



YELLOWSTONE COUNTY BOARD OF PLANNING

CITY OF BILLINGS AND
YELLOWSTONE COUNTY, MONTANA



AGENDA

JANUARY 25, 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

****ATTENTION****

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

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

Citizens are invited to:

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

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

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

Please direct questions to Tammy Deines, Planning Clerk at deinest@billingsmt.gov or 406247-8610. Thank you!

1. **CALL TO ORDER - Planning Board President:** Welcome and Introduction of new and returning Board Members.
2. **APPROVAL OF AGENDA*** - including any additions or deletions to agenda. The agenda for a regular meeting will be closed at 5:00 p.m. three (3) working days prior to the date of the meeting.
3. **MOTION. MEETING MINUTES:** January 11, 2022.
4. **PUBLIC COMMENT PERIOD** -- As required (3 minute maximum per person). *Any member of the public may be heard on any subject that is not on the agenda. The Planning Board will not take any action on these items at this time, but could choose to add an item to the next meeting's agenda for discussion.*
 - 4a) **Comments on items not on agenda and requests to add items to future agendas**
 - 4b) **Comments on items on the non-public hearing agenda items**
5. **DISCLOSURE OF CONFLICT OF INTEREST:**
6. **DISCLOSURE OF EX PARTE COMMUNICATION:** Ex Parte Communication Binder is available at the Sign-In and Agenda station.
7. **OLD BUSINESS** (Agenda items that were not discussed or not completed in a previous meeting or items requiring action).
 - a. **PUBLIC HEARINGS/PUBLIC HEARING PARTICIPATION GUIDELINES.** The County Planning Board welcomes public input on matters brought before the Board. To ensure a fair and effective public comment process, we ask that you consider the following guidelines when presenting your comments: Address the Planning Board directly. You must state your name and address before commenting. This is an opportunity to explain how you will be affected by the decision and why that is an important consequence. By state law, the Planning Board must consider only certain criteria when reviewing subdivisions (76-3-608(a), MCA). Please see the attached guidelines for the criterion. Thank you for participating!
 1. Public Hearing. Motion/Recommendation to City Council. The Timbers Subdivision, City Major Subdivision.

Kolten Knatterud, IMEG, agent. Dave Green, Planner II, presenting.

8. **NEW BUSINESS:** (Agenda items new to this meeting).
9. **OTHER BUSINESS:**
 - a. (Standing Item) Long Range Strategic Issues and an overview of future City and County issues and projects.
10. **ADJOURNMENT**

FUTURE AGENDA ITEMS FOR TUESDAY, FEBRUARY 8, 2022

Public Hearing Participation Guidelines

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

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

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

-Effect on agriculture and agricultural water user facilities

-Effect on local services

-Effect on the natural environment

-Effect on wildlife and wildlife habitat

-Effect on public health and safety

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

Thank you for participating.

Planning Board Meeting 2 (4th Tuesday)

Meeting Date: 01/25/2022

Information

Subject

MOTION. MEETING MINUTES: January 11, 2022.

Attachments

2022_01_11_PLNB_Minutes_DRAFT

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

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

	Position	01/11/2022	01/25/2022	02/08/2022	02/22/2022	03/08/2022	03/22/2022	04/12/2022	04/26/2022	05/10/2022	05/24/2022	06/14/2022	06/28/2022	07/12/2022	07/26/2022	08/09/2022	08/23/2022	09/13/2022	10/27/2022	10/25/2022	10/26/2022	11/08/2022	11/22/2022	12/13/2022
Teresa Larsen	Mayor/Billings Ward I	1																						
Roger Gravgaard	Mayor/Billings Ward II	1																						
Dennie Stephenson	Mayor/Billings Ward III	1																						
Darell Tunicliff	Mayor/Billings Ward IV	1																						
Jon Thompson	Mayor/Billings Ward V	1																						
Troy Boucher	YC District 1	1																						
Dennis Cook	YC District 2	1																						
Vacant	YC District 3	-																						
Vacant	YC District 4	-																						
Woody Woods	YC District 5	1																						
Vacant	YC District 6	-																						
Jarett Hillius	YC District 7	1																						
Vacant	Y County Cons. District	-																						
Scott Reiter	Ex-Officio SD2	1																						

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview and Yellowstone County"

JANUARY 11, 2022

DRAFT- To be approved by a motion on January 25, 2022

PUBLIC HEARINGS/PUBLIC HEARING PARTICIPATION GUIDELINES.

