



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



AGENDA

JANUARY 11, 2022 MEETING TIME: 6:00 p.m.
1st Floor Large Conference Room, Miller Building
2825 3rd Avenue North, Billings, Montana 59101

NOTICE TO THE PUBLIC

Citizens are invited to:

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

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

- Mail: City/County Planning Division, 2825 3rd Ave N 4th Floor, Billings, MT 59101
 - Email: deinest@billingsmt.gov
- Call in during the Public Comment periods as indicated on the agenda:
 - Citizens may call in during specific Public Comment periods at **406.237.6165**.
All callers will be placed in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be limited to 3 minutes of testimony as is customary.
Future delivery methods may be explored as best practice is learned.

****In the event a quorum of the Council is present, no City-related decisions will be made during this meeting or event.**

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

1. **CALL TO ORDER - Planning Board President:** Welcome and Introduction of new and returning Board Members.
 - a. Introduction of the 2022 Planning Board Officers: Dennis Cook, President; Theresa Larsen, Vice President. Welcome! to Roger Gravgaard, Planning Board Representative, City Ward 2.
2. **APPROVAL OF AGENDA*** - including any additions or deletions to agenda. The agenda for a regular meeting will be closed at 5:00 p.m. three (3) working days prior to the date of the meeting.
3. **MEETING MINUTES:** Motion for approval of the December 14, 2021 meeting minutes. The December 28 meeting was canceled.

Attachments

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** There is no Old Business.

8. **NEW BUSINESS:** (Agenda items new to this meeting).
 - a. **Plat Review. Board Discussion. Copper Ridge Subdivision, 9th Filing.** City Major Subdivision. Jason Leep, WH Copper Ridge 54, LLC Developer. Gary Owen, Sanderson Stewart, agent. Dave Green, Planner II, presenting.

Attachments

Findings of Fact

Proposed Plat

SIA Draft

Copper Ridge Master Plan

- b. **Plat Review. Board Discussion. High Sierra 21st Filing.** City Major Subdivision. Gary Oakland, High Sierra II, Inc. Developer; Gary Owen, Sanderson Stewart, agent. Dave Green, Planner II, presenting.

Attachments

Findings of Fact

Proposed Plat

SIA Draft

- c. **Plat Review. Board Discussion. The Timbers Subdivision, 1st Filing.** Ali and David Mitchell, applicant. Kolten Knatterud, IMEG, agent. Dave Green, Planner II, presenting.

Attachments

Findings of Fact

Proposed Plat

SIA Draft

Attachment A_Variance

Roads Master Plan

9. **OTHER BUSINESS:**

- a. Update. Board Discussion. City Council meeting schedule. Planning Board meeting and Bylaws. Wyeth Friday, Director, Planning & Community Services Department
- 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, JANUARY 25, 2022

- a. Public Hearing. Motion/Recommendation to City Council. Copper Ridge Subdivision, 9th Filing. City major subdivision. Jason Leep, WH Copper Ridge 54, LLC Developer. Gary Owen, Sanderson Stewart, agent. Dave Green, Planner II, presenting.
- b. Public Hearing. Motion/Recommendation to City Council. High Sierra 21st Filing. City Major Subdivision. Gary Oakland, High Sierra II, Inc. Developer; Gary Owen, Sanderson Stewart, agent. Dave Green, Planner II, presenting.
- c. Public Hearing. Motion/Recommendation to City Council. The Timbers Subdivision (aka Alkali Creek), City Major Subdivision. Kolten Knatterud, IMEG, agent. Dorn, applicant. Dave Green, Planner II, presenting.

Planning Board Meeting I (2nd Tuesday)

3.

Meeting Date: 01/11/2022

Information

Subject

MEETING MINUTES: Motion for approval of the December 14, 2021 meeting minutes. The December 28 meeting was canceled.

Attachments

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CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

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

	Position	01/12/2021	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	06/22/2021	07/13/2021	07/27/2021	08/10/2021	08/24/2021	09/14/2021	09/22/2021	10/12/2021	10/26/2021	11/09/2021	11/24/2021	12/14/2021
Teresa Larsen	Mayor/Billings Ward I	1	1	1	1	1	1	1	E	1	E	-	1	1	E	E	1	1	E	1	1	1	E	1
Heidi Jensen-Christison	Mayor/Billings Ward II	1	1	E	1	1	E	1	E	1	E	-	E	R	-	-	-	-	-	-	-	-	-	-
Dennie Stephenson	Mayor/Billings Ward III	1	1	1	1	1	1	1	1	1	1	-	E	1	1	1	1	1	1	1	1	1	1	1
Darell Tunnickliff	Mayor/Billings Ward IV	1	1	1	1	1	1	1	1	1	1	-	1	1	1	E	E		1	1	1	1	1	1
Jon Thompson	Mayor/Billings Ward V	1	E	1	1	E	1	1	1	E	1	-	1	E	1	E	E	1	E	E	1	-	1	E
Troy Boucher	YC District 1	1	1	1	E	1	E	1	1	A	E	-	1	E		1	E	E	1	A	A	1	1	1
Dennis Cook	YC District 2	1	1	1	1	1	1	1	1	1	1	-	A	1	E	1	E	1	1	E	1	1	1	1
Vacant	YC District 3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Vacant	YC District 4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Woody Woods	YC District 5	1	1	1	1	1	1	1	1	1	1	-	1	1	1	1	1	1	1	1	1	1	1	1
Vacant	YC District 6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Jarett Hillius	YC District 7	1	1	1	E	1	1	E	1	1	1	-	1	E	1	1	1	1	1	E	1	E	1	1
Vacant	Y County Cons. District	-	-	-	-	-	-	-	-	-	-	-	-	-	-	E	-	-	-	-	-	-	-	1
Scott Reiter	Ex-Officio SD2	-	-	-	1	E		E	E	A	1	-	E	E	E	1		E	E	1	E	1	E	E

CITY/COUNTY PLANNING BOARD

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December 14, 2021

DRAFT- To be approved by a motion on January 11, 2021

PUBLIC HEARINGS/PUBLIC HEARING PARTICIPATION GUIDELINES.

As legally advertised, The Yellowstone County Board of Planning met on December 14, 2021 in the Miller Building 1st Floor Conference Room.

Citizens are invited to:

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Call the Meeting to Order

President Woods called the meeting to order at 6:00 p.m. on Tuesday, December 14, 2021.

Introduction of Planning Board Members and Planning Department Staff

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

Participating Planning staff members: Wyeth Friday, Director, Planning & Community Services Department; Dave Green, Planner II; Tammy Deines, Planning Clerk

Others in Attendance: Brenda Koch, K-12 Executive Director, School District #2; Greg Upham, Superintendent, School District #2; Randy Russell, Executive Director Leadership Support, Billings Public Schools; Sarah Plath, Sanderson Stewart; Gary Owen, Sanderson Stewart; Landy Leep, High Sierra II, Inc. Jason Leep, Williams Homes Inc.

Approval of the December 14, 2021 Agenda

Board member Stephenson moved and Board member Thompson seconded the motion to approve the December 14, 2021 meeting agenda. The motion carried with a unanimous voice vote.

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Approval of Minutes: November 23, 2021

Motion

Board member Boucher moved and Board member Stephenson seconded the motion to accept the November 23, 2021 meeting minutes as submitted. The motion carried with a unanimous voice vote.

Public Comment: President Woods asked if there was anyone wishing to speak during the public comment portion of the meeting. He stated any member of the public might be heard on any subject that is not on the agenda; the Planning Board will not take any action on these items at this time, but could choose to add an item to the next meeting agenda for discussion. **There were no public comments.**

Disclosure of Outside (Ex Parte) Communication or Conflicts of Interest– Board Members and Planning Staff. – There were no disclosures of outside communication or conflict of interest from the members of the Board.

7. OLD BUSINESS: There is no Old Business.

8. NEW BUSINESS:

8a. Discussion. Planning Board, Planning Staff, and SD #2. Brenda Koch, K-12, Executive Director, Billings Public Schools; Greg Upham, Superintendent, Billings Public Schools; Randy Russell, Executive Director Leadership Support, Billings, Public Schools

Planning Board members provided the questions below.

- Board Member Hillius:

Subdivisions, specifically on the west end, continue to be planned and built with the note with the Planning Department's review indicating that the schools, typically West High School, are known to be overcrowded, how is the School district planning for the growth?

Superintendent Upham and Brenda Koch spoke on the process that took place to restructure the school district boundaries when the two new middle schools were built. The Board voted on the final district boundaries in 2017 with the understanding the projections showed need for consideration again within five years. Currently Ben Steele Middle School, West High, Boulder Elementary, Meadowlark Elementary and Arrowhead Elementary are over capacity. Superintendent Upham said overall capacities will have to be considered due to exponential growth on the west end of Billings. As more growth takes place, more pressure is placed on the school district.

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- **Is there a 5 to 10 year facilities plan that estimates enrollments and facility improvements, or new schools being planned? How many of SD2 schools are overcrowded? How does SD2 define overcrowding? What are the consequences to SD2 to have high student to teacher ratios?**

Superintendent Upham said no schools are planned to be built at this time as a bond will be needed along with enrollment growth. He explained that the District is not in the position to build another elementary, middle school or high school as they do not have the operational growth to do so. There hasn't been an overall increase in the elementary population but they have seen an increase in the high school. There is enrollment in areas that is maxing out the schools. Brenda Koch pointed out the need to look at capacity as there are more specialized programs than the buildings were originally built for which creates space issues. Superintendent Upham said the district is locked-in to the student-teacher ratios according to accreditation standards. President Woods asked if the new Lockwood High School helped Skyview High School's enrollment capacity. Superintendent Upham explained the balancing of the budget and said it gratuitously worked out between the two schools.

- **Can SD2 assign a representative to take part in the City - County Planning Board Meetings?** Currently Scott Reiter, Facilities Coordinator, School District 2 is the ex-officio Planning Board member and he will continue serving in this capacity. President Woods explained that new subdivisions cannot be denied on the basis of school enrollment or capacity but it is certainly discussed during Planning Board subdivision plat reviews and public hearings.

- **Is there a point when development in certain areas of the town that feed into already overcrowded Middle or High Schools would need to be looked at differently? How would a new High School be funded?** Superintendent Upham reiterated that the district cannot build new buildings for at least ten years, depending on more enrollment. He said currently there is pressure on the district to pull enrollment to the middle as seats are open so the growth in the west end of Billings can be addressed. Brenda Koch and Superintendent Upham expressed their need for current Census data or bench marks related to populations moving into new subdivisions. Director Wyeth Friday said he will follow up with staff regarding the Census data.

Board member Tunncliff

- **Overcrowding of schools as rapid growth in the County occurs. Will school district 2 be able to provide assistance to county schools?** Brenda Koch said the school district has agreements with Independent School and Blue Creek School to take in middle school students, and the majority of the County schools feed into the School District #2 high schools. The District will entertain future agreements. Superintendent Upham said they are planning forward as he feels the growth in Montana will continue. The challenge is that the state budget authority is given according to enrollment. He asked staff about the statistic that 2 of 10 households contain school age children.

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Director Friday responded he will follow-up on this information. Board member Stephenson asked if a scenario is possible that the school district would get too large and another district would be created. Superintendent Upham said he feels this is doubtful. The panel members commented on school district properties that will be available for future school developments.

- **How does increased real estate values impact assessed values and school funding?**

Superintendent Upham explained that property taxes support schools, and there is less burden on the tax payer if there is more property. President Woods said the recent raise to the tax base to the average new home of \$500,000 should help. (Mill levies are based on the taxable of a house). Director Friday said the median used for the recent City mill levy is \$217, 00-\$219,000.

- **What are the trend lines for public education, private education and homeschooling?**

Superintendent Upham said School District 2’s enrollment has been fairly stable, although there was some student movement to homebound services during the pandemic. They haven’t seen a significant drop in enrollment. He reiterated that the challenge will be balancing the west end growth with the open student seats available. Board member Thompson asked if the legislative funding for private schooling will highlight homebound education more. Superintendent Upham said time will tell”; the District has been approached with a tax credit for their foundation and it will be interesting to see how it will unfold.

Board member Larsen

- **Discuss the School District’s thoughts on a year-round school model and the reasoning why kids in K-3rd grade get out of school earlier than kids in 4th-12th grade.**

Brenda Koch explained K-3 students do not need to attend schools as many hours to meet accreditation standards. Transportation comes into play. Keith Adams has been hired as the new Transportation Director and they are under discussion as to ways to improve transport services.

Superintendent Upham said the K-12 educational system was designed for a different family structure. Current trends point to students coming into school not as prepared as they need to be. He pointed out there are students needing more than the required 180 days to secure their education. He feels the 180 day requirement is an arbitrary number and society needs to consider what they want the education system to do. He said the district is working towards the goal of getting the highest percentage of students at grade level when they are supposed to be. The system is trying to acclimate to a totally different family structure. He asked what we are doing for the percentage of students that are not on grade level in reading and math and said the timeframe needs to be more flexible. Board member Thompson asked about the percentage not meeting the criteria. Superintendent Upham said early intervention is the key as it becomes very difficult for students in middle school if they are unable to read and do math at grade level. The district is seeing significant

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student behaviors they haven't seen in the past. He stressed that it is time to reevaluate and look at how to do things better. The district is having conversations as to what a balanced calendar would look like and consider what the school system needs to do to address these issues.

- **How can City County Planning assist education?** Superintendent Upham said Scott Reiter will be the Planning Board representative. Brenda Koch said during the pandemic, over 80% of students in remote learning failed. The district served these students with six weeks of intense instruction to bring them to grade level. She commented the City has been instrumental in the promotion of student safety going to and from schools with the installation of sidewalks through subdivision review. President Woods said the Planning Board discusses the need for inclusion of sidewalks and safe parks as developments come forward. He said there are issues with the requirements for sidewalks within developments located outside the jurisdictional zoning boundary. Director Friday said it is an ongoing effort, and it is critical to have City and County in these types of conversations with the school district in order to come up with a solution

President Woods thanked the school district panel members for their discussion and said the Planning Board looks forward to working with the school district.

8b. Plat Review. Board Discussion. Copper Ridge Subdivision, 9th Filing. Gary Oakland, Applicant/Developer; Gary Owen, Sanderson Stewart, agent. Dave Green, Planner II, presenting.

Dave Green made a correction to the staff report introduction below, as Mr. Oakland sold this filing to WHC, LLC (Williams Homes Incorporated). WHC Representative Jason Leep is in attendance this evening.

A public hearing will be held for Copper Ridge Subdivision, 9th Filing during the January 11, 2022 Planning Board meeting. City Council will act on this request on February 14, 2022.

INTRODUCTION

On November 1, 2021, Sanderson Stewart, agent for Gary Oakland, applied for preliminary major plat approval for Copper Ridge Subdivision, 9th Filing. The proposed subdivision creates 48 new lots for residential development. The subject property is generally located on the north side of Rimrock Road, west of 70th Street West, and west of the existing Copper Ridge Subdivision. The property is zoned Suburban Neighborhood (N3).

RECOMMENDATION

Staff proposes the Planning Board recommend to City Council that the preliminary plat of Copper Ridge Subdivision 9th Filing be conditionally approved and adopt the Findings of Fact as presented in the staff report.

VARIANCES REQUESTED

No variances from the City Subdivision Regulations have been requested.

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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 provide for emergency vehicles being able to turn around on dead end streets created with this filing, prior to final plat approval, the applicant will provide easement documents for the temporary cul-de-sac at the northwest end of Street 1 (temporary name).
2. To ensure correct parkland development and to provide maintenance for the proposed public park with this filing of Copper Ridge Subdivision, prior to final plat approval, the applicant will add paragraphs 3 through 5 from the findings of fact, from the heading 2. Effect on local services f, to the SIA. This will be added under the heading VII Parks/Open Space. They will also create a Parks Maintenance District (PMD), or expand an existing one, in coordination with City Parks Department. This PMD will be able to expand with all future filings of Copper Ridge Subdivision.
3. To minimize the effects on local service prior to final plat approval, the applicant will coordinate with the USPS to determine what type of deliver system is preferred and to locate and provide the correct amount of space for safely delivering the mail to the residents.
4. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
5. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

Discussion

President Woods called for questions and discussion from the members of the Board. President Woods noted the temporary drainage easement located in the parkland. Gary Owen, Sanderson Stewart said this is an overflow easement from Shiny Penny Way to get water from the street to the storm water detention pond. It will remain as a swale to convey water.

Jason Leep, Williams Homes Incorporation, jleep@williamshomes.com

Mr. Leep introduced himself to the Board. He said they are new builders in Billings and will be consulting and working closely with Oakland Companies for this project.

9c. Plat Review. Board Discussion. High Sierra Subdivision, 21st Filing. Gary Owen, agent, Sanderson Stewart. Dave Green, Planner II, presenting.

A public hearing for High Sierra Subdivision will be held during the January 11, 2022 Planning Board meeting and considered by City Council on February 14, 2022.

CITY/COUNTY PLANNING BOARD

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INTRODUCTION

On November 1, 2021, Sanderson Stewart, agent for High Sierra II, Inc., applied for preliminary major plat approval for High Sierra Subdivision, 21st Filing. The proposed subdivision creates 49 lots for residential development. The subject property is generally located north of Annandale Road in Billings Heights. The property is zoned Suburban Neighborhood (N3). The proposed lots will follow the current zoning for lot frontage.

