



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



AGENDA
SEPTEMBER 27, 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

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

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://tinyurl.com/yckr478k>

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 406-247-8610. 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: SEPTEMBER 13, 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. Buffalo Crossing Subdivision.** An 84-lot City Residential Major Subdivision. Doug Wild, Buffalo Crossing, LLC. WWC Engineering, agent. Dave Green, Planner II, presenting.
 2. **Public Hearing. Motion/Recommendation to BOCC. Shop World 3, County Major Subdivision.** Anna

Vickers, IMEG, agent. Dave Green, Planner II, presenting.

8. **NEW BUSINESS:** (Agenda items new to this meeting).
9. **OTHER BUSINESS:**
 - a. • **SAVE THE DATE!** Planning Board members are invited to attend the City of Billings Board and Commissions Volunteer Appreciation Dinner on October 25, 2022 6:00 PM. Invitations will follow in the mail the week of October 3, 2022.
 - b. (Standing Item) Long Range Strategic Issues and an overview of future City and County issues and projects.
10. **ADJOURNMENT**

FUTURE AGENDA ITEMS

- A. Cancellation Notice: Due to a lack of agenda items, the October 11, 2022 and October 25, 2022 Planning Board meetings are canceled. The November 8, 2022 Planning Board meeting will be held as legally advertised and announced.

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: 09/27/2022

Information

Subject

MOTION. MEETING MINUTES: SEPTEMBER 13, 2022

Attachments

2022_09_13_PLNB_Minutes_DRAFT.pdf

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, “Z” stands for Zoom participation. **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	1	-	-	-	1	E	E	x	x	1	1	E	1	E	E	1						
Roger Gravggaard	Mayor/Billings Ward II	1	1	-	-	-	1	1		x	x	1	1	1	1	A	1	1						
Dennie Stephenson	Mayor/Billings Ward III	1	1	-	-	-	1	1	1	x	x	E	1	1	1	1	1	1						
Vacant	Mayor/Billings Ward IV	1	1	-	-	-	-	-	-	x	x	x	x		-	-	1	-						
Jon Thompson	Mayor/Billings Ward V	1	E	-	-	-	E	1	1	x	x	E	1	E	1	E	1	E						
Troy Boucher	YC District 1	1	1	-	-	-	E	A		x	x	A	A	E	1	E	E							
Dennis Cook	YC District 2	1	1	-	-	-	1	1	1	x	x	1	1	1	1	1	1	1						
Vacant	YC District 3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Vacant	YC District 4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Woody Woods	YC District 5	1	1	-	-	-	1	1	1	x	x		1	1	1	1	1							
Vacant	YC District 6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Jarett Hillius	YC District 7	1	E	-	-	-	1	1	1	x	x	1	1	1	E	1	-	-	-	-	-	-	-	-
Vacant	Y County Cons. District	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Scott Reiter	Ex-Officio SD2	1	E	-	-	-	1	A		x	x	E	-	E	A	A	1	1						

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview, and Yellowstone County"

September 13, 2022

DRAFT- To be approved by a motion on September 27, 2022

PUBLIC HEARINGS/PUBLIC HEARING PARTICIPATION GUIDELINES.

As legally advertised, The Yellowstone County Board of Planning met on September 13, 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.

1. Call the Meeting to Order: President Cook called the meeting to order at 6:00 p.m. on Tuesday, September 13, 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:; Monica Plecker, Planning Division Manager; Dave Green, Planner II; Tammy Deines, Planning Clerk

Others in Attendance: Scott Reiter, SD #2, and Darin Swenson, Yellowstone, County Public Works via Zoom. Kolten Knatterud, IMEG, Anna Vickers, IMEG; Greg Reid, WWC Engineering; Doug Wild, Buffalo Crossing LLC; Levi Britton, Yellowstone Contractors

2. Approval of Agenda

Motion

Board member Woods made a motion and Board member Stephenson seconded the motion to approve the meeting agenda as submitted. The motion carried with a unanimous voice vote.

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview, and Yellowstone County"

3. Approval of Minutes: August 24, 2022. Motion by Board member Stephenson and seconded by Board member Woods to approve the August 24, 2022 minutes as submitted. The motion carried with a unanimous voice vote.

4. 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 was no public comments.

5- 6. 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.

7. OLD BUSINESS – There is No Old Business.

8. NEW BUSINESS

1. Plat Review. Buffalo Crossing Subdivision. An 84-lot City Residential Major Subdivision. Doug Wild, Buffalo Crossing, LLC. WWC Engineering, agent. Dave Green, Planner II presenting.

Planner Dave Green opened this agenda items with an overview of the staff report. He referred to the plat map and pointed out the remaining Certificate of Survey that is not a part of the subdivision proposal. The developer is working with the adjacent property owner to provide and easement for secondary access to Stockman to build the entire subdivision road network. Should this not be feasible the subdivision will be submitted in phases for review with temporary cul-de-sacs for emergency fire access. (Conditions of Approval #1, 3)

RECOMMENDATION

Staff proposes the Planning Board recommend the City Council conditionally approve the preliminary plat of Buffalo Crossing Subdivision and adopt the Findings of Fact as presented in the staff report

BACKGROUND

On August 1, 2022, WWC Engineering, applied for preliminary minor plat approval for Buffalo Crossing Subdivision. The proposed subdivision creates 80 lots for residential development. The subject property is generally located south side of Grand Avenue and west of Trails West Subdivision. The property is a Planned Neighborhood Development (PND) with zonings of, N3 - Suburban Neighborhood, P1 -- Parks and Open Space, NX2 -- Mixed Residential 2, 2 to 8 Units, N2- Mid-Century Neighborhood.

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.

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview, and Yellowstone County"

1. To protect public health and safety and ensure a correct turn around, prior to final plat approval, should the applicant determine to build the subdivision using phases, the applicant will provide a temporary cul-de-sac where phase one roads end. This information will be included in the SIA and shown on the plat.
2. 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.
3. To protect public health and safety and ensure correct platting of a phased subdivision, prior to final plat, should the applicant determine they will pursue a phased development they will be required to submit the correct documents for a phased subdivision.
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, 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. Board member Larsen asked regarding the pedestrian trail and Dave Green provided clarification on the location. It was noted that Lot 13 is designated for parkland that runs along Birely Drain.

President Cook called for presentation by the applicant's agent.

Greg Reid, WWC Engineering, Billings, MT

In response to question by Board member Woods, Mr. Reid said that the storm water control area will be a detention pond flowing back to Birely Drain. Monica Plecker asked about the alignment of Stockman Avenue. Greg Reid explained the notation of the need for Stockman Avenue to go southward per the functional classification map. He said the owner has made a request to purchase Tract 4B to create an easement. Conversations are undergoing regarding the Birely Drain agreement and access easements. The pedestrian trail will be an 8-ft width.

President Cook asked SD 2 Facilities Coordinator Scott Reiter how the influx of new students to Ben Steele Middle School will be handled within the school district. Scott Reiter said the boundary markers are under discussion for west end schools which may move students closer to Will James Middle School where there is room for additional students.

**A public hearing for Buffalo Crossing Subdivision will be held during the September 27, 2022 Planning Board meeting and recommendation forwarded to City Council for consideration on October 24, 2022.

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview, and Yellowstone County"

8b. Shop World 3 - Preliminary Major Plat Review. Discussion. Shop World 3, County Major Subdivision. Anna Vickers, IMEG, agent. Dave Green, Planner II, presenting.

Planner Dave Green opened this agenda item with an overview of the staff report. He explained this application is being reviewed as a County major subdivision due to the number of condominium units proposed. The applicant has finished the process of road abandonment for Rosebud Drive. He pointed out that there will be private roads maintained by a HOA. He noted the originally platted 82nd Street is unconstructed and is located in wetlands. No septic or water will be available. The fire suppression system will be located off of Stillwater Drive. A plat of the original Pike Subdivision was provided and Dave Green provided explanation of the reconfiguration.

RECOMMENDATION

Staff proposes the Planning Board recommend to the Board of County Commissioners the preliminary plat of Shop World 3 Subdivision, be conditionally approval, adopt the Findings of Fact as presented in the staff report and deny the variances requested.

BACKGROUND

On August 1, 2022, IMEG applied for preliminary major plat approval for Shop World 3. The proposed subdivision creates 1 lot for Commercial condominium development. The subject property is generally located on the south side of Still Water Drive and west of South 80th Street West. This parcel of land is outside of zoning and is use for farming purposes. There are also large lots with houses on them to the north, south and west. There is residential development to the east on smaller lots. Shop World 1 is west and south of this proposed development. Planning Board will review the plat at this meeting and a conduct a public hearing on September 27, 2022.

VARIANCES:

- A. The applicant has requested a variance from Section 4.6.A.6 of the Yellowstone County Subdivision Regulations, which requires a second means of ingress and egress for major subdivisions.

Staff is recommending denial of the variance request.

- B. The applicant has requested a variance from Section 4.6.B.5 of the Yellowstone County Subdivision Regulations, which requires a variance request for an Emergency Access Road rather than a full access road.

Staff is recommending denial of the variance request.

The applicant is proposing to develop a commercial condominium dry storage subdivision with only one full access from Stillwater Drive into and out of the subdivision. Yellowstone County subdivision regulations require two ways in and out of a major subdivision, the applicant is not proposing another full ingress / egress for the subdivision. In a separate variance request they are asking for an Emergency Access Road. The email provided by the applicant addressing only the topic of an emergency access to King Avenue West. MDT does not want a full access because of concerns for access points not having enough separation from existing access points already on King Avenue West in this area. Should the applicant move the access to King Avenue West farther west to get the correct separation from existing access points, MDT would allow a full access

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview, and Yellowstone County”

Dave Green stated the County Legal Department provided an opinion that there are other options to exit the subdivision and two accesses are needed for a major subdivision. He read aloud the opinion provided by County Attorney Mark English.

Discussion

President Cook called for questions and discussion by the Board. Board member Woods asked about the dead-end reconfiguration of Rosebud Road’s and if it is wide enough to accommodate the Fire Department’s required turnaround. Dave Green explained the two options for a dead-end road are a cul-de-sac or a hammerhead. The remaining Rosebud Road cul-de-sac will serve as a hammerhead similar to one located in the northward development and will have a diameter of approximately 270-feet. Further clarification was given on the access points. Board member Woods said Rosebud Road could serve as a second access point.

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 and to ensure a portion of Rosebud Drive is vacated, prior to final plat, the applicant will go through the process of vacating the portion of Rosebud Drive cul-de-sac that will be part of the single lot for this proposed subdivision.
2. To protect public health and safety with proper fire suppression, prior to final plat approval, the applicant will submit construction drawings to Laurel Fire Department for review and approval for the dry hydrant system. 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.
3. To ensure public health and safety and to meet the requirements of 2 ways in and out of a major subdivision, prior to final plat approval, should the variance request from Section 4.6.A.6 be denied, the applicant will provide a second full access from these two options, build Rosebud Drive out to South 80th Street West or meet the requirement set out by MDT for a full access from King Avenue West. This will be shown on the final plat along with an RSID for maintenance of Rosebud Drive. Should the option for a second full access as defined by MDT be used an RSID shall be created for that road or if it is to be private it shall be gated, and maintenance provided by the subdivision tenants.
4. To protect public health and safety, prior to final plat approval, the applicant will receive approval from the MDEQ for the proposed storm water management.
5. 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.
6. 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.

CITY/COUNTY PLANNING BOARD

“Serving Billings, Broadview, and Yellowstone County”

7. 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.

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

President Cook called for presentation by the applicant’s agent.

Kolten Knatterud, IMEG, (no address given), Billings, Montana

Mr. Knatterud said this Shop World Subdivision application differs from the previous Shop World filings as this project is intended to resemble a storage unit facility. The owner intends to sell the units, which triggers the major subdivision review for the townhome-condo review process. He said the primary advantage to having a one-way in and out access point to the subdivision is for security purposes. Mr. Knatterud said they contacted MDT as they understood they needed to have two access points due to the subdivision process. They worked with MDT on the King Avenue approach location but due to an issue with the spacing to the adjacent residential approach, they were only granted an emergency access permit. This was discussed during the pre-application meeting. They reached out to the Laurel Fire Department who are in approval of the emergency access. Mr. Knatterud said they understand that Rosebud Drive is existing to the east. He pointed out that the east half of the parcel is the agricultural field which is flood irrigated and under production. Should Rosebud be built it would essentially build a road the subdivision does not want to utilize and it would cut off the agricultural field. They feel the emergency access would be sufficient due to the use of the subdivision. He asked for the Board’s input on the two variance requests so they may consider adjustments prior to the next meeting.

Levi Britton, Owner/Developer. (No address given)

Mr. Britton said the field on the east side has a well-developed piping system and the gravity flow goes north and south. Constructing Rosebud Drive running east and west will cut the field in half. The current owner of the green space wishes the green space to remain. Mr. Britton stated it seems that this is forcing of an easement when there is another way out for the Fire Department. The people in this storage facility would prefer a second access not be there and the facility will be tightly fenced. These units will be owned rather than rented and be used for dry storage spaces that are large enough for motorhomes. He said the variance request is submitted so the field is not ruined. He is asking for an exception because of the type of use. There is a lot of room for a turnaround with the hammerhead cul-de-sac.

Division Manager Plecker cautioned the Board stressed that a public hearing has not be held. Board members may discuss the variance as requested by Mr. Knatterud but must not indicate intentions for their votes.

Discussion

Board member Woods asked if there is an RSID to maintain the dry hydrant. Dave Green stated this is addressed within Condition of Approval #2. Board member Gravgaard asked regarding the “dusk to dawn” gate and Levi Britton explained that after construction the gate will be locked full-time and be

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview, and Yellowstone County"

the main entrance. Kolten Knatterud explained that the roadways are treated as parking similar to a driveway coming into the facility. Board member Larsen asked if there are other storage unit facilities with only one access point and Levi Britton gave several examples located in Laurel and Billings. In response to question by Board member Stephenson Mr. Britton said there will be no water or sewer but electrical and natural gas will be provided for heating purposes. Board member Stephenson asked if the units could potentially use as shops. Mr. Britton said the Covenants and Restrictions will dictate that this will be a storage facility. Division Manager Plecker asked for clarification in the SIA language stating that the intention of Shop World Condos is for condominiums and due to this all units are intended to develop as individual buildings with separate units to be leased or sold. Kolten Knatterud said the intention is that each of the separate units within a building may be sold. Ms. Plecker noted the underlying subdivision with the platting of Rosebud Drive and the lots created in the 1970's. She asked if Mr. Britton has always owned these lots as ten-to-twelve one-two acre lots had to be parsed together to get this area to develop this subdivision in this way. She asked what sort of due diligence has been taken when it comes to access with knowing about the platted area, and the wetlands along King Avenue. Levi Britton said these things are discussed during pre-application and preliminary plat meetings and did not know there were concerns until "quite a ways downstream" and contrary to the first two meetings, this came up as an issue. Mr. Britton said the system was put in place to guard against that so the perimeters are set but the system is broken. He said the original plan was to have an entrance on Stillwater and an emergency entrance on King Avenue. Kolten Knatterud added they obtained a response from MDT prior to coming to the pre-application meeting and they know about the emergency access.

Discussion

President Cook called for questions and discussion by the Board. Per President Cook's request Division Manager Plecker explained a discussion may be held regarding the requested variances but Board members are unable to give indication of their votes. Kolten Knatterud said this request is to obtain input in order to consider adjustments if needed. Board member Larsen clarified and said two full sized access required per the County and asked if the purpose would be fulfilled by constructing the access to the south. Board member Woods said the options have been laid out by the County Attorney's office. The Board may either go with the Staff recommendation of denial or add language to allow for the plan as submitted. Denial of the variances will require construction of Rosebud Drive.

