

# 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
<b>Teresa Larsen</b>	Mayor/Billings Ward I	1	1	-	-	-	1	E	E	x	x													
<b>Roger Gravggaard</b>	Mayor/Billings Ward II	1	1	-	-	-	1	1		x	x													
<b>Dennie Stephenson</b>	Mayor/Billings Ward III	1	1	-	-	-	1	1	1	x	x													
<b>Vacant</b>	Mayor/Billings Ward IV	1	1	-	-	-	-	-	-	x	x													
<b>Jon Thompson</b>	Mayor/Billings Ward V	1	E	-	-	-	E	1	1	x	x													
<b>Troy Boucher</b>	YC District 1	1	1	-	-	-	E	A		x	x													
<b>Dennis Cook</b>	YC District 2	1	1	-	-	-	1	1	1	x	x													
<b>Vacant</b>	YC District 3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Vacant</b>	YC District 4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Woody Woods</b>	YC District 5	1	1	-	-	-	1	1	1	x	x													
<b>Vacant</b>	YC District 6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Jarett Hillius</b>	YC District 7	1	E	-	-	-	1	1	1	x	x													
<b>Vacant</b>	Y County Cons. District	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Scott Reiter</b>	<b>Ex-Officio SD2</b>	1	E	-	-	-	1	A		x	x													

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## CITY/COUNTY PLANNING BOARD

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**APRIL 26, 2022**

*Approved by a motion on June 14, 2022*

### **PUBLIC HEARINGS/PUBLIC HEARING PARTICIPATION GUIDELINES.**

As legally advertised, The Yellowstone County Board of Planning met on April 26, 2022 in the Miller Building 1<sup>st</sup> 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](mailto: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, April 26, 2022.

#### **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:** Wyeth Friday, Director, PCSD; Dave Green, Planner II; Hunter Kelly, Planner I; Tammy Deines, Planning Clerk

**Others in Attendance:** Connie Pelican, Laron Pluhar, `

#### **Approval of the April 26, 2022 Agenda**

Board member Stephenson moved and Board member Boucher seconded to approve the agenda as submitted. The motion carried unanimously.

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## CITY/COUNTY PLANNING BOARD

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**Approval of Minutes:** April 12, 2022

### **Motion**

Board member Boucher moved and Board member Woods seconded the motion to approve the April 12, 2022 meeting minutes as submitted. 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.** There were no disclosures of outside communication or conflicts of interest.

## **8. OLD BUSINESS**

**8a. Public Hearing. Motion/Recommendation to BOCC. Southern Sky Estates Subdivision, County Major Subdivision. Bryce Kirschenmann, Applicant. Rob Neihart, PE, Performance Engineering, and agent. Hunter Kelly, Planner I, presenting.**

### **RECOMMENDATION**

Staff recommends the Planning Board recommend the Board of County Commissioners conditionally approve the preliminary plat of Southern Sky Estates Subdivision and adopt the Findings of Fact as presented in the staff report.

### **BACKGROUND**

On March 1, 2022, Performance Engineering submitted to the Planning Division an application for Southern Sky Estates Subdivision, Preliminary Major Plat. The purpose of this subdivision is to create 29 lots with a mix of commercial and residential uses. Lots 13 through 29 of the Subdivision are intended to be developed with commercial condominiums. Only these lots shall be able to be developed as individual buildings with separate units to be leased or sold. Should Lots 1 through 12 within the Subdivision be developed with commercial condominiums, they shall be done so in accordance with the Yellowstone County Subdivision Regulation's procedures for platting. The property is generally located south of Danford Road and east of South 60th Street West. The land is outside the zoning jurisdictional boundary.

### **VARIANCES REQUESTED**

The subdivider has not requested a variance from Yellowstone County Subdivision Regulations.

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## CITY/COUNTY PLANNING BOARD

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### PROPOSED CONDITIONS OF APPROVAL

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

1. To protect public health and safety, prior to final plat approval, the applicant will receive approval from the MDEQ for the proposed water systems, septic systems and the proposed storm water management.
2. To protect public health and safety and provide for future dry hydrant maintenance, prior to final plat approval, the applicant will provide installation and tank specifications to Laurel Fire Department, prior to installation, for review and approval. The subdivision shall install a 30,000-gallon water storage tank with dry hydrant according to the specification of the Laurel Fire Department. The 30,000-gallon water storage tank with a dry hydrant shall be constructed by the Developer on Park 1 as shown on the preliminary plat. When installed the applicant will have the system tested and signed off by the Laurel Fire Department. The applicant will create an RSID for the new dry hydrant system for the subdivision.
3. To protect public health and safety and provide for future road maintenance, prior to final plat approval, the applicant will create an RSID for the new public roads within the subdivision. All temporary street names will have permanent names determined and identified on the Final Plat
4. To minimize the effects on local service prior to final plat approval, the applicant will coordinate with the USPS for preferred mail delivery box type. The applicant will coordinate the locations and provide the correct amount of space for safely delivering the mail to the residents.
5. To minimize effects on the natural environment, prior to final plat approval a weed management plan and property inspection shall be completed by the County Weed Department.
6. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
7. The final plat shall comply with all requirements of the County Subdivision Regulations, rules, regulations, policies, and resolutions of the Yellowstone County, including laws regarding moving houses onto or off the property, and the laws and Administrative Rules of the State of Montana.