RECOMMENDATION

Staff proposes the Planning Board recommend to City Council that the preliminary plat of High Sierra Subdivision 21st Filing be conditionally approved and adopt the Findings of Fact as presented in the staff report.

VARIANCES REQUESTED

The applicant is not requesting a variance from the subdivision regulations.

PROPOSED CONDITIONS OF APPROVAL

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

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

Discussion

President Woods called for questions and discussion from the members of the Board. In response to question by Board member Thompson, Gary Owen said that Sally Anne Park is located on Lake Heights Drive. The walkway will be constructed as part of the storm drain installed underneath the sidewalk and function as an extra pedestrian access.

9. OTHER BUSINESS

a. Planning Board Nomination Committee Report. 2022 Planning Board Nominations and Elections of Officers. The Nomination Committee forwarded a recommendation and nominations for Board member Dennis Cook to serve as Planning Board President for the 2022 term, and Board member Theresa Larsen to serve as Planning Board Vice President for the 2022 term.

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Motions

A motion was made and seconded for Board member Dennis Cook to serve as Planning Board President for the 2022 term. The motion carried with a unanimous voice vote.

A motion was made and seconded for Board member Teresa Larsen to serve as Planning Board Vice President for the 2022 term. The motion carried with a unanimous voice vote.

Officers will assume their roles during the Tuesday, January 11, 2022 Planning Board meeting. Board members thanked Woody Woods for his service as Planning Board President these past few years as the Board has worked through a lot of development activity and the completion of Project ReCode.

9e. (Standing Item). Long Range Strategic Issues and an overview of future City and County issues and projects.

Director Friday shared with the Board that the City Council is moving forward to change its weekly meeting day from Monday nights to Tuesday nights. This means that it will directly conflict with Planning Board meetings on Tuesday evenings. Staff is looking at options for different days, the schedule logistics for applications and other Board and Commission meetings we have on Tuesdays and will bring some options and information back to the Board in January. The soonest this change would occur for the Council meetings is March 2022, but changing the Planning Board meeting is also significant and will require Board action on the By-Laws.

9b. The next Planning Board meeting will be held **Tuesday, January 11, 2022**, in person in the Miller Building 1st Floor Conference Room, 2825 3rd Ave N. at 6:00 PM. The December 28, 2021 Planning Board meeting will be canceled due to the Christmas Holiday.

ADJOURNMENT 7:12 PM

DRAFT—TO BE APPROVED BY A MOTION- January 11, 2022

--Tamara L Deines, Planning Clerk

Planning Board

Date: 01/11/2022
Title: Copper Ridge Subdivision, 9th Filing - Preliminary Major Plat Review
Presented by: Monica Plecker
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Staff proposes the Planning Board recommend to City Council that the preliminary plat of Copper Ridge Subdivision, 9th Filing be conditionally approved and the Findings of Fact adopted as presented in the staff report.

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

On November 1, 2021, Sanderson Stewart, agent for WH Copper Ridge 54, LLC, applied for preliminary major plat approval for Copper Ridge Subdivision, 9th Filing. The proposed subdivision creates 48 new lots for residential development. The subject property is generally located on the north side of Rimrock Road, west of 70th Street West, and west of the existing Copper Ridge Subdivision. The property is zoned Suburban Neighborhood (N3).

VARIANCES REQUESTED

The applicant is not requesting a variance from the subdivision regulations.

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 provide for emergency vehicles being able to turn around on dead end streets created with this filing, prior to final plat approval, the applicant will provide easement documents for the temporary cul-de-sac at the northwest end of Street 1 (temporary name).
2. To ensure correct parkland development and to provide maintenance for the proposed public park with this filing of Copper Ridge Subdivision, prior to final plat approval, the applicant will add paragraphs 3 through 5 from the findings of fact, from the heading 2. Effect on Local Services, to the SIA. This will be added under the heading VII Parks/Open Space. They will also create a Parks Maintenance District (PMD), or expand an existing one, in coordination with City Parks Department. This PMD will be able to expand with all future filings of Copper Ridge Subdivision.
3. To minimize the effects on local service prior to final plat approval, the applicant will coordinate with the USPS to determine what type of deliver system is preferred and to locate and provide the correct amount of space for safely delivering the mail to the residents.
4. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them

into the standard acceptable format.

5. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

PROCEDURAL HISTORY

- Pre-application meeting September 16, 2021
- Preliminary plat application submitted to Planning Division on November 1, 2021
- Departmental review meeting November 18, 2021
- Preliminary plat re-submittal November 23, 2021
- Planning Board plat review December 14, 2021
- Planning Board public hearing January 11, 2022
- Preliminary plat to City Council February 14, 2022
- 60 working-day preliminary plat review period ends February 1, 2021
- Applicant has requested an extension to 60 working days, it now ends on February 14, 2022

PLAT INFORMATION

General location:	North of Rimrock Road west of 70th Street West
Legal Description:	Copper Ridge Subdivision, 9th Filing Being Lot 15A, Block 3 of Copper Ridge Sub, 8th Filing & Lot 15, Block 3 of Copper Ridge Sub, 7th Filing
Owner/Subdivider:	WH Copper Ridge 54, LLC
Engineer and Surveyor:	Sanderson Stewart
Existing Zoning:	N3
Existing land use:	Vacant / Farmland
Proposed land use:	Residential
Gross and Net area:	42.762 acres; 39.997 acres
Proposed number of lots:	48
Lot size:	Max: 25.964 acres Min: 6,752 square feet
Parkland requirements:	Parkland dedication requirements for this proposed plat is 1.156 acres. The applicant is proposing to provide 4.809 acres of land for parks. The overage will be applied to future filings of Copper Ridge Subdivision.

STAKEHOLDERS

There are no stakeholder responses at this time. On January 11, 2022, at a scheduled Planning Board public hearing, comment will be formally received from the public.

On December 14, 2021, the Planning Board held a plat review meeting to review plats scheduled for a future public hearing. Staff gave a brief presentation of the proposed plat, after the presentation Board President Woody Woods asked if there were any question for staff, there were none. President Woods then asked if there were any questions for the applicant or agent. A question was asked about what is shown on the plat as a drainage swale through the proposed parkland. Mr. Gary Owen, agent for the applicant, answered that it is an overflow swale from Shiny Penny Way to direct water to the detention ponds. There were no other questions from the board.

ALTERNATIVES

In accordance with state law, the Governing Body has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed plat ends on February 14, 2022. Subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The Governing Body 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 Governing Body is required to:

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

FISCAL EFFECTS

This plat will have no fiscal impacts on the City/County Planning Division.

SUMMARY

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

Attachments

Findings of Fact

Proposed Plat

SIA Draft

Copper Ridge Master Plan

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Copper Ridge Subdivision, 9th Filing. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(H), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302.H.2.]

1. Effect on agriculture and agricultural water user facilities

The subject property is currently used for agricultural purposes and about 42.762 acres of agricultural land would be taken out of production with this subdivision filing proposal. Perimeter ditches and drains shall remain in place and not be altered by the subdivider or subsequent owners. The subdivision should not affect agricultural water users' facilities, but it will take land out of agricultural production.

2. Effect on local services

- a. **Utilities** – Water service will be provided by the City of Billings. The developer will install new water mains in all the new local streets, new individual services to all the lots, and new fire hydrants in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality (MDEQ). The water service will be provided by an existing 12-inch water line located in Shiny Penny Way and an 8-inch water main in Bronze Boulevard. The subdivider will extend the existing 12-inch water main from the existing terminus in Shiny Penny Way to the intersection of Street 1 (temporary name) within the proposed subdivision. This 12-inch main will turn south and continue to the terminus of Street 1 (temporary name). The remaining streets in this filing will have an 8-inch water line installed. The subdivider will install all new water lines in the local streets and individual services for each lot in accordance with design standards, specifications, rules and regulations of the City of Billings Engineering/Public Works Department and MDEQ. This information is within the SIA under the heading VI, Utilities A.

Sanitary sewer service will be provided by connecting to the existing City of Billings sewer mains. There are existing 8-inch sanitary sewer located in Shiny Penny Way. This line will be extended through the proposed subdivision. A sewer main will not be installed in Rimrock Road at this time but will be with future filings. The subdivider will install new sewer mains in the local streets and individual services for each lot in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department and MDEQ. This information is within the SIA under the heading VI, Utilities B.

Private utility companies will provide services to the subdivision. Eight-foot-wide easements on the lot frontage have been requested and will be provided by the subdivider for the private utility companies to install the needed infrastructure.

Stormwater – Stormwater drainage for the public streets is proposed to be provided by curb and gutters that discharge into storm water pipes and eventually to retention areas in the proposed detention basins along Rimrock Road. These and all other drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the City Engineering Department. There is a detention basin that was previously constructed with Copper Ridge Subdivision, 8th Filing. It is located on Lot 9, Block 3 of Copper Ridge Subdivision 7th Filing. This detention basin was sized to handle the storm water for the Copper Ridge Subdivision 7th, 8th and 9th filings. The detention basin is on a lot that is owned by the HOA and is maintained by the HOA. This basin facility has an outlet to Rimrock Road and is piped to the City of Billings owned storm water management facility located near the intersection of 62nd Street West and Rimrock Road via the Birely Drain. A Stormwater Report will be submitted and approved by City Engineering before final plat. This information is within the SIA under the heading V, Storm Drainage.

- b. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City’s landfill has adequate capacity for this waste.
- c. **Streets** – The lots within the subdivision will be served by the continuation of Shiny Penny Way and additional length of Bronze Boulevard. There will be a third street constructed, to be named, with this filing. They shall all be 34 feet back of curb to back of curb within a 56-foot-wide right of way and shall be built to City of Billings street standards. They shall be built to grade with a satisfactory subbase, base course, curb and gutter with asphalt surface. A temporary cul-de-sac will be provided at the north west end of Street 1 (temporary name). Easement documents will be provided for that cul-de-sac. (**Condition #1**)

The sidewalks will be installed by the home builder on a lot-by-lot basis, as lots develop. The developer will install all ADA required ramps at the intersections within the proposed subdivision and in front of the parkland. This is outlined in the SIA under the heading III Transportation B Sidewalks.

A Traffic Impact Study (TIS) update was completed with this filing to evaluate the subdivision’s impact on the street network in the surrounding area. Cash contributions will be made for future intersection improvements as identified in the SIA under Transportation D. Traffic Control Devices. A proportionate contribution will be made for this 9th filing as described in the SIA.

- d. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located

at 54th St. West and Grand Ave. (Station #7). The subdivision is located within the ambulance service area of American Medical Response (AMR).

- e. **Schools** –School District #2 provides educational services to elementary through high school students. Schools serving these students are Boulder Elementary, Ben Steele Middle School, and West High School. At the time of the writing of this staff report all schools are shown as being over capacity. The subdivision is currently on a bus route.
- f. **Parks and Recreation** – Residential subdivisions are required by City of Billings Subdivision Regulations to provide parkland for the residents of the subdivision. This subdivision is creating 48 residential lots with this filing. The required parkland acreage is 0.982 acres. The applicant is proposing to provide 4.809 acres of parkland. With this filing the applicant is proposing a public park. This subdivision has historically provided parkland but it has been private parks.

In the SIA the under the heading VII. Parks/Open Space it states: The subdivider will improve the public park by private contract. A park masterplan for the public park land will be prepared by the subdivider for review and approval by the City of Billings Parks and Recreation Department.

The Subdivider will improve the public park by private contract in accordance with the Parks and Recreation Department Master Plan Policy and as approved by the Department. Plans and Specifications will be reviewed and approved by the Parks and Recreation Department.

The park master plan for the public parkland with Copper Ridge Subdivision, Ninth Filing will be prepared by the Subdivider in partnership with the Parks and Recreation Department. This plan will provide for adequate public input and meet the requirements and specifications of the Parks and Recreation Department. The plan will be presented to the Parks, Recreation and Cemetery Board for their recommendation to City Council. The City Council will review and adopt the Master Plan by resolution prior to any construction.

During construction, the Department will make periodic inspections to assure the parkland is developed according to the plans and specifications. When construction is complete the Parks and Recreation Department will issue a letter of acceptance and will then begin maintenance operations. The parkland will be developed at the discretion of the Subdivider but before the final filing of the Copper Ridge Subdivision.

Operation and maintenance of the public park areas shall be by a park maintenance district (PMD) created and/or expanded for this and all subsequent filings of the Copper Ridge Subdivision by the Subdivider as approved by the Parks and Recreation Department and administered by the City of Billings.

(Condition #2)

The applicant will create a Park Maintenance District for maintenance of the public park. This maintenance district will be expandable for all future filings of Copper Ridge.

- g. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision and has indicated that centralized mailbox units will be required as were installed for the previous filings of this subdivision. The developer will need to coordinate mailbox locations with the postal service. **(Condition #3)**

3. Effect on the natural environment

The subject property is currently farmland slightly sloping to the south toward Rimrock Road with Phipps Park on the north. The property of the 9th Filing is not located within any floodplain. During development, storm water pollution prevention best management practices are required to be used and monitored to prevent erosion on exposed ground. Overall, the effect on the natural environment should be minimal.

4. Effect on wildlife and wildlife habitat

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

5. Effect on the public health, safety and welfare

There will be minimal impacts to public health, safety and welfare because of this subdivision.

B. Was an Environmental Assessment required? [(MCA 76-3-616 and BMCC 23-302.H.1.)]

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

C. Does the subdivision conform to the City of Billings 2016 Growth Policy, the 2014 Transportation Plan, and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-302.H.4.]

1. City of Billings 2016 Growth Policy

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

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

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

2. 2018 Billings Urban Area Long Range Transportation Plan

The proposed subdivision adheres to the goals and objectives of the 2018 Transportation Plan and preserves the street network and street hierarchy specified in the plan.

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

The proposed subdivision is just outside the jurisdiction of the Billings Area Bikeways and Trail Master Plan. There is a Bicycle Boulevard identified on Rimrock Road to 70th Street West. This trail could continue on when Rimrock Road is built out in the future. A trail corridor exists within parkland in the previous filings of this subdivision. This trail network will eventually connect the subdivision to a future trail identified in the plan along Cove Ditch to the south and east.

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

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

E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302.H.3.e.]

The subject property is located within Suburban Neighborhood (N3) zoning. The lot frontages conform to the requirements of this zone. Other building setbacks and structure specific requirements will be reviewed for compliance at the time of building permit review.

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

The subdivider will provide utility easements as requested by private utility companies on the face of the plat.

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

Legal and physical access is provided to the proposed lots from 70th Street West, Bronze Boulevard, and Shiny Penny Way. New internal streets will provide access to individual lots.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Copper Ridge Subdivision, 9th Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several of the goals and policies of the 2016 Growth Policy and does not conflict with the Transportation or Bikeway/Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

RECOMMENDATION

It is recommended to City Council that the preliminary plat of Copper Ridge Subdivision, 9th Filings be conditionally approved and adopt the Findings of Fact as presented in the staff report.