As legally advertised, The Yellowstone County Board of Planning met on January 11, 2022 in the Miller Building 1st Floor Conference Room.

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 e-mails 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.

Call the Meeting to Order

President Cook called the meeting to order at 6:00 p.m. on Tuesday, January 11, 2022.

Introduction of the 2022 Planning Board Officers: Dennis Cook, President; Theresa Larsen, Vice President. Welcome! to Roger Gravgaard, Planning Board Representative, City Ward 2.

Introduction of Planning Board Members and Planning Department Staff

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

Participating Planning staff members: Monica Plecker, Planning Division Manager; Dave Green, Planner II; Tammy Deines, Planning Clerk

Others in Attendance: Kolten Knatterud, IMEG; Ali Mitchell, David Mitchel, Sarah Plath, Sanderson Stewart; Gary Oakland, Gary Owen, Sandrson Stewart

Approval of the January 11, 2022 Agenda

Board member Tunncliff moved and Board member Woods seconded the motion to approve the January 11, 2022 meeting agenda. The motion carried with a unanimous voice vote.

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview and Yellowstone County"

Approval of Minutes: December 14, 2022

Motion

Board member Tunncliff moved and Board member Woods seconded the motion to accept the December 14, 2022 meeting minutes as submitted with a review of the attendance roster. The motion carried with a unanimous voice vote.

Public Comment: President Cook 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. –Board member Tunncliff recused himself from Agenda Item 8c. Teresa Larson disclosed she has had conversations with the property owners of The Timbers Subdivision.

7. OLD BUSINESS: There is no Old Business.

8. NEW BUSINESS:

8a. Public Hearing. Motion/Recommendation to City Council. Copper Ridge Subdivision, 9th Filing. Gary Oakland, Applicant/Developer; Gary Owen, Sanderson Stewart, agent. Dave Green, Planner II, presenting.

The Yellowstone County Planning Board only met once in December, which subsequently resulted in the completion of the preliminary plat review process for Copper Ridge Subdivision, 9th Filing extending beyond the allowable working days deadline. Based on this timeline, the Planning Board approved an extension in allowable working days to allow the City Council to act on the preliminary plat for Copper Ridge Subdivision 9th Filing at the February 14th, 2022, City Council meeting.

Dave Green opened with the staff report and gave an overview of this survey with several photographs. He explained the language for the Park Maintenance District language in Condition of Approval #2.

INTRODUCTION

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).

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

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.

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 Cook called for questions and discussion from the members of the Board. President Cook called for questions and discussion from the members of the Board. The applicant and the applicant's agent are in attendance. There was no Board discussion.

Public Hearing

President Cook opened the public hearing and asked if there is anyone wishing to speak in favor or against Copper Ridge Subdivision 9th Filing. There was none.

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview and Yellowstone County"

President Cook announced the public phone number and asked if there are any calls. There were none. President Cook closed the public hearing and called for a motion.

Motion

Board member Tunncliff made a motion and Board member Woods seconded the motion 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.

Discussion

There was no discussion from the Board on the motion.

The motion carried with a unanimous voice vote.

8b. Public Hearing. Motion/Recommendation to City Council. High Sierra Subdivision, 21st Filing. Gary Owen, agent, Sanderson Stewart. Dave Green, Planner II, presenting.

The Yellowstone County Planning Board met only once in December, which subsequently resulted in the completion of the preliminary plat review process for High Sierra Subdivision, 21st Filing extending beyond the allowable working days deadline. Based on this timeline, the Planning Board approved an extension in allowable working days to allow the City Council to act on the preliminary plat for High Sierra Subdivision 21st Filing at the February 14th, 2022, City Council meeting.

Planner Dave Green opened this agenda item with a presentation of the staff report and an explanation of the survey. Several photographs were provided in the presentation. Connections will be provided to the north as required. Boulevard sidewalks will be installed by the individual homeowners. He pointed out the interconnecting trail ways within the subdivision Services will be provided by the City of Billings.

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. The affected school districts are Independent SD and SD #2 for Castle Rock Middle School and Skyview High School.

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.

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview and Yellowstone County"

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 Cook called for questions and discussion from the members of the Board. The applicant and the applicant's agent are in attendance. There was none.

Public Hearing

President Cook opened the public hearing and asked if there is anyone wishing to speak in favor or against Copper Ridge Subdivision 9th Filing.

