



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



**AGENDA**  
 MAY 25, 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\*\***

NOTICE IS HEREBY GIVEN that the Yellowstone County Board of Planning, Montana, will hold a public hearing on Tuesday, May 25, 2021 starting at 6:00 p.m. Due to the COVID-19 health concerns, the format of the Yellowstone County Board of Planning meeting will be held in a hybrid format that includes both in-person AND Zoom. Board Members can choose to attend the meeting virtually or in-person at the Billings Public Library Community Room, 510 North Broadway, Billings, MT 59101. 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 of Billings and Yellowstone County Board of Planning are 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>

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: JUNE 11, 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.  
 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: Planning & Community Services Department, 2825 3rd Avenue North, 4th Floor, Billings, MT 59101
    - Email [deines@billingsmt.gov](mailto:deines@billingsmt.gov) or [greend@billingsmt.gov](mailto:greend@billingsmt.gov). Comments may be sent to Planning via email before 3:00 PM on Tuesday, May 25th. Emails received before 3:00 P.M. will be entered into the record, emails received between 3:00 PM and 5:00 PM, will be entered into the record during the meeting.
    - Attend the meeting and comment in person (limited to approximately 15 spectators with overflow available in lobby). Speakers may be asked to exit after speaking to comply with social distancing protocols.
    - Attend virtually through Zoom by registering per instructions and using the link found on the Planning Board webpage: <https://ci.billings.mt.us/95/Yellowstone-County-Planning-Board>
    - The practice of receiving phone calls for Public Comment will *not* be available for this meeting. Please direct questions to Tammy Deines, Planning Clerk at [deines@billingsmt.gov](mailto:deines@billingsmt.gov) or 406-247-8610. Thank you!
1. **Public Hearing. Motion/Recommendation to BOCC. Stone Creek Subdivision.** A 126-lot County Major Subdivision. Dan Wells, Regal Land Development, owner/developer. Scott Aspenlieder, Performance Engineering, agent. Dave Green, Planner II, presenting.
8. **NEW BUSINESS:** (Agenda items new to this meeting).
  - a. Presentation. Board Discussion. METRA Park Master Plan, Tim Goodridge, METRA Park Assistant Manager, presenting.
9. **OTHER BUSINESS:**
  - a. Discussion. [PlanBoard@billingsmt.gov](mailto:PlanBoard@billingsmt.gov). Planning Board e-mail address for Board communication and City/County website. Planning Board members 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, JUNE 8, 2021

**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:** 05/25/2021

---

---

**Information**

**Subject**

**MOTION. APPROVAL OF MEETING MINUTES: JUNE 11, 2021**

---

---

**Attachments**

PlnBMinutes\_2021\_05\_11\_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	05/11/2021	** 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
<b>Teresa Larsen</b>	Mayor/Billings Ward I	1	1	1	1	1	1	1	E	1														
<b>Heidi Jensen-Christison</b>	Mayor/Billings Ward II	1	1	E	1	1	E	1	E	1														
<b>Dennie Stephenson</b>	Mayor/Billings Ward III	1	1	1	1	1	1	1	1	1														
<b>Darell Tunnickliff</b>	Mayor/Billings Ward IV	1	1	1	1	1	1	1	1	1														
<b>Jon Thompson</b>	Mayor/Billings Ward V	1	E	1	1	E	1	1	1	E														
<b>Troy Boucher</b>	YC District 1	1	1	1	E	1	E	1	1	A														
<b>Dennis Cook</b>	YC District 2	1	1	1	1	1	1	1	1	1														
<b>Vacant</b>	YC District 3	-	-	-	-	-	-	-	-	-														
<b>Vacant</b>	YC District 4	-	-	-	-	-	-	-	-	-														
<b>Woody Woods</b>	YC District 5	1	1	1	1	1	1	1	1	1														
<b>Vacant</b>	YC District 6	-	-	-	-	-	-	-	-	-														
<b>Jarett Hillius</b>	YC District 7	1	1	1	E	1	1	E	1	1														
<b>Vacant</b>	Y County Cons. District	-	-	-	-	-	-	-	-	-														
<b>Scott Reiter</b>	<b>Ex-Officio SD2</b>	-	-	-	1	E		E	E	A														

---

## CITY/COUNTY PLANNING BOARD

*"Serving Billings, Broadview and Yellowstone County"*

**May 11, 2021**

### **Virtual Video Conference Format**

*DRAFT- To be approved by a motion on May 25, 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, May 11, 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 May 11, 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; Monica Plecker, Planning Division Manager; Dave Green, Planner II, Tammy Deines, Planning Clerk; Darin Swenson, Yellowstone County Public Works Dept

**Other Participants:** Lee Hanson, Jon Reiten, Senior Hydrogeologist, Kevin Chandler, Montana Bureau of Mines and Geology; Scott Aspenlieder, Performance Engineering; Scott Worthington, InSite Engineering, Agent for Regal Land 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 May 11, 2021 Agenda**

**Board member Tunncliff made a motion and Board member Cook seconded the motion to approve the May 11, 2021 meeting agenda as submitted. The motion carried with a unanimous voice vote.**

---

## CITY/COUNTY PLANNING BOARD

*"Serving Billings, Broadview and Yellowstone County"*

### **Approval of Minutes: April 27, 2021**

**Board member Tunncliff moved and Board member Stephenson seconded the motion to approve the April 27, 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.

### **Emails from the public:**

- Darren and Julie Miller, owner/operator farm and feedlot, 2007 S 72nd St. West, Billings MT 59106 in opposition to Stone Creek Subdivision.
- Connie Pelican, 5917 Danford Road, Billings, MT in opposition to Stone Creek Subdivision.
- Merton Musser, CAI, Musser Bros. Inc., PO Box 22035, Billings, MT 59104 in opposition to Stone Creek Subdivision.

**7. OLD BUSINESS:** There is no Old Business

### **8. NEW BUSINESS**

**8a. Plat Review. Discussion. Stone Creek Subdivision. County Major Subdivision. Dan Wells, Regal Land Development, applicant. Scott Worthington, InSite Engineering, applicant's agent.**

Planner Dave Green opened this agenda item. He noted citizen concerns with traffic and water percolation into the aquifer, "hopscotching", and the lack of contiguous development. As this property land develops, it will be surrounded by farmland and homeowners will need to be aware of potential noise and dust. He commented the County is under discussion about how to handle private infrastructure in public parks.

### **INTRODUCTION**

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 northeast corner of the intersection of Neibauer Road and South 64<sup>th</sup> 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.