Approved by the Billings City Council, January 11, 2022

William A. Cole, Mayor

PLAT OF
COPPER RIDGE SUBDIVISION, 9TH FILING

BEING LOT 15A, BLOCK 3 OF COPPER RIDGE SUBDIVISION, 8TH FILING &
 LOT 15, BLOCK 3 OF COPPER RIDGE SUBDIVISION, 7TH FILING
 SITUATED IN THE THE SE1/4 OF SECTION 26, T. 1 N., R. 24 E., P.M.M.,
 IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : WH COPPER RIDGE 54 LLC

SEPTEMBER, 2021

PREPARED BY : SANDERSON STEWART 

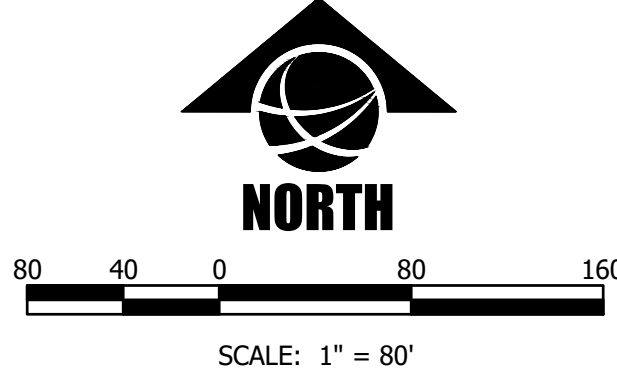
BILLINGS, MONTANA

PLAT DATA

GROSS AREA	=	42.762 ACRES
NET AREA	=	40.02 ACRES
NUMBER OF LOTS	=	49
MINIMUM LOT SIZE	=	6,752 SF
MAXIMUM LOT SIZE	=	1,145,100 SF
LINEAL FEET OF STREETS	=	±2,003 L.F.
PARKLAND REQUIREMENT	=	0.982 ACRES
PARKLAND DEDICATION	=	4.809 ACRES
EXISTING ZONING	=	N3-SUBURBAN NEIGHBORHOOD
SURROUNDING ZONING:		
NORTH	=	OUTSIDE OF ZONING
SOUTH	=	OUTSIDE OF ZONING
EAST	=	N3-SUBURBAN NEIGHBORHOOD
WEST	=	N3-SUBURBAN NEIGHBORHOOD
EXISTING LAND USE	=	VACANT
PROPOSED LAND USE	=	RESIDENTIAL DEVELOPMENT

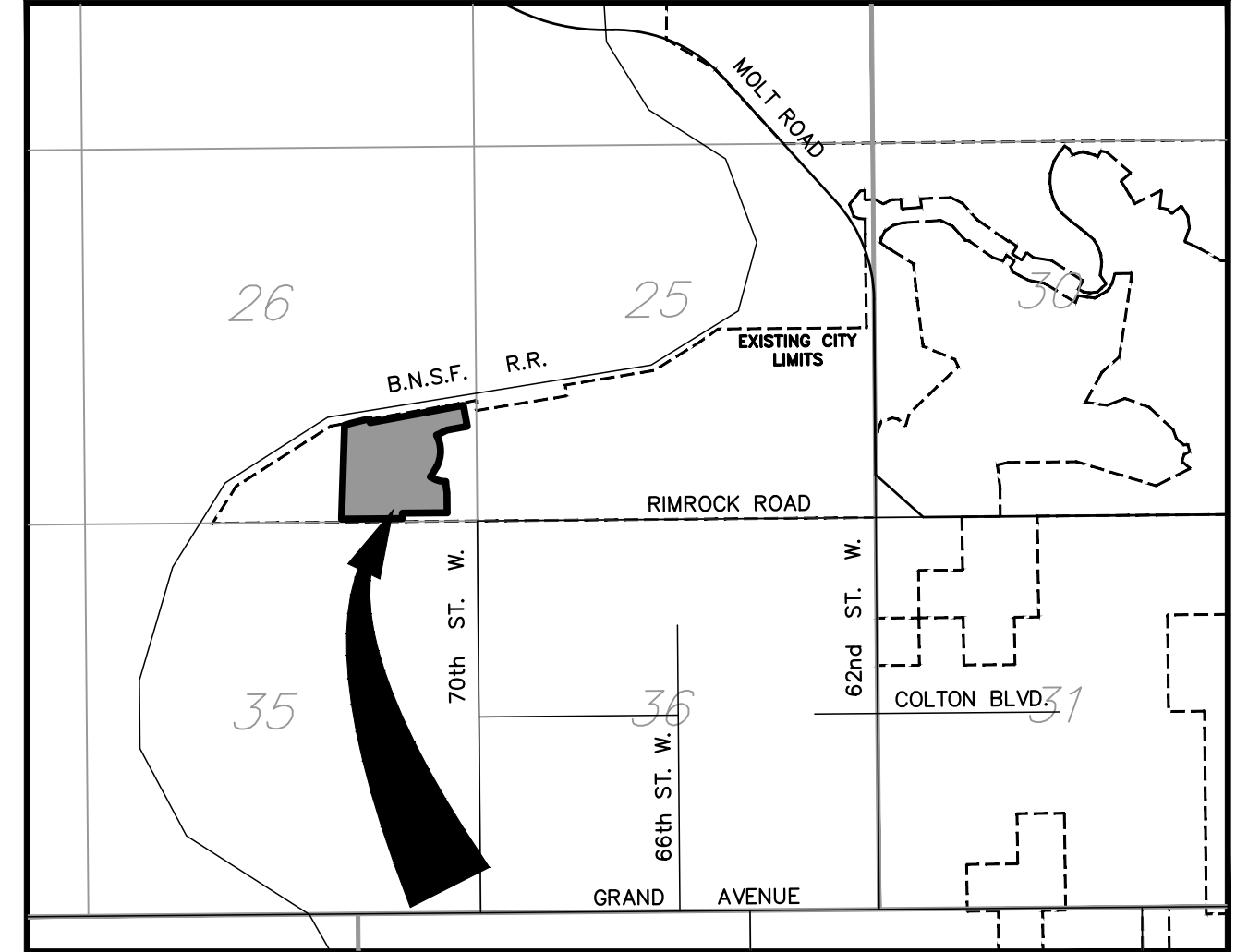
BASIS OF BEARINGS: PLAT OF COPPER RIDGE SUBDIVISION, EIGHTH FILING

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



OWNERSHIP

1	COPPER RIDGE WEST INC 175 N. 27TH ST STE 900 BILLINGS, MT 59101-2065
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VICINITY MAP

NOT TO SCALE



CERTIFICATE OF SURVEY No. 1651 TRACT A
 TRACT 4 CATHERINE HENDERSON TRUST WILSON BARBARA TRUSTEES 1712 70TH STREET WEST BILLINGS, MT 59106
 TRACT 3 CATHERINE HENDERSON TRUST WILSON BARBARA TRUSTEES 1712 70TH STREET WEST BILLINGS, MT 59106
 TRACT 1 CATHERINE HENDERSON TRUST WILSON BARBARA TRUSTEES 1712 70TH STREET WEST BILLINGS, MT 59106
 CERTIFICATE OF SURVEY No. 1651

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

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

**SUBDIVISION IMPROVEMENTS AGREEMENT & WAIVER OF
RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT
DISTRICTS
COPPER RIDGE SUBDIVISION, NINTH FILING**

THIS AGREEMENT is made and entered into this ____ day of _____, 20____, by and between **WH COPPER RIDGE 54, LLC**, whose address for the purpose of this agreement is 21080 Centre Pointe Parkway, Santa Clarita, CA 91350, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Montana, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, the preliminary plat of Copper Ridge Subdivision, Ninth Filing, located in the City of Billings, Yellowstone County, Montana, was submitted to the Planning and Community Services Department which recommended its approval to the Yellowstone County Board of Planning; and

WHEREAS, at a meeting held on the _____ day of _____, 20____, by the Yellowstone County Board of Planning, the Board recommended for approval, subject to certain conditions, an area known as Copper Ridge Subdivision, Ninth Filing, and

WHEREAS, at a regular meeting held on the _____ day of _____, 20____, the City Council approved, subject to certain conditions, a preliminary plat of Copper Ridge Subdivision, Ninth Filing, and

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

WHEREAS, the provisions of this agreement shall be effective and applicable to the plat of Copper Ridge Subdivision, Ninth Filing, upon filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The subdivision shall comply with all requirements of the City of Billings subdivision regulations; the rules,

regulations, policies, and resolutions of the City of Billings; and the laws and administrative rules of the State of Montana.

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

I. VARIANCES

Subdivider requests no variances.

II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

- A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.
- B.** Lot owners should be aware that this subdivision could contain wildlife migratory routes. Consequently, owners are advised that wildlife indigenous to this area could be found on the property and may impact the developed property and interface with domestic animals, residents, and visitors. Owners may also experience problems with damage to landscaped shrubs, flowers, and gardens. Any impacts associated with wildlife and any damage arising therefrom is the responsibility of the lot owners.
- C.** Lot owners should be aware that the United States Postal Service mail delivery will be made only to centralized delivery locations. Such locations shall consist of from 8 to 16 mailboxes per location. The location of each centralized mailbox setting is shown on the overall development plan and the private contract construction plans. Subdivider shall install the mailboxes within the private contract for the Ninth Filing.
- D.** Lot owners shall be advised that land in proximity to the northern boundary of Copper Ridge Subdivision is a right-of-way owned by the Burlington Northern Santa Fe Railroad, upon which they actively operate a transportation business. The noise from moving trains is clearly audible in the subdivision. This activity is protected by state law and can be expected to continue indefinitely. Subdivider, for itself and all successor owners of property within Copper Ridge Subdivision, hereby waives any right to object and/or protest the noise created by normal operation of trains running along the railway,

acknowledges that the railroad right-of-way is private property, and further acknowledges that Copper Ridge Subdivision and successor owners of lots within the subdivision have an affirmative duty to stay off the Burlington Northern Santa Fe Railroad property and to keep children, guests, and invitees off the property.

- E.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts, which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this agreement. The Subdivider and owner specifically agree that they are waiving valuable rights, and do so voluntarily.
- F.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for any construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.
- G.** Certain lots as shown on the final plat of Copper Ridge Subdivision, Ninth Filing contain storm water drainage easements with a drainage swale along property lines. This storm water drainage easement and drainage swale is for conveying storm water and shall not be altered in any way to inhibit the conveyance of storm water. It shall be the lot owners' responsibility to maintain and perpetuate this storm water swale, as a fully functional swale.
- H.** The lowest finished floor elevation (which includes the garage) shall be a minimum of 18-inches higher than the top of curb measured from the highest location along the lot frontage.
- I.** The lowest openings on each home (window well, walk-out basement doors, and equivalent openings) shall be located outside drainage paths. If this is not possible, the homebuilder and lot owners must take necessary measures to protect these openings from being inundated from surface water flows. Allow enough space between window wells and property lines to provide sufficient swales and drainage away from window wells, and meet applicable building codes for drainage requirements.
- J.** The developer and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and

State Department of Environmental Quality (DEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by DEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.

III. TRANSPORTATION

A. Streets

Shiny Penny Way, Bronze Boulevard and Street 1 (Temporary Name), shall be 56-foot rights-of-ways. Shiny Penny Way, Bronze Boulevard and Street 1 (Temporary Name) shall be 34 feet back of curb to back of curb. These roads shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings site development ordinance and city subdivision regulations. No street improvements will be constructed on Rimrock Road west of 70th Street West at this time.

B. Sidewalks

City and Subdivider agree that developer will install handicap accessibility ramps at time of private contract construction. Subdivider shall install a 5-foot wide boulevard sidewalk along the Shiny Penny Way frontage of the public park on Lot 15, Block 3 of Copper Ridge Subdivision, Ninth Filing, at the time of private contract construction. No additional boulevard sidewalks will be installed by the developer as part of construction improvements.

Individual lot owners will be responsible for the construction of the sidewalks adjacent to their lot at the time of lot construction. Sidewalks shall be 5-foot-wide boulevard sidewalks.

C. Street Lighting

Construction or installation of streetlights in subdivision shall not be required at this time, but streetlights are included in the Waiver, which also includes a maintenance district for street light energy and maintenance.

D. Traffic Control Devices

1. The Subdivider shall furnish and install all necessary traffic control devices adjacent to the subdivision. Traffic control devices shall include all necessary signing, striping, and channelization devices to properly complete the implementation of the proposed street construction. All traffic control devices shall be subject to review and approval by the City Engineering office.
2. Street name signs shall be installed at all intersections.
3. The City and Subdivider agree that the Subdivider will make cash contributions to improvements at the following intersections:

Rimrock Road/62nd Street West	11.17%
Grand Avenue/70th Street West	7.89%
70th Street West/Colton Boulevard	9.04%

The percentages are based on 378 total lots in the subdivision. Each filing will contribute their proportionate share of the contributions.

The amount and timing of these contributions shall be as outlined below. These contributions represent a fair and equitable amount based on subdivision traffic using these intersections and may be used by the City for design and construction of geometric improvements, auxiliary turn lanes, or intersection controls such as traffic signals or roundabouts, at these intersections. Improvements will not be constructed until the City determines they are needed and the timing and extent of the improvements shall be at the City's sole discretion.

The amount of the contributions for the Rimrock Road/62nd Street West, Grand Avenue/70th Street West, and 70th Street West/Colton Boulevard intersections shall be as follows:

Rimrock Road/62nd Street West	1.36%	\$3,400.00
Grand Avenue/70th Street West	0.96%	\$2,400.00
70th Street West/Colton Boulevard	1.10%	\$2,750.00

The contributions for Copper Ridge Subdivision, Ninth Filing shall be made prior to final plat approval. No building permits will be issued until Subdivider has made the cash contribution to the City.

It is anticipated that Lot 21, Block 8 will be developed with a future separate filing of the subdivision. Any cash contribution attributable to Lot 21, Block 8 shall be included with a future subdivision. The contribution may be apportioned over the various phases based on the amount of traffic each is expected to generate.

E. Access

Access will be provided in two locations for the subdivision. Extension of Shiny Penny Way and Bronze Boulevard will provide access

F. Billings Area Bikeway and Trail Master Plan

The Billings Area Bikeway and Trail Master Plan identifies the BNSF Railroad right of way adjacent to the subdivision as a potential future trail alignment. As such, a potential future trail alignment is nearby to this subdivision; therefore, City and the Subdivider agree that no additional trails will be required with this subdivision.

G. Public Transit

There are no MET Transit routes that service this subdivision at this time. No improvements with regard to MET Transit vehicles are anticipated at this time.

IV. EMERGENCY SERVICES

Access is provided to this subdivision from two existing locations. The Copper Ridge Subdivision, Ninth Filing, will complete a street connection from Shiny Penny Way and Bronze Boulevard. In addition, fire hydrants will be installed at the required locations as reviewed and approved by the City of Billings Fire Department.

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

At a minimum, the following is required:

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

V. STORM DRAINAGE

- A. All storm drainage improvements shall comply with the provisions of Chapter 28, BMCC, and shall be in accordance with the recommendations of an approved storm drain study to be submitted to the City of Billings Engineering Department by the Subdivider. The stormwater in the subdivision will be managed on-site through surface flow on the streets, inlets, piping, and stormwater detention facilities. The stormwater design for Copper Ridge Subdivision, Ninth Filing, will conform to the current City of Billings Stormwater Management Manual and be reviewed by the City of Billings Public Works Department.
- B. A detention basin has been previously constructed with Copper Ridge Subdivision, 8th Filing along the southern boundary of the subdivision. This detention facility is located on Lot 9, Block 3 of Copper Ridge Subdivision, 7th Filing. This existing stormwater detention facility has been previously sized to include Copper Ridge Subdivision, 9th Filing. The detention facility is located on Home Owner’s Association (HOA) owned lot and shall be operated and maintained by the HOA. The stormwater detention facilities for the subdivision has an outlet to Rimrock Road and is piped to a City of Billings owned stormwater management facility located near the intersection of 62nd Street West and Rimrock Road via the Birely Drain.
- i. The Subdivider may direct runoff from this filing and future filings to the City of Billings stormwater management facility located near the intersection of Rimrock Road and 62nd Street West. The City of Billings will review the stormwater storage provided on-site to ensure compliance with the City of Billings Stormwater Management Manual (SWMM). The Subdivision will be required

- to retain, or provide treatment, of the water quality volume/flow on-site in accordance with the SWMM.
- ii. All required stormwater storage for the subdivision will be provided on-site. Therefore, no off-site stormwater contributions to the City of Billings stormwater management facility will be required.

VI. UTILITIES

Water and sanitary sewer lines shall be sized and installed in conformance with the City design standards and specifications, and the rules and regulations of the City of Billings.

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

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

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

A. Water

Service to the subdivision will be provided from the existing 12-inch water main stub located in Shiny Penny Way and an existing 8-inch water main stub in Bronze Boulevard. The Subdivider will extend the existing 12-inch water main from the existing terminus in Shiny Penny Way to the intersection of Shiny Penny Way/Street 1 (temporary name) and continue the extension from the intersection of Shiny Penny Way/Street 1 (temporary name) to the southwest in Street 1 (temporary name) adjacent to Lot 1, Block 9 and stub for future connection. The remaining streets in Copper

Ridge Subdivision 9th Filing shall be 8-inch diameter. No water main will be installed in Rimrock Road west of 70th Street West at this time.

Appropriately sized mains and services in the internal streets will provide service to the individual lots within the subdivision. It is anticipated that each lot shall be provided with its own separate water service. All water construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality, and will be approved by the Public Works Department.

B. Sanitary Sewer

Service to the subdivision will be from the existing 8-inch sanitary sewer stub located in Shiny Penny Way. No sanitary sewer main will be installed in Rimrock Road west of 70th Street West with this subdivision but is anticipated to be extended to the west from the intersection of 70th Street West and Rimrock Road with future filings.

Appropriately sized mains and services in the internal streets will provide service to the individual lots within the subdivision. Each lot shall be provided with its own service. All sanitary sewer construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality and will be approved by the Public Works Department.

C. Power, Telephone, Gas, and Cable Television

All telephone, gas, electrical power, and cable television lines shall be placed in designated easements outside of the right-of-way and shall be installed underground prior to surface improvements. The location of all such facilities shall be subject to approval of the City Engineer.

VII. PARKS/OPEN SPACE

Per Section 76-3-621 of the Montana Code Annotated, 0.982 acres of parkland dedication is required for Copper Ridge Subdivision, Ninth Filing. The parkland provided with the platting of Copper Ridge Subdivision, Ninth Filing is 4.809 acres. The excess parkland dedication will be applied to future filings of Copper Ridge Subdivision. The Subdivider proposes to dedicate land as public park. The Subdivider will improve the public park by private contract.

Operation and maintenance of the public park areas will be by a park maintenance district created for the subdivision and administered by the City of Billings.

A park masterplan for the public parkland with Copper Ridge Subdivision, Ninth Filing will be prepared by the Subdivider for review and approval by the City of Billings Parks and Recreation Department. The park masterplan shall be submitted within 120 days of filing of the final plat, or sooner. The park masterplan will define the improvements and timing of construction of the park improvements.

VIII. HOMEOWNER'S ASSOCIATIONS

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

A. Contact Information

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

B. Stormwater Drainage Facilities

The HOA shall be responsible for the maintenance of the on-site stormwater drainage facilities located on Lot 19, Block 1 and Lot 9, Block 3, Copper Ridge Subdivision Seventh Filing. The HOA shall share the cost of maintenance of the community stormwater facilities.

