

FINDINGS OF FACT

The City-County Planning Division Staff has prepared the Findings of Fact for Creekside Estates Subdivision, 2nd 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 was used for agricultural purposes. The Birely Drain is along the west edge of the proposed subdivision. In the SIA under the heading Irrigation, it states no water rights or shares are being transferred to the property owners within the proposed subdivision. In the SIA under Conditions that run with the land it states perimeter ditches and drains shall remain in place and shall not be altered by the subdivider or subsequent owners.

2. Effect on local services

a. **Water and Septic** – This subdivision will be served by individual wells located on each lot, with the exception of Lots 7 and 8. Lots 7 and 8 will have sanitary restrictions on them and will not be part of the DEQ COSA with the rest of the lots. The proposed water system will be in accordance with Section 4.9 of the Yellowstone County Subdivision Regulations and will need to be reviewed and approved by MDEQ. The applicant will provide a copy of the MDEQ approval for the water system at the time of final plat. **(Condition #1)** The maintenance and operation of each well will be the responsibility of the lot owner.

Each lot is proposed will have a septic system on the lot within the proposed subdivision, with the exception of Lots 7 and 8. Lots 7 and 8 will have sanitary restrictions on them and will not be part of the DEQ COSA with the rest of the lots. The proposed septic systems be in accordance with Section 4.9 of the Yellowstone County Subdivision Regulations and will be reviewed and approved by MDEQ. The applicant will provide a copy of the MDEQ approval for the septic systems at the time of final plat. **(Condition #1)** The maintenance and operation of each septic system will be the responsibility of the lot owner.

b. **Streets and roads** – There will be a new short dedicated cul-de-sac off Grand Avenue for access to lots 5 through 8. From the cul-de-sac there will be a shared driveway that provides access to lots 5 and 6. Lots 7 and 8 will take access directly off the proposed cul-de-sac. The applicant will be required to meet the regulations that outline the minimum distance between driveways allowed from a cul-de-sac. **(Condition #2)** Lots 1 through 4 will take access off Creek Crossing Road on the north end of the subdivision. Lots 3 and 4 will share a driveway from Creek Crossing Road. Lots 1 and 2

will take access directly from Creek Crossing Road. The applicant needs to show the driveways easements and provide easement documents and the two lots that have use of those easements. **(Condition #3)**

c. **Fire and Police services** – The property is within the Billings Urban Service Area (BUFSA). The developer has asked for a variance from the requirement as there is a pressurized hydrant just over ½ road mile at 60 Street West. A major subdivision is required by subdivision regulations to provide a 30,000-gallon dry hydrant system, unless there is a pressurized system within ½ road mile or another 30,000-gallon tank within ½ road mile.

Should the variance request be denied the applicant will install a 30,000-gallon dry hydrant system. The plans shall be reviewed and approved by the Billings Fire Department before installation. Upon completion of the installation the applicant will have the Billings Fire Department test the system to ensure it functions properly. If it is functioning properly the Billings Fire Department will provide a sign off stating the system works correctly. **(Condition #4)**

Should the variance be granted the applicant will submit the required cash contribution as outlined in Yellowstone County Resolution No. 19-53. The correct monetary amount to submit will be determined by the applicant and agent and verified by Billing Fire Department. **(Condition #5)**

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

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

e. **Storm water drainage** – Storm water drainage shall satisfy Yellowstone County Storm Water Management requirements. A storm water plan shall be reviewed and approved by the MDEQ to ensure the proposed stormwater management will function satisfactorily. **(Condition #1)**

f. **School facilities** – The proposed subdivision is located within School District #2 boundaries. School District #2 will provide educational services for Elementary, Middle and High School students. Meadowlark for elementary, Ben Steele for middle and West for high school. School District #2 responded to the request for information indicating all three of the mentioned schools are over maximum capacity.

g. **Parks and recreation** – The parkland dedication requirement for this subdivision is 0.68 acres. The applicant is proposing a private park of 1.6 acres, maintained by the HOA.

h. **Postal Service** – The applicant will be required to coordinate the location of the central delivery box and provide enough space for the delivery vehicle to pull out of traffic for

safety. (**Condition #6**)

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

j. **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. Prior to final plat approval, the applicant will apply for and obtain a weed management plan with the County Weed Department. That plan will be submitted with final plat approval. (**Condition #7**)

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

4. Effects on wildlife and wildlife habitat

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

5. Effects on public health and safety

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

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

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

An environmental assessment was not required for this subdivision pursuant Section 9.2 C of the County Subdivision Regulations.

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)

The subdivision is consistent with the type of residential development in the surrounding area.

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

There is residential development east of the subject property and large lot development to the west and north.

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

The developer shall complete a weed management plan, and shall provide a re-vegetation plan for any ground disturbed by development.

2. 2018 Urban Area Transportation Plan

The subject property maintains the road the study area of the Transportation Plan. As proposed, there is only one local street associated with this subdivision.

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

62nd Street West is identified as a Proposed Long-Range Bike Lane. This development will not be required to build part of the trail as part of the subdivision.

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

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

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

The subdivider must receive approval from the MDEQ prior to final approval. New parcels 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 within Rural Residential 1 zoning. Compliance with zoning will be confirmed with the zoning compliance permits the future homeowners will be required to submit prior to construction on the lots. This information will be included in the SIA under the heading Conditions that Run with the Land. **(Condition #8)**

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

Private utilities are to be installed in the public road rights-of-way and the access driveways. Should the private utility companies require additional 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 Grand Avenue and Creek Crossing Road. The internal access driveways will provide access to internal lots.

CONCLUSIONS OF FINDINGS OF FACT

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

RECOMMENDATION

The Planning Division recommend conditional approval of the preliminary plat of Creekside Estates Subdivision, to the Planning Board, and adopt the Findings of Fact as presented in the staff report, the SIA and Waiver.