### **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.

Page 3 of 11

PlnBMinutes\_2021\_05\_11\_DRAFT

Reviewed by Planning Staff

**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. Once installed, the applicant will request Billings Fire Department to test the system to ensure it works correctly; 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.

---

## CITY/COUNTY PLANNING BOARD

*"Serving Billings, Broadview and Yellowstone County"*

President Woods commented on subdivisions developed outside of the zoning boundary and the need to consider extend the boundary. He called for presentation by the applicant to provide further information.

### **Scott Worthington, InSite Engineering, (No address given)**

Scott Worthington is representing Dan Wells, Regal Land Development as applicant Dan Wells is unable to attend this evening. Scott said the proposal is to create a neighborhood that is the highest and best use of the land. He pointed to recent Regal Land Developments including Sky Crest Subdivision, which is similar to this proposed development. He said that while this parcel is outside of the zoning district, the lot sizes are consistent with other developments. The lot sizes lend themselves well to community water systems and individual treatment systems. He stated that having the community water system located within the parkland provides a dual use for water for the neighborhood and parkland open space. They have initiated discussions with DEQ and are going through the permitting process to ensure there are no adverse effects. They are working toward obtaining a water right permit from DNRC. Mr. Worthington said these types of neighborhoods become desirable areas. Sidewalks are proposed to provide safety and walkability. Mr. Worthington said this is a well thought out development and they are looking forward to the opportunity to move ahead. Scott Aspenlieder, Performance Engineering is attending.

### **Discussion**

President Woods called for questions and discussion from the Board.

President Woods asked if the irrigation ditch separating the phases on the plat would remain an open ditch and if homeowners will be made aware that there are no ditch rights. Scott Worthington said this will be addressed in the Covenants and Restrictions, and the easement will be depicted on the final plat. The ditch will remain open. At some point a culvert will be installed to cross the ditch.

Board member Tunnicliff asked what purpose parkland serves in a subdivision. Scott Worthington said parks provide a public open space to meet a need that the lots themselves do not meet such as picnic areas, soccer fields, or a tot lot playground. Board member Tunnicliff said he feels the proposed parkland on this plat is not centrally located. It is located at a busy intersection and there could be safety concerns. He said it seems to be designed to fit the need for water wells. He said that often times in developments the parkland is used as filler to provide a benefit to the subdivision and not the residents of the subdivision. He questioned whether this parcel was chosen due to its value in relation to the other lots in the subdivision.

Scott Worthington replied that there is a good separation between the edge of the roads and the useable area of the park. He said having it out front provides an open look and feel to the subdivision. He feels that all of the lots in this development are of equal value. Surface streets are

---

## CITY/COUNTY PLANNING BOARD

*"Serving Billings, Broadview and Yellowstone County"*

provided internally for safety and access control. Board member Tunnicliff said there is only one access point across the ditch. Scott Worthington said another point of connection to the park could be provided on the west side of the parkland. Board member Tunnicliff asked about improvements, and Scott Worthington said the Home Owners' Association would provide maintenance of the park.

Board member Cook asked regarding the traffic and if a traffic study has been conducted.

Scott Aspenlieder, Performance Engineering, said a traffic study was completed to analyze the major intersections. It concluded that these intersections would not see a reduction in levels of service within a mile of the development.

Board member Hillius asked for more detail on the water system as he has concerns with water quality from the shallow wells in this area. Scott Aspenlieder said generally in the west end, wells fail due to nitrate impacts. He stated that this issue is not as significant in this area as there is still a fair amount of irrigation to flush this out. The wells will have a chlorination system and monitored with reports provided to DEQ, which is a significant benefit to the public. Septic systems generally will be an elevated treatment system. Nutrient and nitrate values are relatively low. It will have to comply with State and local regulations. He said that community systems are better than the shared wells. Board member Hillius voiced concern that eventually the chlorination system will not be able to handle potential nitrate issues in the future. He asked if there is any option to connect this community when public water is available. Scott Aspenlieder said one of the benefits of a community water system is it allows for connections and decommissioning of the wells.

Six-inch water lines will be used throughout the development. President Woods said the Home Owners' Association should be kept intact, as a single point of contact will be needed for connection to the City required eight-inch line. Board member Hillius asked about the approval for the various lot sizes, which are ranging from 1/3-acre to 1-acre. President Woods said he lives in an area in which DEQ allowed smaller lots. Scott Worthington explained that lots averaging 1/2 acre lend well to water treatment systems, and 1/3-acre lots allows for primary drain fields. They are proposing Level 2 treatment systems, which are more effective with nutrient removal. Board member Stephenson commented the parkland should be separated in the phases. He asked how parkland cash-in-lieu funds are used. Dave Green said it these funds are dedicated to be used for maintenance or upgrades in parks nearest to the area. Board member Stephenson said he would prefer the parkland be provided. Board member Jensen-Christison said she feels putting the infrastructure in the parkland is a poor location. She asked Dave Green when the County would review and decide whether this can be done in subdivisions. Dave Green said the County has been under discussion and hopes to have information in the next few days.

### **Public Hearing**

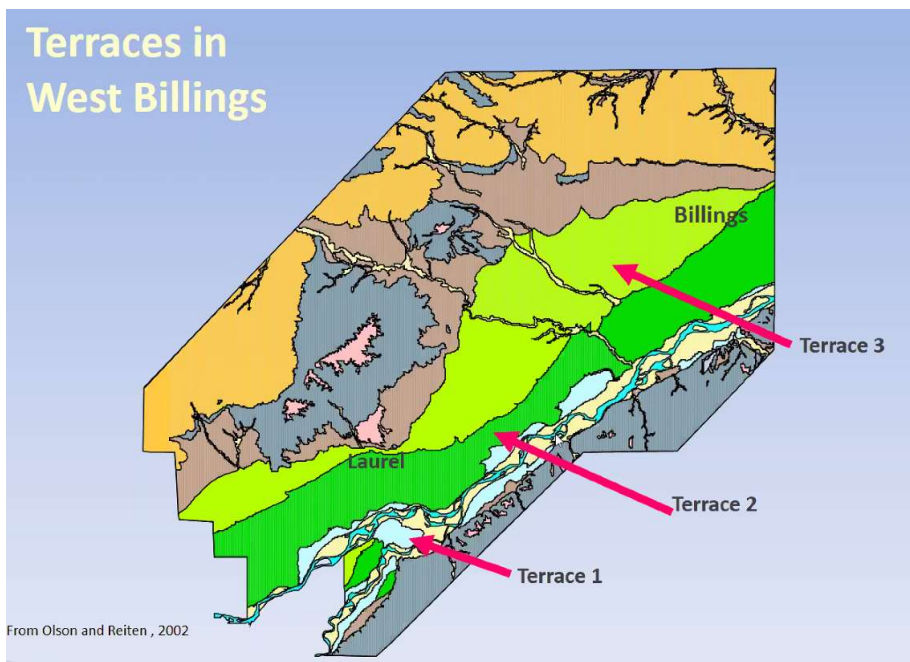
A public hearing for this subdivision will be held during the May 25, 2021 Planning Board meeting.