**A public hearing for Shop World III Subdivision will be held during the September 27, 2022 Planning Board meeting and a recommendation will be forwarded to the Yellowstone County Board of Commissioners for consideration on October 18, 2022.

9. OTHER BUSINESS:

- **Reminder. Montana Association of Planners Conference September 27-29, 2022 DoubleTree Hotel, Billings**
- **Planning Board Vacancies:** Board members are encouraged to reach out to interested applicants.
- **Announcement:** Due to a lack of agenda items the October 11, 2022 and the October 25, 2022 meetings will be cancelled.

CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview, and Yellowstone County"

- **SAVE THE DATE!** Planning Board members are invited to attend the City of Billings Board and Commissions Volunteer Appreciation Dinner on October 25, 2022 6:00 PM. Invitations will follow in the mail the week of October 3, 2022.

10. ADJOURNMENT

Motion

Motion to adjourn by Board member Woods and seconded by Board member Cook. Motion carried with a unanimous voice vote.

ADJOURNMENT 7:27 PM

DRAFT—TO BE APPROVED BY A MOTION September 13, 2022

Tammy Deines, Planning Clerk



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



SEPTEMBER 13, 2022 MEETING TIME: 6:00 p.m.
1st Floor Large Conference Room, Miller Building
2825 3rd Avenue North, Billings, Montana 59101

NOTICE TO THE PUBLIC

Citizens are invited to:

- Review the Agenda Packet on the City's website at: <https://ci.billings.mt.us/117/Agendas-Minutes>
 - View the meeting live online at Facebook: <https://tinyurl.com/yckr478k>
 - Public comment will be taken only during the Public Comment periods as indicated on the agenda and during the Public Hearings, if any are scheduled, under the Regular agenda. Comments may be sent to Board via email before 10:00 AM on the meeting date. All emails received prior to this time will be read into the record for the public hearing. Comments may be submitted by:
 - Mail: City/County Planning Division, 2825 3rd Ave N 4th Floor, Billings, MT 59101
 - Email: deinest@billingsmt.gov
 - Call in during the Public Comment periods as indicated on the agenda:
 - Citizens may call in during specific Public Comment periods at 406.237.6165.
 - All callers will be placed in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be limited to 3 minutes of testimony as is customary.
 - Future delivery methods may be explored as best practice is learned.
- **In the event a quorum of the Council is present, no City-related decisions will be made during this meeting or event.**
- Please direct questions to Tammy Deines, Planning Clerk at deinest@billingsmt.gov or 406-247-8610. Thank you!

1. **CALL TO ORDER - Planning Board President:** Welcome and Introduction of new and returning Board Members.
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: AUGUST 23, 2022**
Attachments
2022_08_24_PLNB_Minutes_DRAFT.pdf
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!
8. **NEW BUSINESS:** (Agenda items new to this meeting).
 - a. **Plat Review. Buffalo Crossing Subdivision.** An 84-lot City Residential Major Subdivision. Doug Wild,

<i>Printed Name</i>	<i>Address/email</i>
Greg Reid	greid@wwcengineering.com
Doug Wilis	Doug.wilis@CDHMontana.com
Kotten Knatterud	kotten.l.knatterud@imegcorp.com
Levi Britton	yellowstonecontractors@yahoo.com
Anna Vickers	anna.m.vickers@imegcorp.com

Planning Board

Date: 09/27/2022
Title: Buffalo Crossing Subdivision - Preliminary Major Plat - Public Hearing
Presented by: David Green
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Staff proposes the Planning Board recommend the City Council conditionally approve the preliminary plat of Buffalo Crossing Subdivision and adopt the Findings of Fact as presented in the staff report.

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

On August 1, 2022, WWC Engineering, applied for preliminary minor plat approval for Buffalo Crossing Subdivision. The proposed subdivision creates 80 lots for residential development. The subject property is generally located south side of Grand Avenue and west of Trails West Subdivision. The property is a Planned Neighborhood Development (PND) with zonings of, N3 - Suburban Neighborhood (1 unit), P1 -- Parks and Open Space, NX2 -- Mixed Residential 2 (2 to 8 Units), and N2- Mid-Century Neighborhood (1 and 2 units).

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 protect public health and safety and ensure a correct turn around, prior to final plat approval, should the applicant determine to build the subdivision using phases, the applicant will provide a temporary cul-de-sac where phase one roads end. This information will be included in the SIA and shown on the plat.
2. 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.
3. To protect public health and safety and ensure correct platting of a phased subdivision, prior to final plat approval should the applicant determine they will pursue a phased development they will be required to submit the correct documents for a phased subdivision.
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, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

PROCEDURAL HISTORY

- Pre-application meeting February 17, 2022
- Preliminary plat application submitted to Planning Division on August 1, 2022
- Departmental review meeting August 18, 2022
- Subdivision resubmittal August 25, 2022
- Planning Board plat review September 13, 2022
- Planning Board public hearing September 27, 2022
- Preliminary plat to City Council October 24, 2022
- 35 working-day preliminary plat review period ends October 24, 2022

PLAT INFORMATION

General location: South side of Grand Avenue and west of Trails West Subdivision
Legal Description: Certificate of Survey 2735, Parcel 4A

Owner/Subdivider: Buffalo Crossing, LLC
Engineer and Surveyor: WWC Engineering
Existing Zoning: N3, P1, NX2, N2
Existing land use: Farmland
Proposed land use: Residential
Gross and Net area: 33.64 acres
Proposed number of lots: 80
Lot size: Max: 129,401 square feet/2.97 acres
Min: 7,533 square feet
Parkland requirements: Parkland dedication requirement is 2.86 acres. The applicant is proposing 3.4 acres of private parkland, maintained by the HOA.

STAKEHOLDERS

There are no stakeholder responses at this time. Stakeholder input will be received at a public hearing scheduled for this subdivision on September 27th.

PLANNING BOARD DISCUSSION MEETING NOTES:

Staff gave a brief presentation to the planning board. After the presentation, Board President Cook called for discussion. Board member Larsen asked regarding the pedestrian trail, staff provided clarification on the location. Lot 13 is designated for parkland that runs along Birely Drain. There were no questions for staff from the board.

Greg Reid with WWC, agent for the applicant, stood to address the board. In a response to a question by Board member Woods, he said that the stormwater control area will be a detention flowing to Birely Drain. Monica Plecker asked about the alignment of Stockman and specifically whether it met the requirements of the Development Agreement associated with the recently annexed property. Greg Reid explained the notation of the need for Stockman Avenue to go southward per the functional classification map. The owner has made a request to purchase Tract 4B to create an easement. Conversations are undergoing regarding the Birely Drain agreement and access easements. Pedestrian trail will be 8-ft trails. A shorter connection across the Birely Drain would be to connect to Blackberry Way, it is approximately 120 feet and then 180 feet L shaped.

President Cook asked Scott Reiter if Ben Steele school is over capacity. Mr. Reiter responded that it is currently over capacity. He commented that the school district is beginning to look at boundary markers for west end schools. If they are readjusted it would move students that live closer to Will James Middle School to that school instead of going to Ben Steele. Will James does have some additional capacity.

There were no other questions from the Planning Board members.

ALTERNATIVES

In accordance with state law, the City Council has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed plat ends on October 24, 2022. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City 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 City Council 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 City's 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 City 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
Preliminary Plat
SIA Draft

FINDINGS OF FACT

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

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

1. Effect on agriculture and agricultural water user facilities

The subject property is currently used for agricultural purposes. The subdivision has the Birely Drain along the east edge and the southern end of the subdivision. Perimeter ditches and drains shall remain in place and not be altered by the subdivider or subsequent owners. The subdivision should not affect agricultural water users' facilities.

2. Effect on local services

- a. **Utilities** – Water service will be provided by the City of Billings. There is a 20-inch water main in Grand Avenue. The applicant will extend the 20-inch water main in Grand Avenue to the north west corner of the proposed subdivision. As part of the plans for Buffalo Crossing Subdivision, an 8-inch water main is planned in Stockman Avenue, Buffalo Crossing. The water lines will be looped where possible within the subdivision to provide equalized water pressure. Mains and services will be approved by the Engineering Division and shall be installed in conformance with the design standards, specifications, rules and regulations of the City of Billings and Montana Department of Environmental Quality. An 8-inch water main will be extended across the Birely Drain crossing on Stockman Avenue to the Trails West Subdivision. The water main shall extend to the proposed Birely Drain right-of-way in the Trails West Subdivision. This information is within the SIA under the heading VI, Utilities.

Sanitary sewer service will be provided by the City of Billings. The Subdivider will extend 18-inch sanitary sewer from the existing manhole located at the intersection of 60th Street West and Grand Avenue to the northwest corner of the Buffalo Crossing Subdivision. An 8-inch sanitary sewer main will be constructed in 60th Street West to connect to the sanitary main located within Grand Avenue. The gravity sanitary sewer will be constructed as far as reasonably possible within the Buffalo Crossing Subdivision and low pressure force main will service the remainder of the Subdivision. Sewer services shall be reviewed and approved and built in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department and MDEQ. This information is within the SIA under the heading VI, Utilities.

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

Stormwater – Stormwater drainage for the public streets is proposed to be provided by curb and gutters that discharge into storm water pipes. A storm pond will be provided on Lot 1, Block 9 of the Subdivision for the management of all stormwater within the Subdivision to meet City requirements. This lot will be dedicated to Stormwater Control on the face of the Plat and will be dedicated to the Public. Stormwater will be discharged from the pond to the Birely Drain per agreement obtained from the Birely Drain by the Subdivider. This system has already been installed with previous private contracts. This subdivision shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the City Engineering Department. A Stormwater Report will be submitted for review and approval by City Engineering at the time of individual lot development. This information is within the SIA under the heading V, Storm Drainage.

The developer will provide access easement for the Birely Drain for maintenance of the drain on the east edge of the subdivision and the southern end of the subdivision.

- b. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City’s landfill has adequate capacity for this waste.
- c. **Streets** – The lots within the subdivision will be served by new proposed streets. 60th Street West, Little River Loop, Buffalo Crossing Drive, Snake Butte Way, White Clay Drive, and Stockman Avenue. These streets will be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. The design section of said streets shall be submitted to, and approved by, the City Engineer prior to construction.

This new subdivision will be required to improve the southern half of Grand Avenue along the subdivision frontage. These improvements include curb and gutter on the south side of the right-of-way adjacent to the property, 10-foot-wide pedestrian trail along the south side of Grand Avenue adjacent to the Subdivision and paving necessary to construct a westbound left-turn lane at the primary access to the subdivision on Grand Avenue. Because of the uncertain grade information along Grand Avenue, these improvements may not be constructed at this time but shall, in this event, be secured by a suitable financial guarantee approved by the City of Billings. The financial guarantee shall be submitted at the time of improvements. The developer shall build a westbound left turn lane as part of the Subdivision improvements.

A traffic impact study has been completed for Buffalo Crossing Subdivision. All required intersection improvement contributions identified therein shall be completed by the Subdivider at the Subdivider’s expense. A table in the SIA

under the heading Transportation A Streets shows the required contributions to surrounding intersections.

The subdivision has an entry point off Grand Avenue at 60th Street West. Major subdivisions require two points of ingress and egress. The proposed second point of ingress and egress is Stockman Avenue that has been built through the 5th Filing of Trails West subdivision. Stockman has not been completed to the Birely Drain in Trails West, that will be completed with the 6th Filing. Stockman Avenue is identified as a collector. This subdivision will be continuing Stockman Avenue through the southern end of the subdivision. Both subdivisions are responsible for half the cost of installing a crossing over the Birely Drain. This subdivision will be built in two phases. Phase 1 will include construction of streets, 60th Street West, Little River Loop and Buffalo Crossing Drive to Lot 9 Block 1 and Lot 6, Block 3. There will be a temporary cul-de-sac turn around at the end of the road construction until the road is completed. **(Condition #1)**

Phase 2 will include the completion of Buffalo Crossing Drive, Snake Butte Way, White Clay Drive and Stockman Avenue. It will also include the crossing of Birely Drain with Stockman Avenue.

It is the subdividers intent to not phase the subdivision unless they are unable to secure an easement through Trails West Subdivision, 6th Filing. The subdivider will be pursuing an access through Trails West subdivision 6th Filing to obtain a 2nd way in and out of Buffalo Crossing Subdivision. Should this not be possible then the phasing of Buffalo Trail will take place. This plan is outlined in the SIA under the heading III Transportation 2. Roads and Access.

The Subdivider will install an 8-foot wide multi use trail along the side of the Birely Drain on the eastern side of the property. This trail will have surfacing as acceptable to the Birely Drain. Connections to the trail will be provided within the subdivision. Those connections will be built with the construction of the streets and maintained by the HOA. This is outlined in III Transportation 4, Street Construction, Widening, Multi-use Trail and Sidewalks.

The sidewalks will be installed by individual lot owners when the lots are developed. All sidewalks will be 5-foot-wide with a 5-foot-wide boulevard behind the curb.

- d. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station serving this area is located at 54th St. West and Grand Ave. (Station #7). The subdivision is located within the ambulance service area of American Medical Response (AMR).
- e. **Schools** –This subdivision could be developed with offices or with residential uses. School District #2 provides educational services to elementary through high school students. Schools serving these students are Meadowlark Elementary, Ben Steele Middle School, and West High School. Response from School District #2

was not received before this staff report was written. Past correspondence with School District #2 shows all these school as near maximum capacity or over.

- f. **Parks and Recreation** – Residential subdivisions are required by City of Billings Subdivision Regulations to provide parkland for the residents of the subdivision. This subdivision is required to provide 2.86 acres of parkland dedication, they are proposing to provide 3.4 acres. The parks are private parks maintained by the subdivision HOA.
- g. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision. Location of mail delivery boxes will need to be coordinate with the developer and the postal service. **(Condition #2)**
- h. **Phasing of Development** - The applicant is proposing to develop this subdivision in phases if the secondary access easement or roadway cannot be completed with initial build out. They are proposing two phases. Those phases are outlined in the SIA under the heading, X. Phasing of Improvements. **(Condition #3)**

3. Effect on the natural environment

The subject property is currently farmland slightly sloping to the south away from Grand Avenue. Due to the potential flood waters from the Cove Creek Drainage, the main finish floor of each house is recommended to be a minimum of 18 inches above the top of curb elevation in the front of each lot. This is outlined in the SIA under the heading Property Conditions and Information for lot Purchasers, H. During development, storm water pollution prevention best management practices are required to be used and monitored to prevent erosion on exposed ground. Overall, the effect on the natural environment should be minimal.

4. Effect on wildlife and wildlife habitat

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

5. Effect on the public health, safety and welfare

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

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

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

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

1. City of Billings 2016 Growth Policy

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

Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods):

Neighborhoods that are safe and attractive and provide essential services are much desired (p.8).

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.

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. Stockman Avenue is identified as a collector road, it will be built to the standards of a collector through this subdivision.

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

This subdivider will be building a 10-foot-wide trail along the north edge of the subdivision along Grand Avenue.

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 N2 – Mid-Century Neighborhood Residential, N3 – Suburban Neighborhood Residential, NX2 – Mixed Residential 2 and P1 - Parks and Open Space zoning. The lot frontages conform to the requirements of these zonings. Other building setbacks and structure specific requirements will be reviewed for compliance at the time of building permit review.