### Discussion

President Cook called for questions and discussion. In response to question by Board member Larson, Planner Hunter Kelly said there is no requirement for sidewalks so they will not be constructed as a part of this development.

### Taylor Kasperick, Performance Engineering, (No address given)

Mr. Kasperick clarified the language for condominium use. Board member Thompson asked what type of commercial use will be done if not used for condominiums. Mr. Kasperick explained that the developer plans to self-develop one of the lots for a shop-office. This is outside of zoning and there will not be zoning restrictions. Limitations will be enforced by DEQ for water and waste water.

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## CITY/COUNTY PLANNING BOARD

*"Serving Billings, Broadview, and Yellowstone County"*

Board member Woods stated his is a proponent for construction of sidewalks regardless of zoning. Board member Gravgaard asked about children walking to the bus stop.

### **Public Hearing**

President Cook opened the public hearing and asked for anyone wishing to speak in favor or against Southern Sky Estates Subdivision.

### **Connie Pelican, 5817 Danford Road, Billings, MT**

Ms. Pelican's concern is related to the subdivision's access point from the Frontage Road to the eastern road. The survey depicts the main entrance to the subdivision across from the front of her house and driveway. She said that the school bus will stop there and the potential of accidents will be higher. In response to a question by Board member Stephenson, Ms. Pelican said her parcel is located approximately in the middle of the subdivision.

President Cook closed the public hearing called for a motion and discussion.

### **Motion**

**Board member Boucher made a motion and Board member Stephenson seconded the motion that the Planning Board recommend the Board of County Commissioners conditionally approve the preliminary plat of Southern Sky Estates Subdivision and adopt the Findings of Fact as presented in the staff report**

### **Discussion**

Director Friday asked Taylor Kasperick for clarification. He said one of the arched driveway approaches line up with the entrance. This was not intentional but he feels it is a safer approach. Board member Woods asked if it is possible to relocate the roadway to realign the entrance away from the driveway. Mr. Kasperick stated it is possible but not preferred.

**Motion carried with a unanimous voice vote. The BOCC will hold a hearing on May 17, 2022.**

**8b. Public Hearing. Motion/Recommendation to BOCC. Lipp Sub, 2nd Filing, County Major Subdivision. Jerry Lee Brey, Applicant. Marshall Phil, Blueline Engineering, Agent. Dave Green, Planner II, presenting.**

### **RECOMMENDATION**

Staff proposes the Planning Board recommend to the Board of County Commissioners the preliminary plat of Lipp Subdivision, 2nd Filing be conditionally approval, the Findings of Fact as presented in the staff report be adopted and the variance request be denied.

### **BACKGROUND**

On March 1, 2022, Blueline Engineering, agent for Jerry Brey, applied for preliminary major plat approval for Lipp Subdivision, 2nd Filing. The proposed subdivision creates 13 lots for commercial development. The subject property is generally located on the southwest corner of 88th Street West and Lipp Road. This parcel of land is outside of zoning and is surrounded by various uses that include commercial, residential and farming. The Planning Board reviewed the plat at its April 12

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## CITY/COUNTY PLANNING BOARD

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meeting and will conduct a public hearing at this meeting before making a recommendation to the Board of County Commissioners.

### **VARIANCES REQUESTED**

The applicant has requested a variance from Section 4.14.C.2. of the Yellowstone County Subdivision Regulations, which outlines the requirement for a 30,000-gallon dry hydrant in a major subdivision. The specific request is to use an existing nearby hydrant in the Brey Subdivision rather than installing one for this development. Staff is recommending denial of the variance request. Further explanation and analysis can be found in Attachment A. If the variance is denied, the Subdivision Improvement Agreement will be required to update Section I. Variances.