9. OTHER BUSINESS

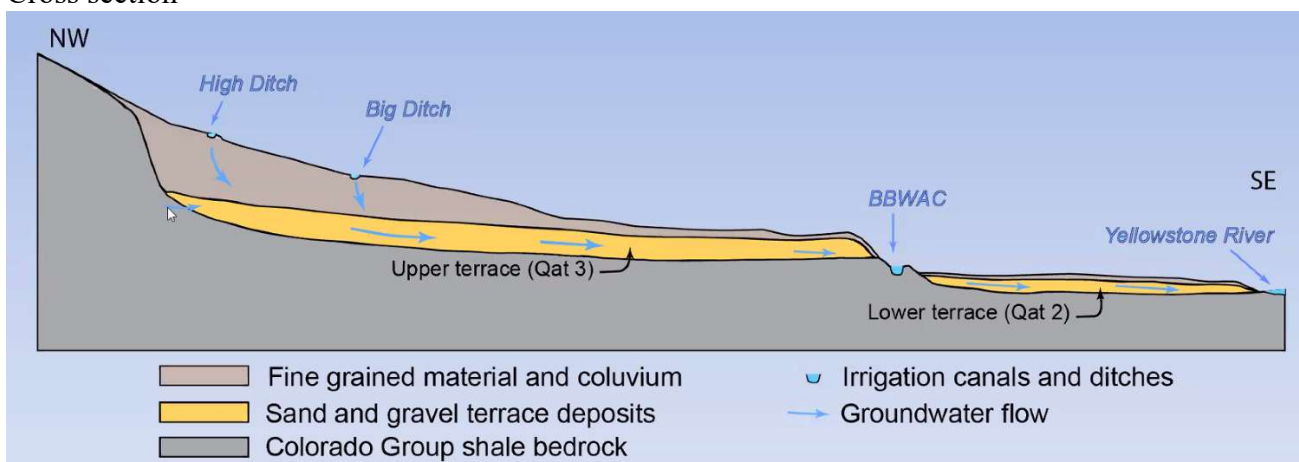
9a. Presentation/Discussion. **Montana Bureau of Mines and Geology: West Billings Flood Mitigation and Groundwater Recharge study Updates.** Jon Reiten, Senior Hydrogeologist, Kevin Chandler, Montana Bureau of Mines and Geology.

Jon Reiten opened this agenda item. He said the City of Billings is interested in submitting a proposal for modeling under legislative funding. They are working with the City and the proposal is due the end of this month. He continued with the presentation.

The groundwater flow models have helped identify increasing nitrate issues in West Billings.

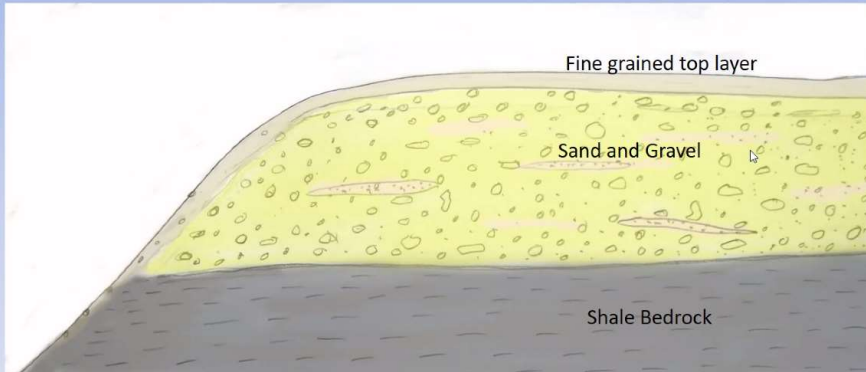


Cross section



The closer the fine-grained top layer is to the terrace edge, the more likely there will be groundwater problems.

