

## **FINDINGS OF FACT**

The City-County Planning Division Staff has prepared the Findings of Fact for Lipp Subdivision, 2<sup>nd</sup> 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 Yellowstone County Subdivision Regulations (YCSR).

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

#### **1. Effect on agriculture and agricultural water users' facilities**

The subject property is currently used for grazing / fallow purposes. Historically it has been irrigated from the Cove Ditch. There are no water rights or shares that will be available for the future property owners in this subdivision. Any surrounding ditches will be left in place with access to them for maintenance purposes. This proposed subdivision will have minimal impact on water users' facilities.

#### **2. Effect on local services**

a. **Water** – The applicant is proposing this subdivision will have individual cisterns for each lot. They will be installed meeting the requirements outlined in Section 4.9 of the Yellowstone County Subdivision Regulations and the DEQ. The operation and maintenance of the cistern will be the responsibility of the lot owner to maintain.

b. **Septic** - The applicant is proposing each lot will have its own septic system. They will be built in compliance with the requirements outlined in Section 4.8 of the Yellowstone County Subdivision Regulations and the DEQ. Each system will be maintained by the individual lot owner.

Both the proposed water and septic systems will be reviewed and approved by MDEQ with a copy of the approval provided with the final plat. **(Condition #1)**

All private utilities, power, telephone, gas and cable television, if available to the subdivision will be installed in the public right of way or easements identified on the plat.

c. **Streets and roads** – Roads within the subdivision will be built in 60-foot-wide right of ways with a 24-foot paved surface and 2-foot-wide shoulders on each side. Drainage ditches will be installed along the sides as required by MDEQ for stormwater management. Arnie Avenue and 89<sup>th</sup> Street West are classified as local streets. Lipp Road and 88<sup>th</sup> Street West, south of Lipp Road, are state controlled roads. The applicant will be required to obtain access permits from the state for Arnie Avenue. There is already an access for 89<sup>th</sup> Street West. The applicant will be required to create an RSID for maintenance of roads within the subdivision. **(Condition #2)**

Lot 1 still have three businesses on it. The applicant is proposing to provide access to the east side of the lot with a 30-foot-wide access easement. The building on the north west side of the lot will have access of 89<sup>th</sup> Street West.

d. **Fire and Police services** – The property is within the Laurel Fire Department firefighting area. Subdivision regulations require that major subdivisions have a 30,000-gallon dry hydrant system for the subdivision. There is a 20,000-gallon dry hydrant located in the subdivision north of this proposed subdivision in Brey Subdivision. The applicant has submitted a variance request to use this dry hydrant for the Lipp Subdivision 2<sup>nd</sup> Filing. Laurel Fire Department sent comment concerning the use of the 20,000-gallon tank in Brey Subdivision, it is in Molt Fire Department jurisdiction. Laurel does not have any way of checking it to ensure it functions or funds to maintain or repair it if needs maintenance or repair. It is recommended to require the applicant install a 30,000-gallon tank with this filing of Lipp Subdivision, built to Laurel Fire Department standards. **(Condition #3)**

The Yellowstone County Sheriff's Department will provide law enforcement services to this subdivision.

e. **Solid Waste disposal** – The Billings Landfill has capacity for solid waste disposal. Solid waste will be collected and disposed of by a private garbage collection company. Each lot owner will be responsible for arranging for collection.

f. **Storm water drainage** – Proposed Storm water drainage shall be submitted to the MDEQ for review and approval prior to final plat. All proposed stormwater systems shall meet the requirements of Section 4.7 of Yellowstone County Subdivision Regulation's and the requirements of MDEQ. **(Condition #1)**

g. **School facilities** – The proposed subdivision is located within Elder Grove School District for K through 8. West High School will provide education for students in 9 through 12, School Districts #2. Elder Grove has additional capacity for students, West High School is currently over capacity.

h. **Parks and recreation** – This proposed subdivision is not required to provide parkland. Commercial subdivisions are not required to provide parkland. YCSR Section 10.8 C.

i. **Postal Service** – The applicant will coordinate with the USPS to provide areas for Central Box Units for the subdivision and enough area for the postal delivery person to safely deliver the mail. **(Condition #4)**

j. **Historic features** – No known historic or cultural assets exist on the site.

k. **Phasing of Development** - The applicant is not proposing to develop this subdivision in phases.