IX. SOILS/GEOTECHNICAL STUDY

A geotechnical report was performed within the area of this subdivision and is available for review at the City of Billings Planning Department. The Geotechnical Investigation Report for Copper Ridge Subdivision, 9th Filing Billings, Montana was completed by Rimrock Engineering Inc. and dated November 15, 2021.

It is recommended that owners, purchasers, realtors, builders, and developers fully familiarize themselves with the information contained in this report prior to design or construction. There are variable soil conditions throughout the Subdivision, and the potential exists for collapsible soils within the Subdivision.

X. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a private contract secured by letters of credit or a letter of commitment to lend funds from a commercial

lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said private contract, and the improvements shall be installed as approved by the City Engineering Department and Public Works Department, Distribution and Collection Division.

XI. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

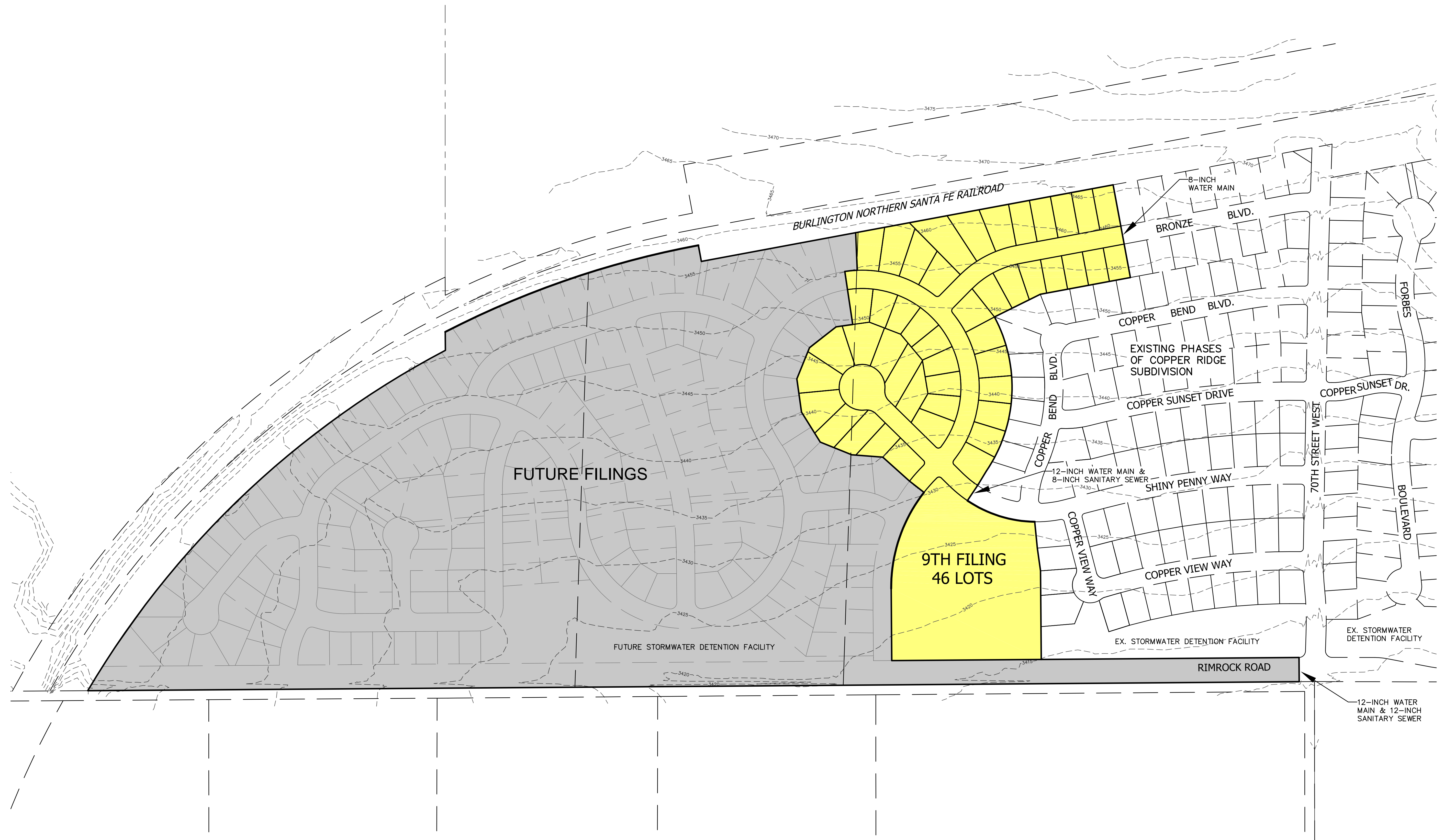
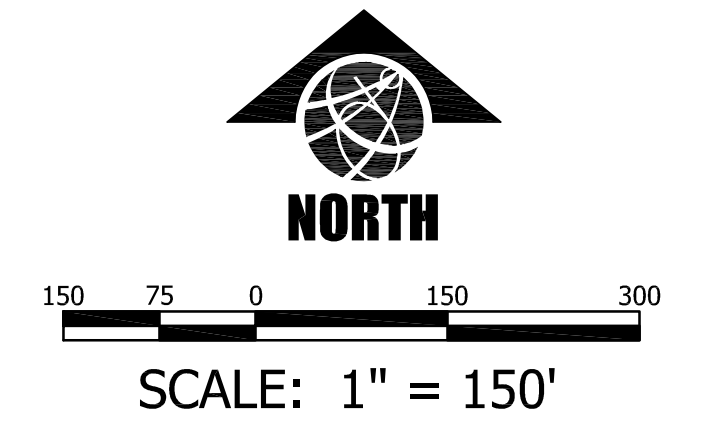
- A.** Subdivider agrees to guarantee all public improvements for a period of two year from the date of final acceptance by the City of Billings.
- B.** The owners of the properties involved in this proposed subdivision, by signature subscribed herein below, agree, consent, and shall be bound by the provision of the agreement.
- C.** The covenants, agreements, and all statements in this agreement run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees of the respective parties.
- D.** In the event it becomes necessary for either party to this agreement to retain an attorney to enforce any of the terms or conditions of this agreement or to give any notice required herein, then the prevailing party 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.

MASTERPLAN EXHIBIT OF
COPPER RIDGE SUBDIVISION

BEING LOT 15A, BLOCK 3 OF COPPER RIDGE SUBDIVISION, 8TH FILING &
LOTS 15 AND 16, BLOCK 3 OF COPPER RIDGE SUBDIVISION, 7TH FILING
SITUATED IN THE THE S1/2 OF SECTION 26, T. 1 N., R. 24 E., P.M.M., IN THE CITY OF
BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : WH COPPER RIDGE 54 LLC
PREPARED BY : SANDERSON STEWART 

SEPTEMBER 2021
BILLINGS, MONTANA



Planning Board

Date: 01/11/2022
Title: High Sierra Subdivision, 21st Filing - Preliminary Major Plat Review
Presented by: Monica Plecker
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Staff proposes the Planning Board recommend to City Council that the preliminary plat of High Sierra Subdivision 21st Filing be conditionally approved and adopt the Findings of Fact as presented in the staff report.

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

On November 1, 2021, Sanderson Stewart, agent for High Sierra II, Inc., applied for preliminary major plat approval for High Sierra Subdivision, 21st Filing. The proposed subdivision creates 49 lots for residential development. The subject property is generally located north of Annandale Road in Billings Heights. The property is zoned Suburban Neighborhood (N3). The proposed lots will follow the current zoning for lot frontage.

VARIANCES REQUESTED

The applicant is not requesting a variance from the subdivision regulations.

PROPOSED CONDITIONS OF APPROVAL

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

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

PROCEDURAL HISTORY

- Pre-application meeting September 9, 2021
- Preliminary plat application submitted to Planning Division on November 1, 2021
- Departmental review meeting November 18, 2021
- Preliminary plat resubmittal November 23, 2021
- Planning Board plat review December 14, 2021
- Planning Board public hearing January 11, 2022

- Preliminary plat to City Council February 14, 2022
- 60 working-day preliminary plat review period ends February 1, 2022.
- Applicant requested an extension to 60 working days, it now ends on February 14, 2022

PLAT INFORMATION

General location:	North of Annandale Road
Legal Description:	High Sierra Sub, 21st Filing Being Proposed Lot 15, Block 8 of High Sierra Sub, 17th Filing
Owner/Subdivider:	High Sierra II, Inc.
Engineer and Surveyor:	Sanderson Stewart
Existing Zoning:	N3
Existing land use:	Vacant Lane
Proposed land use:	Residential
Gross and Net area:	64.278 acres / 61.706 acres
Proposed number of lots:	49
Lot size:	Max: 51.003 acres Min.: 7,184 square feet
Parkland requirements:	Parkland dedication requirement is 1.156 acres. This requirement will be met with a cash in lieu contribution.

STAKEHOLDERS

There are no stakeholder responses at this time. On January 11, 2022, at a scheduled Planning Board public hearing, comment will be formally received from the public.

On December 14, 2021, the Planning Board held a plat review meeting to review plats scheduled for a future public hearing. Staff gave a brief presentation of the proposed plat, after the presentation Board President Woody Woods asked if there were any question for staff or the agent, there were none.

ALTERNATIVES

In accordance with state law, the Governing Body has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed plat ends on February 14, 2022, with the developer's extension. Subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The Governing Body 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

Governing Body is required to:

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

FISCAL EFFECTS

This plat will have no fiscal impacts on the City/County Planning Division.

SUMMARY

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

Attachments

Findings of Fact

Proposed Plat

SIA Draft

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of High Sierra Subdivision, 21st Filing. These findings are based on the preliminary plat application and supplemental documents; addressing the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(H), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302.H.2.]

1. Effect on agriculture and agricultural water user facilities

The subject property is currently dry land grass and shrubs. There are no water rights being transferred to subdivision property owners. There are no existing ditches near this proposed development. The subdivision will not affect agricultural water users' facilities.

2. Effect on local services

- a. **Utilities** – Public water services to the subject property will be provided by the County Water District of Billings Heights water distribution system. The subdivision will be served by making connections to existing 8-inch public water mains, one in Montecito Avenue and one in Chino Circle. An 8-inch water main will be installed in the new internal streets. The water main within the subdivision will make looped connections whenever possible. All water line construction shall be installed in conformance with the design standards, specification, rules and regulations of the County Water District of Billings Heights. The County Water District of Billings Heights will review and approve all proposed water lines prior to installation. This information is all covered in the SIA under the heading VI Utilities.

Fire hydrants will also be installed as required by the City of Billings Fire Department. The City Fire Department will review and approve all proposed hydrant locations prior to installation. This information is all covered in the SIA under the heading VI Utilities.

Sanitary sewer service will be provided by the City of Billings by making a connection to an existing 8-inch diameter sewer main located in Montecito Avenue and to an existing 10-inch sewer main located in Chino Circle. The 10-inch line will be extended north and west for future connections with future filings. All sewer line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings Engineering Department. The City of Billings Engineering Department will review and approve all proposed sanitary sewer lines prior to installation. This information is all covered in the SIA under the heading VI Utilities.

All telephone, gas, electrical power, and cable television lines that are placed within the public right-of-way shall be installed prior to surface improvements.

- b. **Storm water** – Stormwater management for the proposed subdivision will be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains. Storm water will discharge to a stormwater detention facility located in an off-site area on Lot 17A, Block 1, High Sierra Subdivision, 12th Filing. It is generally located north of the future High Sierra 21st Filing. This detention facility will be sized to accept runoff generated from the High Sierra Subdivision, 21st Filing and previous filings of High Sierra Subdivision. Stormwater management facilities for the subdivision must be able to pass flows generated outside the subdivision area without inundating existing and proposed home sites. All proposed stormwater management will be reviewed and approved by City of Billings Engineering Department to ensure it meets the master planned stormwater plan for High Sierra Subdivision. All drainage improvements shall comply with the provisions of the City of Billings Stormwater Management Manual and Section 23-706, BMCC, a stormwater management plan shall be submitted to the Engineering Division prior to filing of the final plat. This information is all covered in the SIA under the heading V Storm Drainage.
- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City’s landfill has adequate capacity for this waste.
- d. **Streets** – Access to the lots in this proposed subdivision originate from Annandale Road. The subdivision will have access off Bonito Loop. Lots will have access from the new proposed roads within the subdivision. All new streets will be in a 56-foot-wide right of way and will be constructed to 34-foot wide, back of curb to back of curb road. Road construction will include installation of accessible ramps at the intersections.

Sidewalks will be installed at the time of individual lot development. All sidewalks will be boulevard type walks with 5-foot wide boulevard sidewalks.

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station that serves this area is located at 1601 St. Andrews Drive (Station #6).

The subdivision is located within the ambulance service area of American Medical Response (AMR).

Comments from the Police department state that continued expansion of subdivisions will require additional resources to maintain acceptable levels of service.

- f. **Schools** – School District #2 provides service to students within this subdivision from middle school and high school (Medicine Crow Middle School, and Skyview High School). School District #2 shows Medicine Crow as currently

under maximum capacity. Skyview is currently at capacity. School District #5, Independent School, will provide services for elementary school students.

- g. Parks and Recreation** – The parkland dedication requirement for this subdivision is 1.156 acres. This will be met with a cash in lieu contribution.
- h. Mail Delivery** - The United States Postal Service will provide postal service to the subdivision. They have requested the installation of centralized mailbox unit (CBUs). The developer will work with the USPS to provide a satisfactory location for a CBU for this filing. **(Condition #1)**

3. Effect on the natural environment

The subject property is relatively level land adjacent to urban development to the south. A geotechnical study was performed for the subdivision by Rimrock Engineering, Inc. dated July 28, 2021. It is recommended lot purchasers fully review that report prior to building on lots. The subdivision should have a minimal effect on the natural environment.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. Future property owners should be aware that the proposed subdivision is located near prime wildlife habitat and adjacent to open grassland areas, therefore conflicts with wildlife may occur. Any damage caused by wildlife is the responsibility of the owner. This notice is in the SIA under the heading II. Property Conditions and Information for Lot Purchasers.

5. Effect on the public health, safety and welfare

Fire hydrants will be installed to meet fire department requirements. Sidewalks will offer a safe place for pedestrians to walk. The effects on public health and safety should be minimal.

B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-302.H.1.)]

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

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

1. City of Billings 2016 Growth Policy

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

Essential Investments: Infill development and development near existing City infrastructure may be the most cost effective. (p.6)

Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods): Neighborhoods that are safe and attractive and provide essential services are much desired. (p.8)

Home Base (healthy, safe and diverse housing options) Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings. (p.9)

2. Billings Heights Neighborhood Plan

The Billings Heights Neighborhood Plan, adopted in 2006, identifies this area for low-density residential development. The subdivision meets the following goals of the Heights Neighborhood Plan:

Issue: Urban Sprawl

Issue: Residential Development

Goal: To provide safe, good quality and affordable housing in the Heights. Develop housing patterns that are compatible with existing neighborhoods. Maintain similar housing in established neighborhoods.

Objectives: To encourage infill development and housing development that meets residents' desire to have similar housing within their neighborhood.

This subdivision provides low-density residential single-family development in a neighborhood with existing low-density single-family development.

3. 2018 Billings Urban Area Long Range Transportation Plan

The proposed subdivision adheres to the goals and objectives of the 2018 Transportation Plan and preserves the street network and street hierarchy specified in the plan.

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

The proposed subdivision lies within the jurisdiction of the BABTMP. The BABTMP does not show any trails within the proposed subdivision.

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

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

E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302.H.3.e.]

The subject property is located within the Suburban Neighborhood 3 (N3) zoning district. All building development on the lots shall comply with current zoning when applying for a building permit.

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

The subdivider will furnish private utility easements as required by private utility providers.

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

Legal and physical access is provided to the proposed lots from Montecito Avenue and Chino Circle. The new internal road will provide access to individual lots. All streets are dedicated to the public as shown on the plat.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of High Sierra Subdivision, 21st Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2016 Growth Policy and does not conflict with the Transportation or Bikeway and Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

RECOMMENDATION

It is recommended to City Council that the preliminary plat of High Sierra Subdivision, 21st Filing be conditionally approved and adopt the Findings of Fact as presented in the staff report.

Approved by the Billings City Council, January 11, 2022

William A. Cole, Mayor

PRELIMINARY PLAT OF HIGH SIERRA SUBDIVISION, 21ST FILING

BEING LOT 33, BLOCK 17, HIGH SIERRA SUBDIVISION, 10TH FILING &
PROPOSED LOT 15, BLOCK 8, HIGH SIERRA SUBDIVISION, 17TH FILING
SITUATED IN THE SE1/4 OF SECTION 8 AND THE SW1/4 OF SECTION 9, T.1N., R. 26 E., P.M.M.,
IN THE CITY OF BILLINGS, MONTANA

PREPARED FOR : HIGH SIERRA II, INC.