### Conceptual model of terrace scarp

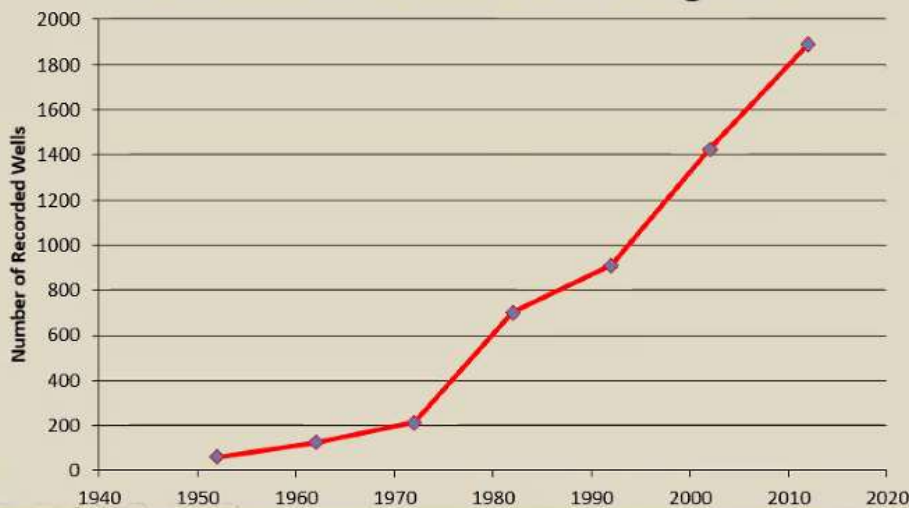


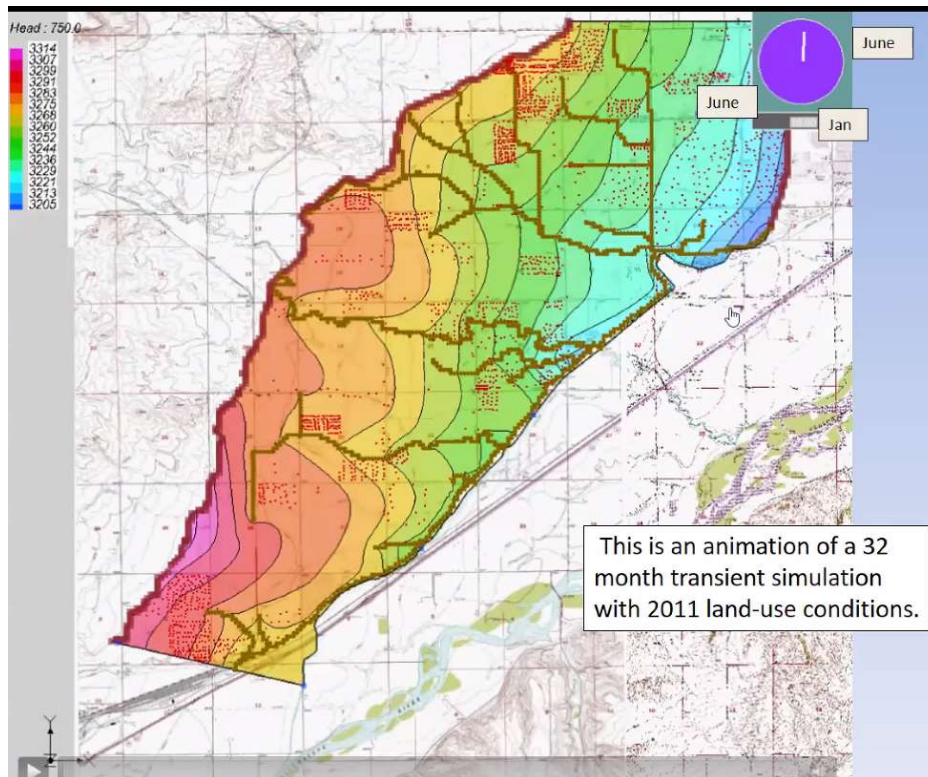
### Changes in the West Billings Area

There was a 23% loss of irrigated lands between 1966 and 1999 (Olson and Reiten, 2002).

Analysis of aerial images from 1996 to 2009 showed 2380 acres of irrigated land was lost in the model area at a rate of 180 acres per year.

### GWIC Wells in T1S R25E, West Billings Area





## Predictive Model Simulations

- A 50 year transient model was programmed to simulate changes from 2008 until 2057
- The recent rate of land-use change for the model area was assumed to remain constant into the future.
- For each model year starting in 2012, approximately 180 acres of irrigated land was developed .
- Wells were added in the developed land to represent lawn irrigation.
- Simulations were run with the ditches on and ditches off to estimate the aquifer response to modeled ditch leakage.

## Groundwater Investigation Program (GWIP) Proposal

- Establish a monitoring network to record hourly water-level data.
- Install stream monitoring on surface flows.
- Measure water quality at all sites.
- Expand the groundwater model to a larger area and include particle tracking to answer water quality questions.
- Calibrate to current conditions and evaluate predictions of the 2011 model.
- Simulate current land-use conditions and future development scenarios.

### Discussion

Board member Hillius asked what would take place in a scenario in which areas on the west end are developed and there is no flood irrigation to replenish the aquifer. It was explained that the aquifer would have water but if the areas are close to the terrace edge, fresh water may not be available and contaminated water on top of the aquifer will be in the well streams. Board member Hillius said it might be more likely that reverse osmosis will be required.

Kevin Chandler said the City is planning for extension of water services in the area of 72<sup>nd</sup> Street West. He commented on nitrate issues in Crystal Springs Subdivision related to nearby feedlots. Scott Worthington, InSite Engineering commented that the public water supply for the proposed Stone Creek Subdivision was permitted by DEQ and things such as feedlots were taken into consideration. Question was asked if the west end is comparable to Ballantine. Kevin Chandler said we are at a point where having more information is a good thing. He said that the system in Ballantine is more vulnerable due to the shallow water supply. He pointed out that models are not the actual systems.

Board member Hillius asked if there is anything the Planning Board could do to support the request for modeling. Jon Reiten said eventually a letter of support from the Planning Board would be useful. He said he would like to ensure that the Board's interests are addressed.

President Woods said community water systems are fine but could dry up at some point. He commented that twenty-five years goes by quickly. He said he feels the Board would support the effort and submit a letter of support.

Board member Jensen-Christison asked if it is possible to run different scenarios in the models including scenarios considering global warming. Kevin Chandler said he is able to run models as long as the model locations are known along with the pumping rates. He said one of problems with the West Billings area is that some of the artificial recharge systems may not work. He commented on potential funding sources for modeling.

---

## CITY/COUNTY PLANNING BOARD

*"Serving Billings, Broadview and Yellowstone County"*

Board member Cook asked for thoughts on a future treatment plant. Discussion followed on the rapid rate of development and wells that are not functioning. Board members brought up the need for the City and the County to work together to enact impact fees. Jon Reiten said this could be a good avenue for funding modeling in the future. Director Friday said the City is discussing impact fees for capital expenses for public safety and extensive analysis is needed to move forward. He said the modeling information should be used to our advantage to avoid issues with water in the future. Director Friday asked that Planning Staff and the Planning Board to be kept informed for future engagements.

### **I9b. Standing Item. Staff Updates. Long Range Strategic Issues and an overview of future City and County issues and projects.**

- **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. The technical equipment will be tested on Wednesday. President Woods and Dennis Cook offered to participate as volunteer testers. Early arrival to this meeting is recommended to ensure the devices are connected prior to the meeting for members attending in person. The public hearing for Stone Creek Subdivision will be held on the May 25<sup>th</sup> agenda along with a METRA Park Master Plan presentation.  
*→President Woods asked the Board members to contact Planning Clerk Tammy Deines to confirm whether they plan to attend in person or virtually.*

**ADJOURNMENT: 7:38 PM**

**DRAFT—TO BE APPROVED BY A MOTION- May 25, 2021**

*--Tamara L. Deines, Planning Clerk*

## **Planning Board**

**Date:** 05/25/2021  
**Title:** Stone Creek Subdivision - Preliminary Major Plat - Public Hearing  
**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 existing uses around the proposed subdivision, prior to final plat approval, the applicant will add a paragraph to the SIA under the heading II Conditions That Run With The Land to inform lot purchasers of existing active farming surrounding the subdivision and to expect farming noises, dust and all other things associated with farming to occur around them.
2. 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.
3. 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.
4. 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.
5. To protect public health and safety with proper fire suppression, prior to final plat approval, the applicant will submit construction drawings of the dry hydrant system to Billings Fire Department for review and approval. Once installed, the applicant will request Billings Fire Department to test the system to ensure it works correctly, 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.
6. To protect public safety and to ensure future maintenance of the parkland, prior to final plat approval, the applicant will 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.