### **PROPOSED CONDITIONS OF APPROVAL**

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

1. To protect public health and safety, prior to final plat approval, the applicant will receive approval from the MDEQ for the proposed water systems, septic systems and the proposed storm water management. Further, to ensure future lot owners are aware of the water and sanitary restrictions on some lots, the SIA, under Conditions That Run With the Land shall include language to inform lot purchasers of these restrictions.
2. To protect public health and safety and provide for future road maintenance, prior to final plat approval, the applicant will obtain access permits from MDT. They will create an RSID for the new public roads within the subdivision with the ability to expand with each new phase.
3. To protect public health and safety with proper fire suppression, prior to final plat approval, the applicant will submit construction drawings of the dry hydrant system to Laurel Fire Department for review and approval. Once installed the applicant will request Laurel Fire Department to test the system to ensure it works correctly and get a sign off from Laurel Fire Department. The applicant will also create an RSID for the dry hydrant system that is expandable with each new phase.
4. 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.
5. To minimize effects on the natural environment, prior to final plat approval a weed management plan and property inspection shall be completed by the County Weed Department.
6. 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.
7. 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.

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## CITY/COUNTY PLANNING BOARD

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### **Discussion**

President Cook called for questions and discussion by the members of the Board.

Board member Woods pointed out that this survey does not depict the existing buildings. He said existing the dry hydrant is intended for the full buildout of Brey Subdivision and he is in favor of the staff recommendation to deny the variance.

### **Public Hearing**

President Cook opened the public hearing at 6:38 pm, and asked for anyone wishing to speak in favor or against Lipp Subdivision, 2<sup>nd</sup> Filing. There was none.

President Cook closed the public hearing called for a motion and discussion.

### **Motion**

**Board member Boucher made a motion and Board member Thompson seconded the motion that the Planning Board recommend to the Board of County Commissioners the preliminary plat of Lipp Subdivision, 2nd Filing be conditionally approved with the Findings of Fact as presented in the staff report be adopted and the variance request be denied.**

### **Discussion**

Board member Gravgaard asked who will be able to build a structure on this parcel without adequate fire suppression ability as insurance costs will be high and there has to be some type of access to water. It was pointed out that denial of the variance will demand the developer install a dry hydrant. In response to Board member Stephenson, Dave Green said this parcel is outside of zoning and the County may not have any recourse for building. The 30,000-gallon tank will have to be installed and approved prior to final plat approval. Director Friday said the issue is a building can be constructed prior to final plat approval but conveyance of the land would trigger investigation by the Yellowstone County Code Enforcement Division for investigation.

### **Eric Morell 238 S 88<sup>th</sup> Street West, Billings, MT**

Mr. Morell asked for clarification regarding sanitary approval. Staff explained that future lot owners will have to obtain sanitary restriction approval. Mr. Morell said an enormous shop is currently under construction. Staff said lots are not saleable until the survey is recorded. There are no restrictions or noise restrictions as this is an unzoned parcel.

**The motion carried with a unanimous voice vote. . The BOCC will hold a hearing on May 17, 2022.**

**8c. Public Hearing. Motion/Recommendation to BOCC. Creekside Estates 2nd Filing, County Major Subdivision, John Poukish, Applicant. Kolten Knatterud, IMEG, Agent. Dave Green, Planner II, presenting.**

### **RECOMMENDATION**

Staff recommends the Board of County Commissioners conditionally approve the preliminary plat of Creekside Estates Subdivision, adopt the Findings of Fact as presented in the staff report and

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## CITY/COUNTY PLANNING BOARD

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approve the requested variance.

### **BACKGROUND**

The Planning Division received an application for major preliminary plat approval for the proposed Creekside Estates Subdivision, 2nd Filing. The property is generally located on the northeast corner of the intersection of Grand Avenue and 62nd Street West. This subdivision would create 8 lots from a 17.55-acre parcel of land. The applicant is proposing to develop a residential subdivision, the land is zoned Rural Residential 1 (RR1). The land was historically used as farmland.

### **VARIANCES REQUESTED**

A variance is being requested for this subdivision. The applicant has requested a variance from Yellowstone County Subdivision Regulations Section 4.14.C. 2, Major, Commercial, and Subsequent Minor Subdivision. The regulations require that the subdivider shall provide an approved, single, minimum thirty thousand (30,000) gallon underground water storage tank for fire suppression. Per the regulations, developers are able to use tanks located within 1/2 road mile. When a County subdivision is within one half (1/2) road mile of a pressurized municipal hydrant the developer shall pay a fee in lieu of hydrant installation to the Fire Department serving the proposed subdivision. This development is further than 1/2 road mile, it is .58 road miles, therefore the variance is requesting that the distance of 1/2 road mile be waived to allow use of the pressurized hydrant .58 miles away. If the variance is approved the required fee to the Billings Fire Department shall be paid. Staff is recommending approval of the variance requests.