### **3. Effects on the natural environment**

The development will use noxious weed control measures to prevent the spread of

noxious weeds to adjacent developed or agricultural land. As required by County Subdivision Regulations Section 4.15 all county subdivisions are required to apply for and obtain a weed management plan with the County Weed Department. That plan will be submitted with final plat approval. **(Condition #5)**

There are no apparent or known natural hazards on the property.

#### **4. Effects on wildlife and wildlife habitat**

There are no known endangered or threatened species on the property. A paragraph in the 'Conditions that Run with the Land' section of the SIA warns future lot owners of the likely presence of wildlife in the area and their potential to damage residential landscaping.

#### **5. Effects on public health and safety**

Plans and designs for the water and septic system will be reviewed and approved by MDEQ prior to final plat approval to ensure public health and safety.

Fire and emergency services are provided for this proposed subdivision from Laurel Fire Department and the Yellowstone County Sheriff's department.

#### **B. Was an environmental assessment required? If yes, what, if any, significant adverse impacts were identified? (76-3-603 MCA) (Chapter 9, YCSR)**

An environmental assessment was required for this subdivision. Because the current use of the land is for farming / grazing purposes the natural habitat has been disrupted long ago. There are no known endangered species on the land. Impact to habitat should be minimal.

#### **C. Does the subdivision conform to the Yellowstone County 2008 Growth Policy, the 2018 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan Update? [BMCC 23-302.H.4.]**

##### **1. Yellowstone County - 2008 Growth Policy**

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

- Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns. (p. 6)

*There is existing commercial development on the land and there are lots across Lipp Road that are developed as commercial uses and along 88<sup>th</sup> Street West north of this subdivision.*

- Goal: New developments that are sensitive and compatible with the character of adjacent County town sites. (p. 6)

*This proposal is consistent with the type of development in the surrounding area.*

- Goal: Controlled weed populations. (p. 9)

*The developer shall complete a weed management plan and shall provide a re-vegetation plan as required by County Subdivision Regulations.*

##### **2. 2018 Billings Urban Area Long Range Transportation Plan**

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

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

This subdivision is outside the BABTMP boundaries for trails. They will not be required to build any trail as part of the development.

**D. Does the subdivision conform to the Montana Subdivision and Platting Act (MSPA) and to local subdivision regulations? [MCA 76-3-608 (3) (b) and Section 3.2 (3) (a) YCSR]**

The proposed subdivision meets the requirements of the MSPA and the YCSR. The subdivider and the local government have complied with the subdivision review and approval procedures that are set forth by local and state subdivision regulations.

**E. Does the subdivision conform to sanitary requirements? [Section 4.8 (C) and 4.9 (C), YCSR]**

The subdivider must receive approval from the MDEQ prior to final approval. New parcels, without existing septic systems, are subject to MDEQ review.

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

The proposed subdivision is outside County Zoning Jurisdiction. There are no Yellowstone County zoning regulations on the subject property.

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

Should the private utility companies require easements the applicant will be required to coordinate the easements needed with the private utility companies.

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

Legal and physical access will be provided for the new proposed lots from South 64<sup>th</sup> Street West and the proposed internal streets to each lot.

**CONCLUSIONS OF FINDINGS OF FACT**

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

- The applicant has complied with the MSPA and YCSR processes and the subdivision conforms to the law requirements.

**RECOMMENDATION**

The Planning Division recommends conditional approval of Lipp Subdivision, 2<sup>nd</sup> Filing preliminary plat to the Planning Board and adopt the Findings of Fact as presented in the staff report, the SIA, Waiver and denial of the variance. The Planning Board recommendation will be forwarded to the Board of County Commissioners.