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 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

Staff gave a brief overview of the proposed subdivision to the Planning Board. Staff noted that there were four letters received from surrounding neighbors with concerns about the proposed subdivision. Staff provided a brief overview of the concerns stated in the letters received. Additionally, staff informed the Board of a meeting that took place with members of County Staff concerning placing subdivision signs in the public right of way and that would not be allowed any longer. The meeting also addressed having private water wells and pump houses specifically used by the subdivision to be placed in the county public park. Staff said more information would be forthcoming on this issue as well. Planning Board President Woody Woods asked if there were any questions for staff concerning the proposed subdivision. There were none.

Scott Worthington, representing Dan Wells owner of Regal Land Development, stated he believes the proposed residential development is the highest and best use of the land. While outside the zoning district, the size of the lots are consistent with other developments they have done in the past. These lot sizes lend themselves well to community water systems and individual septic treatment systems. He stated the developer feels that having the community water system located within the parkland provides a dual use for the land. They have initiated discussions with DEQ concerning the proposed water and septic systems and are beginning the permitting process to ensure there are no adverse effects. They are also working with DNRC to obtain water rights for the proposed community water system. Sidewalks are proposed to provide safety and walking areas for the residents. Mr. Worthington believes this is a well-thought-out development, and they are looking forward to the opportunity to move ahead.

Board member Tunncliff asked what purpose parks serve in a subdivision. Scott Worthington said parks provide a public open space to meet a need that lots themselves do not meet such as picnic areas, soccer fields, or a playground. Board member Tunncliff said he feels the proposed park is not centrally located, and it seems it was designed to meet the need for water wells. He pointed out it is located at a busy arterial intersection, South 64th Street West and Hesper Road. It would seem a dangerous place to play and should a ball go out into the road there may be a bad outcome, Tunncliff stated. He added that oftentimes the parkland is used as filler to provide a benefit to the subdivider and not the residents of the subdivision. Scott Worthington said he believes there is a good separation between the edge of the roads and the useable area of the park. He said having it out front provides an open look and feel to the subdivision. Surface streets are provided internally for safety for people to get to the park. Board member Tunncliff said there is only one access point across the ditch which would make getting to the park much longer for some residents versus others. Scott Worthington said another point of connection to the park can be provided on the west side of the parkland possibly a walking path connection. Board member Tunncliff asked about improvements to the park, will there be grass and an irrigation system? Mr. Worthington stated the HOA will be providing maintenance of the park.

Board member Cook asked if a traffic study had been done, and asked for the agent's comments on what it shows about impacts to the roads in the area. Scott Aspenlieder, with Performance Engineering, said a traffic study was completed to analyze the major intersections. The conclusions are that current levels of service are good at the intersections and there will not be a reduction in levels of service within a mile of the development.

Board member Hillius asked for more detail on the water system as he has concerns with water quality with the shallow wells in this area. Scott Aspenlieder said generally in the west end wells fail due to nitrate impacts and that is not as significant in this area, there is still a fair amount of irrigation to flush this out. The wells will have a chlorination system and will be monitored with reports provided to DEQ which is a significant benefit to the public. Septic systems generally will be an elevated treatment system, nutrient and nitrate values are relatively low in this area. Board member Hillius voiced concern that eventually the chlorination system will not be able to handle potential nitrate issues in the future. He asked if there is any option to connect this community when municipal water is available. Mr. Aspenlieder said this is one of the benefits of a community water system which will allow for connections and decommissioning of the wells. Six-inch water lines will be used throughout the development. Board member Hillius asked about the various lot sizes from 1/3 acre to 1 acre and are they large enough for a septic system and replacement area? Mr. Worthington stated, lots averaging 1/2 acre lend well to water treatment, and 1/3 acre allows for primary drain fields. They are proposing level 2 treatment systems which are more effective with nutrient/nitrate removal.

Board member Stephenson commented there should be two parkland areas and the parkland should be separated in the phases. He asked what the cash-in lieu is used for. Staff said it is to be used in parks nearest to

the area, generally for maintenance, upgrades and development. Board member Stephenson said he would prefer the parkland be provided. Board member Jensen-Christison asked when the County will review having the infrastructure in the parkland as she feels this is a poor location. Staff said the County hopes to have information in the next few days.

### **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 Plat

### **FISCAL EFFECTS**

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

---

### **Attachments**

Findings of Fact

Proposed Plat

SIA

Letter from surrounding property owner

Letter from surrounding property owner

Letter from surrounding property owner

Letter from surrounding property owner

## 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. This subdivision is being developed in an area where it is completely surrounded by existing active farms. With those farms still being active there will be noises from farming activity, on occasion dust will be in the air from winds blowing and all other things associated with farming. In the SIA the applicant will add a paragraph under the heading II Conditions That Run With The Land informing future lot buyers of the active farming surrounding them and that it is to be expected and part of living in this proposed subdivision. **(Condition #1)**

#### **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 #2)** 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 #3)**

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 #2)**

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 64<sup>th</sup> 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 #4)**

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 #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 is required to be reviewed and approved by the DEQ to ensure the proposed stormwater management is feasible and will work satisfactorily. **(Condition #2)**

f. **School facilities** – The proposed subdivision is located within Elder Grove School District #8 for kindergarten through 8<sup>th</sup> 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 #6)**

This subdivision is also identified in the Billings Area Bike Trail and Master Plan (BABTMP). A future trail is identified on both South 64<sup>th</sup> 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 #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 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 #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 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 64<sup>th</sup> Street West and Hesper Road. Internal streets will provide access to individual lots.