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

The subdivider will provided utility easements as requested by private utility companies on the face of the plat. There are 8-foot-wide private utility easements shown on the plat.

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

Legal and physical access is provided to the proposed lots from new roads within the proposed subdivision.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Buffalo Crossing Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several of the goals and policies of the 2018 Growth Policy and does not conflict with the Transportation or Bikeway/Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

RECOMMENDATION

It is recommended to City Council that the preliminary plat of Buffalo Crossing Subdivision, be conditionally approved and adopt the Findings of Fact as presented in the staff report.

Approved by the Billings City Council, October 24, 2022

William A. Cole, Mayor

PLAT OF BUFFALO CROSSING SUBDIVISION

BEING TRACT 4-A OF AMENDED TRACT 4 OF CERTIFICATE OF SURVEY NO. 2735
WITHIN N1/2 OF SECTION 5, T01S, R25E, P.M.M.
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: BUFFALO CROSSING, LLC
DATE SURVEYED: FEBRUARY 2022
PREPARED BY: WWC ENGINEERING



Curve No.	Radius	Length	Delta	Chord Bearing	Chord Length
C???	397.95	41.93	6°02'15"	S42°27'02"W	41.92
C1	12.00	19.04	90°55'24"	S44°34'42"W	17.11
C2	12.00	18.66	89°04'36"	N45°25'18"W	16.84
C3	68.00	105.74	89°05'43"	N45°24'44"W	95.41
C4	12.00	18.66	89°05'43"	S45°24'44"W	16.84
C5	12.00	19.04	90°55'24"	N44°34'42"W	17.11
C6	68.00	107.91	90°55'24"	S44°34'42"W	96.94
C7	12.00	18.66	89°04'36"	N45°25'18"W	16.84
C8	12.00	19.04	90°54'17"	S44°35'16"W	17.11
C9	68.00	94.75	79°50'09"	N39°03'12"E	87.27
C10	68.00	13.14	11°04'08"	S84°30'20"W	13.12
C11	12.00	19.04	90°55'24"	N44°34'42"E	17.11
C12	12.00	19.02	90°50'11"	S44°32'06"W	17.10
C13	12.00	18.67	89°09'49"	S45°27'54"E	16.85
C14	66.00	50.70	44°01'04"	S68°02'17"E	49.47
C15	66.00	32.15	27°54'31"	S14°34'10"E	31.84
C16	10.00	15.61	89°25'55"	S45°19'52"E	14.08
C17	12.00	19.02	90°50'11"	N44°32'06"E	17.10
C18	12.00	18.67	89°09'49"	S45°27'54"E	16.85
C19	2028.00	3.82	0°06'28"	S0°56'14"E	3.82
C20	2028.00	73.15	2°04'00"	S2°01'28"E	73.15
C21	2028.00	33.98	0°57'36"	S3°32'16"E	33.98
C22	1972.00	6.57	0°11'27"	N0°58'44"W	6.58
C23	1972.00	71.70	2°04'59"	N2°06'57"W	71.70
C24	1972.00	29.61	0°51'38"	N3°35'15"W	29.62
C25	128.00	23.39	10°28'08"	S9°15'08"E	23.36
C26	128.00	30.33	13°34'41"	S21°16'33"E	30.27
C28	10.00	14.80	84°47'03"	S14°19'38"W	13.49
C29	408.00	80.64	11°19'28"	S51°03'25"W	80.51
C35	10.00	14.75	84°32'22"	S42°53'05"E	13.46
C36	408.00	57.31	8°02'54"	S81°07'49"E	57.27
C37	334.00	55.18	9°27'55"	S81°50'20"E	55.12
C38	334.00	21.82	3°44'37"	N88°26'36"W	21.82

LEGAL DESCRIPTION AND PROPERTY OWNER CERTIFICATE OF DEDICATION

State of Montana)
County of Yellowstone) SS
KNOW ALL BY THESE PRESENTS, That we, the undersigned owners, do hereby certify that we, have caused to be surveyed, subdivided, and platted into lots blocks roads and alleys and other divisions and dedications, as shown by this plat hereto included, the following described tract of land, to wit:
The parcel situated within the N1/2 of Section 5, T01S, R25E, P.M.M., City of Billings, Yellowstone County, Montana, and more particularly described as Tract 4-A of Amended Tract 4, Certificate of Survey No. 2735, Document No. 3539423, said tract containing 33.64 acres in gross and 26.03 acres net, more or less, exclusive of the dedicated right-of-way for Little River Loop, Buffalo Crossing Drive, Snake Butte Way, White Clay Drive, and the extensions of 60th Street West, Grand Avenue, and Stockman Avenue, as shown on the plat.
The above described tract of land is to be known and designated as BUFFALO CROSSING SUBDIVISION, City of Billings, Yellowstone County, Montana. The undersigned do hereby grant unto all utility companies, as such are defined and established by Montana Law, and cable television companies, an easement for the location, maintenance, repair, removal of lines over, under and across the areas designated on the plat as Utility Easement to have and hold forever. The lands designated as public right-of-way are hereby granted and dedicated to the use of the public forever shall include Little River Loop, Buffalo Crossing Drive, Snake Butte Way, White Clay Drive, and the extensions of 60th Street West, Grand Avenue, and Stockman Avenue, as shown on the plat.
We further certify that Lot 1, Block 5 will be designated as STORMWATER CONTROL AREA as shown and depicted on this plat is for dedication to the public for the purpose of constructing, reconstructing, maintaining, operating, servicing, repairing, and replacing stormwater management system over, across, under and thru the said real property.

DATED THIS _____ DAY OF _____, 2022.

Buffalo Crossing, LLC Representative

ACKNOWLEDGMENTS

State of Montana)
County of Yellowstone) SS
On this _____ day of _____, 2022, before me, the undersigned a notary public for the State of _____, personally appeared _____ as a representative for Buffalo Crossing, LLC, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

Notary Public for the State of _____

CERTIFICATE OF CITY ATTORNEY

This Subdivision Plat has been reviewed by the City Attorney's Office and is acceptable to form.
Dated this _____ day of _____, 2022

Reviewed by _____

ERRORS AND OMISSIONS REVIEW

Reviewed for errors and omissions in calculations and drafting this _____ day of _____, 2022, pursuant to section 76-3-611(2)(a), M.C.A.

Examining Land Surveyor
Reg. No. _____

CERTIFICATE OF CITY ENGINEER'S OFFICE

I hereby certify that I have examined the annexed plat and find that it conforms with Section 76-4-125(1)(d) MCA, removing sanitary restrictions since the plat is inside a master planning area and is provided with municipal facilities for the supply of water and disposal of sewage and solid waste.

Dated this _____ day of _____, 2022

City Engineer's Office

NOTICE OF APPROVAL

STATE OF MONTANA)
County of Yellowstone) ss
This plat has been approved for filing by the Yellowstone County Board of Planning and conforms to the recommendations of this board.

Date _____ President

Executive Secretary

CERTIFICATE OF COUNTY TREASURER

I hereby certify, pursuant to Section 76-3-611(1)(b), MCA, that all real property taxes and special assessments assessed and levied on the land described on this Subdivision Plat and encompassed by the proposed division have been paid.

Dated this _____ day of _____, 2022

Treasurer, Deputy
Yellowstone County, Montana

CERTIFICATE OF CITY COUNCIL APPROVAL

The City Council of the City of Billings, Yellowstone County, Montana does hereby certify that the accompanying plat for BUFFALO CROSSING SUBDIVISION has been duly examined and have found the same to conform to the law and hereby approve it.

Dated this _____ day of _____, 2022

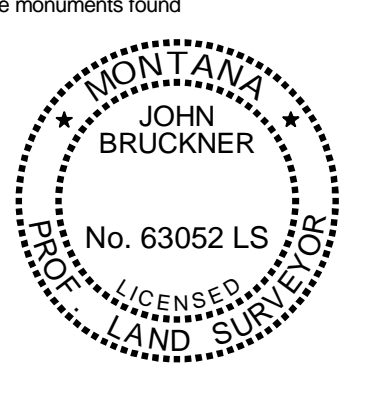
City of Billings, Montana
BY: Mayor
ATTEST: City Clerk

CERTIFICATE OF SURVEYOR

The undersigned, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of February 2022, a survey was performed under his supervision of a tract of land to be known as BUFFALO CROSSING SUBDIVISION, in accordance with the request of the owner thereof and in conformance with Montana Subdivision and Platting Act; said subdivision being in accordance with the Landowner's Certificate and as shown on the plat; that the monuments found and set are of the character and occupy the positions hereon.

Dated the _____ day of _____, 2022

John Bruckner
Registration Number 63052 LS



SUPPORTING DOCUMENTS

Subdivision Improvements Agreement - Document No. _____
Covenants, Conditions, and Restrictions - Document No. _____

CERTIFICATE OF FILING BY CLERK AND RECORDER

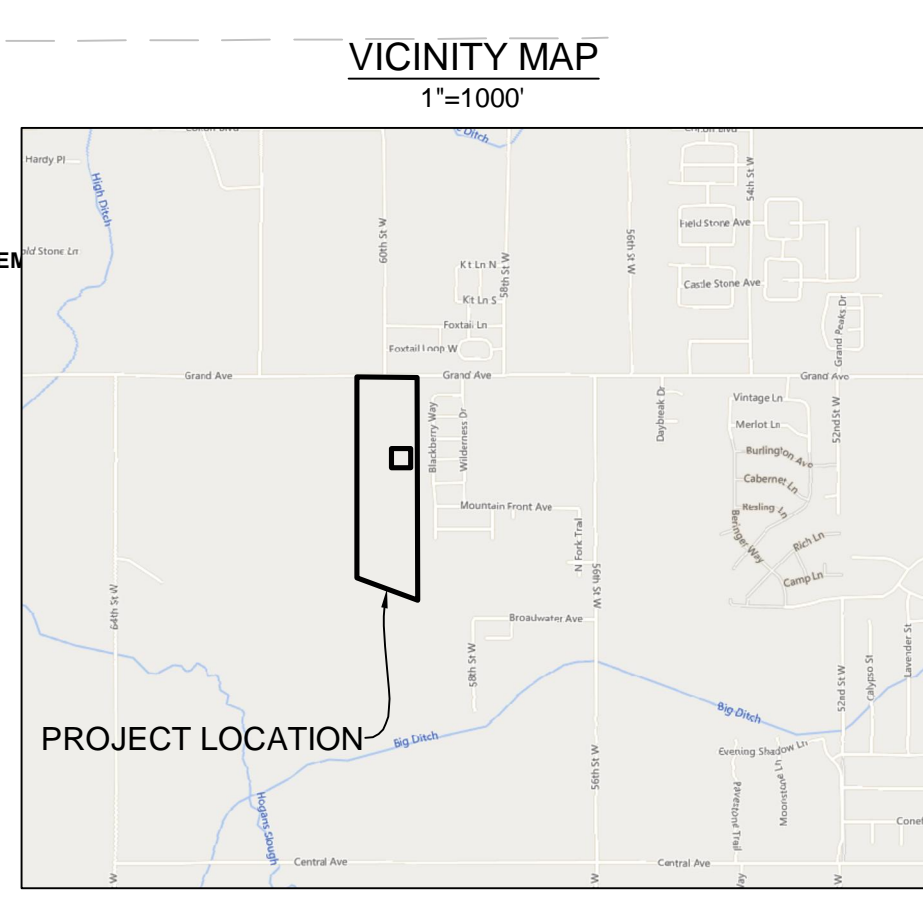
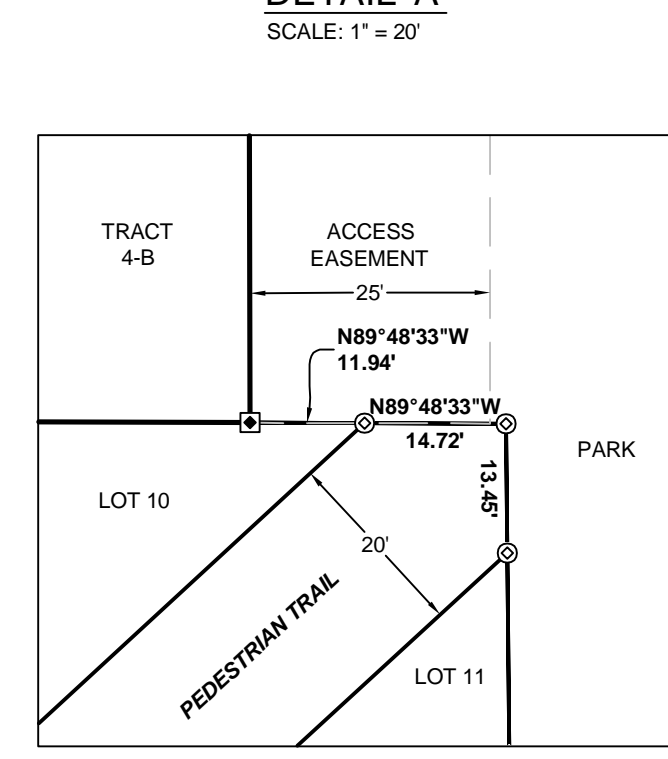
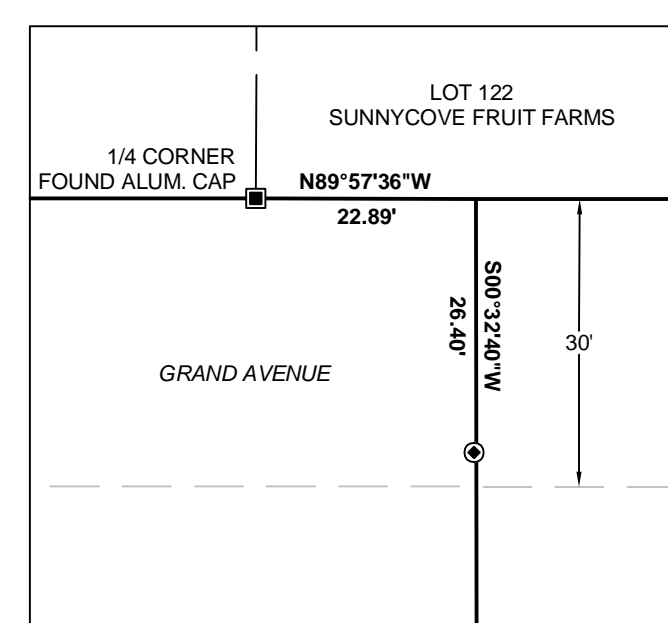
QRTR.	SEC.	TWP.	RGE.
<input checked="" type="checkbox"/>	5	1S	25E

BUFFALO CROSSING SUBDIVISION

JOB#: 2021-577
WWC ENGINEERING
550 S. 24TH ST., W., SUITE 201
BILLINGS, MT 59102
(406) 894-2210

REVISIONS	DATE	BY

Curve No.	Radius	Length	Delta	Chord Bearing	Chord Length
C101	40.00	63.48	90°55'24"	S44°34'42"W	57.03
C102	40.00	62.20	89°05'43"	N45°24'44"W	56.13
C103	40.00	63.46	90°54'17"	N44°35'16"E	57.02
C104	38.00	59.31	89°25'55"	S45°19'52"E	53.48
C105	2000.00	109.41	3°08'04"	S2°27'02"E	109.41
C106	100.00	41.97	24°02'50"	S16°02'29"E	41.67
C107	371.00	131.96	20°22'47"	N51°44'43"E	131.27
C108	371.00	179.52	27°43'28"	N75°47'50"E	177.78
C109	371.00	85.70	13°14'04"	S83°03'24"E	85.51
C110	371.00	85.53	13°12'32"	S83°42'38"E	85.35



TRACT 2A
CERTIFICATE OF SURVEY NO. 3653

LEGEND

- FOUND REBAR
- FOUND ALUMINUM CAP
- FOUND YELLOW PLASTIC CAP (YPC) AS NOTED
- SET 5/8" REBAR W/ PURPLE PLASTIC CAP (BRUCKNER 63052 LS)
- SET CENTERLINE MONUMENT
- DEDICATED UTILITY EASEMENT
- DEDICATED PUBLIC RIGHT-OF-WAY
- MEASURED DISTANCE THIS SURVEY
- RECORD DISTANCE (CERTIFICATE OF SURVEY NO. 2735, DOC. NO. 3539423)

SCALE: 1" = 80'

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS
Buffalo Crossing Subdivision
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.	Street Lighting.....	7
C.	Traffic Control Devices.....	7
D.	Billings Area Bikeway and Trail Master Plan.....	7
IV.	EMERGENCY SERVICE.....	7
V.	STORM DRAINAGE	8
VI.	UTILITIES	9
A.	Water	9
B.	Sanitary.....	10
C.	Power, Telephone, Gas, and Cable Television.....	10
VII.	PARKS/OPEN SPACE	11
VIII.	IRRIGATION.....	11
IX.	SOILS/GEOTECHNICAL STUDY.....	11
X.	PHASING OF IMPROVEMENTS	11
XI.	FINANCIAL GUARANTEES.....	12
XII.	LEGAL PROVISIONS APPLYING TO SUBDIVIDER	12

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

Buffalo Crossing Subdivision

This agreement is made and entered into this ____ day of _____, 20__, by and between *Buffalo Crossing, LLC* whose address for the purpose of this agreement is **353 Old Hays Road, Hays, MT 59527**, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as “City.”