SEPTEMBER, 2021

PREPARED BY : SANDERSON STEWART

BILLINGS, MONTANA

PLAT DATA

GROSS AREA = 64.460 AC
NET AREA = 61.706 AC
NUMBER OF LOTS = 49
MINIMUM LOT SIZE = 7,184 SF
MAXIMUM LOT SIZE = 2,222,988 SF
LINEAL FEET OF STREETS = ±2,160 LF
PARKLAND REQUIREMENT = 1.156 ACRES
PARKLAND DEDICATION = CASH-IN-LIEU
EXISTING ZONING = N3
SURROUNDING ZONING:
NORTH = AGRICULTURE OPEN
SOUTH = N3, N2 & NMU
EAST = N3 & P1
WEST = N3
EXISTING LAND USE = VACANT
PROPOSED LAND USE = RESIDENTIAL DEVELOPMENT

OWNERSHIP

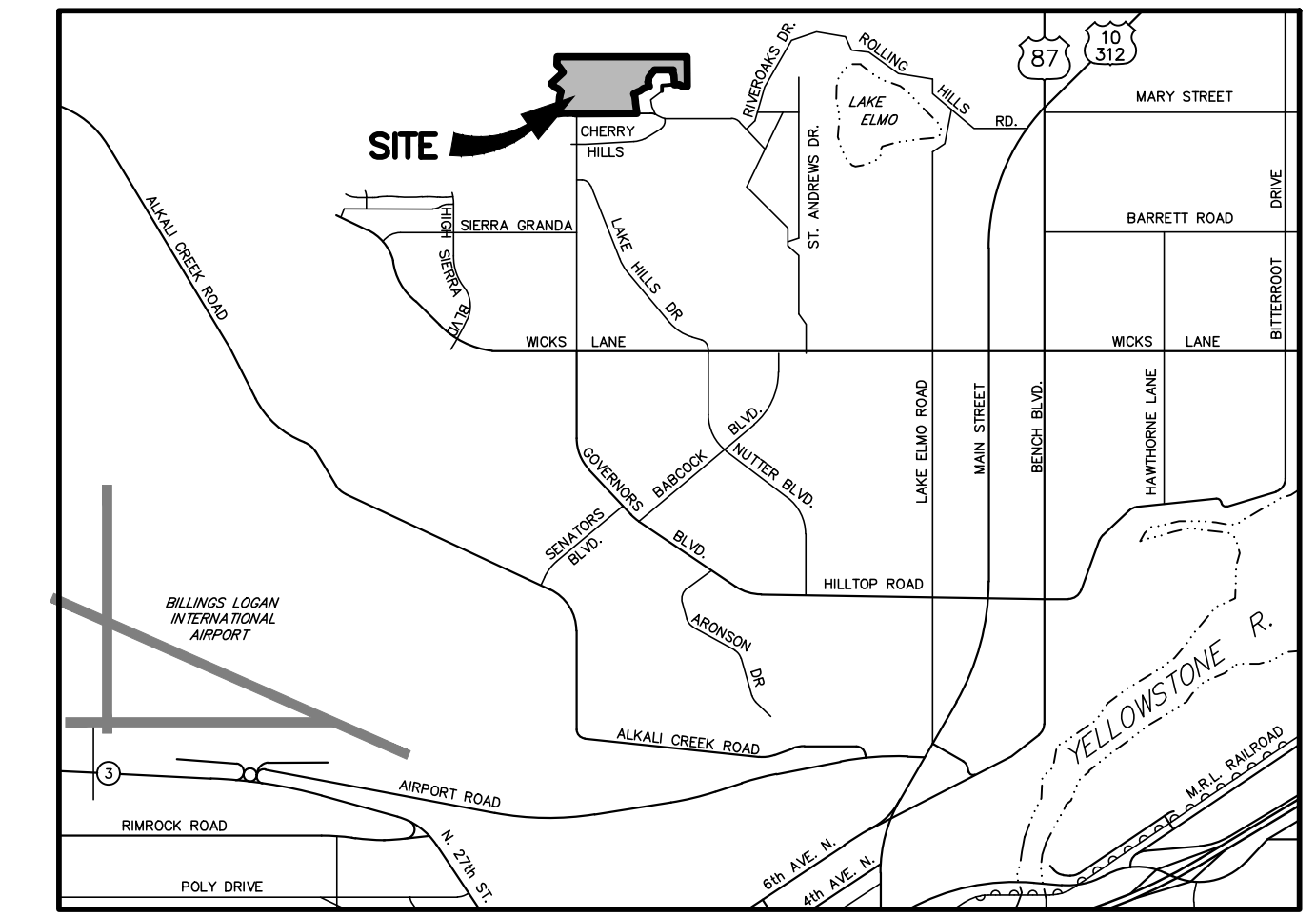
1 HIGH SIERRA II INC.
175 N 27TH ST. STE 940
BILLINGS, MT. 59101

BASIS OF BEARINGS: PLAT OF HIGH SIERRA SUBDIVISION, 17TH FILING

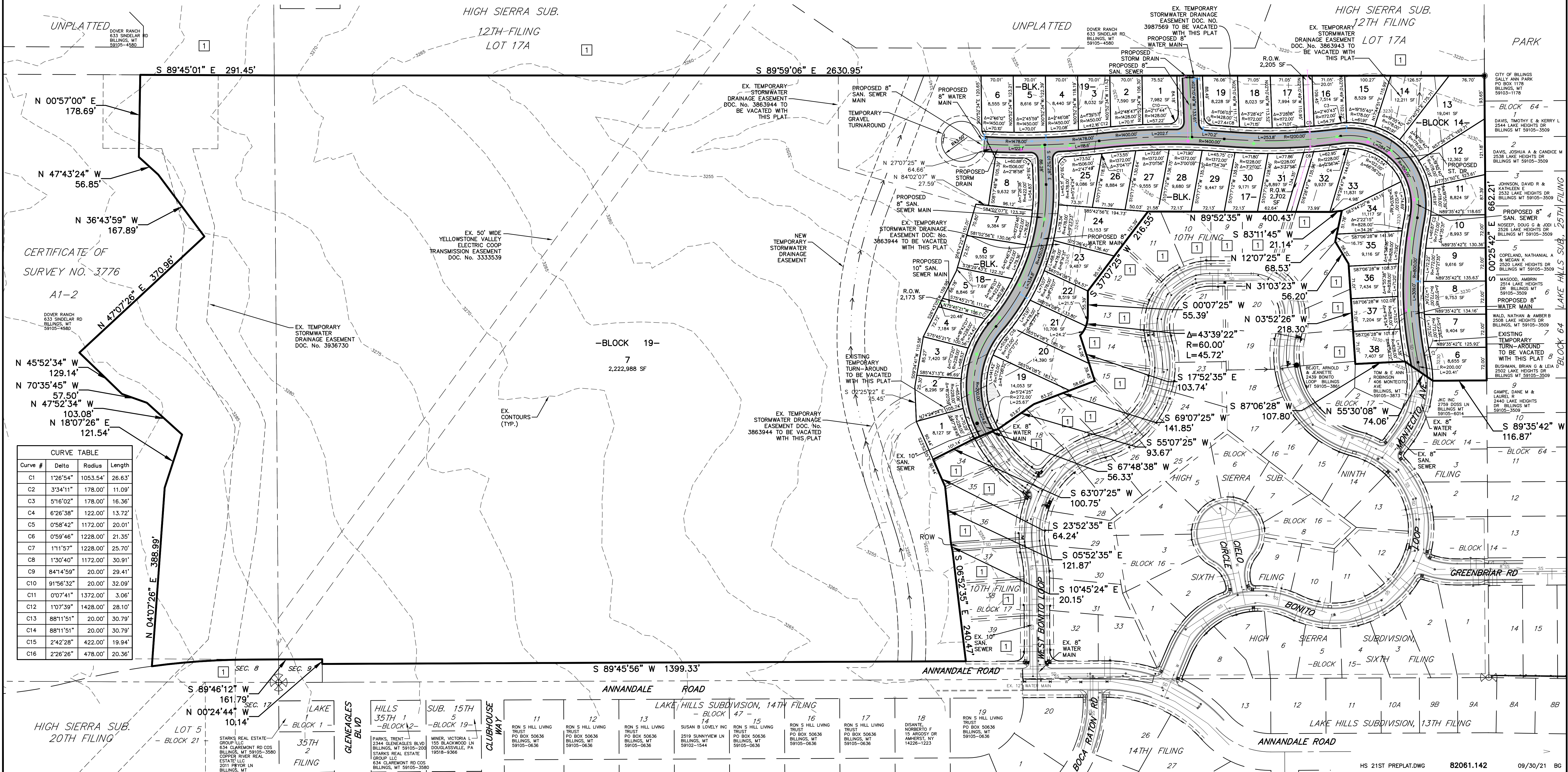
- NOTE:
1. ALL CURVES ARE TANGENT AND ALL PROPERTY LINES INTERSECTING CURVES ARE RADIAL UNLESS OTHERWISE NOTED.
2. ALL STREET ROW ARE 56' WIDE.
3. ALL STREET WIDTHS ARE 34' WIDE BACK OF CURB TO BACK OF CURB.



SCALE: 1"=100'



VICINITY MAP
NOT TO SCALE



Curve #	Delta	Radius	Length
C1	1°26'54"	1053.54'	26.63'
C2	3°34'11"	178.00'	11.09'
C3	5°16'02"	178.00'	16.36'
C4	6°26'38"	122.00'	13.72'
C5	0°58'42"	1172.00'	20.01'
C6	0°59'46"	1228.00'	21.35'
C7	1°11'57"	1228.00'	25.70'
C8	1°30'40"	1172.00'	30.91'
C9	84°14'59"	20.00'	29.41'
C10	91°56'32"	20.00'	32.09'
C11	0°07'41"	1372.00'	3.06'
C12	1°07'39"	1428.00'	28.10'
C13	88°11'51"	20.00'	30.79'
C14	88°11'51"	20.00'	30.79'
C15	2°42'28"	422.00'	19.94'
C16	2°26'26"	478.00'	20.36'

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

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST
FUTURE SPECIAL IMPROVEMENT DISTRICTS
HIGH SIERRA SUBDIVISION, TWENTY FIRST
FILING**

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

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST
FUTURE SPECIAL IMPROVEMENT DISTRICTS
HIGH SIERRA SUBDIVISION, TWENTY FIRST FILING**

THIS AGREEMENT is made and entered into this ____ day of _____, 20____, by and between **HIGH SIERRA II, INC.**, whose address for the purpose of this agreement is 175 North 27th Street, Suite 900, Billings, MT 59101, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, at a regular meeting conducted on ____ day of _____, 20____, the Board of Planning recommended conditional approval of a preliminary plat of High Sierra Subdivision, 21st Filing; and

WHEREAS, at a regular meeting conducted on ____ day of _____, 20____, the City Council conditionally approved a preliminary plat of High Sierra Subdivision, 21st Filing; and

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

WHEREAS, the provisions of this agreement shall be effective and applicable to High Sierra Subdivision, 21st Filing upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

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

I. VARIANCES

A. Subdivider has requested, and the City hereby grants, the following variances by the City Council from the strict interpretation of the City's Subdivision Regulations (Section 23.1401, BMCC):

1. No Variances are requested.

II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

A. Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.

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

C. No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.

D. There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider, and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

- E.** The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the City and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.
- F.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Chapter 28, BMCC and detailed in the Billings Stormwater Management Manual.
1. The lowest finish floor elevation (which includes the garage) shall be a minimum of 18-inches higher than the top of curb, measured from the highest location along the lot frontage. Home builder and lot owner may find it necessary to raise the finish floor elevation of house or garage above this minimum during on-site building design and/or during on-lot grading.
 2. The stormwater runoff from individual lots shall be directed toward the public right-of-way wherever possible. However, due to the existing terrain of the subdivision this is not possible for every lot. Where runoff from lots cannot be directed to public right-of-way because existing terrain is falling away from the public right of way, the stormwater runoff shall be directed to flow to the same location as it has historically. Home builder and lot owners shall consider the effect of potential off-lot run-on waters from lots uphill of the subject lot, and grade around the home to provide positive drainage away from the home. Home builder and lot owners must take necessary measures to protect the house from surface stormwater flows. Lots shall allow, through on-site building design and on-lot grading, for stormwater to pass through each lot without negatively impacting adjacent lots. The lowest openings on each home (window wells) are to be located outside the designated drainage paths. If this is not possible, the builder and lot owners must take necessary measures to protect these openings from inundating from surface water flows. In any case, the homebuilder shall allow enough space between window wells and property lines to provide sufficient swales and proper storm water drainage away from window wells.

3. Each owner of a completed lot shall be a member of the High Sierra Subdivision Homeowners Association (HOA). Membership shall be appurtenant to and may not be separated from ownership of a lot. The Homeowners Association will be set up to maintain the permanent stormwater detention facilities. The HOA Board of Directors shall have the power, in its discretion, to exclude costs of major repairs or approved capital improvements to the HOA Storm Water System from the regular monthly assessments and, instead, impose special assessments for these expenses, and for emergencies, as they are incurred.

III. TRANSPORTATION

A. Streets

1. Subdivider will enter into a private contract for the construction of all required improvements for those streets within the subdivision, as follows:

Montecito Avenue, Chino Circle and Street 1 (Temporary Name) will be constructed within a 56-foot right-of-way using curb and gutter and full-width pavement (34-feet back of curb to back of curb). Curb and Gutter will be installed per the City of Billings Standards in place at time of construction.

B. Sidewalks

1. Sidewalk on the internal streets shall be installed at the time of individual lot development. The sidewalk shall consist of a 5-foot-wide boulevard type sidewalk with a minimum 5-foot-wide boulevard.
2. Subdivider will install accessible ramps at the intersections, which shall be completed with the subdivision improvements.
3. A 12-foot-wide sidewalk shall be constructed in the 20-foot-wide right-of-way corridors and shall be installed at the time of private contract construction.

C. Street Lighting

Construction or installation of streetlights within the public rights-of-way shall not be required at this time, but streetlights are included in the

Waiver referenced herein for construction of the same in the future. A maintenance district for streetlights may be formed for future maintenance of any streetlights installed in the future.

D. Traffic Control Devices

The Subdivider shall furnish and install all necessary traffic control devices within and adjacent to the Subdivision in accordance with the plans and specification submitted to and approved by the City Engineer. Traffic control devices shall include all necessary signing, striping, and channelization devices to properly complete the implementation of the proposed street construction.

Based on the Traffic Impact Study (TIS) update letter, the 21st Filing development's portion of critical volumes for impacted intersections are as follows (based on a \$250,000.00 intersection improvement cost):

Wicks Lane/Gleneagles Blvd	1.06% (\$2,650.00)
Wicks Lane/Fantan Street	1.18% (\$2,950.00)
Wicks Lane/St. Andrews Dr.	0.94% (\$2,350.00)
Annandale Road/Gleneagles Blvd	1.00% (\$2,500.00)
Annandale Road/St. Andrews Dr.	1.14% (\$2,850.00)

City and Subdivider agree that the Subdivider will be required to make cash contributions to these intersections prior to final plat approval.

E. Access

Montecito Avenue and Chino Circle provide access to the subdivision. The interior streets will be located within a 56-foot right-of-way and will have a width of 34-foot back of curb to back of curb.

F. Billings Area Bikeway and Trail Master Plan

The Billings Area Bikeway Plan (2017) shows no trail connections within the proposed area of High Sierra Subdivision, 21st Filing, and as such, no trail improvements are required as part of this subdivision.

G. Public Transit

The subdivision does not require improvements to ensure public transit service.

IV. EMERGENCY SERVICE

The City will provide emergency service. Fire hydrants shall be provided at each street intersection and at intermediate locations where distances exceed 500-feet. Appropriate turnarounds will be located on any dead-end street in excess of 150-feet.

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

At a minimum, the following is required:

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

V. STORM DRAINAGE

Storm drainage for the public streets shall be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains, and with discharge to a stormwater detention facility that is located within an off-site area on Lot 17A, Block 1, High Sierra Subdivision, 12th Filing generally north of High Sierra Subdivision, 21st Filing. This detention facility will be sized to accept runoff generated from the High Sierra Subdivision, 21st Filing and previous filings of High Sierra Subdivision. Stormwater management facilities for the subdivision must be able to pass flows generated outside the subdivision area without inundating existing and proposed home sites. All drainage improvements shall comply with the provisions of the *Stormwater Management Manual* and Section 23-706, BMCC, a stormwater management plan shall be submitted to and approved by the Engineering Division prior to filing of the final plat.

The drainage system improvements will be in accordance with the recommendations of the stormwater analysis and report prepared and submitted with the improvement plans and specifications. Maintenance of the stormwater detention area and associated drainage facilities shall be by the High Sierra Subdivision HOA.

VI. UTILITIES

Water and sanitary sewer lines shall be sized and installed in conformance with the City design standards and specifications, and the rules and regulations of the City of Billings and the County Water District of Billings Heights.

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of water mains and sanitary sewers to the Public Works Department, Distribution and Collection Division, and the County Water District of Billings Heights. The extension/connection of/to water mains and sanitary sewers are subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications. The appropriate water and wastewater fees in effect shall be submitted with the applications.

It is acknowledged that the properties subject to the Subdivision Improvements Agreement shall be subject to the appropriate buy-in fee for the County Water District of Billings Heights in effect at the time of payment. Fees shall be paid as applied for in the extension application and as per the first paragraph above.