**CONCLUSIONS OF FINDINGS OF FACT**

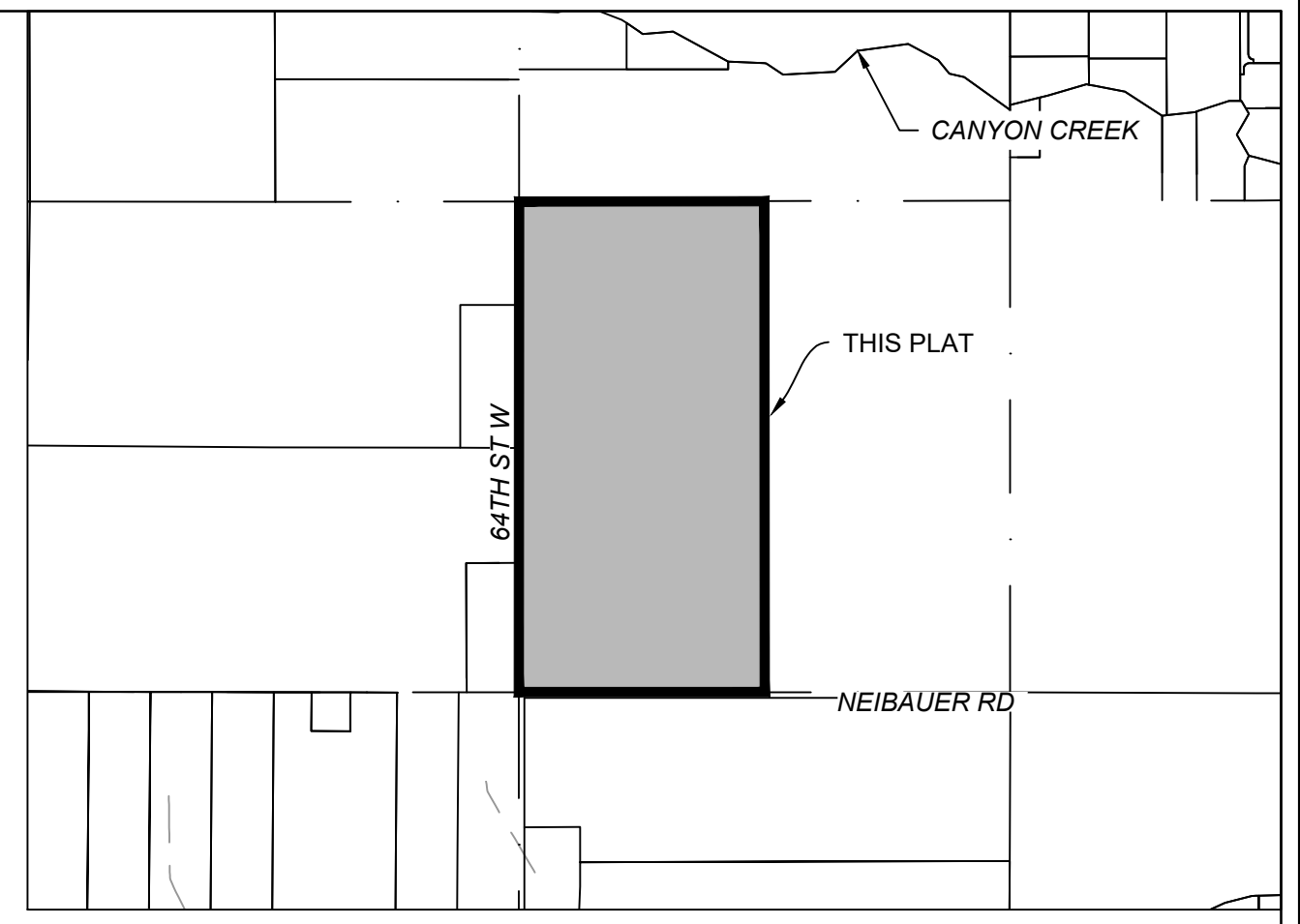
- This subdivision does not create adverse impacts that warrant denial of the subdivision.
- Impacts to agriculture, agriculture water user facilities, local services, public health and safety, the natural environment, and wildlife should be minimal, and can be mitigated by reasonable conditions of final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

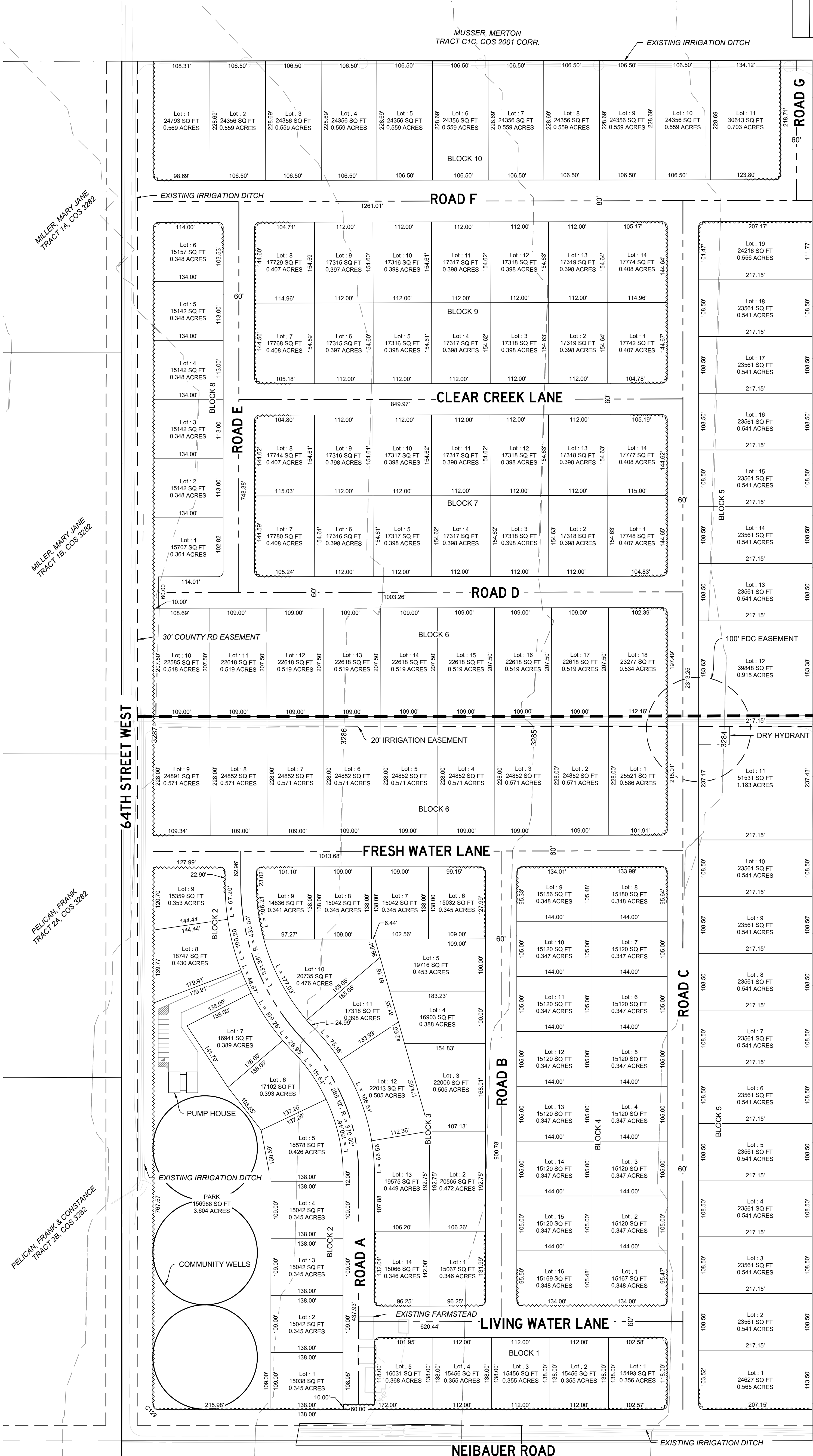
Staff proposes that the Planning Board recommend conditional approval of the preliminary plat of Stone Creek Subdivision, to the Board of County Commissioners, and adopt the Findings of Fact as presented in the staff report, the SIA and Waiver.