WITNESSETH:

WHEREAS, the plat of Buffalo Crossing Subdivision (the Subdivision), located in Yellowstone County, Montana, was submitted to the Yellowstone County Board of Planning; and

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

WHEREAS, at a regular meeting conducted on ____ day of _____, 20__, the City Council conditionally approved a preliminary plat of *Buffalo Crossing Subdivision*; 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 Buffalo Crossing Subdivision 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):

1. No variances requested.

II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS

- A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.
- B.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.
- C.** 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.
- D.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- 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. Due to the potential flood waters from the Cove Creek Drainage, the main finish floor of each house is recommended to be a minimum of 18 inches above the top of curb elevation in the front of each lot.
- I. The development is within the flood hazard zone as identified in the 2007 Planning Department Flood Study prepared by the City of Billings. Subdivider shall include consideration of this flood study within Stormwater Report and provide design considerations to direct flows to adjacent drains.

III. TRANSPORTATION

A. Streets

1. Street Construction

All internal access roads and site improvements within the Subdivision will be in accordance with the City of Billings Site Development Ordinance, City Zoning Ordinance, the Uniform Building Code, the *Stormwater Management Manual*, and other applicable City codes, rules, and regulations.

Subdivider and City agree that the required street improvements are as follows:

- Grand Avenue, Little River Loop, Buffalo Crossing Drive, Snake Butte Way, White Clay Drive, and Stockman Avenue shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. The design section of said streets shall be submitted to, and approved by, the City Engineer.
- According to the *2014 Billings Urban Area Long Range Transportation Plan Functional Classification Map*, Grand Avenue is classified as a principal arterial. The Subdivider and City agree that the development of Buffalo Crossing Subdivision will require improvements to the Grand Avenue right-of-way to include widening of the asphalt for a westbound left turn lane at the intersection with 60th Street West, curb and gutter on the south side of Grand Avenue a along the Subdivision frontage, and a 10-foot-wide pedestrian trail along the south side of Grand Avenue adjacent to the Subdivision. The improvement plans and specifications will be approved by the City Engineer and be in accordance with the City fo Billings requirements.
- A traffic impact study has been completed for Buffalo Crossing Subdivision. All required intersection improvement contributions

identified therein shall be completed by the Subdivider at the Subdivider's expense. The percent of traffic contributions to the following intersections shall be in accordance with the traffic accessibility study. The cash contributions shall be based on the percent of traffic contributions to the intersections based on the total cost of an intersection as determined by City Engineering for the year in which the contribution is made. These costs shall be submitted at the time of final platting of the Subdivision.

Intersection	Impacted Percentage
60th Street West & Grand Avenue	5.42%
56th Street West & Grand Avenue	5.08%
54th Street West & Grand Avenue	4.04%
48th Street West & Grand Avenue	3.17%

2. *Roads and Access*

The Subdivider Tract will be accessed from one proposed approach along Grand Avenue and a street connection to Stockman Avenue to the east. The approach shall meet current city codes and regulations. Stockman Avenue shall be constructed and extended across the entire width of Subdivider Tract from COS 3653 Parcel 2A to Trails West Subdivision, to provide a connection to the property to the southwest per the City of Billings Functional Classification Map proposed future alignment. A future development access connection will be provided to the property to the west.

Subdivider agrees that prior to final platting of Phase II, a crossing shall be constructed for the Birely Drain for Stockman Avenue connecting to the Trails West Subdivision. The Subdivider will complete this crossing through one of the following options: participation in an SID, private participation with the adjacent Trails West Subdivision, or through construction of 50% of the Birely Drain crossing. Construction of 50% of the crossing would include installation of the culvert, headwalls, wingwalls, gravel surfacing, and water main within the Birely Drain easement area. Subdivider agrees that this crossing is to be constructed prior to release of Phase II. The Subdivider will acquire an easement and construct an access road connection within the future Trails West Subdivision 6th Filing, if that Subdivision has not commenced construction within the right-of-way by the time of final platting of the Subdivision. If physical and legal access cannot be connected from Buffalo Crossing Subdivision to a roadway within Trails West Subdivision at the time of final platting, only Phase I of the Subdivision will be completed until such time that the secondary access is available.

The Subdivider agrees to complete the design, permitting, and construction of a culvert of sufficient length for a 39-foot back of curb to back of curb street plus 7-foot curb walks and 8-inch water main at the Birely Drain and Stockman Avenue crossing along the southern boundary of the Buffalo Crossing Subdivision. Said improvements shall extend to the southern edge of the constructed Birely Drain ditch. Improvements will not be extended beyond this point as it is being actively farmed. This construction will be considered 50% contribution for this crossing and no reimbursement or cash in lieu is required by the development.

3. Rights-of-way

Public Right-of-Way will be dedicated to the City of Billings in accordance with the 2018 Billings Urban Area Long Range Transportation Plan and in accordance with the City of Billings Subdivision Regulations. Subdivider shall dedicate a 60-foot-wide half right-of-way along Grand Avenue, a 74-foot-wide right-of-way for Stockman Avenue, and 56-foot-wide rights-of-way for Little River Loop, Buffalo Crossing Drive, Snake Butte Way, White Clay Drive.

4. Street Construction, Widening, Multi-use Trail and Sidewalks

The design thickness of street improvements shall be determined from actual field tests conducted by a responsible testing laboratory. The design section shall be submitted to, reviewed by, and approved by the City Engineer.

Subdivider will be required at the time of development of Phase I to construct the widening of Grand Avenue along with curb and gutter, and a 10-foot-wide asphalt multi-use path along the frontage. Subdivider shall be responsible for the maintenance and replacement of the sidewalk and/or trail after construction.

Stockman Avenue is designated by the City as a collector street. Subdivider shall construct the extension of Stockman Avenue to City standards which will include a 39 foot wide roadway back of curb to back of curb with curb and gutter and construction of a concrete boulevard sidewalk with a minimum width of 5-feet and minimum 5-foot boulevard width along both sides of Stockman Avenue. The Birely Drain-Stockman Avenue Crossings will not have boulevards on either side of the roadway and will have a 7-foot wide sidewalk where the sidewalk is adjacent to curb with railings or acceptable slope to the City Engineering Department.

The Subdivider will install an 8-foot wide trail along the side of the Birely Drain on the eastern side of the property. This trail will have surfacing as acceptable to the Birely Drain.

A 20-foot right-of-way shall be provided by the Subdivider for the connections to the trail, adjacent to the Birely Drain right-of-way, from within the Subdivision. The proposed connections shall align with formerly provided connections within the Trails West Subdivision. The 20-foot right-of-ways shall have 8-foot concrete sidewalks constructed within them connecting to the trail adjacent to the Birely Drain.

B. Street Lighting

Construction or installation of street lights shall not be required at this time. If street lights are installed, a street light maintenance district will be formed for the entire Subdivision to accommodate maintenance of street lights. Street lights and the associated maintenance district shall be included in the waiver of right to protest.

C. Traffic Control Devices

The Subdivider shall furnish and install all necessary traffic control devices in accordance with the Manual of Uniform Traffic Control Devices and Approved by the City of Billings Engineering Division. No traffic signals are anticipated within this subdivision.

D. Billings Area Bikeway and Trail Master Plan

The Subdivision does not have proposed future bikeway or trails included within the 2017 Update of the Bikeway + Trails Master Plan Update. A pathway connection in the subdivision is included matching the alignment with a pathway of the Trails West Subdivision to the east. Trails are also to be provided along the Birely Drain on the east side of the Subdivision and Grand Avenue along the north side of the Subdivision. The paths will be included within an HOA for maintenance by the Subdivision. All trails will be within dedicated public right-of-way or on Parkland.

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 operational fire hydrant shall be located within 600 feet of the furthest portion of a residence under construction or within 400 feet of the furthest

portion of a commercial building under construction as measured along the access roads to the site.

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

A secondary access road will be provided through Trails West Subdivision 6th Filing, as discussed previously. This access road shall be 30 feet in width and shall have 10 inches of 1 ½ inch minus base course with 3 inches of asphalt surfacing. This access road will be constructed prior to final platting of Phase II should the Trails West Subdivision 6th Filing not have provided their Private Contract Fee to the City of Billings to have started construction by that time. If easement for this roadway cannot be acquired, the subdivision will be phased as discussed herein.

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 approval at the time of development.

- Storm Drain. The Subdivider will manage storm drainage within Subdivision in accordance with the City of Billings Stormwater Management Manual (2018). A single storm pond will be provided on Lot 1 of Block 9 of the Subdivision for the management of all stormwater within the Subdivision to meet City requirements. This lot will be dedicated to Stormwater Control on the face of the Plat and will be deeded to the City of Billings at the time of final platting. Stormwater will be discharged from the pond to the Birely Drain per agreement obtained from the Birely Drain by the Subdivider. The Subdivider shall create an HOA for purposes of maintenance of the stormwater pond.
- Birely Drain. The Birely Drain flows along the east side of the Developer Tract. Subdivider shall obtain information from Birely Drain on access and easement requirements within the Developer Tract. As required by the Billings Stormwater Management Manual, Subdivider shall either dedicate right-of-way or provide an easement of at least 20 feet in width along the west side and north side of Birely Drain.
- Subdivider acknowledges that there exists the potential for ditches and drains to overtop during rain events, resulting in flooding to adjacent properties. The locations and rate of overtopping is unknown; however, Subdivider shall account for this potential when subdividing, constructing homes or businesses and shall use flood proofing or establish elevations and grading plans accordingly to mitigate flooding. The degree of improvements

required will depend on the character of the adjacent ditch and drain and the location of development along the ditch and drain.

- In addition, Subdivider acknowledges that there exists the potential for adjacent ditches and drains to leak contributing to seasonally high groundwater conditions within the development; seasonal high groundwater will need to be accommodated in the design of stormwater management facilities and in building construction.

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 applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications.

The Developer/Owner acknowledges that the subdivision shall be subject to the applicable water and sanitary sewer System Development Fee (SDF) in effect at the time each individual building permit is issued. The SDF is attached to and paid for with each building permit.

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

The Subdivider will extend a 20-inch water main located at the intersection of 60th Street West and Grand Avenue to the northwest corner of the Subdivision for approximately 270 feet. If requested by Subdivider, City staff will forward a Compensation Agreement to City Council for consideration and approval of oversizing of the water main.

An existing water main is located in Grand Avenue and fronts a portion of the Buffalo Crossing Subdivision. The Subdivider shall be responsible to compensate the City for their proportionate share of this existing water line in Grand Avenue adjacent to the Subdivision paid at final platting of Phase I.

As part of the plans for Buffalo Crossing Subdivision, an 8-inch water main is planned in Stockman Avenue, Buffalo Crossing Drive, Snake Butte Way,

White Clay Drive, Little River Loop, and 60th Street West. Provisions shall be made for the looping of the interior Subdivision water mains. Said mains and services will be approved by the Engineering Division and shall be installed in conformance with the design standards, specifications, rules and regulations of the City of Billings and Montana Department of Environmental Quality. An 8-inch water main will be extended across the Birely Drain crossing on Stockman Avenue to the Trails West Subdivision and to the property to the south of Buffalo Crossing Subdivision. The water main shall extend to the proposed east right of way line of the Birely Drain in the Trails West Subdivision and to the edge of the Birely Drain ditch on the south Stockman Avenue crossing. Both of the Stockman Avenue crossings may have reimbursement agreements completed by the Subdivider, if they so choose.

Improvements noted herein shall include, but not be limited to, any and all interim improvements that may be deemed necessary due to phased or partial construction.

B. Sanitary

The Subdivider will extend 18-inch sanitary sewer from the existing manhole located at the intersection of 60th Street West and Grand Avenue to the west boundary of the Buffalo Crossing Subdivision. If requested by Subdivider, City staff will forward a Compensation Agreement to City Council for approval of oversizing of the sanitary sewer. Subdivider may submit a reimbursement agreement in accordance with the City's Rules and Regulations Governing Water and Wastewater Service.

Developer shall be responsible to compensate the City for their proportionate share of the existing sanitary sewer main in Grand Avenue east the intersection of Grand Avenue and 60th Street West paid at final platting of Phase I.

An 8-inch sanitary sewer main will be constructed on 60th Street West to connect to the sanitary main located within Grand Avenue. The gravity sanitary sewer will be constructed as far as reasonably possible within the Buffalo Crossing Subdivision and low-pressure force main will service the remainder of the Subdivision. Said mains and services will be approved by the Engineering Division and shall be installed in conformance with the design standards specifications, rules and regulations of the City of Billings and Montana Department of Environmental Quality.

C. Power, Telephone, Gas, and Cable Television

All telephone, gas, electrical power, and cable television lines shall be placed or in designated easements outside of the right-of-way and shall be installed

underground prior to surface improvements. The location of all such facilities shall be subject to approval of the City Engineer.

VII. PARKS/OPEN SPACE

Section 76-3-621 of the Montana Subdivision and Platting Act covers the park dedication requirement. Paragraph (1) calls for park area to be 11 percent of the land proposed to be subdivided into parcels of one-half acre or smaller. The required Parkland Dedication for Buffalo Crossing Subdivision is 2.86 acres. Parkland dedications in the amount of 3.40 acres are depicted on the face of the Plat as PRIVATE PARK. The proposed parks are to be maintained by a Private HOA set up by the Subdivider.

VIII. IRRIGATION

With the development of Buffalo Crossing Subdivision, the Subdivider and City agree that the irrigation ditch currently running along the north side of the property shall be perpetuated. Any improvements to the ditch shall be permitted and approved by the ditch owner. All irrigation rights or ditch shares associated with this property shall be terminated and no longer transferred to any property undergoing residential development.