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

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

A. Water

The subdivision will be served by making connections to an existing water main stub located in Montecito Avenue and Chino Circle. The existing water main in these streets is an 8-inch in diameter main and is a part of the County Water District of Billings Heights water distribution system. A new 8-inch water main will be installed in the local interior streets. The water main within the subdivision will make looped connections whenever possible. Fire hydrants will be provided at all appropriate locations and will be subject to approval by the City of Billings Fire Department. Appropriately sized mains and services in the internal streets will provide service to the individual lots within the subdivision. Each lot shall be provided with its own separate water service. All water construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the County Water District of Billings Heights and Montana Department of Environmental Quality and will be approved by the County Water District of Billings Heights.

B. Sanitary Sewer

The subdivision will be served by making a connection to an existing 8-inch diameter sewer main located in Montecito Avenue and to an existing 10-inch diameter sewer main located in Chino Circle. The 10-inch diameter sewer main will be extended to the north and west for connection of future filings. The remaining sanitary sewer mains in Montecito Avenue, Chino Circle and Street 1 (Temporary Name) will be 8-inch diameter.

C. Power, Telephone, Gas, and Cable Television

All telephone, gas, electrical power, and cable television lines shall be the responsibility of the Subdivider. Any line located within public right-of-way shall be subject to approval of the City Engineer.

VII. PARKS/OPEN SPACE

Section 76-3-621 of the Montana Subdivision and Platting Act covers the park dedication requirement. Additionally, Section 23-1002. B.1 of the City of Billings municipal code covers parkland dedication of major subdivisions. High Sierra Subdivision, 21st Filing requires a parkland dedication 1.156 acres. The Subdivider will make a cash in-lieu contribution for the 1.156 acres in lieu of parkland dedication.

VIII. IRRIGATION

No permanent irrigation ditches, field laterals, or irrigation easements exist on the subdivision.

IX. SOILS/GEOTECHNICAL STUDY

A geotechnical report was performed within the area of this subdivision and submitted with the preliminary plat and is available for review at the City of Billings Planning Department. The Geotechnical Investigation Report for High Sierra Subdivision 21st Filing Billings, Montana was completed by Rimrock Engineering Inc. and dated _____.

It is recommended that owners, purchasers, realtors, builders, and developers fully familiarize themselves with the information contained in this report prior to design or construction.

X. FINANCIAL GUARANTEES

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

XI. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

- A. Subdivider agrees to guarantee all public improvements for a period of two year from the date of final acceptance by the City of Billings.
- B. The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.
- C. The covenants, agreements, and all statements in this Agreement run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees of the respective parties.

- D.** In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.
- E.** Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.
- F.** Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

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

“SUBDIVIDER”

HIGH SIERRA II, INC.

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of Yellowstone)

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

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

Planning Board

Date: 01/11/2022
Title: The Timbers Subdivision, 1st Filing - Preliminary Major Plat Review
Presented by: Monica Plecker
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Staff proposes the Planning Board recommend to City Council that the preliminary plat of The Timbers Subdivision, 1st Filing be conditionally approved, the Findings of Fact adopted and approval of the variance as presented in the staff report.

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

On December 1, 2021, IMEG for Ali and David Mitchell, applied for preliminary major plat approval for The Timbers Subdivision, 1st Filing. The proposed subdivision creates 93 lots for residential development. The subject property is generally located south of Alkali Creek Road and west of Foothill Drive. The property will be zoned Planned Neighborhood Development, builders will follow the City of Billings Zoning Code when developing the lots.

VARIANCES REQUESTED

The applicant is requesting a variance from Section 23-406, Streets and Roads, B. Streets and Roads Design and Improvement Standards requiring paved surfacing. Specifically the applicant is asking to construct a gravel road to be in use for up to two years at which point the developer will then hard surface the road according to city standards.

See Attachment A for further discussion on the variance request.

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 submit all drawings and specifications for water systems, sewer systems and stormwater systems to the City of Billings Engineering Department for review and approval prior to installation. Any additional information required by City of Billings Engineering will be provided by the applicant and additional language in the SIA will be added as required by Engineering.
2. To protect public health and safety, prior to final plat approval, the applicant will submit all drawings and specifications for fire hydrant locations and installation the City of Billings Fire Department and City Engineering Department for review and approval prior to installation. Any additional information required by City of Billings Fire Department or Engineering Department will be provided by the applicant and additional language in the SIA will be added as required by the Fire or Engineering Departments.
3. To protect public health and safety, prior to final plat approval, the applicant will

coordinate with City Parks Department and City Engineering concerning proposed discharge methods of detention ponds next to City Park land. Any proposal must be reviewed and approved by City Parks Department and City Engineering prior to installation.

4. To protect public health and safety, prior to final plat approval, the applicant will include language in the SIA under the heading III Transportation B. Sidewalks that the applicant will be responsible for the installation of accessible ramps at the intersections.
5. To protect public health and safety and provide for access to proposed lots, prior to final plat approval, the applicant will provide easement documents for the driveway to lots 18 and 19.
6. To protect public health and safety, prior to final plat approval, the applicant will provide all needed information requested by City of Billings Engineering in their TIS. All recommendations shown in the TIS will be reviewed by Engineering and the required information will be added to the SIA.
7. To protect public health and safety, prior to final plat approval, the applicant will include language in the SIA under the heading II Property Conditions and Information for Lot Purchasers, lot owners will be advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of the public park within The Timbers Subdivision.
8. To protect public health and safety and to ensure parks are developed to City of Billings standards, prior to final approval, the applicant will include the following language in the SIA under the heading VII Parks/Open Space: The parks and trail within the park(s) will be constructed or bonded for by the Developer prior to final plat filing in accordance with the Parks and Recreation Department Master Plan Policy and as approved by the Department. A park master plan for the public parkland within the Timbers Subdivision will be funded by the Subdivider in Consultation with the Parks and Recreation Department by a registered Landscape Architect. This plan will provide for adequate public input and meet the requirements and specifications of the Parks and Recreation Department. The plan will be presented to the Parks, Recreation and Cemetery Board for their recommendation to City Council. The City Council will review and adopt the Master Plan by resolution prior to any construction. The timing of when the master plan is completed can be specified by the applicant. If they intend to do a master plan with a future filing or it can be complete with the final filing.
9. 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.
10. To protect public health and safety and to meet the requirements for trails within City of Billings Parks, prior to final plat approval, under the heading III Transportation, E., the applicant will add language about installation of a trail within the City Park: The final location of the trail within the City of Billings Park will be determined in consultation with Parks Department and the Active Transportation Planner. The trail shall be built to City of Billings trail standards. The trail will continue a connection to the property to the south east, along Sugar Pine Road.
11. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
12. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the

laws and Administrative Rules of the State of Montana.

PROCEDURAL HISTORY

- Pre-application meeting July 8, 2021
- Preliminary plat application submitted to Planning Division on December 1, 2021
- Departmental review meeting December 16, 2021
- Preliminary plat resubmittal December 23, 2021
- Planning Board plat review January 11, 2022
- Planning Board public hearing January 25, 2022
- Preliminary plat to City Council February 28, 2022
- 60 working-day preliminary plat review period ends March 2, 2022

PLAT INFORMATION

General location: South of Alkali Creek Road and west of Foothill Drive

Legal Description: Tract A of COS 3795

Owner/Subdivider: Ali and David Mitchell

Engineer and Surveyor: IMEG

Existing Zoning: PD

Existing land use: Open grassland

Proposed land use: Residential

Gross and Net area: 56.52 acres / 40.09 acres

Proposed number of lots: 93

Lot size: Max: 1.84 acres
Min.: 4,959 square feet

Parkland requirements: Parkland requirement for this subdivision is 3.45 acres, the applicant will be dedicating 6.72 acres with this filing.

STAKEHOLDERS

There are no stakeholder responses at this time. On January 25, 2022, at a regularly scheduled meeting of the Planning Board, public comment will be formally received during a public hearing.

ALTERNATIVES

In accordance with state law, the Governing Body has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed plat ends on March 2, 2022. Subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The Governing Body 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 Governing Body is required to:

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

FISCAL EFFECTS

This plat will have no fiscal impacts on the City/County Planning Division.

SUMMARY

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

Attachments

Findings of Fact
Proposed Plat
SIA Draft
Attachment A_Variance
Roads Master Plan

FINDINGS OF FACT

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

A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302.H.2.]

1. Effect on agriculture and agricultural water user facilities

The subject property is currently native grassland with trees and shrubs. Water rights will not be transferred to subdivision property owners. There are no existing ditches near this proposed development. The subdivision should not affect agricultural water users' facilities.

2. Effect on local services

- a. Utilities** – Public water services to the subject property will be provided by the City of Billings. The subdivision will continue a 12-inch water main in Timbers Boulevard South. This will serve as the future City trunk line through the development. All other water lines in the proposed subdivision will be 8-inch water mains located in the other proposed streets with water stubs to individual lots for future home connections. The water mains within the subdivision will make looped connections whenever possible. All water line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings. The City of Billings Engineering Department, will review and approve all proposed water lines prior to installation. **(Condition #1)**

Fire hydrants will also be installed as required by the City of Billings Fire Department. The City Fire Department will review and approve all proposed hydrant locations prior to installation. **(Condition #2)**

Sanitary sewer service to the proposed subdivision will be provided by the City of Billings. The applicant will install a 21-inch line in Timbers Boulevard South. This will serve as the trunk line through the development. All other sanitary sewer lines within the subdivision will be 8- inch diameter lines located in the proposed streets. All sanitary sewer mains will be stubbed to each lot. All sewer line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings Engineering Department. The City of Billings Engineering Department will review and approve all proposed sanitary sewer lines prior to installation. **(Condition #1)**

All telephone, gas, electrical power, and cable television lines that are placed within the public right-of-way shall be installed prior to surface improvements.

- b. **Storm water** – Stormwater management for the proposed subdivision will be provided by a combination of surface drainage and curbs and gutters. This storm water will go to detention basins for a controlled drainage from the site. The historic drainage patterns, in undeveloped areas, will be allowed to remain at this time and drain into Alkali Creek as they have always done. An Operation and Maintenance (O&M) manual will be included with The Timbers Subdivision, 1st Filing. Any stormwater facility that is not in the city right of way will be maintained by the HOA of the subdivision. The subdivision HOA will be responsible for stormwater management system facilities outside City right of way, they will collect fees to cover the cost of O&M.

The proposed location for this subdivision has many natural drainage areas where water has historically drained to Alkali Creek. With the introduction of impervious hard surfaces, roads, sidewalks, driveways and homes, this will have a significant impact on the drainage of the site. The applicant will work closely with City Engineering to design the storm water system to mitigate, as much as possible, drainage within this subdivision that could create problems for those building homes in the subdivision. All drainage improvements shall comply with the provisions of the City of Billings Stormwater Management Manual and Section 23-706, BMCC, and any other stormwater management practices deemed necessary by City Engineering. Any additional information needed to clarify what will be happening in the subdivision with stormwater management shall be added in the SIA under the heading V Storm Drainage. A stormwater management plan shall be submitted to the Engineering Division prior to filing of the final plat. **(Condition #1)**

There are two Private Park w/storm pond labels on the proposed plat, one on Lot 7 and one of Lot 4. Lot 1 is shown as a storm pond also. Discharge from these ponds are not allowed to surface drain through public park land. Proposed discharge methods will be coordinated with City Parks Department and City Engineering. Any proposal must be reviewed and approved by City Parks Department and City Engineering prior to installation. **(Condition #3)**

- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** – Access to the lots in this proposed subdivision is from Alkali Creek Road. This road is identified as an Arterial Road and is required to have a right of way width of 120 feet. It currently has 60 feet of right of way. This development will be providing an additional 30 feet towards that required 120 feet of right of way. The applicant will be providing 50% of the cost to build Alkali Creek Road, the southern half, to meet the required width of an arterial road. The northern half will be developed when development takes place on that side. With the 2nd filing of this subdivision another 50% will be contributed for the widening of Alkali Creek Road.

Timber Boulevard South, Angel Oak Lane, Olive Circle Court, White bark Lane, and Black Fig Court will be constructed with the first filing to create access to the proposed lots within the subdivision.

Timbers Boulevard North is the subject of a variance from the requirements of a fully built road, pavement, curb and gutter, with the first filing of the subdivision. This road is proposed to be built as a gravel road. The requirement for this road will be that it is able to support the weight of a 40-ton truck in all weather conditions and it will be maintained at all times to be drivable. See Attachment A.

Engineering has requested the following be placed in the SIA under the heading III Transportation A: The construction of the road, including curb and gutter and utility construction, will be monetarily secured for 50% of an engineer's estimate as reviewed by the City. The construction of the remainder of Timbers Boulevard North will be completed with a future filing. This includes construction of curb and gutter, street paving, water, sanitary sewer, and storm drain. If Timber Boulevard North is not constructed within two years of final plat of the first filing, the City reserves the right to create a Special Improvement District to construct the remaining portion of Timbers Boulevard North back to Alkali Creek Road. This is outlined in the SIA under the heading III Transportation A.

Alkali Creek Road is the main access to this proposed subdivision. Access to each individual lot will be from the internal streets that are proposed with this subdivision. All new streets will be in a 60-foot-wide right of way and will be constructed to 34-foot wide, back of curb to back of curb road. Road construction will include installation of accessible ramps at the intersections. All roads shall be built to meet the requirements of City of Billings Engineering Division. All proposed road construction shall be reviewed and approved by City Engineering prior to construction. **(Condition #4)**

City of Billings Subdivision Regulations require that all subdivisions connect to undeveloped or under developed land with a road within a right of way. Sugar Pine Road is to be constructed to city road standards at the same time as the rest of the subdivision road construction. There is a connection shown along the north side of proposed Lot 57, Sugar Pine Road, that will be required to be built with the first filing of the subdivision. This information is included in the SIA under the heading III Transportation A.

Access to lots 18 and 19 is via a driveway easement shown on the face of the plat. This easement travels through lots 17 and 20. Easement documents will be provided for that driveway. **(Condition #5)**

A traffic study was submitted for this proposed subdivision. There are still areas that need to be taken into consideration for the traffic study to be complete. The applicant will submit an updated traffic study to that takes into account item

required by City of Billings Engineering. With a comprehensive traffic study, the applicant may be required to make contributions to the intersections impacted by the additional traffic burden places on them. **(Condition #6)**

Sidewalks will be installed at the time of individual lot development. All sidewalks will be boulevard type walks with 5-foot wide boulevard and 5-foot-wide sidewalks. The Subdivider will install accessible ramps at the intersections, which shall be completed with the subdivision improvements. **(Condition #4)**

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station that serves this area is located at 1601 Saint Andrews Dr., (Station #6).

The subdivision is located within the ambulance service area of American Medical Response (AMR).

Comments from the Police department state that continued expansion of subdivisions will require additional resources to maintain acceptable levels of service.

- f. **Schools** – Eagle Cliffs Elementary School provides service to students within this subdivision for K through 5. Castle Rock Middle School will provide service to students in middle school 6-8. Skyview High School will provide services to students from 9-12. School District #2 responded stating the schools are currently just over capacity.

- g. **Parks and Recreation** – The required parkland dedication for this subdivision is 3.45 acres, the applicant is planning on dedicating 4.64 with this filing. The parkland will be a public. Lot owners need to be advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of the public park within The Timbers Subdivision. This information shall be included in the SIA under the heading II Property Conditions and Information for Lot Purchasers. **(Condition #7)**

The City of Billings Parks Department also provided language to be included in the SIA under the heading VII Parks/Open Space. A paragraph was left out by the applicant that included language about going through the process of a Parks Master Plan when developing a park within the proposed subdivision. The language provided by the City of Billings Parks Department, that was left out, will be included in the SIA under the heading VII Parks/Open Space. **(Condition #8)**

- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision. They have requested the installation of central box units (CBU). The developer will work with the USPS to provide a satisfactory location for CBUs for this filing. **(Condition #9)**

3. Effect on the natural environment

The subject property slopes up to the south. There are small valleys and hills to the south of Alkali Creek, which is the lowest point on the property. The land drains naturally to Alkali Creek and the creek does have an identified flood plain along its length. A geotechnical study was performed for the subdivision, a summary of the information from that study is included in the SIA under the heading II. Property Conditions and Information for the Lot Purchasers, paragraph C. Mitigation requirements with the stormwater requirements should minimize the effect on the natural environment.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. Future property owners should be aware that the proposed subdivision is located near prime wildlife habitat, therefore conflicts with wildlife may occur. Any damage caused by wildlife is the responsibility of the owner. This notice is in the SIA under the heading II. Property Conditions and Information for Lot Purchasers.

5. Effect on the public health, safety and welfare

Fire hydrants will be installed to meet fire department requirements. Sidewalks will offer a safe place for pedestrians to walk. The effects on public health and safety should be minimal.

B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-302.H.1.)]

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

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

1. City of Billings 2016 Growth Policy

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

Essential Investments (relating public and private expenditures to public values): Landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors. (p.8)

Natural landscapes are important because they define the uniqueness of Billings and help protect the environment. (p.8)

Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods): Neighborhoods that are safe and attractive and provide essential services are much desired. (p.8)

Home Base (healthy, safe and diverse housing options) Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings. (p.9)

2. 2018 Billings Urban Area Long Range Transportation Plan

The proposed subdivision adheres to the goals and objectives of the 2018 Transportation Plan and preserves the street network and street hierarchy specified in the plan.