# 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

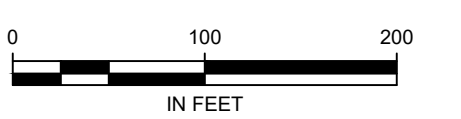
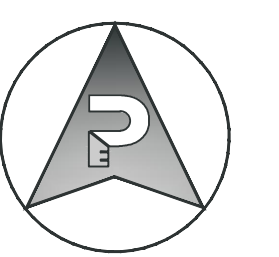


VICINITY MAP



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 64<sup>th</sup> 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 64<sup>th</sup> 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 or 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: \_\_\_\_\_

**Darren and Julie Miller (David age 8, Daniel age 6) 2007 S. 72<sup>nd</sup> St West, Billings MT 59106**

**Mary Jane Miller 2344 S. 72<sup>nd</sup> St. West, Billings MT 59106**

**Contiguous landowners to the west of proposed Stone Creek Subdivision**

To the County Commissioners, City/County Planners and Whom else it may concern:

Allow me to introduce myself. My family and I are contiguous landowners to Regal Land Developers on the west side of 64<sup>th</sup> street west. A tract we own and pay taxes on. We purchased Tract 1A – COS 3282 from Mary Jane Miller, a distant relative, when her late husband and son succumbed to health issues. It was their wishes for their land to remain in ag as they were prominent respected members of the ag community. We live on and operate a farm and feedlot on the 80 acres west of the proposed Stone Creek Subdivision where we are raising the 5<sup>th</sup> generation of farmers.

My concerns for the proposed Stone Creek Subdivision are such because my family also owns property on the north side of Canyon Creek where development is prominent and booming. Leapfrog development makes for hazardous conditions for farmers and homeowners due to new residents not being accustomed to lifestyle and operations of the existing agriculture community.

Traffic has already become an overlooked hazard on these county roads. Even with the roads being maintained, years of repaving has led to very abrupt asphalt edges that make it difficult to move over for oncoming traffic with equipment because the roads are narrow and, in most cases, have lateral irrigation ditches on both sides. 64<sup>th</sup> street has already become a major commuting street with high-speed limits. Just in the last year there has been 6 major accidents at the corner of 64<sup>th</sup> and Neibauer, luckily there has yet to be a fatality!

I am also a prominent utilizer of the drain ditch of the proposed Stone Creek Subdivision. Storm water runoff raises concerns of water flow maintenance, foreign material and traffic in maintaining this ditch. Furthermore, the high concentration of lifestyle in a prominent ag area raises concerns that are not always conveyed to future residents. Such as slow-moving vehicles, the ability of using fire as a natural way of removing vegetation and the occasional windstorms that make debris from ag and construction to be shared with everybody!

This land has been home for many different species including deer, coyotes, sand hill cranes, blue herons, pheasants and many other of Gods little creatures. Canadian geese use this area for migration, and some are largely raised and stay in this area year-round. Many people use this area for hunting due to its wide open spaces. This area is also classified as open range for livestock.

I would like to say I feel every landowner should have the right to do with their land as they wish. But such a person should also be respectful of others and their way of life. If it were not for ag in the Yellowstone Valley the supply of clean groundwater that we all rely on would diminish just as it has in other areas. Therefore, I have concerns for my family with such a high density of homes that Regal Land Development is proposing. It will be years until city services such as water and sewer will be available to meet the needs and allow for respect of the land and nature that an overpopulated subdivision like Stone Creek will demand.

In closing I would like to say, it is because of what we do as farmers, ranchers and cattle feeders why people want to live in this fresh clean environment! It is and always will be the agricultural community's

burden to adapt and overcome to the growing demands of the residents of the United States. THIS is why our concerns need to be taken into consideration.

Thank you for your time.

Darren Miller

We are also adjacent landowners of ag land to the proposed subdivision. I am in complete agreement with Merton Musser's letter so I will not repeat his argument. My biggest concern is the water supply and disposal system for this proposed subdivision. With 126 lots platted and there being 2 phases planned it is a serious issue not to mention the traffic. The west end seems to have a lot of issues with traffic (ie) accidents and fatalities. I believe the issues of traffic, utilities, schools and good stewardship of our wildlife need first consideration before plunging ahead. Thank you for your consideration

Frank and Connie Pelican 5917 Danford Rd

May 10, 2021

Miller Farms  
6001 Neibauer Rd  
Billings, MT 59106  
(406) 698-6987 Steve Miller  
[ssmillertime1@gmail.com](mailto:ssmillertime1@gmail.com)

RE: Stone Creek Subdivision Project #PZX-20-002040

I am writing this on behalf of my family and my father, Melvin Miller, who currently owns the property east of the adjacent proposed subdivision.

Our family has owned and farmed this property since the 1920's. While we understand development of farmland, while sad, is inevitable. This particular proposal we feel will have a detrimental effect on our farming and the homestead that sits on it. Many other subdivisions that have been built in our area have at least  $\frac{3}{4}$  acre to an acre per lot. There is no city water or sewer in this area. With 126 houses going in on 80 acres, we can see this being a problem with our groundwater, which is already being depleted because of the gravel pit on 56th St. West. We have noticed a drop in our groundwater over the last 10 years. Knife river also owns the lot across the road from our farm. Along with the development of a congested subdivision, we anticipate our current groundwater situation getting worse. Our house uses a well and has always had plentiful, good water to draw from. We cannot see on the proposed plan how a septic system will be dealt with.

Many hunters hunt on our farm due to the large amount of geese and ducks that land in our area. We also have had some hunters hunt for deer on our place. Bald Eagles roost in our trees which is always a sight to see. We fear having a large subdivision next to us will also deplete the wildlife in our area.