IX. SOILS/GEOTECHNICAL STUDY

A preliminary geotechnical analysis will be performed for this property. This preliminary investigation will include testing for foundations design and settlement analysis.

X. PHASING OF IMPROVEMENTS

The subdivision is planned to include two Phases. The Subdivider may elect to complete all phases at one time if all requirements can be met. Phase I of the Subdivision will include the following lots:

- Block 1 Lots 1 through 9
- Block 2 Lots 1 through 6
- Block 3 Lots 1 through 6

Phase I improvements will include all right-of-way improvements within the Buffalo Crossing Subdivision for the right-of-way fronting the lots of Phase I. In addition, off-site improvements completed as part of Phase I will include all Grand Avenue improvements including extension of water and sewer main and roadway improvements as previously identified. Stormwater improvements will discharge to temporary storm ponds within the future right-of-way at the end of

the Phase I roadway improvements. Temporary storm pond sizing shall be as approved by City Engineering.

Phase II of the Subdivision will not be released or completed until the secondary access is in place and will include the following lots. If the access is in place prior to the time of final platting, no phasing will be included.

- Block 1 Lots 10 through 11
- Block 3 Lots 7 through 17
- Block 4 Lots 1 through 6
- Block 5 Lots 1 through 12
- Block 6 Lots 1 through 8
- Block 7 Lots 1 through 12
- Block 8 Lots 1 through 7 and
- Block 9 Lot 1

Phase II improvements will include all remaining right-of-way improvements within the Buffalo Crossing Subdivision for the right-of-way fronting the lots of Phase II. In addition, off-site improvements completed as part of Phase II will include improvements for Birely Drain crossings as previously discussed and the pathway adjacent to the Birely Drain as previously discussed. The stormwater pond and all associated improvements on Lot 1 of Block 9 will be completed as part of Phase II.

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”

Buffalo Crossing, LLC

By: _____

Title: _____

STATE OF MONTANA)
 : ss
County of)

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

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

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.

Notary Public in and for the State of Montana

Printed Name: _____

Residing at: _____

My commission expires: _____

Planning Board

Date: 09/27/2022
Title: Shop World 3 - Preliminary Major Plat
Presented by: David Green
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Staff proposes the Planning Board recommend to the Board of County Commissioners the preliminary plat of Shop World 3 Subdivision, be conditionally approval, adopt the Findings of Fact as presented in the staff report and deny the variances requested.

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

On August 1, 2022, IMEG applied for preliminary major plat approval for Shop World 3. The proposed subdivision creates 1 lot for Commercial condominium development. The subject property is generally located on the south side of Still Water Drive and west of South 80th Street West. This parcel of land is outside of zoning and is used for farming purposes. There are also large lots with houses on them to the north, south and west. There is residential development to the east on smaller lots. Shop World 1 is west and south of this proposed development. Planning Board reviewed the plat at its meeting on September 13 and is conducting a public hearing at this meeting.

VARIANCES REQUESTED

The applicant has requested a variance from Section 4.6.A.6 of the Yellowstone County Subdivision Regulations, which requires a second means of ingress and egress for major subdivisions.

Staff is recommending denial of the variance request. Further explanation and analysis can be found in Attachment A.

The applicant has requested a variance from Section 4.6.B.5 of the Yellowstone County Subdivision Regulations, which requires a variance request for an Emergency Access Road rather than a full access road.

Staff is recommending denial of the variance request. Further explanation and analysis can be found in Attachment B.

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 and to ensure a portion of Rosebud Drive is vacated, prior to final plat approval the applicant will go through the process of vacating the portion of Rosebud Drive cul-de-sac that will be part of the single lot for this proposed subdivision.
2. To protect public health and safety with proper fire suppression, prior to final plat approval, the applicant will submit construction drawings to Laurel Fire Department for review and approval for the dry hydrant system. Once installed, the applicant will request Laurel Fire Department 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.
3. To ensure public health and safety and to meet the requirements of 2 ways in and out of a major subdivision, prior to final plat approval, should the variance request from Section 4.6.A.6 be denied, the applicant will provide a second full access from these two options - build Rosebud Drive out to South 80th Street West or meet the requirement set out by MDT for a full access from King Avenue West. This will be shown on the final plat along with an RSID for maintenance of Rosebud Drive. Should the option for a second full access as defined by MDT be used, an RSID shall be created for that road if it is public. Or if it is to be private, it shall be gated and maintenance provided by the subdivision tenants.
4. To protect public health and safety, prior to final plat approval, the applicant will receive approval from the MDEQ for the proposed storm water management.
5. 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 property owners.
6. 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.
7. 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.
8. The final plat shall comply with all requirements of the Yellowstone County Subdivision Regulations, rules, policies, and resolutions of the Yellowstone County, and the laws and Administrative Rules of the State of Montana.

PROCEDURAL HISTORY

- Pre-application meeting May 5, 2022
- Completeness review submitted to Planning Division July 1, 2022
- Preliminary plat application submitted to Planning Division on August 1, 2022
- Departmental review meeting August 18, 2022
- Preliminary plat resubmittal August 25, 2022
- Planning Board plat review September 13, 2022
- Planning Board public hearing September 27, 2022
- Preliminary plat to Board of County Commissioners October 18, 2022
- 60 working-day preliminary plat review period ends October 24, 2022

PLAT INFORMATION

General location:	South side of Still Water Drive and west of South 80th Street West
Legal Description:	Lot 5A of Amended plat of Pike Subdivision, Block 1, Lots 5 -12, 19-22
Owner/Subdivider:	Levi Britton, Las Palmas, LLC
Engineer and Surveyor:	IMEG
Existing Zoning:	Outside zoning
Existing land use:	Farm land/undeveloped subdivision
Proposed land use:	Commercial
Gross and Net area:	18.4 acres 18.4 acres
Proposed number of lots:	1 lot / 232 units
Lot size:	Max: 18.4 acres Min.: 18.4 acres
Parkland requirements:	No parkland dedication is required with a subdivision that is proposed to have only commercial uses, Section 10.8 C. YCSR.

STAKEHOLDERS

There are no stakeholder responses at this time. Stakeholder input will be received at a public hearing scheduled for this subdivision on September 27, 2022.

PLANNING BOARD DISCUSSION NOTES:

Staff gave a presentation about the proposed subdivision and the variance requests for the subdivision at the plat review meeting on September 13. President Cook called for questions and discussion by the Board.

Discussion

President Cook called for questions and discussion by the Board. Board member Woods asked if there would be enough room for emergency vehicles to turn around if the cul-de-sac at the end of Rosebud Drive is cut in half. Staff responded there are two options for a dead end road turn around, they are a cul de sac or a hammerhead. The remaining cul-de-sac would serve as a hammerhead similar to the northward development. The diameter is approximately 270-feet. Further clarification was given on the access points. Board member Woods said Rosebud Road could serve as a second access point.

President Cook called for presentation by the applicant's agent.

Kolten Knatterud, IMEG, (no address given), Billings, Montana

Mr. Knatterud said this Shop World Subdivision application differs from the previous Shop World filings as this project is intended to resemble a storage unit facility. The owner intends to sell the units, which triggers the major subdivision review for the townhome-condo review process. He said the primary advantage to having a one-way in and out is for security purposes. Mr. Knatterud said they contacted MDT as they understood they needed to have two access points due to the subdivision process. They worked with MDT on the King Avenue approach location but due to an issue with the spacing to the adjacent residential approach, they were only granted an emergency access permit. This was discussed during the pre-

application meeting. They reached out to the Laurel Fire Department who are in approval of the emergency access. Mr. Knatterud said they understand that Rosebud Drive is existing to the east. He pointed out that the east half of the parcel is the agricultural field which is flood irrigated and under production. Should Rosebud be built it would essentially build a road the subdivision does not want to utilize, and it would cut off the agricultural field. They feel the emergency access would be sufficient due to the use of the subdivision. He asked for the Board's input on the two variance requests, so they may consider adjustments prior to the next meeting.

Levi Britton, Owner/Developer. (No address given)

Mr. Britton said the field on the east side has a well-developed piping system and the gravity flow goes north to south. Constructing Rosebud Drive running east and west will cut the field in half. The current owner of the green space wishes the green space to remain. Mr. Britton stated it seems that this is forcing of an easement when there is another way out for the Fire Department. The people in this storage facility would prefer a second access not be there, and the facility will be tightly fenced. These units will be owned rather than rented and be used for dry storage spaces that are large enough for motor homes. He said the variance request is submitted so the field is not ruined. He is asking for an exception because of the type of use. There is a lot of room for a turnaround with the hammerhead cul-de-sac.

Division Manager Plecker cautioned the Board that a public hearing has not been held. Board members may discuss the variance as requested by Mr. Knatterud but must not indicate intentions for their votes.

Discussion

Board member Woods asked if there is an RSID to maintain the dry hydrant. Staff stated this is addressed within Condition of Approval #2. Board member Gravgaard asked regarding the "dusk to dawn" gate and Levi Britton explained that after construction the gate will be locked full-time and be the main entrance. Kolten Knatterud explained that the roadways are treated as parking similar to a driveway coming into the facility. Board member Larsen asked if there are other storage unit facilities with only one access point and Levi Britton gave several examples located in Laurel and Billings. In response to a question by Board member Stephenson, Mr. Britton said there will be no water or sewer but electrical and natural gas will be provided for heating purposes. Board member Stephenson asked if the units could potentially be used as shops. Mr. Britton said the Covenants and Restrictions will dictate that this will be a storage facility.

Division Manager Plecker asked for clarification in the SIA language stating that the intention of Shop World Condos is for condominiums and due to this all units are intended to develop as individual buildings with separate units to be leased or sold. Kolten Knatterud said the intention is that each of the separate units within a building may be sold. Ms. Plecker noted the underlying subdivision with the platting of Rosebud Drive and the lots created in the 1970's. She asked if Mr. Britton has always owned these lots as ten-to-twelve one to two acre lots had to be parsed together to get this area to develop this subdivision in this way. She asked what sort of due diligence has been taken when it comes to access with knowing about the platted area, and the wetlands along King Avenue. Levi Britton said these things are discussed during pre-application and preliminary plat meetings and he did not know there were concerns until "quite a ways downstream" and contrary to the first two meetings, this came up as an issue. Mr. Britton said the system was put in place to guard against that, so the perimeters are set, but the system is broken. He said the original plan was to have an entrance on Stillwater and an emergency entrance on King Avenue. Kolten Knatterud added they obtained a response from MDT prior to coming to the pre-application meeting, and they know about the emergency access.

Discussion

President Cook asked if there were any additional questions or discussion by the Board. President Cook requested Division Manager Plecker explain a discussion may be held regarding the requested variances, but Board members are unable to give indication of their votes. Kolten Knatterud said this request is to obtain input in order to consider adjustments if needed. Board member Larsen clarified and said two full sized access required per the County and asked if the purpose would be fulfilled by constructing the access to the south. Board member Woods said the options have been laid out by the County Attorney's office. The Board may either go with the Staff recommendation of denial or add language to allow for the plan as submitted. Denial of the variances will require construction of Rosebud Drive.

A public hearing for Shop World 3 Subdivision will be held during the September 27, 2022, Planning Board meeting and a recommendation will be forwarded to the Yellowstone County Board of Commissioners for consideration on October 18, 2022.

ALTERNATIVES

In accordance with state law, the Board of County Commissioners has 60 working days to act upon this major preliminary plan. The 60 working day review period for the proposed subdivision ends on October 24, 2022. State and County subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The County 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 Board of County Commissioners

is required to:

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

FISCAL EFFECTS

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

SUMMARY

One of the purposes of the County's subdivision review process is to identify potential negative effects of property being subdivided. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various County 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 some impacts from this proposed subdivision.

Attachments

Findings of Fact
Proposed Plat
Proposed site layout
SIA Draft
Attachment A Variance
Attachment B Variance

FINDINGS OF FACT

The City-County Planning Division Staff has prepared the Findings of Fact for Shop World 3 Subdivision. 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 agricultural purposes. 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 as condominium dry storage buildings. There will be no water wells or cisterns permitted within the subdivision.

b. **Septic** - The applicant is proposing this subdivision as condominium dry storage buildings. There will be no septic systems permitted within the subdivision.

There are no water systems or septic systems proposed within the subdivision. There is no requirement for review and approval by MDEQ for water and septic for this subdivision. However, they will be required to go through a MDEQ review for stormwater management and provide a copy with the final plat.

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. The roads within the subdivision will be built with inverted crowns to convey water as designed by the stormwater management plan. The applicant will be required to obtain an access permit from the County for Stillwater Drive to the proposed subdivision.

Yellowstone County Subdivision Regulations Section 4.6 A. 6 states: Major and subsequent minor subdivision shall have at least two means of vehicular access unless granted by a variance. The applicant is asking for a variance from this regulation. They are proposing one access point from Stillwater Drive. See Attachment A for further discussion and recommendation.

This subdivision also needs to have existing lots vacated with and end result of a single lot for the proposed storage buildings. Part of the proposed new single lot will require a vacation of a portion of Rosebud Drive. The road vacation shall be completed before final plat of this proposed subdivision. **(Condition #1)**

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. The applicant will be installing a 30,000-gallon dry hydrant tank west of the proposed main entrance on Stillwater Drive, a public County road. The applicant will be creating a RSID for the maintenance of dry hydrant system. **(Condition #2)**

The applicant has requested a variance from Section 4.6.B.5 of the Yellowstone County Subdivision Regulations, which requires a variance request for an Emergency Access Road rather than a full access road. See Attachment B for further discussion and recommendation.

There are two options for a full 2nd access for this subdivision, Rosebud Drive on the east of the subdivision, it is a 60-foot-wide County Dedicated road right of way that has not been built. MDT has outlined what they would require for a 2nd full access onto King Avenue West, this information is part of Attachment A and B. **(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 #4)**

g. **School facilities** – The proposed subdivision is a commercial subdivision and will have no impact on school facilities in the area.

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 an area for Central Box Units for the subdivision and enough area for the postal delivery person to safely deliver the mail. **(Condition #5)**

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 #6**)

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 the natural habitat has been disrupted long ago. However, the east side of the subdivision has areas of seasonal wetlands also a great deal of sage brush and native grasses growing. This is area will not be disturbed by the proposed subdivision, there is a grade change along the south eastern part of the land this subdivision takes in. There are identified endangered species on the land. Impact to habitat should be minimal because the construction is taking place on the land that has been historically farmed.

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

This proposal does have Shop World 1 to the south east, but it is mostly surrounded by large lot single family housing.

- 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 private streets are built for a storage unit development 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. In the future there could be a trail along King Avenue West.

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. This proposed subdivision is going to be a dry storage development and will not have water or septic systems.

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 subdivision by Stillwater Drive. Depending on the outcome of the requested variances there may be other full accesses.

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 Shop World 3 Subdivision, preliminary plat to the Planning Board and adopt the Findings of Fact as presented in the staff report, the SIA and Waiver. Staff recommends denial of the variance requests. The Planning Board recommendation will be forwarded to the Board of County Commissioners.

AMENDED PLAT OF PIKE SUBDIVISION, BLOCK 1, LOTS 5, 6, 7, 8, 9, 10, 11, 12, 19, 20, 21 AND 22

LOCATED IN THE SE1/4 OF SECTION 11, T.1S., R.24E., P.M.M., YELLOWSTONE COUNTY, MONTANA

SURVEY COMMISSIONED BY: LEVI BRITTON
PREPARED BY: IMEG CORP.
DATE: APRIL - JUNE, 2022
RECORD OWNER: LAS PALMAS, LLC

PURPOSE OF SURVEY

THE PURPOSE OF THIS SURVEY IS TO DEPICT THE AGGREGATION OF LOTS 5, 6, 7, 8, 9, 10, 11, 12, 19, 20, 21, AND 22, BLOCK 1 OF PIKE SUBDIVISION AND A PORTION OF VACATED 82ND STREET WEST AND ROSEBUD DRIVE PURSUANT TO SECTION 76-3-207(1)(f) MCA.