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

The proposed subdivision lies within the jurisdiction of the BABTMP. The BABTMP does not show any trails within the proposed subdivision. There is a Long-range bike lane proposed along Alkali Creek Road. This subdivision will not be required to build a bike lane along Alkali Creek Road.

A trail along Alkali Creek is proposed for this subdivision. The final location of that trail will be determined in consultation with Parks Department and the Active Transportation Planner. The trail shall be built to City of Billings trail standards. The trail will continue a connection to the property to the south east, along Sugar Pine Road. **(Condition #10)**

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

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

E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302.H.3.e.]

The subject property is located within a PD zoning district. All building development on the lots shall comply with the PD zoning when applying for a building permit.

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

The subdivider will furnish private utility easements as required by private utility providers.

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

Legal and physical access is provided to the proposed subdivision is from Alkali Creek Road. Other new internal streets will provide access to individual lots. All streets are dedicated to the public as shown on the plat.

CONCLUSIONS OF FINDINGS OF FACT

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

RECOMMENDATION

It is recommended to the City Council, the preliminary plat of The Timbers Subdivision, 1st Filing be conditionally approval, adopt the Findings of Fact and approval of the variance as presented in the staff report.

Approved by the Billings City Council, February 28, 2022

William A. Cole, Mayor

PRELIMINARY PLAT OF THE TIMBERS SUBDIVISION

TRACT A OF COS 3795 LOCATED IN THE NE1/4, SE1/4, SW1/4, & NW1/4 OF SECTION 19 AND THE NE1/4 OF SECTION 30, TOWNSHIP 1 NORTH, RANGE 26 EAST, P.M.M.,
YELLOWSTONE COUNTY, MONTANA

PERIMETER LEGAL DESCRIPTION

PORTIONS OF TRACT A AND TRACT B, COS 3795 SECTION 19 AND SECTION 30, TOWNSHIP 1N, RANGE 26E, P.M.M.

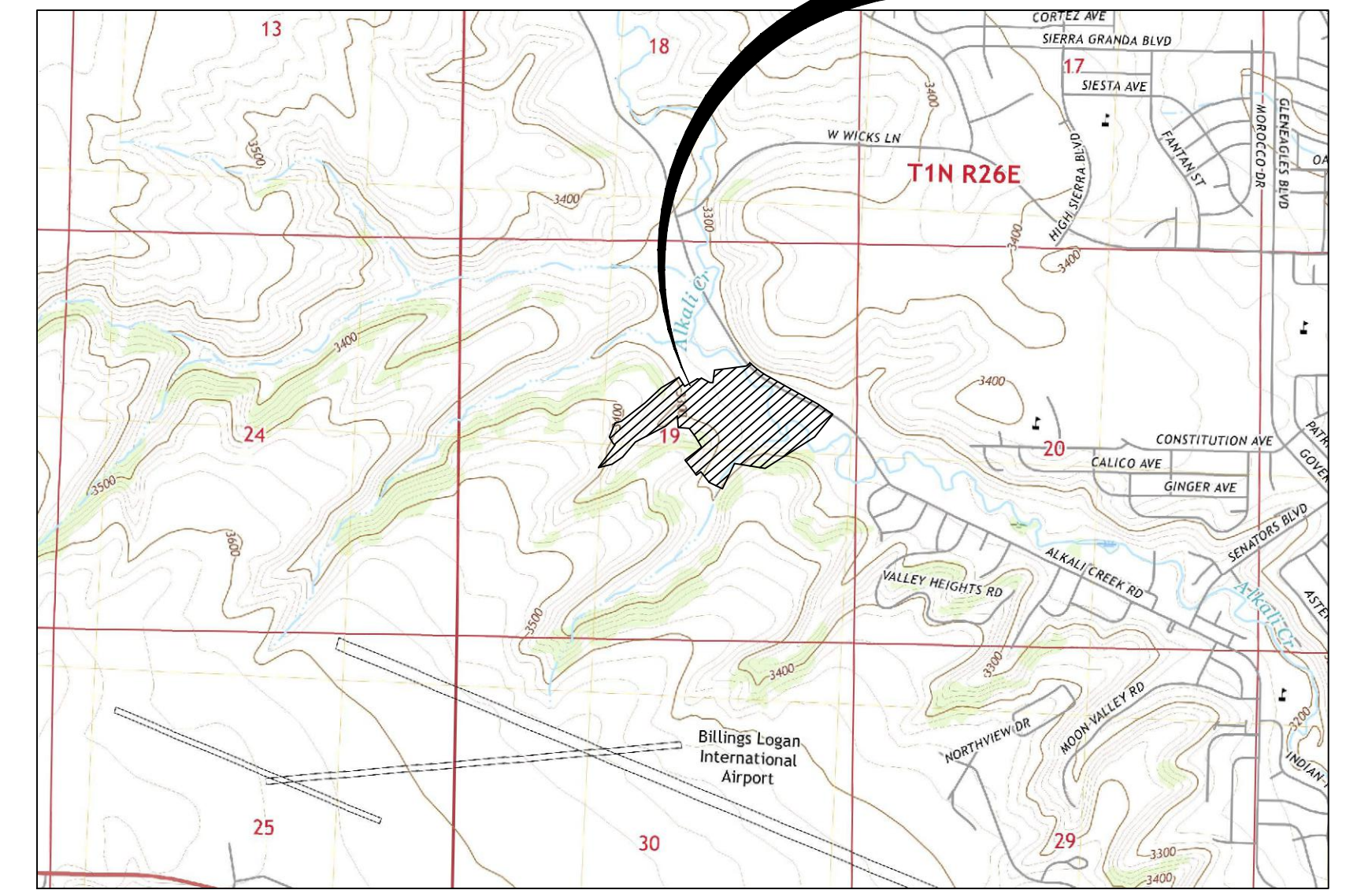
UTILITY NOTE:

WATER, SANITARY SEWER AND STORM SEWER ARE CURRENTLY BEING DESIGNED AND ARE DEPICTED TO SHOW APPROXIMATE PLANNED LOCATIONS. EXISTING UTILITIES FOR CONNECTING ARE NOT SHOWN.

NX-1 LOTS

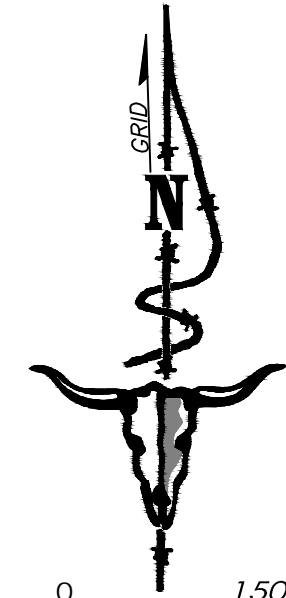
LOT	SF	LOT	SF
1	11,589	16	8,533
2	5,852	17	6,744
3	6,720	18	6,922
4	6,857	19	5,289
5	5,550	20	5,441
6	8,051	21	7,056
7	6,744	22	7,114
8	6,743	23	5,098
9	6,628	24	8,588
10	7,177	25	8,047
11	11,703	26	8,469
12	7,571	27	9,069
13	6,617	28	8,220
14	4,728	29	12,106
15	5,922		

VICINITY MAP



BILLINGS, YELLOWSTONE COUNTY

0 2000



150 0 150 300
SCALE IN FEET

BASIS OF BEARING
STATE PLANE MONTANA - ZONE 2500
GROUND (TRUE) DISTANCES

RECORD OWNER:
DAVID AND ALI MITCHELL

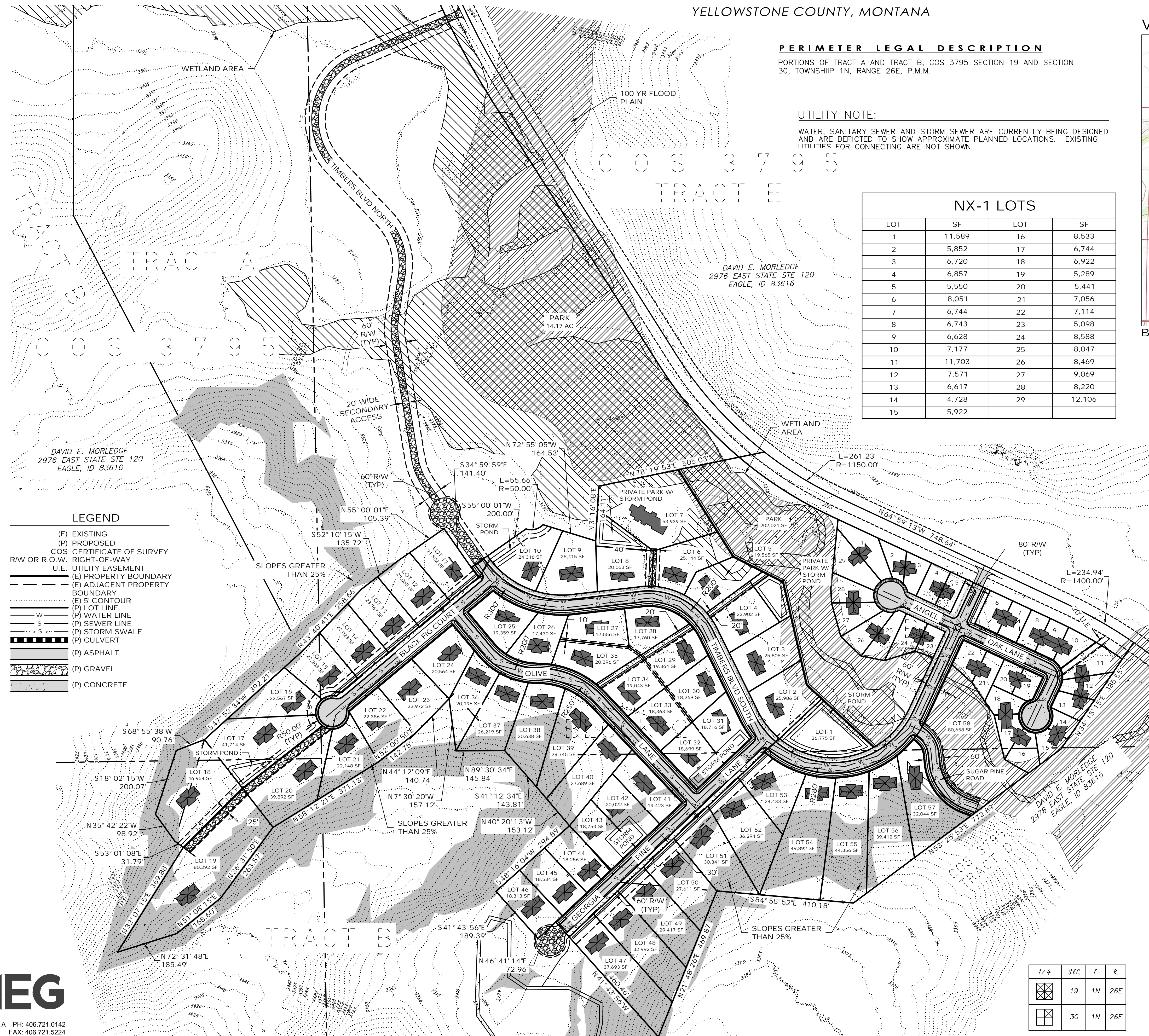
SUBDIVIDER:
DAVID AND ALI MITCHELL

DATE:
DECEMBER, 2021

TOTAL SUBDIVISION AREA:
56.26 ACRES (GROSS)
40.09 ACRES (NET)

SITE DATA

NUMBER OF N-3 LOTS	58
NUMBER OF NX-1 LOTS	29
MAXIMUM LOT AREA	80,292 SF
MINIMUM LOT AREA	4,728 SF
AREA OF PARKLAND	4.64 AC
AREA OF ADD. R/W	0.89 AC
LINEAR FEET OF STREETS	5,636 LF
NET ACREAGE	40.09 AC
GROSS ACREAGE	56.26 AC
EXISTING ZONING	AGRICULTURAL
PROPOSED ZONING	NX-1 AND N-3
EXISTING LAND USE	AGRICULTURAL
PROPOSED LAND USE	RESIDENTIAL



LEGEND

- (E) EXISTING
- (P) PROPOSED
- COS CERTIFICATE OF SURVEY
- R/W OR R.O.W. RIGHT-OF-WAY
- U.E. UTILITY EASEMENT
- (E) PROPERTY BOUNDARY
- (E) ADJACENT PROPERTY BOUNDARY
- (E) 5' CONTOUR
- (P) LOT LINE
- (P) WATER LINE
- (P) SEWER LINE
- (P) STORM SWALE
- (P) CULVERT
- (P) ASPHALT
- (P) GRAVEL
- (P) CONCRETE



PREPARED BY:
1817 SOUTH AVE. W. STE. A PH: 406.721.0142
MISSOULA, MT FAX: 406.721.5224
59801 www.imegcorp.com
IMEG PROJECT NO. 20006040

1/4	SEC.	T.	R.
	19	1N	26E
	30	1N	26E

SHEET 1 OF 1
THE TIMBERS SUBDIVISION
(A SUBDIVISION OF YELLOWSTONE COUNTY)

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

The Timbers Subdivision

First Filing

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(City of Billings)

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

***The Timbers Subdivision
First Filing***

This agreement is made and entered into this ____ day of _____, 20__, by and between *Ali Mitchell* and *David Mitchell*, whose address for the purpose of this agreement is **1655 Valley Heights Rd., Billings, MT 59105**, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as “City.”

WITNESSETH:

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

WHEREAS, at a regular meeting conducted on ____ day of _____, 20__, the City Council conditionally approved a preliminary plat of *The Timbers Subdivision, First Filing*, and

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

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

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

I. VARIANCES

Subdivider has requested, and the City hereby grants, the following variances by the City Council from the strict interpretation of the City’s Subdivision Regulations (Section 23.1101, BMCC):

A variance has been submitted regarding the construction of Timbers Boulevard North. This variance requests to install Timbers Boulevard North using a 20’ foot

wide gravel surface within a 60' foot right-of-way. This road shall be marked a secondary access and built to withstand 40 tons in all weather conditions. The construction of the road, including curb and gutter and utility construction, will be monetarily secured for 50% of an engineer's estimate as reviewed by the City. The construction of the remainder of Timbers Boulevard North will be completed with a future filing. This includes construction of curb and gutter, street paving, water, sanitary sewer, and storm drain. If Timbers Boulevard North is not constructed within two years of final plat, the City reserves the right to create a Special Improvement District to construct the remaining portion of Timbers Boulevard North back to Alkali Creek Road.

II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

- A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.
- B.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.
- C.** Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction. The Timbers Subdivision, First Filing had an overview geotechnical study completed by Rimrock Engineering. Below is the summary of the findings of this study. Individual lot owners are encouraged to complete their own geotechnical study to find lot specific information.
 - The subsurface profile generally consists of variably stiff to very soft lean clay soils. Groundwater was encountered at approximately 6.5 feet below existing grades while drilling or for the short duration the boring was allowed to remain open.
 - Due to site conditions and concerns, we recommend support for the proposed structure using a deep foundation system such as rammed aggregate piers or helical piers extending into the more competent soils in order to bypass the compressible soil and alleviate concerns regarding foundation construction below or near the groundwater elevation.
 - Another viable foundation alternative, yet lower level of assurance against potential movements, would be to support the structure using a shallow

spread footing foundation system or thickened edge monolithic slab bearing on a zone of geotextile-reinforced structural fill.

- A structural floor on grade beams over a crawlspace should be considered for interior slabs. If a structural floor is not desired, in order to reduce the potential for movement related distress to concrete slabs, we recommend a minimum of 12 inches of structural fill reinforced with a layer of Mirafi RS580i be used for slab support.

D. No water rights have been transferred to the lot owners.

E. There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

F. The subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the city and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.

G. Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

H. Lot owners should be aware that portion(s) of this property lie within the floodplain/floodway, as depicted on the FEMA maps for this area. Please be advised that special development restrictions may apply within these specified areas. The City of Billings is not liable for any damage to lots encompassing or near floodplain that would result from flooding.

III. TRANSPORTATION

A. Streets

The following roads exist surrounding the subdivision:

- Alkali Creek Road is designated as a Principal Arterial and is located within a 60' wide right-of-way. An addition of 30' of ½ right-of-way is

being dedicated as part of this subdivision to conform with city requirements. It is required that Alkali Creek Road be constructed with a minimum standard width of 42 feet, back of curb to back of curb. That portion adjacent to the subdivision has been partially constructed. The existing street includes approximately 26 feet of asphalt. The subdivider will provide cash-in-lieu contribution for the construction of approximately an additional 6 feet of asphalt surface with a satisfactory sub-base, base course, standard curb and gutter. The cash-in-lieu contribution will also include engineering design and construction administration.