### **PROPOSED CONDITIONS OF APPROVAL**

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

1. To protect public health and safety, prior to final plat approval, the applicant will receive approval from the MDEQ for the proposed water systems, septic systems and the proposed storm water management. Further, to ensure future lot owners are aware of the water and sanitary restrictions on lots 7 & 8, the SIA, under Conditions That Run With the Land shall include language to inform lot purchasers of these restrictions.
2. To protect public health and safety and meet County Public Works requirements for driveway separations, prior to final plat approval, the applicant will show they can meet those requirements for accesses from the cul-de-sac off of Grand Avenue.
3. To ensure the correct users on the private driveways proposed in this subdivision, prior to final plat approval, the applicant will provide easement documents listing the two lots that have use of those easements.
4. To protect public health and safety with proper fire suppression, prior to final plat approval, the applicant will submit construction drawings to Billings Fire Department for review and approval, this includes the area for the fire departments to access the tank and the tank construction. Once installed the applicant will request Billings Fire Department test the system to ensure it works correctly and get a sign off from Billings Fire Department. The applicant will also create a public easement where the tank is installed and an RSID for the dry hydrant system.

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## CITY/COUNTY PLANNING BOARD

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5. To protect public health and safety and to meet Yellowstone County Resolution No. 19-53, prior to final plat approval, should the variance request be granted, the applicant will provide a reimbursement to the county for the use of a municipal pressurized fire hydrant.
6. To minimize the effects on local service prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
7. To minimize effects on the natural environment, prior to final plat approval a weed management plan and property inspection shall be completed by the County Weed Department.
8. To ensure future home construction on the lots meets the requirements of County Zoning, prior to final plat approval the applicant will add language in the SIA under Conditions That Run With The Land that informs lot purchasers of the requirement to obtain a zoning compliance permit before construction begins on the lot.
9. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
10. The final plat shall comply with all requirements of the County Subdivision Regulations, rules, regulations, policies, and resolutions of the Yellowstone County, including laws regarding moving houses onto or off the property, and the laws and Administrative Rules of the State of Montana.

### **Discussion**

President Cook called for discussion and question by the members of the Board.

Board member Woods noted the survey depicts the wells for lots 3 and 4 as located on lot 5 with an easement, and there is an easement on Lot 2 for Lot 1. He asked if the sanitary restrictions are lifted for Lots 7 and 8. Kolten Knatterud said this parcel is difficult to develop due to ground water issues. Lots 7 and 8 are undevelopable unless annexed. He said the owner previously tried to rezone for a dry use but was unsuccessful. He commented that the highest and best use may be for horses or livestock, and added that the variance is driven by the City's preference for a cash contribution. The client is providing an easement which may be used for a pedestrian trail facility and the intent is to construct a multi-use path.

### **Laren Pluhar, 1720 60<sup>th</sup> Street West, Billings, MT**

Mr. Pluhar said these lots are flood irrigated. He noted three proposed septic systems proposed across from the drainage way. He pointed out a 30-foot-wide easement for the Birely Drain easement and the survey scale only 2.5 feet which will not allow an excavator to keep the ditch clean.

### **Kolten Knatterud, IMEG, (no address given)**

Kolten Knatterud said per DEQ requirements, a berm will be created on the east boundary of the property to prevent surface water from entering the drain field. There is a storm water swale for onsite

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## CITY/COUNTY PLANNING BOARD

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storm water. The Birely Drain requires a 15-foot width for cleaning and maintenance, and this will be clarified on the final plat.

### **Public Hearing**

At 7:07 pm, President Cook opened the public hearing and asked for anyone wishing to speak in favor or against Lipp Subdivision, 2<sup>nd</sup> Filing. There was none. President Cook closed the public hearing called for a motion.

### **Motion**

**Board member Stephenson made a motion and Board member Gravgaard seconded the motion that the Planning Board recommend to the Board of County Commissioners the preliminary plat of Creekside Estates, 2<sup>nd</sup> Filing be conditionally approved, with the Findings of Fact as presented in the staff report be adopted and the variance request be approved.**

**The motion carried with a unanimous voice vote. The BOCC will hold a hearing on May 17, 2022.**

#### **9. OTHER BUSINESS**

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

**b. Director Wyeth Friday. Darell Tunnicliff Memorial Tree.** Director Friday said the Parks and Recreation Department planted the tree and a dedication will be scheduled when the memorial plaque arrives.

The May 10, 2022 and May 24, 2022 meetings will be cancelled due to a lack of agenda items. The next Planning Board meeting is scheduled for Tuesday, June 14, 2022.

**ADJOURNMENT 7:30 PM**

**APPROVED BY A MOTION June 14, 2022**

***--Tamara L Deines, Planning Clerk***