We have irrigation ditches that run through the proposed subdivision. Maintenance of that ditch is essential to our farming operation. We farm many acres on the west end and have had to deal with homeowners along these ditches for many years with other subdivisions in our area. Many of the homeowners are pleasant to deal with, but there are always a handful that create issues and cause problems because they feel they own the property where the ditch is, or the water that is in it. It puts a large burden on the farmer when having to come through and burn the ditch or dig out a ditch and have to explain to the homeowner why you are there. We are concerned also about the trash

and garbage that gets in our fields from these subdivisions. During the construction phase, we have dealt with having to pick up tyvek, insulation, plastic, asphalt shingles when we are planting and harvesting so it doesn't get sucked into our combine or get wrapped around and damage our farming equipment.

My grandfather attended Elder Grove school when it was a one room country schoolhouse. Over the past 30 years, the school has expanded many times to accommodate population growth in our area. If each of these 126 houses has just one child, Elder Grove will most definitely be over crowded again. As farmers, we pay a lot in property taxes for our school. We cannot easily pass another bond until our newly built middle school bond is paid.

The traffic in our area will also be greatly affected. Each house could have easily 2-3 vehicles. That equates to 400 vehicles per day coming in and out of that subdivision. We move large equipment from farm to farm and our road was not built for the impending traffic this large subdivision would cause. You cannot walk or bike safely on our roads currently. This will make our roads even less safe to have that amount of traffic increase. The nearest fire station that serves our area is on 54th and Grand, and I see that this could also be a burden to an already sparsely supported fire department.

We are **adamantly opposed** to the current plans of this subdivision. We feel there are too many homes on the acreage they are proposing. As we stated earlier, many subdivisions in our area have larger acreage per lot.

Concerned Farmers and Landowners,

Melvin Miller

Steve and Stephanie Miller

**Merton Musser, 6125 Landing Pointe, Billings MT 59106**  
**Wade & Lindsey Affleck, 6209 Landing Pointe, Billings, Mt 59106**  
**Contiguous landowner to the North of proposed Stone Creek**  
**Subdivision**

I will begin by saying growth is acknowledged as inevitable; planned growth is desired. Achieving planned growth requires acknowledgement and avoiding some very fundamental principles. Many of these are outlined in the West Billings and Yellowstone County Master Plan.

Leapfrog development occurs when developers skip over land to obtain cheaper land further away from cities, thus, leaving huge areas empty between the city and the new development.

Urban sprawl diminishes the local character of the community. Advocates of smart growth contend that economic growth can serve the community if it maintains the vitality and distinctiveness of the community and the quality of life for the community's residents. It's inconceivable to think **Regal Land Development** has taken a city subdivision plan and planted it right smack in the middle of agricultural land, 5 miles from city limits. This demonstrates total disregard for community continuity, compatibility and respect of area landowners. Ag land surrounds **Stone Creek Subdivision** on all four sides and imposes unfair degradation of country living for the contiguous landowners.

Highways must be safe and efficient and developed in a way that defines a desirable community character for West Billings. Yellowstone County has failed to stay level or equal with the increase traffic between Shiloh Road and 72nd Street W. **Stone Creek Subdivision** will exacerbate existing road-congestion problems. The present congestion surrounding Elder Grove School during morning drop off and afternoon pickup is candidate for the worse traffic flow in all of Yellowstone County. **Stone Creek Subdivision**, only 1/2 mile South of Elder Grove, will add another 250-350 vehicles daily commuting to and from work or school.

The governing bodies of Yellowstone County must take non-vehicular transportation right-of-way needs into account when reviewing all subdivision requests. Focal points, such as parks, schools, and other uses located within walking distance of neighborhoods with pathways and bikeways. Walking is either unpleasant or impossible, due to narrow

country roads with no shoulders and 60 mph speed zones. With schools 1/2 mile away, **Stone Creek Subdivision** does not address a solution to this problem. Significant public safety issues should be addressed regarding traffic before this subdivision or any other, for that matter, would be considered.

Ground water quality is a serious issue and I find it incomprehensible **Stone Creek Subdivision** wouldn't affect the ground water. Yellowstone County statistics report 2.3 people per household x 126 lots = 289 people. EPA reports the typical household uses 300 gallons per day which equates to 37,800 gallons per day for **Stone Creek Subdivision** plus outdoor watering for vegetation. In addition, vast areas of impermeable surfaces in built-up areas often replace water-absorbing vegetation and permeable soils. Residential, roads, and parking spaces for automobiles greatly impede the absorption of water into the soil. Chemicals present on pavement at the time of rain are often carried with runoff as water pollution, reducing water quality.

There are two types of domestic sewage: blackwater (wastewater from toilets) and graywater (wastewater from all sources except toilets). Blackwater and graywater have different characteristics, but both contain pollutants and disease-causing agents that require treatment. Average household will discharge 40 gallons per person per day x 2.3 pph = 92 gallons x 126 households = 11,592 gallons x 365 days = 4,231,080 gallons of wastewater annually. This is cause for serious concern regarding adequate treatment and disposal system to protect an individual's health and the environment.

One of the most obvious environmental effects of widespread building construction is the destruction of wildlife habitat. To make way for human dwellings and their associated infrastructure, natural land is plowed under, graded, and paved. With Canyon Creeks' close proximity to **Stone Creek Subdivision**, there are white tail deer, pheasants, bald eagles, sandhill cranes and masses of water fowl that fly in and out during their annual migration. The **Stone Creek Subdivision** will diminish the deer, pheasants, bald eagles and destroy the water fowl habitat during migration.

Lastly, my property bordering on the North is registered with the Federal Aviation Administration (FAA) as a private airport with a grass airstrip used lightly by small private aircraft. A mid to high density subdivision adjacent

the airstrip generally would be considered as incompatible because of noise and, in some cases, for reasons of safety, depending on the location of the property.

As a contiguous land owner I feel an effort should be made to preserve or perhaps conserve agricultural land and create developments that are compatible with their surrounding. Considering the fundamental problems outlined above, we **ADAMANTLY OPPOSE** the **Stone Creek Subdivision** as proposed.

Unless the Planning Board, along with the County Commissioners, can guarantee the aforementioned fundamental principles will not negatively affect all contiguous and area landowners I encourage you to decline the **Stone Creek Subdivision** as proposed.

A more suitable plan would be for minimum acreage lot sizes of one acre or greater and a buffer along the North boundary.

Concerned Landowners,

Merton and Susan Musser  
Wade and Lindsey Affleck