Gary Oakland, Developer, High Sierra Subdivision, 175 N 27th Street, Suite 900, Billings, MT

Mr. Oakland pointed out this subdivision is a portion of the overall master plan for High Sierra Subdivision.

President Cook announced the public phone number and asked if there are any calls. There were none. President Cook closed the public hearing and called for a motion.

Motion

Board member Stephenson made a motion and Board member Hillius seconded the motion 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.

Discussion

There was no discussion from the Board on the motion.

The motion carried with a unanimous voice vote.

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview and Yellowstone County"

8c. Plat Review. Board Discussion. The Timbers Subdivision, 1st Filing. Ali and David Mitchell, applicant. Kolten Knatterud, IMEG, agent. Dave Green, Planner II, presenting.

Planner Dave Green opened this agenda item with the presentation of the staff report and a location map for the subject property. He pointed out the 100-year flood plain, the wetlands and the slopes within the topography. The developed trail will be located within the parkland. The City of Billings will provide services. He pointed out the areas that will capture the stormwater. The applicant is working with the Army Core of Engineers to address the wetlands. Streets will be built to City standards. An explanation was given for the subdivision variance request. Affected schools are in School District #2. A Master Site Plan depicting the roadway connections was provided as a part of the presentation.

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

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.

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

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

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.

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview and Yellowstone County"

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.

Discussion

President Cook called for discussion and questions from the members of the Board. Ms. Plecker said this property went to City Council for annexation and Planned Development zoning which were approved. She explained that Condition #10 may be revised as the City Council instructed language be provided for the parkland. She qualified the language for the variance and said the intent is this be temporary. Staff feels there is a financial guarantee in place within the language of the SID. In response to question by Board member Woods, staff said the secondary access is for emergency services. Board member Woods asked about the reasoning for the Georgia Pine gravel cul-de-sac when the other cul-de-sacs are paved.

President Cook called for presentation by the applicant.

Kolten Knatterud, IMEG, 175 N 27th Street, Suite 1312, Billings, MT

Mr. Knatterud is the agent for applicants, Ali and David Mitchell, who are also present this evening.

Kolten Knatterud, IMEG, said the road master plan has this extended in future filings and it was to remain gravel until that time. He thanked Dave Green for his presentation. He explained the design of the filing boundaries. He pointed out that the road may have to be shifted due to the Army Core of Engineers review of the wetland areas. The stormwater is complex and there will be two separate stormwater systems on this development. The connection to the adjacent Morledge property was agreed upon by the Morledges prior to the subdivision application. Condition #10 will be updated and it is his understanding Engineering would like to see a connection to the bridge. He will obtain clarification from the City Engineering Division. The timeline for Core of Engineers is a minimum of 250 days. The final plat is not projected to be filed until mid to late summer. Monica Plecker said part of the 2-year timeline as well as the SID is the agreement for City of Billings agencies. Board member Woods asked for clarification on the stormwater pond on Lot #10. Kolten Knatterud referred to the survey and SIA this is an example of the two different stormwater systems. He pointed out the conveyance ditch for the off-site flow. Next to this there is a constructed detention pond to handle the on-site stormwater. There will be infrastructure for both systems. The HOA will be responsible for the stormwater infrastructure but City Public Works reserves the right to access

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview and Yellowstone County"

the system. Board member Woods asked that the language in Condition of Approval be clarified in the SIA for lot owner notifications that they will be required to constructed the segment of sidewalk against their property.

**A public hearing for The Timbers Subdivision will be held during the Planning Board meeting on January 25, 2022. Board member Larsen said she will announce a conflict of interest during the Timbers public hearing.

9. OTHER BUSINESS

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

Director Friday shared with the Board that the City Council acted to change its weekly meeting from Mondays to Tuesdays. Prior to this meeting, Staff sent a survey to poll Planning Board members to consider options for meeting times. Ms. Plecker explained the reasoning for the limited window of times and said pushing the meeting to Wednesdays or later shortens the timeline to get applications to City Council, Overwhelmingly the choices were either Monday or Tuesday at 4:00 PM... Staff preference is Monday at 4:00 PM to avoid conflict with Staff attendance for City Council meetings. Board member asked what will happen if Monday is a holiday. Ms. Plecker responded that in that instance the meeting will be held on a Tuesday. Board member Woods and Board member Hillius stated the 4:00 PM meeting time may be difficult with their schedules. Board member Stephenson said he feels a later meeting time may be better to ensure members are not excluded. Board member Woods said he is concerned the earlier time frame may limit public attendance. Director Friday explained that this will require a Bylaw amendment and staff can bring the proposal forward during the February 8th meeting and a formal vote will be needed. The new meeting schedule would be implemented for the March meetings.