The Subdivider will enter into a private contract for the construction of all required improvements for those streets within the subdivision, as follows:

- Timbers Boulevard South, Sugar Pine Road, Angel Oak Lane, Georgia Pine Lane, Olive Lane, and Black Fig Court will be constructed within a 60' foot right-of-way using curb and gutter and full-width pavement (34 feet back of curb to back of curb). Curb and Gutter will be installed per the City of Billings Standards in place at time of construction.
- Timbers Boulevard North will be installed using a 20' foot wide gravel surface within a 60' foot right-of-way. This road shall be marked a secondary access and built to withstand 40 tons in all weather conditions. The construction of the road, including curb and gutter and utility construction, will be monetarily secured for 50% of an engineer's estimate as reviewed by the City. The construction of the remainder of Timbers Boulevard North will be completed with a future filing. This includes construction of curb and gutter, street paving, water, sanitary sewer, and storm drain. If Timbers Boulevard North is not constructed within two years of final plat, the City reserves the right to create a Special Improvement District to construct the remaining portion of Timbers Boulevard North back to Alkali Creek Road.

B. Sidewalks

- All roads within the subdivision will have a 5' wide boulevard sidewalk with a 5' minimum boulevard. The sidewalk will be composed of concrete and be completed within the road's right-of-way. Sidewalk adjacent to Cul-de-sacs in the subdivision will be constructed at the back of curb.

C. Street Lighting

- There is no proposed street lighting, but it is included as an item in the waiver of right to protest.

D. Traffic Control Devices

- One stop sign will be installed on Timbers Boulevard South at the intersection with Alkali Creek Road.

- One stop sign will be installed on Timbers Boulevard North at the intersection with Alkali Creek Road.
- Two stop signs will be installed at the intersection of Angel Oak Lane and Timbers Boulevard South. The stop signs will be on both sides of Timbers Boulevard South.
- One stop sign will be installed at the intersection of Sugar Pine Road and Timbers Boulevard South.
- One stop sign will be installed at the intersection of Georgia Pine Lane and Timbers Boulevard South.
- One stop sign will be installed at the intersection of Black Fig Court and Timbers Boulevard South.
- One stop sign will be installed at the intersection of Georgia Pine Lane and Olive Lane.
- One stop sign will be installed at the intersection of Olive Lane and Black Fig Court.

E. Access

- All of the lots will access off of the internal subdivision road network.
- The subdivision will connect to Alkali Creek Road.

F. Billings Area Bikeway and Trail Master Plan

- There is a proposed short range bike and pedestrian trail proposed within the parkland adjacent to Alkali Creek Road. This trail will be 10’ wide and paved to the standard for pedestrian facilities within the City of Billings.

IV. EMERGENCY SERVICE

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

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150 feet of the furthest portion of a building under construction as measured along the approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of twenty (20) feet wide.
- An operational fire hydrant shall be located within 600 feet of the furthest portion of a residence under construction or within 400 feet of the furthest portion of a commercial building under construction as measured along the access roads to the site. Lot 21 of the Timbers, First Filing must have its entire structure within 600 feet of the nearest fire hydrant.

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

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the Stormwater Management Manual in place at the time of development. A complete stormwater management plan shall be submitted to the Engineering Division for review and acceptance at the time of development.

Storm Drainage for The Timbers Filing One will be provided by a combination of surface drainage swales, curb and gutter, and underground piping. Off-site Stormwater will be routed through surface swales/ditches and will discharge directly to Alkali Creek. On-site stormwater will be routed through swales, curb and gutter, and underground piping to on-site detention ponds that are sized to only allow pre-development flow rate to be discharged from the site as required by the Stormwater Management Manual. The stormwater improvements will be constructed per the submitted Stormwater Management Design report as reviewed and accepted by the City Engineering Division.

All of the on-site stormwater infrastructure will be located within public easement or public right-of-way. Stormwater pipes located in the public right of way will be maintained by the City and all facilities including swales, piping, and ponds not in the right of way will be maintained by The Timbers HOA.

Due to the large quantity of stormwater passing through the development and the severe slopes located in some areas, minimum finish floor elevations for all lots within the development will be established by the Stormwater Management Plan and will be incorporated in the final version of the recorded SIA.

VI. UTILITIES

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

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

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc) shall be in accordance with design

standards, specifications, rules, regulations of and as approved by the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality.

A. Water

Each lot is to be served by City of Billings water through a water main extension. As required by City Engineering, a 12” Water Main will be extended along Timbers Boulevard South which will serve as the future City Trunk Line through the development. All additional water lines within Filing 1 will be 8” water mains and are located in Angel Oak Lane, Sugar Pine Road, Georgia Pine Lane, Olive Lane, and Black Fig Court. Compensation for required water main upsize can be requested by the developer.

B. Sanitary Sewer

Each lot is to be served by City of Billings sewer through a sewer main extension. As required by City Engineering, a 21” Sewer Main will be extended along Timbers Boulevard South which will serve as the future City Trunk Line through the development. All additional sewer lines within Filing 1 will be 8” sewer mains and are located in Angel Oak Lane, Sugar Pine Road, Georgia Pine Lane, Olive Lane, and Black Fig Court. All sewer infrastructure is proposed to be gravity. Compensation for required sewer main upsize can be requested by the developer.

C. Power, Telephone, Gas, and Cable Television

These utilities will be provided within the 60-foot Public Road Easement, or the Utility Easements created as part of this subdivision.

VII. PARKS/OPEN SPACE

The Timbers Subdivision, First Filing proposes parkland dedication to satisfy parkland requirements. The Park will be maintained by City of Billings Parks, Recreation and Public Lands. Operation and maintenance of the public park areas shall be by a park maintenance district (PMD) created and/or expanded for this and all subsequent filings of the Timbers Subdivision by the Subdivider as approved by the Parks and Recreation Department and administered by the City of Billings.

The parks and trail within the park(s) will be constructed or bonded for by the Developer prior to final plat filing.

Plans and Specifications for the development of the 10’ wide trail will be reviewed and approved by the Parks and Recreation Department. During construction, the Department will make periodic inspections to assure the parkland is developed according to the plans and specifications. When construction is complete, the Parks and Recreation Department will conduct a final inspection to assure all aspects of the park development meets the plans and specifications. Once verified, the Parks and Recreation Department will issue a letter of acceptance and only then will they take over maintenance operations.

The parkland may be developed at any time prior to the final filing at the discretion of the Subdivider

Required parkland for The Timbers Filing One is 3.45 acres per the City of Billings Subdivision Regulation guidelines. As part of The Timbers Filing One 4.64 acres of parkland are being provided.

VIII. IRRIGATION

Irrigation rights for the subdivision will no longer be utilized as irrigation within the Subdivision lots will be done utilizing the municipal water available. No surrounding irrigation ditches exist.

IX. FLOODPLAIN

Floodplain boundaries are shown on the subdivision plat. Any work proposed in the floodplain will require a floodplain permit. All homesites are to be constructed outside of the floodplain boundary. The City of Billings is not liable for any damages within the floodplain.

X. SOILS/GEOTECHNICAL STUDY

A soils/geotechnical study was completed by Rimrock Engineering, Inc. Due to the Geotechnical Study it is suggested that individual geotechnical reports be completed prior to construction of homes within the subdivision.

XI. FINANCIAL GUARANTEES

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

XII. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

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

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

“SUBDIVIDER”

By: _____
Ali Mitchell

David Mitchell

STATE OF _____)
: ss
County of _____)

On this ___ day of _____, 20___, before me, a Notary Public in and for the State of _____, personally appeared Ali Mitchell, who executed the foregoing instrument and acknowledged to me that she executed the same.

SS _____

STATE OF _____)
: ss
County of _____)

On this ___ day of _____, 20___, before me, a Notary Public in and for the State of _____, personally appeared David Mitchell, who executed the foregoing instrument and acknowledged to me that she executed the same.

SS _____

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

“CITY”

CITY OF
BILLINGS
MONTANA

By: _____

Mayor

Attest: _____

City Clerk

STATE OF MONTANA)

; ss

County of Yellowstone)

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

SS _____

Attachment A

Staff Analysis and Recommendation

City staff has reviewed the request for a variance from **Section 23-406, Streets and Roads. B Streets and Roads Design and Improvement Standards. Specifically the applicant is requesting to construct a graveled road that serves as secondary access to the subdivision. The intent is that the gravel surface will only be temporary. The SIA has provisions that requires the surfacing to be completed within two years of final plat approval.**

The applicant has requested this variance, see Request Letter included below this analysis.

This proposed subdivision is a major subdivision and it is required to have two ways of ingress/egress. It is on the south side of Alkali Creek Road and will be required to cross Alkali Creek and the surrounding floodplain and wetland areas. As a waterway with wetlands and floodplain they are required to coordinate with the Army Corp of Engineers to determine mitigation requirements. Timbers Boulevard North is still under review to determine where the road can be located considering wetland impacts.

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

The applicant will be building a temporary gravel surface road that will support the weight of a 40-ton truck in all weather conditions. This will provide a short term second access solution for the subdivision. The surfacing will be completed within two years of final plat approval. This variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.

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

Because this subdivision is being built near a stream, Alkali Creek, and associated wetland with the stream they are required to work with the Army Corp of Engineers to determine the best location for this portion of road. Building it to a paved standard at this time with the potential of them being required to move portions of it because of requirements from the Army Corp of Engineers would not be the best use of resources or the possibility of doing irreparable damage to wetlands with multiple road constructions. Strict adherence to the letter of the regulation could possibly have damaging environmental consequences that can be avoided.

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

The variance request will not increase taxpayer burden. The developer is required to construct the road and pave it in the future.

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

Granting the variance will have no effect on zoning. It is an issue of road location and the lots around that road have not been determined at this point.

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

The alternate design is to build a gravel surface road that will support a 40-ton truck in all weather conditions until the final approved location of the road can be worked out with the Army Corp of Engineers and any mitigation requirements they may impose. The gravel surfacing is only allowable for two years, then the subdivider must surface the road .

Variance request from applicant's agent

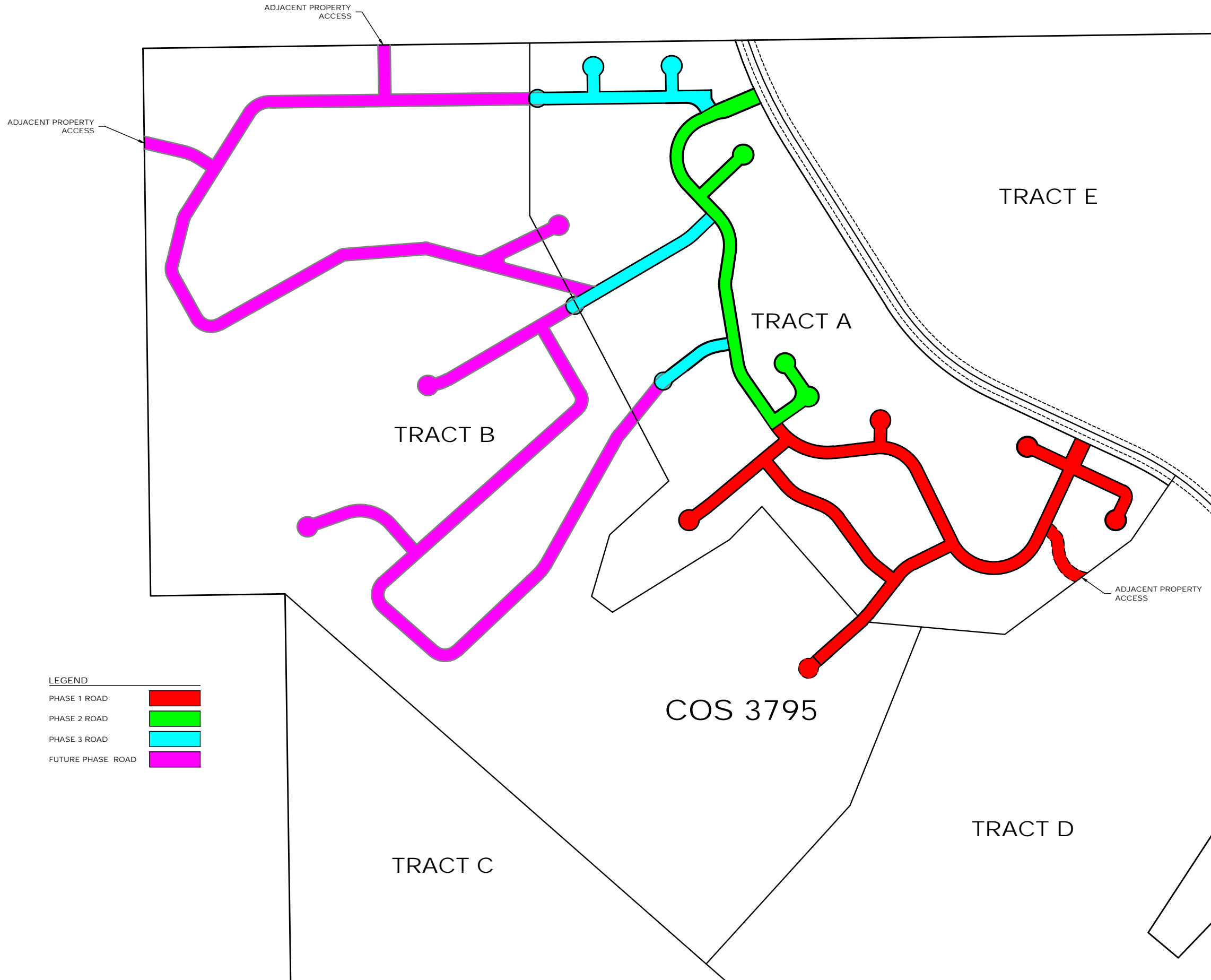
Variance Request

The Timbers, First Filing is requesting a variance regarding the construction of Timbers Boulevard, North. This road will be built 20' wide as a secondary gravel access. This road will be within a 60' right-of-way and be built to withstand 40 tons. This request has been coordinated with Fire and Public Works and is supported by both departments with the agreement that 50% of the cost to complete the roadway to City complete road standards will be secured prior to final platting and the City has authorization to complete the roadway in its entirety through an SID process if the road is not constructed to full City Standards within 2 years of the final plat being recorded.

Below we have included the variance facts of hardship in correlation with Section 23-1101.A. Please see our answers in **bold**.

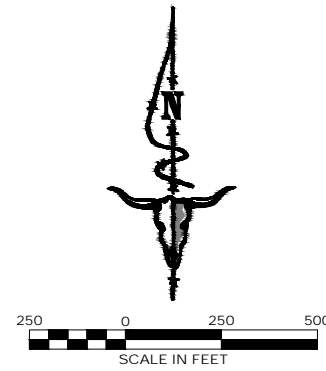
1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;
Granting a variance regarding Timbers Boulevard North being built using gravel will not be detrimental to public health, safety or general welfare. This road will be built 20' wide and built to withstand 40 tons. By building this road at a 20' width it will allow the Timbers, First Filing a secondary access promoting public health, safety and general welfare.
2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced;
The Timbers, First Filing is a major subdivision and requires many infrastructure costs. This subdivision is proposed adjacent to Alkali Creek which had a wetland area associated with it. The developer is currently working with Army Corps of Engineers to determine what portions of the existing wetland can be removed or relocated and that final determination will determine the final location of Timbers Boulevard North. If the developer constructed Timbers Blvd North to full City Standards at this time prior to Army Corps determination the road may need to be relocated in the future. A 20 foot wide Gravel road is much easier to relocate than a completed 34 foot wide paved roadway with curb, gutter, and utilities. The plan of the developer is to move forward with Filing 2 of the development and the construction of Timber Blvd North once Army Corps makes their final wetland determination.
3. The variance will not result in an increase in taxpayer burden;
The Timbers, First Filing has a subdivision improvements agreement with the City of Billings. According to the SIA, the developer has to provide a security for 50% of the engineer's estimate to complete Timbers Boulevard North prior to filing the final plat. As such, if the developer never moves forward with Filing 2, the City can create an SID and use this 50% security to complete the road. This process will ensure this variance will not result in an increase to taxpayer burden.
4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or Growth Policy; and
This variance does not place the subdivision in nonconformance with zoning or growth policy regulations.
5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.
The design of building Timbers Boulevard North using 20' wide gravel within a 60' wide right-of-way, as well as building the road to withstand 40 tons will be equally

effective as a full City secondary access for emergency services. This road will be able to withstand the uses of a secondary access point for the subdivision but provide against undue hardship for the developer who is constructing adjacent to Alkali Creek and the unknow wetland conditions.



LEGEND

PHASE 1 ROAD	
PHASE 2 ROAD	
PHASE 3 ROAD	
FUTURE PHASE ROAD	



IMEG
 1817 SOUTH AVE. W. STE. A PH. 406.721.0142
 MISSOULA, MT FAX. 406.721.5224
 www.imegcorp.com 59801

DATE	
REVISIONS	

DESIGNED: KK
 DRAFTED: GW
 CHECKED: KK
 DATE: DEC. 2021

LOCATION: COS 3795
 SECT. 19, T01N, R26E, P.M.M.
 BILLINGS, MONTANA
 YELLOWSTONE COUNTY
 PREPARED FOR: DAVID MITCHELL

PROJECT NAME: THE TIMBERS SUBDIVISION
 SHEET TITLE: OVERALL SITE MAP

PROJECT NO. 20006040
 SHEET: 1 OF 1

PRELIMINARY

DRAWING LOCATION: G:\20006040\DRAWINGS\DWG\20006040-OVERALL.DWG