or common) constructed improvements prior to final plat approval.

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

“SUBDIVIDER”

Regal Land 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 *Regal Land 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 Yellowstone County, this ____ day of _____, 20__.

“COUNTY”
COUNTY OF YELLOWSTONE
MONTANA

County of Yellowstone
Board of County Commissioners

By: _____
Chairman

Commissioner

Commissioner

Attest: _____
County Clerk and Recorder

STATE OF MONTANA)
 : ss
County of Yellowstone)

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

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

Waiver of Right to Protest

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

This Waiver and Agreement is independent from all the 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 describe as follows:

Stone Creek Subdivision

Signed and dated this ____ day of _____, 20__

Regal Land 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 *Yellowstone Property Hodlings, LLC* who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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