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

- Project Recode Staff Update January 18, 2022 during the City Council work session. The presentation will be led by Zoning Coordinator Nicole Cromwell. Moncia Plecker said staff has considered 4-5 Planned Development zoning projects. City Council members have forwarded favorable responses.
- President Cook encouraged Board members to forward ideas to him for future discussions. Board member stressed the importance of working with the Board of County Commissioner regarding the planning district boundarie. President Cook asked members to bring ideas to the next meeting in order to create a list.

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview and Yellowstone County”

9b. Announcements

The Planning office will be closed on Monday, January 17th to observe Martin Luther King Day.

The next Planning Board meeting will be held **Tuesday, January 25, 2022**, in person in the Miller Building 1st Floor Conference Room, 2825 3rd Ave N. at 6:00 PM.

ADJOURNMENT 7:25 PM

DRAFT—TO BE APPROVED BY A MOTION- January 25, 2022

--Tamara L Deines, Planning Clerk

Planning Board

Date: 01/25/2022
Title: The Timbers Subdivision, 1st Filing - Preliminary Major Plat - Public Hearing
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 the variance approved 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 three 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 multi-use trails within the City of Billings, prior to final plat approval, under the heading III Transportation, E., the applicant will add language about installation of a trail along Alkali Creek: The final location of the trail will be determined in consultation with Parks Department and the Active Transportation Planner. Additionally, language shall be added stating that the trail shall be built to City of Billings trail standards within the first filing. The portion of the trail that is located outside of phase 1 shall be constructed to city standard but maybe finished with gravel. The gravel will be temporary until the development of Phase 2. At this time the graveled portion of the trail will be improved with the all weather surfacing and meet all City of Billings Standards.
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 re-submittal 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.

Plat Review Discussion:

Staff gave a presentation of the proposed subdivision. After the presentation, Planning Board President Cook called for discussion and questions from the members of the Board. Ms. Plecker said this property went to City Council for annexation and Planned Development zoning which were approved. Condition #10 may be revised as the City Council conditioned the annexation to have the multi-use path continue beyond first filing as a soft surface trail to the northwest within future parkland. She elaborated on the language for the variance and said the intent is this variance will be a temporary variance of 2 years from the date of final plat. Staff feels there is a financial guarantee in place within the language of the creation of an SID should the applicant go beyond the 2 years of the variance.

A board member asked if the gravel surface secondary access is for emergency services and about the reasoning for the Georgia Pine gravel cul-de-sac end when the other cul-de-sacs are paved. Staff responded the secondary gravel surface road is to be built to hold a 40 ton truck in all weather conditions as required by Billings Fire Department. Kolten Knatterud, IMEG, agent for the applicant, said the road master plan has Georgia Pine road extended in future filings, and it was to remain gravel until that time. He explained the design of the filing boundaries which were driven by Alkali Creek, it's floodplain area and wetlands. He pointed out the reason for the variance is the road, Timbers Boulevard North, may have to be shifted due to the Army Corp of Engineers review of the wetland areas. The timeline for Army Corp of Engineers is a minimum of 250 days. He addressed the stormwater system, it is complex and there will be two separate stormwater systems, one to deal with off site drainage and on to deal with on site drainage in this development. The connection, Sugar Pine Road, to the adjacent Morledge property was agreed upon by the Morledges prior to the subdivision application. Condition #10 concerning the multi use trail, Mr. Knatterud stated it is his understanding Engineering would like to see the trail go to Alkali Creek road to cross bridges and make a future connection to the proposed trail in Terrace Estates subdivision. This will be clarified by the time of the public hearing. The final plat is not projected to be filed until mid to late summer. Monica Plecker said part of the 2-year timeline as well as the SID is the agreement the City of Billings agencies came to so the road would not remain gravel for an extensive amount of time. Board member Woods asked for clarification on the stormwater pond on Lot #10. Kolten Knatterud referred to the survey and SIA, this is an example of the two different stormwater systems. He pointed out the conveyance ditch is for the off-site flow. Next to the ditch there is a constructed detention pond to handle the on-site stormwater. There will be infrastructure for both systems. The HOA is responsible for the stormwater infrastructure, but City Public Works reserves the right to access the system.