LEGAL DESCRIPTION

LOTS 5, 6, 7, 8, 9, 10, 11, 12, 19, 20, 21 AND 22, BLOCK 1 OF PIKE SUBDIVISION, A SUBDIVISION OF YELLOWSTONE COUNTY, RECORDED AS DOCUMENT NO. 938475, TOGETHER WITH THE EAST ONE-HALF (E1/2) OF VACATED 82ND STREET WEST LYING ADJACENT TO LOTS 7, 8, 9 AND 10 AND A PORTION OF VACATED ROSEBUD DRIVE, ALL LOCATED IN THE SOUTHEAST ONE-QUARTER (SE1/4) OF SECTION 11, TOWNSHIP 1 SOUTH, RANGE 24 EAST, PRINCIPAL MERIDIAN MONTANA, YELLOWSTONE COUNTY, MONTANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 11; THENCE ALONG THE SOUTH LINE OF SAID SECTION 11, S89°15'38"W, 667.50 FEET; THENCE DEPARTING SAID SECTION LINE, N0°44'24"W, 40.00 FEET TO THE SOUTH EAST CORNER OF LOT 5, BLOCK 1 OF PIKE SUBDIVISION, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTH BOUNDARY OF BLOCK 1 OF PIKE SUBDIVISION, S89°15'38"W, 672.00 FEET TO A POINT ON THE CENTERLINE OF VACATED 82ND STREET WEST; THENCE ALONG SAID CENTERLINE, N0°23'31"W, 1251.55 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF STILL WATER DRIVE; THENCE ALONG SAID SOUTH RIGHT-OF-WAY, N89°35'34"E, 670.78 FEET TO THE NORTHEAST CORNER OF LOT 12 OF SAID BLOCK 1 OF PIKE SUBDIVISION; THENCE ALONG THE EAST BOUNDARY OF SAID LOTS 12, 19, 22 AND 5, S00°26'50"E, 1247.65 FEET TO THE TRUE POINT OF BEGINNING;

CONTAINING 19.26 ACRES, MORE OR LESS, BEING SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY EXISTING OR OF RECORD.

LANDOWNER'S CERTIFICATION

WE HEREBY CERTIFY THAT THE PURPOSE OF THIS SURVEY IS TO DEPICT THE AGGREGATION OF LOTS WITHIN A PLATTED SUBDIVISION, THEREFORE THIS DIVISION OF LAND IS EXEMPT FROM REVIEW AS A SUBDIVISION PURSUANT TO SECTION 76-3-207(1)(i), MCA, TO WIT: "AGGREGATION OF PARCELS OR LOTS WHEN A CERTIFICATE OF SURVEY OR SUBDIVISION PLAT SHOWS THAT THE BOUNDARIES OF THE ORIGINAL PARCELS HAVE BEEN ELIMINATED AND THE BOUNDARIES OF A LARGER AGGREGATE PARCEL ARE ESTABLISHED. A RESTRICTION OR REQUIREMENT ON THE ORIGINAL PLATTED LOT OR ORIGINAL UNPLATTED PARCEL CONTINUES TO APPLY TO THOSE AREAS", FURTHER,

LOT 1 IS EXEMPT FROM REVIEW BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY PURSUANT TO SECTION 17.36.605(3) ARM. "AGGREGATIONS OF PARCELS ARE NOT SUBDIVISIONS SUBJECT TO REVIEW, EXCEPT THAT AN AGGREGATION IS SUBJECT TO REVIEW UNDER 76-4-130, MCA, IF ANY PARCEL INCLUDED IN THE AGGREGATION HAS A PREVIOUS APPROVAL ISSUED UNDER TITLE 76, CHAPTER 4, PART 1, MCA".

FURTHER THIS PLAT IS TO BE KNOWN AND DESIGNATED AS: AMENDED PLAT OF PIKE SUBDIVISION, BLOCK 1, LOTS 5, 6, 7, 8, 9, 10, 11, 12, 19, 20, 21, AND 22.

PURSUANT TO ARM 24.183.1104 (1)(f)(iii)(C), TO WIT: "THE AREA THAT IS BEING REMOVED FROM ONE TRACT OF RECORD AND JOINED WITH ANOTHER TRACT OF RECORD IS NOT ITSELF A TRACT OF RECORD. SAID AREA SHALL NOT BE AVAILABLE AS A REFERENCE LEGAL DESCRIPTION IN ANY SUBSEQUENT REAL PROPERTY TRANSFER AFTER THE INITIAL TRANSFER ASSOCIATED WITH THE CERTIFICATE OF SURVEY ON WHICH SAID AREA IS DESCRIBED, UNLESS SAID AREA IS INCLUDED WITH OR EXCLUDED FROM ADJOINING TRACTS OF RECORD."

LAS PALMAS, LLC

SS _____
BY: LEVI BRITTON, AS DIRECTOR OF LAS PALMAS, LLC

STATE OF _____
COUNTY OF _____

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON _____, 20____, BY LEVI BRITTON AS DIRECTOR OF LAS PALMAS, LLC.

SS _____
NOTARY PUBLIC

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE ATTACHED AMENDED PLAT REPRESENTS A SURVEY MADE UNDER MY SUPERVISION, AND SUBSTANTIALLY COMPLETED ON THE DATE SHOWN HEREON.

SS _____
MATTHEW JACOBSON, PROFESSIONAL LAND SURVEYOR DATE _____
MONTANA REGISTRATION NO. 13748LS

CERTIFICATE OF CITY-COUNTY HEALTH DEPARTMENT

THIS AMENDED PLAT HAS BEEN REVIEWED AND APPROVED BY YELLOWSTONE CITY-COUNTY HEALTH DEPARTMENT.

SS _____
YELLOWSTONE CITY-COUNTY HEALTH DEPT. DATE _____
(DBA RIVERSTONE HEALTH)

YELLOWSTONE COUNTY ATTORNEY'S OFFICE

THIS DOCUMENT HAS BEEN REVIEWED BY THE COUNTY ATTORNEY'S OFFICE AND IS ACCEPTABLE TO FORM.

SS _____
YELLOWSTONE COUNTY ATTORNEY DATE _____

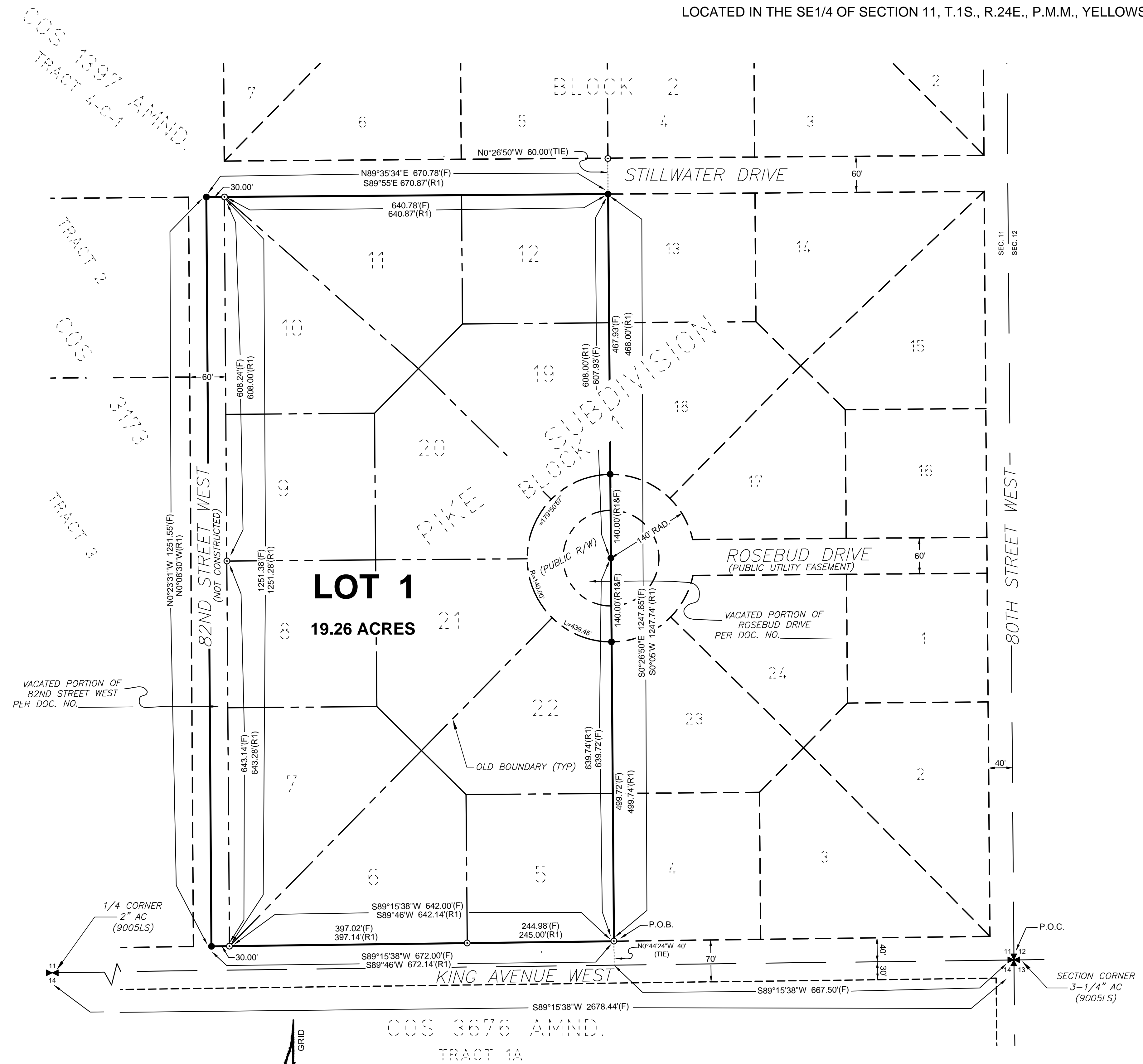
YELLOWSTONE COUNTY TREASURER'S OFFICE

I HEREBY CERTIFY THAT ALL REAL PROPERTY TAXES AND SPECIAL ASSESSMENTS ASSESSED AND LEVIED ON THE LAND ABOVE DESCRIBED ARE PAID.

SS _____
YELLOWSTONE COUNTY DEPUTY TREASURER DATE _____

CLERK AND RECORDER FILING INFORMATION

1/4	SEC.	T.	R.
11	1S.	24E.	

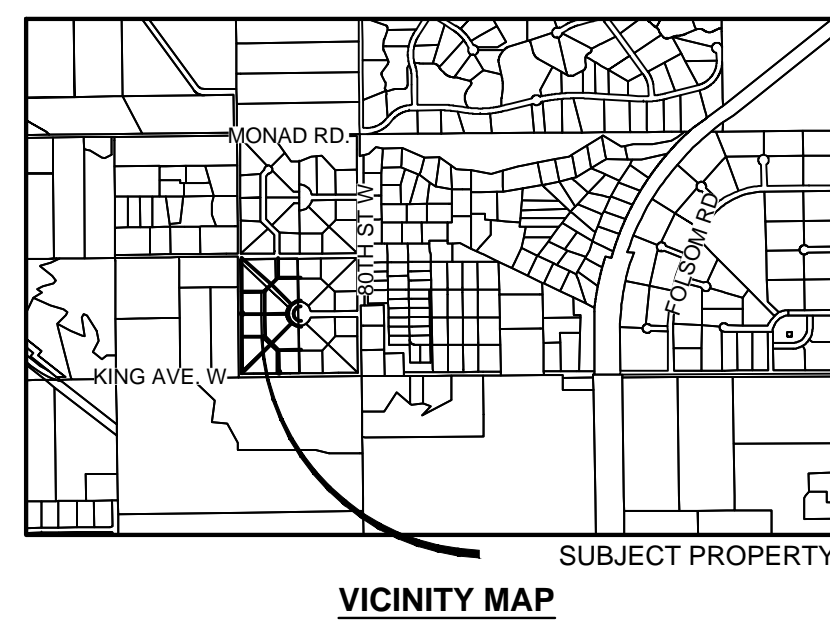


100 0 100 200
SCALE IN FEET

LEGEND

- = SET 5/8"x24" REBAR WITH 1-1/4" RPC (JACOBSON, 13748LS)
- = FOUND 1/2" I.D. IRON PIPE
- (F) = FOUND THIS SURVEY
- (R1) = RECORD OR ADDITIVE PER PIKE SUBDIVISION
- I.D. = INSIDE DIAMETER
- RPC = RED PLASTIC CAP
- AC = ALUMINUM CAP
- R/W = RIGHT OF WAY
- P.O.C. = POINT OF COMMENCEMENT
- P.O.B. = POINT OF BEGINNING

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

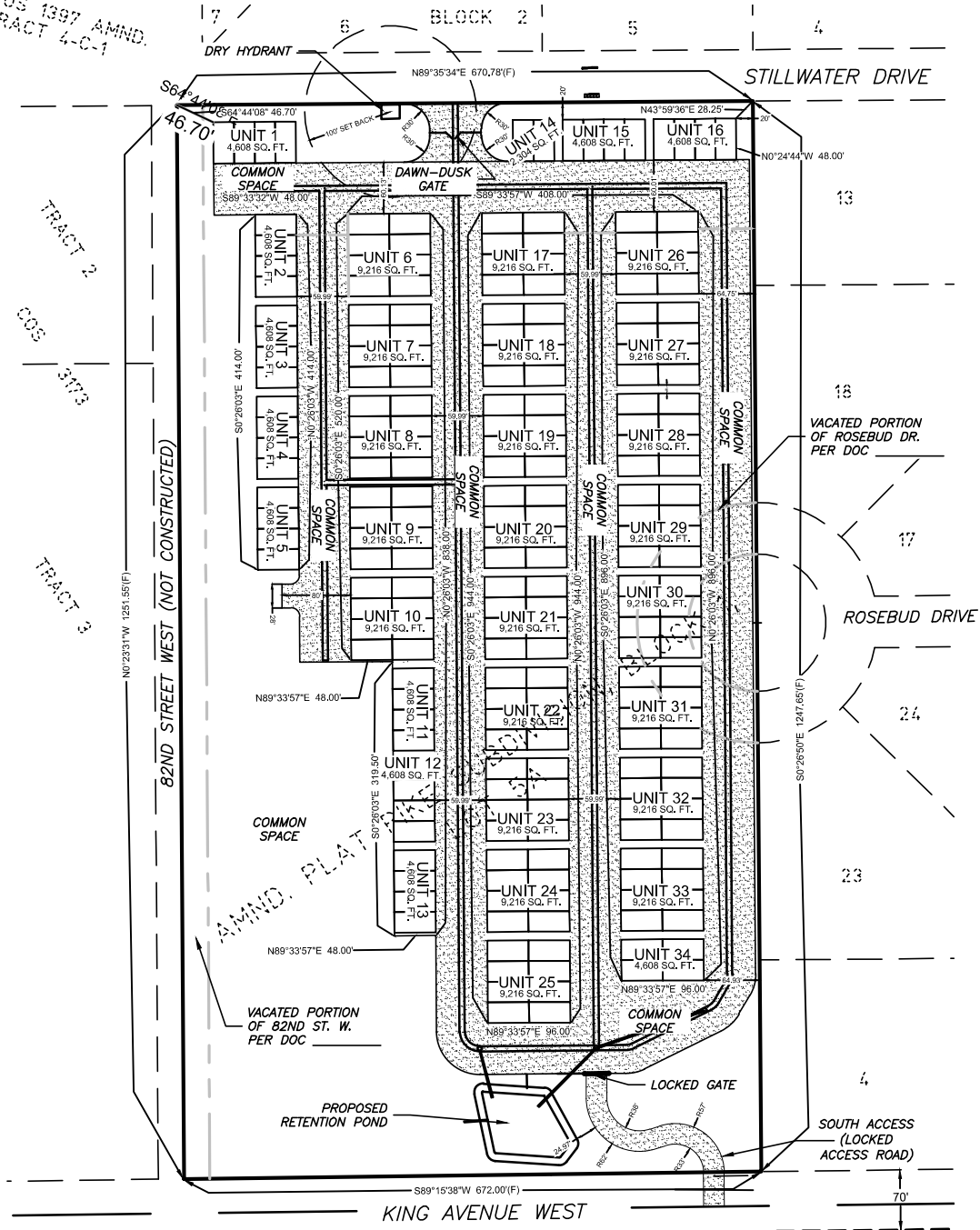


PREPARED BY:
IMEG
175 N. 27TH. ST. STE. 1312 PH: 406.248.9000
BILLINGS, MT FAX: 406.721.5224
59101 www.imegcorp.com
IMEG PROJECT NO. 22002116