Since the plat review meeting, planning staff, engineering staff and fire staff have reviewed the variance for consistency with the Development Agreement and Annexation resolution and have determined the variance would actually be no longer than 3 years. The variance request portion of this report has been updated to reflect this as well. Additionally, condition ten has been updated to be consistent with annexation approval and development agreement approved by City Council.

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
Roads Master Plan
Email from Morledge family

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.

With Phase II annexation, to take place January 10, 2025, or earlier upon written request of the DEVELOPER. The city will annex the next area defined in the annexation agreement. Upon that annexation the developer will be required to build the section of Timber Boulevard North to a City paved street standard from the paved section completed with the first filing out to Alkali Creek Road. If Timber Boulevard North is not constructed at that time the City reserves the right to create a Special Improvement District to construct the remaining portion of Timbers Boulevard North out to Alkali Creek Road. This information will be outlined in the SIA under the heading III Transportation. **(Condition #1)**

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. To meet the requirements of conditions of approval for the annexation of this proposed subdivision the applicant will continue the trail, in the parkland, as a soft surface trail to the north west. The trail will be built to hard surface trail standards with future filings of the subdivision. **(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.

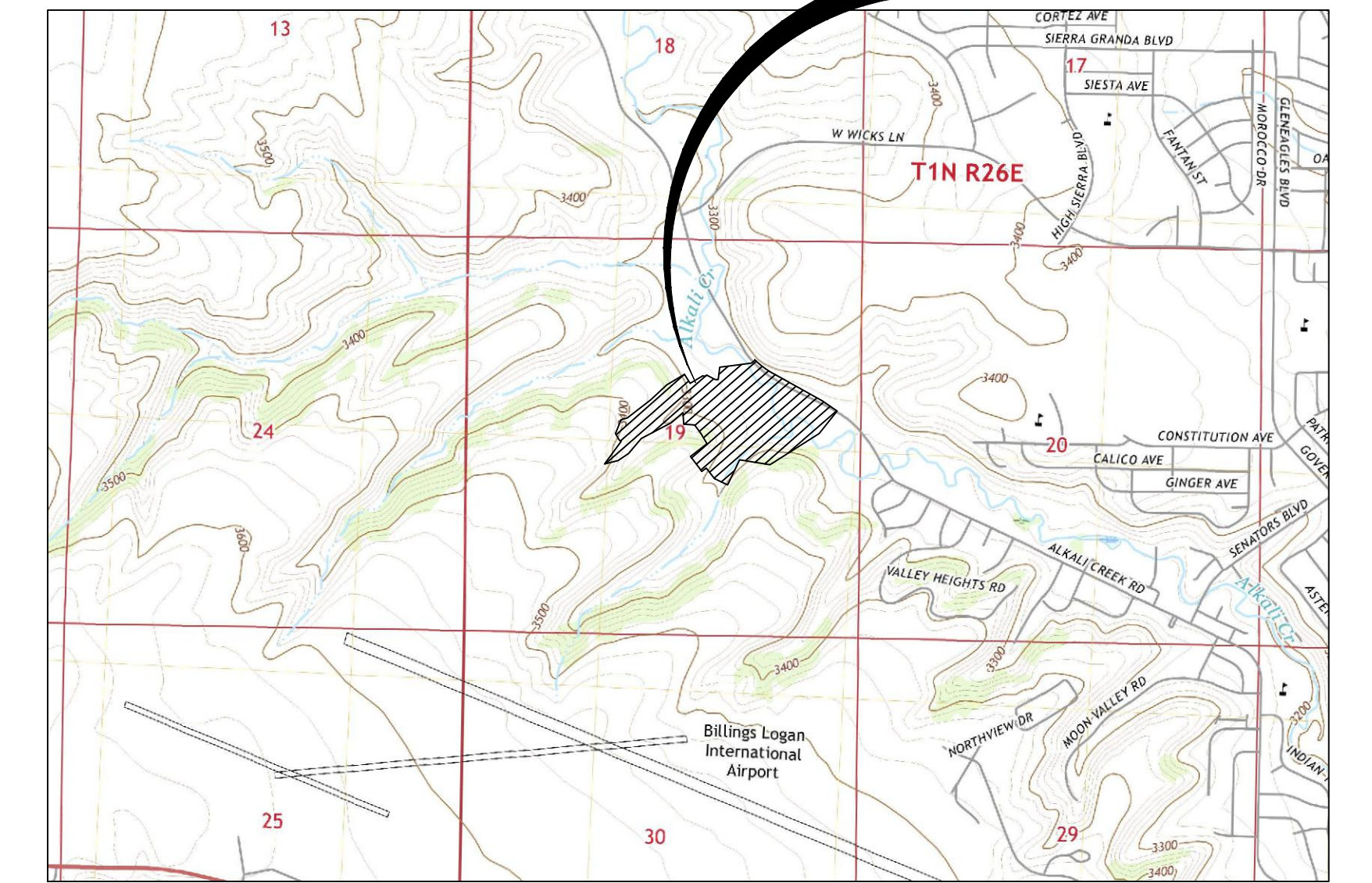
UTILITY NOTE:

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

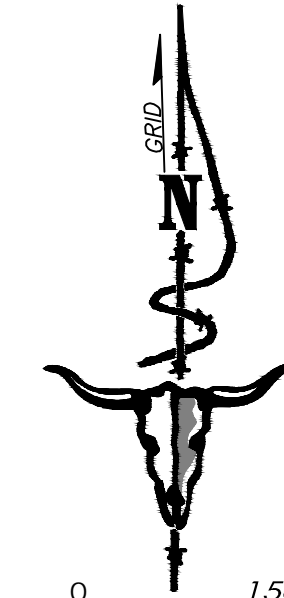
LOT	SF	LOT	SF
1	11,589	16	8,533
2	5,852	17	6,744
3	6,720	18	6,922
4	6,857	19	5,289
5	5,550	20	5,441
6	8,051	21	7,056
7	6,744	22	7,114
8	6,743	23	5,098
9	6,628	24	8,588
10	7,177	25	8,047
11	11,703	26	8,469
12	7,571	27	9,069
13	6,617	28	8,220
14	4,728	29	12,106
15	5,922		

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

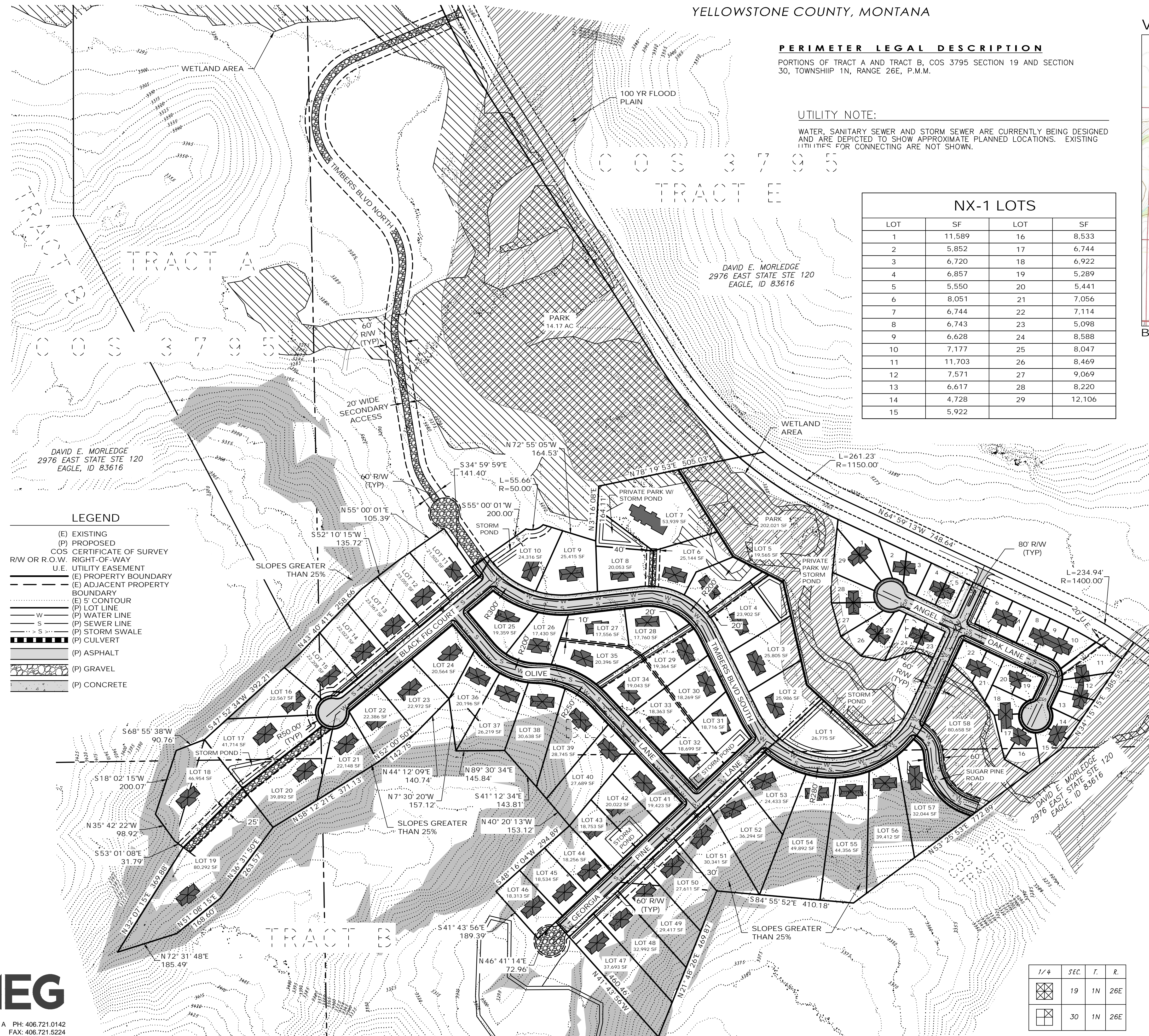
SUBDIVIDER:
DAVID AND ALI MITCHELL

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

Table of Contents

(City of Billings)

I.	Variances	2
II.	Property Conditions and Information for Lot Purchasers	3
III.	Transportation	4
	A. Streets	4
	B. Sidewalks	5
	C. Street Lighting	5
	D. Traffic Control Devices	5
	E. Access	5
	F. Billings Area Bikeway and Trail Master Plan	5
IV.	Emergency Services	5
V.	Storm Drainage	6
VI.	Utilities	6
	A. Water	7
	B. Sanitary Sewer	7
	C. Power, Telephone, Gas, and Cable Television	7
VII.	Parks/Open Space	7
VIII.	Irrigation	7
IX.	Soils/Geotechnical Study	7
X.	Financial Guarantees	7
XI.	Legal Provisions Applying to Subdivider	7

**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, based on a condition of approval of preliminary plat, has provisions that require the surfacing to be completed on or before January 10, 2025.

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.

With Phase II annexation, Petition number 21-14 for annexation, to take place January 10, 2025, or earlier upon written request of the DEVELOPER. The city will annex "Phase 2" defined in the annexation agreement. Upon that annexation the developer will be required to build the section of Timber Boulevard North to a City paved street standard from the paved northern end of Timber Boulevard South, completed with the first filing, out to Alkali Creek Road.

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 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. 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 and then possibly 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.

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.