SHOP WORLD CONDOS

LOT 5A OF AMENDED PLAT OF PIKE SUBDIVISION, BLOCK 1, LOTS 5, 6, 7, 8, 9, 10, 11, 12, 19, 20, 21 AND 22
 LOCATED IN THE SE1/4 OF SEC. 11, T.1S., R.24E., P.M.M., YELLOWSTONE COUNTY, MONTANA

COS 1397 AMND.
 TRACT 4-C-1



COS 3676 AMND.
 TRACT 1A

PREPARED BY:



175 N. 27TH. ST. STE. 1312 PH: 406.248.9000
 BILLINGS, MT FAX: 406.721.5224
 59101 www.imegcorp.com

IMEG PROJECT NO. 22002116



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



SITE DATA:

NUMBER OF BUILDING UNITS: 34
 NUMBER OF INDIVIDUAL UNITS: 222

Return to After Filing:
IMEG, Corp.
175 N. 27th, Ste 1312
Billings, MT 59101

SUBDIVISION IMPROVEMENTS AGREEMENT
(Shop World Condos)
Table of Contents
(Yellowstone County)

I.	Variances	(1)
II.	Conditions that Run with the Land	(2)
III.	Transportation	(3)
	A. Streets	
	B. Traffic Control Devices	
	C. Access	
	D. Billings Area Bikeway and Trail Master Plan	
IV.	Emergency Services	(3)
V.	Storm Drainage	(3)
VI.	Utilities	(4)
	A. Water	
	B. Sanitary Sewer	
	C. Power, Telephone, Gas, and Cable Television	
VII.	Parks/Open Space	(4)
VIII.	Irrigation	(4)
IX.	Weed Management	(4)
X.	Soils/Geotechnical Study	(5)
XI.	Phasing of Improvements	(5)
XII.	Financial Guarantees	(5)
XIII.	Legal Provisions	(5)

SUBDIVISION IMPROVEMENTS AGREEMENT

(Shop World Condos)

This agreement is made and entered into this ____ day of _____, 20__, by and between *Las Palmas, LLC*, whose address for the purpose of this agreement is 49660 Hammer Dam Rd, Ronan, MT 59864 hereinafter referred to as “Subdivider,” and YELLOWSTONE COUNTY, Montana, hereinafter referred to as “County.”

WITNESSETH:

WHEREAS, at a regular meeting conducted on ____ day of _____, 20__, the Board of Planning recommended conditional approval of a preliminary plat of *Shop World Condos*, and;

WHEREAS, at a regular meeting conducted on ____ day of _____, 20__, the Yellowstone County Board of County Commissioners conditionally approved a preliminary plat of *Shop World Condos*, and;

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

WHEREAS, the provisions of this agreement shall be effective and applicable to *Shop World Condos* 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 Yellowstone County Subdivision Regulations, the rules, regulations, policies, and resolutions of Yellowstone County, and the laws and administrative rules of the State of Montana.

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

I. VARIANCES

A. Subdivider has requested, and the County hereby grants, the following variances by the Board of County Commissioners from the strict interpretation of the County’s Subdivision Regulations (Chapter 11, Yellowstone County Subdivision Regulations):

1. Shop World Condos is requesting a variance from Section 4.6.A.6 of the Yellowstone County Subdivision regulations requiring all major subdivision to have at least two means of vehicular access. Shop World Condos is projected to have a total of 43 trips per day. Sole access to Shop World Condos will be from Stillwater Drive.

II. CONDITIONS THAT RUN WITH THE LAND

- A.** 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.
- B.** 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.
- C.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- D.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.
- E.** The property is not located within a FEMA designated floodplain or floodway. Please see the FEMA Floodplain Map 30111C1240E.
- F.** Culverts and the detention pond shall not be filled in or altered by the subdivider or subsequent lot owners.
- G.** When required by road improvements, all fences and irrigation ditches in the public right-of-way adjacent to this subdivision shall be removed or relocated outside of the public right-of-way at no cost to the County and any relocation outside of the public right-of-way shall be subject to securing and recording easements.
- H.** Future maintenance of all public (or common) improvements shall be done through one (1) or more RSID(s) created as part of the SIA for this subdivision.

III. TRANSPORTATION

The subdivider agrees to guarantee all public improvements for a period of one (1) year from the date of final acceptance by Yellowstone County.

A. Streets

The proposed development will have paved driving surfaces used to access the storage buildings. These internal driving areas will be inverted crown with valley gutters conforming to the proposed Grading and Drainage Engineering Design Report for the development. The internal driving areas will ensure safe, adequate, access to the storage buildings. There will be no road improvements to exterior roads outside of the subdivision.

B. Traffic Control Devices

There will be one stop sign located at the access point off of Stillwater Drive.

C. Access

- The proposed subdivision will have one primary access point off of Stillwater Drive. The access will be paved and 24' wide with 2' gravel shoulders.
- All units within the proposed subdivision will utilize the internal driving surfaces described above.

D. Billings Area Bikeway and Trail Master Plan

The proposed subdivision is not within the area of the Billings Area Bikeway and Trail Master Plan. The nearest proposed BABTMP is at the intersection of South 80th St W. and King Avenue. The proposed trail here will be an arterial bike trail.

IV. EMERGENCY SERVICE

- The paved common areas used for building access will provide safe, adequate, access for emergency service vehicles. The proposed driving surfaces, access roads, and water supply requirements shall be provided in accordance with the Fire Protection Requirements as noted in the Yellowstone County Subdivision Regulations.
- The property will be served by a proposed dry hydrant located along the northwestern property boundary. The dry hydrant will leverage a 30,000 storage tank to serve the proposed development. The dry hydrant will be maintained within an RSID and be accessed from Stillwater Drive.
- The subdivision will have an emergency access off of King Avenue. This access will be 24' wide with 2' gravel shoulders.

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions of the Section 4.7, Yellowstone County Subdivision Regulations, and a stormwater management plan shall be submitted to and approved by the Montana Department of Environmental Quality (MDEQ), or its designee.

- The property will be served by valley gutters to inlets and then piped to the stormwater detention pond located along the southern property boundary and will adhere to all standards outlined in the MDEQ Circular 8.

VI. UTILITIES

A. Water

No water facilities will be permitted within this subdivision.

B. Septic System

No sewer facilities will be permitted within this subdivision.

C. Power, Telephone, Gas, and Cable Television

Utility easements will be provided across the common driving areas as necessary.

VII. PARKS/OPEN SPACE

There is no parkland requirement for proposed *Shop World Condos* as this is a commercial subdivision [MCA 76-3-621(3)(c)]

VIII. IRRIGATION

No existing water rights will be transferred for this subdivision. Thus, no mitigation efforts have been proposed.

IX. WEED MANAGEMENT

All noxious weeds on the latest Yellowstone County Noxious Weed List shall be controlled on all properties in the subdivision.

- A Weed Management Plan must be filed and updated as needed for approval by the Yellowstone County Weed Department. Said weed management plan shall contain the noxious weeds being addressed and the plan for the control of those weeds. All associated cost for noxious weed control is the responsibility of the owner of record.
- A revegetation plan shall be submitted as part of the management plan. A seeding recommendation can be obtained from the Yellowstone County Weed Department pursuant to Section 7-22-2152, MCA. The Yellowstone County Weed Department reserves the right to revise these recommendations based on the required site inspection.

X. SOILS/GEOTECHNICAL STUDY

- A soils/geotechnical study was not required but owners of the lots will be encouraged to perform site-specific geotechnical investigation that is unique to the type of structure contemplated prior to construction.

XI. PHASING OF IMPROVEMENTS

Shop World Condos proposes that all units will be developed in a single phase.

XII. CONDOMINIUM

Shop World Condos is proposed to be condominiums. Due to this all units are allowed to be developed as individual buildings with separate units that can be leased or sold.

XIII. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements by private contracts secured by bonds, irrevocable letters of credit, sequential development, or any other method that may be acceptable to the Planning Board and Board of County Commissioners. 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 designed by and constructed under the supervision of a professional engineer competent in civil engineering, licensed in the state of Montana. Upon completion of the improvements, the consulting Engineer shall file with the Public Works Department, a statement certifying that the improvements have been completed in accordance with approved, seal stamped, record drawings, along with all required post-construction certification per Section 4.6.C. of the Yellowstone County Subdivision Regulations.

(In the event that all required improvements are not installed and constructed prior to final plat approval, the Subdivider shall provide a monetary security guarantee in the amount of 125% of the estimated total cost by one (1) of the methods listed in Chapter 5 of the Yellowstone County Subdivision Regulations. If using a security, describe the method in this section)

XIV. LEGAL PROVISIONS

- A. Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by Yellowstone County.
- 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 apply to and shall be binding on the heirs, personal representatives, successors and assigns 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.

This agreement is hereby approved and accepted by Yellowstone County, this ____ day of _____, 20__.

“COUNTY”
COUNTY OF YELLOWSTONE
MONTANA

County of Yellowstone
Board of County Commissioners

By: _____
Chairman

Commissioner

Commissioner

Attest: _____
County Clerk and Recorder

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 Board of County Commissioners and the County Clerk and Recorder, respectively, of Yellowstone County, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of Yellowstone County, Montana.

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

Waiver of Right to Protest

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more Rural Special Improvement Districts (RSID's), which Yellowstone County may require for a period of twenty years from the date of this document's recording.

This Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned are parties, and shall run with the land and shall be binding upon the undersigned, their successors and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

Shop World Condos

Signed and dated this ____ day of _____, 20__.

Las Palmas, LLC by Levi Britton, Director

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 _Levi Britton Director of Las Palmas, LLC., the person who executed the forgoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

Notary Public in and for the State of Montana

Printed name: _____
Residing in Billings, Montana
My commission expires: _____

Attachment A

Staff Analysis and Recommendation

County Planning, County Public Works, County Legal staff and Billings Fire Department have reviewed the request for a variance from Yellowstone County Subdivision Regulations Section 4.6.A.6, Major and subsequent minor subdivisions shall have at least two means of vehicular access unless granted by variance.

The applicant is proposing to develop a commercial condominium dry storage subdivision with only one full access from Stillwater Drive into and out of the subdivision. Yellowstone County subdivision regulations require two ways in and out of a major subdivision, the applicant is not proposing another full ingress / egress for the subdivision. In a separate variance request they are asking for an Emergency Access Road, see Attachment B.

Staff has reviewed the proposed subdivision and the variance request for one way into and out of the subdivision. The subdivision is proposed to be commercial condominium dry storage with 232 units. Yellowstone County subdivision regulations do not distinguish between uses within a subdivision but require two full accesses into a major subdivision, Section 4.6.A.6. The purpose of the 2 ingress / egress points from a major subdivision is for safety reasons. Should one of the ingress / egress points be blocked there is a second way in and out of the subdivision.

On the east side of this proposed subdivision is a county dedicated road, Rosebud Drive, that has not been built but is a 60-foot-wide right of way. This road would connect to South 80th Street West. This road would provide a 2nd way in and out of the subdivision and there are no grade issues that would prevent it from being used. This road was dedicated to the county in 1972.

Staff has seen an increase in the request for only one way in and out, this is becoming a concern with future safety for those in the subdivision and connectivity.

Attached is an email from County Legal regarding the requirement for 2 ways in and out of a major subdivision.

Also attached to this is the agent's variance request and communication with MDT for an emergency access road to King Avenue. Emails that are part of the agent's variance request are addressing only the topic of an emergency access to King Avenue West. MDT does not want a full access because of concerns for access points not having enough separation from existing access points already on King Avenue West in this area. Should the applicant move the access to King Avenue West farther west to get the correct separation from existing access points, MDT would allow a full access

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 purpose of two ways in and out of a subdivision is for safety should one direction be closed for any reason, reduce traffic on one way in and out lowering the possibility of traffic conflicts/accidents, providing emergency vehicles ease of maneuvering in a subdivision.

With only one way in and out, should something happen, blocking the single road it could block exiting the subdivision. There is a 60-foot-wide private road easement on the east edge of the proposed subdivision that may have been investigated to attain access.

There is a dedicated public right of way on the east side of this proposed subdivision, Rosebud Drive. It was dedicated with the original Pike Subdivision in 1972. This road could be built to a county paved road standard and provide the required second way in and out of the subdivision.

The granting of this variance would be detrimental to public health, safety, or general welfare or injurious to other adjoining properties. Should the one way in and out of the subdivision become impassable for any reason it could trap people within the subdivision with no second way in or out.

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.

There are no surrounding physical conditions that would result in an undue hardship to the developer. The land is currently used for farming and it basically flat. There is no physical hardship of the land.

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

The variance requested for this proposed subdivision 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.

Approval of this variance will not place this subdivision in nonconformance of adopted zoning regulations or the growth policy. This subdivision is outside of County Zoning and will have no affect on zoning. The request for one way in and out is not a zoning issue, it is a health and safety issue.

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

The alternate option proposed is an emergency access road (EAR). An EAR is not a full access and is only intended for fire emergency vehicle access. Should the one access from still water become impassable an EAR would not be an optional 2nd way in and out.

Staff and the Planning Board is recommending denial of the proposed variance to the Board of County Commissioners.

Dear Mr. Miller:

Shop World 3 is a major, commercial subdivision. From the east, the land is accessed by Rosebud Drive. Rosebud Drive is a public, unconstructed road that runs into 80th Street West. From the north, the land is accessed from Stillwater Drive. Stillwater Drive is a public, constructed road. From the West, the land is accessed from 82nd Street West. 82nd Street West is a public, unconstructed road. There is a small gully where 82nd Street West is supposed to be located. From the south, the land is accessed from King Avenue West. King Avenue West is a public, constructed road. The developer of Shop World 3 has requested the County abandon 82nd Street West where it abuts the subdivision and a portion of Rosebud Drive.