Variance request from applicant's agent

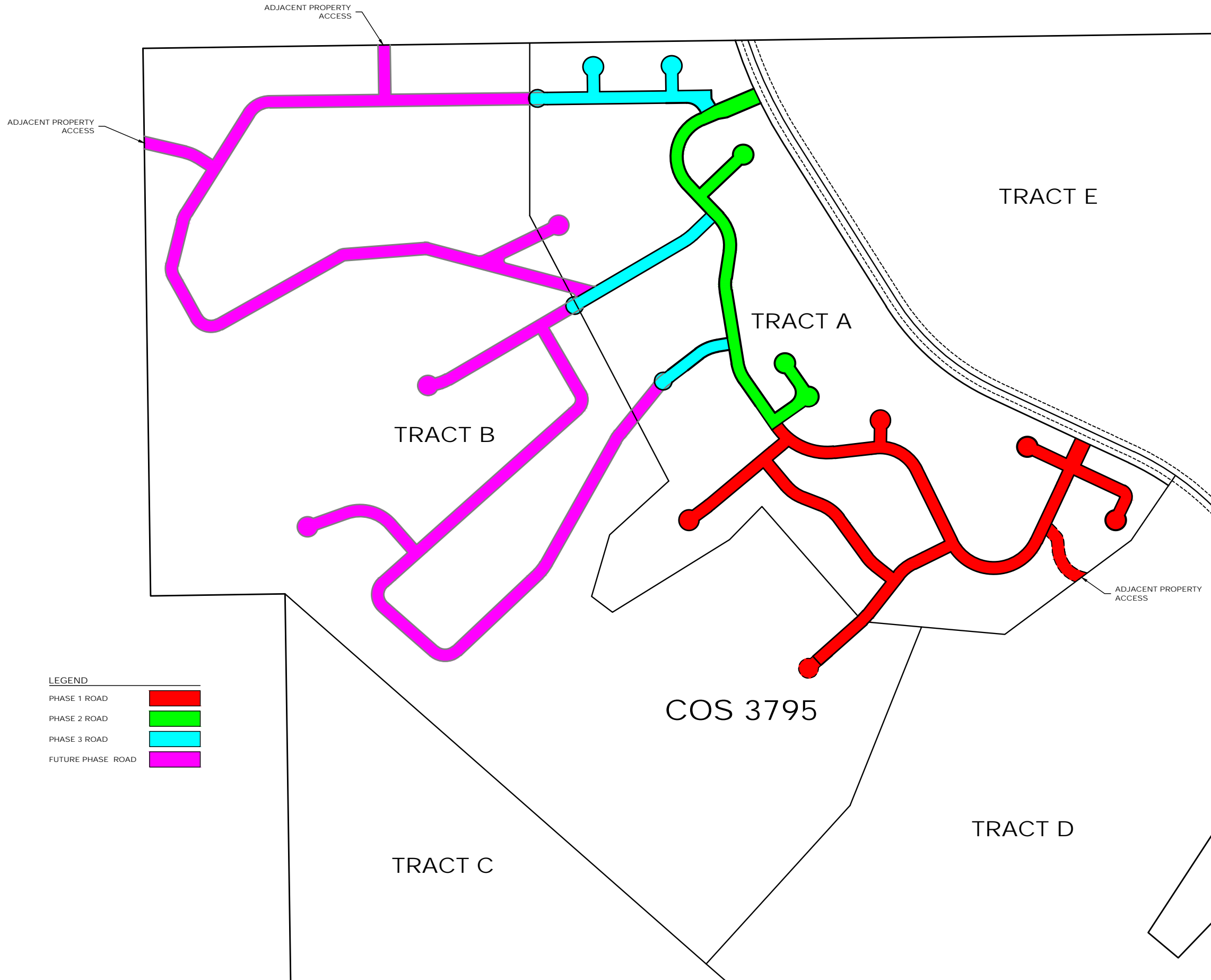
Variance Request

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**.

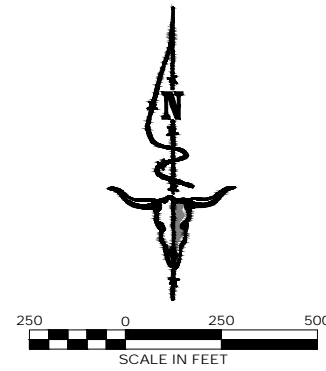
1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;
Granting a variance regarding Timbers Boulevard North being built using gravel will not be detrimental to public health, safety or general welfare. This 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\20006040-01-OVERALL.DWG

Hi David and Monica,

We have successfully completed the sale of the three parcels (A, B & C) on the attached COS to the Alkali Timbers LLC controlled by David Mitchell. It appears that only Parcels A and D have been assigned parcel numbers (D05250 and D05658, respectively) so rather than making it confuse by trying to refer to some parcels that have numbers and some that don't, we'll just use the letters that correspond to the parcel numbers on the COS recorded this past summer just prior to the sale (attached).

We intend to continue marketing our retained parcels D and E for eventual development. In view of the change in annexation status of these parcels from orange to pink, and our understanding the City of Billings Public Works department is looking to bring city services up Alkali Creek Rd in the near future, it seems certain future development of these parcels will take place in the City of Billings. To align the future development of all these parcels with the City of Billings subdivision rules and regulations, we would like to make a formal request to you as you review subdivision proposals from Mr. Mitchell to keep in mind that the viability of the development of our Parcel D will depend on having inter-connectivity with the Alkali Timbers, LLC subdivisions to the north. We have attached a map of Parcel D as it adjoins Mitchell's Parcel B and indicated the approximate range in blue along the shared parcel boundary where such access might occur subject to engineering costs and viability in terms of a final location. As we continue our intention would be to have neighborhood connectivity from Foothill Drive through our Parcel D back through the Alkali Timbers, LLC subdivision and into Alkali Creek Road. We believe that if planned for early, all parties will benefit as well as the community and eventual residents of the area. If you'd like any input along the way as these parcels are being developed, we will happily engage with City Planning to review or provide comments along the way.

We thank you very much for your assistance and welcome any questions or concerns you might have.

Sincerely

David E. Morledge,

Managing Member

DR Morledge Family, LLC