As a major subdivision, Shop World 3 needs two accesses. See Regulations below. The developer of Shop World 3 requested a variance from the requirement of two accesses. The developer intended to have an access from Stillwater Drive and King Avenue West. The Montana Department of Transportation that manages King Avenue West would not provide the developer with permission to place the access on to King Avenue West where the developer wanted to place it because it would be too close to an existing access. To have the separation with the existing access, the developer would have to construct the access in the gully where 82nd Street was supposed to be located. It would be expensive to construct the access in the gully.

The County may grant reasonable variances from the design and improvement standards when strict compliance would result in undue hardship and the result would not affect public health and safety. The County is supposed to consider five factors when it decides whether to grant a variance. See Regulations below. The developer is not limited to accesses on to Stillwater Drive and King Avenue West. The developer has the option to use Rosebud Drive to access Shop World 3. The developer would likely have to reconfigure the layout of Shop World 3 to change the accesses. This though could be done without undue hardship on the developer. The developer needs to explain why it cannot use Stillwater Drive and Rosebud Drive for its accesses and how much it would cost to construct the access on King Avenue West a sufficient distance from the existing access for the Department to grant the access. The developer needs to address the five factors in its request.

If you have any questions, concerns or comments; please contact me.

Sincerely yours,

Mark English
Deputy Yellowstone County Attorney
August 26, 2022

Section 4.6 Streets and Roads.

A. Road Network Performance Standards: When evaluating a subdivision's road network, subdividers and reviewing agencies shall take into consideration the following criteria. These criteria were developed to ensure that all new lots are provided access that is safe, convenient and effective for future lot owners. The proposed road network shall also enable emergency service providers to protect life and property under severe emergency situations.

6. Major and subsequent minor subdivisions shall have at least two means of vehicular access unless granted by a variance.

B. Streets and Roads, General: The arrangement, type, extent, width, grade, and location of all streets shall be designed with consideration to any adopted area plans including, but not limited to, the Growth Policy and Transportation Plan, and must be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by them.

5. **Second Access:** To facilitate traffic movement, the provision of emergency services, and the placement of utility easements, all major subdivisions and subsequent minor subdivisions shall provide at least two means of vehicular access built to the standards of this Chapter and designed to ensure public health and safety.

Exceptions to the requirement to provide at least two means of vehicular access may be made for major and subsequent minor subdivisions may only be granted through a variance to these regulations.

Provision of a second means of vehicular access may be required for any subdivision when deemed necessary for public health, safety and welfare.

Section 11.1 Variances (76-3-506, MCA).

The Board of County Commissioners may grant reasonable variances from the design and improvement standards of these Regulations when strict compliance would result in undue hardship and the result would not affect public health and safety. The granting of a variance shall not have the effect of nullifying the intent and purpose of these Regulations. The governing body may not approve a variance that would permit structures within the 100-year floodplain, as defined in 76-5-101, MCA.

A. Requesting a Variance. The subdivider shall include with the submission of the preliminary plat a written statement describing the facts of hardship upon which the request for the variance is based. Each requested variance shall be deemed a separate application, to be processed concurrently with the preliminary plat. Information addressing each of the following findings shall accompany the application to be approved by the governing body. The governing body shall weigh the following criteria in determining undue hardship:

1. The granting of the 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;
3. The variance will not result in an increase in taxpayer burden;
4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations; and
5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.

B. In granting variances, the governing body may require conditions of approval that will, in their judgment, secure the objectives of these Regulations.

C. When any such variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.

D. An application for a variance is not necessary where Planned Neighborhood Developments are proposed, as modifications to the standards and requirements of these Regulations may be approved by the governing body.

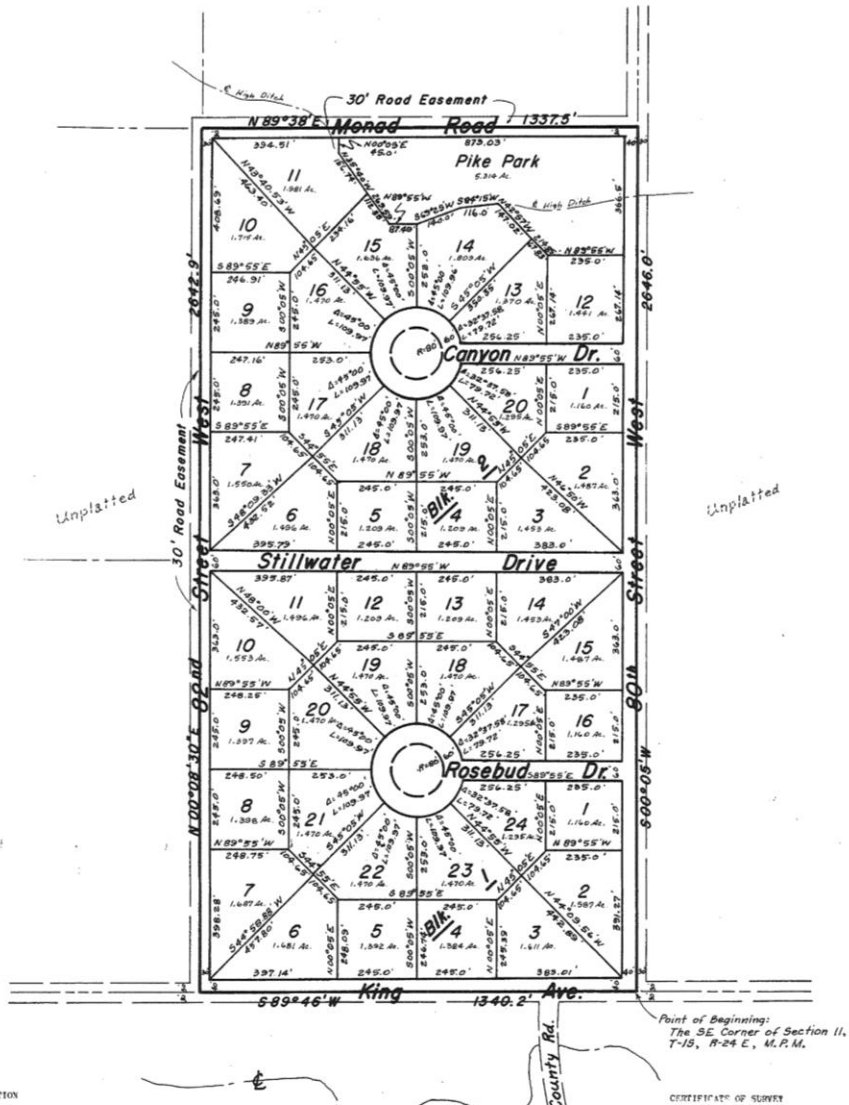
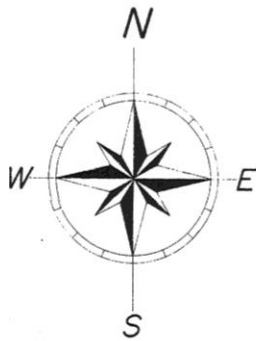
PLAT OF
PIKE SUBDIVISION
 LOCATED IN THE E $\frac{1}{2}$ SE $\frac{1}{4}$ OF SECTION 11, T-1S, R-24E, M.P.M.
 YELLOWSTONE COUNTY, MONTANA

PLAT & SURVEY BY: SAGE ENGINEERS & LAND PLANNERS, INC.

SCALE: 1"=200'

DECEMBER, 1972

FOR: MRS. ROBERTA PIKE



CERTIFICATE OF COPIATION

CERTIFICATE OF SURVEY

Variance Request #1 – Two Access Requirement

A variance from Section 4.6.A(6) requiring Major subdivisions to have at least two means of vehicular access.

4.6 Streets and Roads

4.6.A Road Network Performance Standards:

(6) Major and Subsequent minor subdivisions shall have at least two means of vehicular access unless granted by a variance.

Per MCA 76-3-506: Strict compliance with these regulations will cause undue hardship for the applicant:

A variance is being pursued to relieve the applicant from the requirement to have at least two means of vehicular access for the proposed major subdivision. The sole access being proposed off Stillwater Drive will provide safe, adequate, access to the proposed commercial buildings for all future users. The secondary access being proposed off King Ave. W. is for emergency access only and is not necessary to accommodate the 43 total trips per day anticipated with the proposed subdivision. Strict compliance with these regulations would cause undue hardship for the applicant. A single access point is more than enough to accommodate the 43 estimated daily trip count associated with the proposed subdivision use. Additionally, two primary access points for a commercial subdivision does not align with other developments of a similar nature in the area. Lastly, the topography of the site and location of natural features dictate that the southern access off King Ave. W. only be used for emergencies and not regular use. It would cause undue hardship to the applicant requiring them to break from development trends associated with the proposed use and mandating them to provide an additional access point that is in contradiction to the topography for the site.

1. The granting of this variance does not result in a threat to public safety, health, or welfare, and is not injurious to persons or property.

There does not appear to be any concern regarding public safety, health, or welfare by granting this variance, nor would it be injurious to persons or property. This is not known to cause a threat to public safety, health, or welfare, nor is it injurious to persons or property. Safe, adequate, access to the proposed commercial units is best provided via the access off Stillwater Drive

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 conditions upon which this variance is based are unique in that the proposed subdivision is served by two roads, Stillwater Drive to the North and King Ave. W to the South. The particular shape of the site and existing roads to the North and to the South dictate that only one approach be used as the Montana Department of Transportation (MDT) requires 500' separation between approaches. MDT has authorized the location of the second approach off King Ave. W. pending the access remain locked and be used for emergency access only. The unique site topography also mandates that Stillwater Drive be used as the sole, primary, access for the proposed subdivision as grading and drainage trend from North to South on the property. These conditions do not apply generally to other property.

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

This variance request will not result in an increase in taxpayer burden. There will not be an increase to public costs whatsoever by granting this variance.

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

The property is unzoned so the granting of this variance will not place the subdivision in nonconformance with any adopted zoning regulations.

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

The sole access off of Stillwater Drive is not only equally effective at providing ingress and egress options to future users of the subdivision as two access would be, but preferred due to the unique topographic conditions of the site. The estimated 43 daily trips align with the single access being proposed and do not contradict the intent of the subdivision regulations of Yellowstone County.

Anna M. Vickers

From: Shawn M. Thorson
Sent: Friday, July 1, 2022 5:30 PM
To: Anna M. Vickers
Subject: Fwd: MDT Approach Permit

Thank You,
Shawn Thorson

From: Kirkemo, Zach <zkirkemo@mt.gov>
Sent: Monday, June 6, 2022 9:18:11 AM
To: Shawn M. Thorson <Shawn.M.Thorson@imegcorp.com>
Cc: Kolten L. Knatterud <Kolten.L.Knatterud@imegcorp.com>
Subject: RE: MDT Approach Permit

External Email: Treat links and attachments with caution.

Shawn,

MDT is willing to allow the approach at the proposed location as long as the access remains emergency-only. If this approach is proposed to change to full access in the future, additional discussion will need to occur prior to that happening. The approach permit will state that is approved for emergency-access only.

MDT would like written confirmation from the County or local EMS that this access will be approved as an emergency-only access and will be gated.

Thanks,

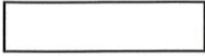
Zach Kirkemo
MDT Billings District Traffic Engineer
(406) 657-0240
zkirkemo@mt.gov

From: Shawn M. Thorson <Shawn.M.Thorson@imegcorp.com>
Sent: Thursday, June 2, 2022 1:04 PM
To: Kirkemo, Zach <zkirkemo@mt.gov>
Cc: Kolten L. Knatterud <Kolten.L.Knatterud@imegcorp.com>
Subject: [EXTERNAL] RE: MDT Approach Permit

Good Afternoon Zach,

Just circling back to see if there has been any discussion regarding the approach after my comments below?

Shawn Thorson, P.E.
Civil Project Engineer



imegcorp.com

IMEG Corp.
175 N 27th Street Suite 1312 Billings, MT 59101
(406) 414-7768 single reach
(307) 620-0130 mobile
Shawn.M.Thorson@imegcorp.com

website.imegcorp.com | vCard.dynasend.com | map.google.com | [regional news.imegcorp.com](http://regional.news.imegcorp.com)  twitter.com  facebook.com 

[Learn more.imegcorp.com](#) about us and the IMEG story!

This email may contain confidential and/or private information. If you received this email in error please delete and notify sender.

From: Shawn M. Thorson
Sent: Monday, May 16, 2022 9:57 AM
To: Kirkemo, Zach <zkirkemo@mt.gov>
Cc: Kolten L. Knatterud <Kolten.L.Knatterud@imegcorp.com>
Subject: RE: MDT Approach Permit

Hi Zach,

Thanks for the response. If we move the access to the west, we could be getting into the drainage to the west of the project. Even though this area is not delineated as wetland, there is wetland vegetation here, that we want to avoid. We are looking to have stormwater treatment on the SW corner of the development and discharge into this drainage. The stormwater can not go on the SE corner, as it would be discharged into 8043 King's back yard.

With this development, we are required to have two access points. We have one on Stillwater. Having two approaches on Stillwater does not provide the second point as if Stillwater were blocked, access to the subdivision would be cut off.

I understand that MDT has a minimum distance for approaches, however with this being an emergency access only, there will be minimal traffic (if any) from this approach. We are also constrained with the existing topography.

If you'd like to get together for a discussion or have a phone call, we can. Please let us know if you have any questions.

Shawn Thorson, P.E.
Civil Project Engineer



imegcorp.com

IMEG Corp.
175 N 27th Street Suite 1312 Billings, MT 59101
(406) 414-7768 single reach
(307) 620-0130 mobile
Shawn.M.Thorson@imegcorp.com

website.imegcorp.com | vCard.dynasend.com | map.google.com | [regional news.imegcorp.com](http://regional.news.imegcorp.com)  twitter.com  facebook.com 

[Learn more.imegcorp.com](#) about us and the IMEG story!

This email may contain confidential and/or private information. If you received this email in error please delete and notify sender.

From: Kirkemo, Zach <zkirkemo@mt.gov>
Sent: Monday, May 16, 2022 8:58 AM
To: Shawn M. Thorson <Shawn.M.Thorson@imegcorp.com>

Cc: Kolten L. Knatterud <Kolten.L.Knatterud@imegcorp.com>
Subject: RE: MDT Approach Permit

External Email: Treat links and attachments with caution.

Shawn,

MDT is concerned about the proximity of the proposed approach to the existing approach at 8043 King Ave W. We understand why the approach was relocated with the large cut there, however MDT would like to review other options for the emergency access location.

Can the approach be realigned to the west instead of to the east? Or can the emergency access be located off Stillwater Ave?

Thanks,

Zach Kirkemo
MDT Billings District Traffic Engineer
(406) 657-0240
zkirkemo@mt.gov

From: Shawn M. Thorson <Shawn.M.Thorson@imegcorp.com>
Sent: Tuesday, May 10, 2022 3:05 PM
To: Kirkemo, Zach <zkirkemo@mt.gov>
Cc: Kolten L. Knatterud <Kolten.L.Knatterud@imegcorp.com>
Subject: [EXTERNAL] RE: MDT Approach Permit

Zach,

Attached is the signed application for the site.

Let me know if you need anything else.

Thank you,

Shawn Thorson, P.E.
Civil Project Engineer



[\[imegcorp.com\]](mailto:[imegcorp.com]) [\[nam04.safelinks.protection.outlook.com\]](mailto:[nam04.safelinks.protection.outlook.com])

IMEG Corp.
175 N 27th Street Suite 1312 Billings, MT 59101
(406) 414-7768 single reach
(307) 620-0130 mobile
Shawn.M.Thorson@imegcorp.com

[website \[imegcorp.com\]](http://website.[imegcorp.com]) [\[nam04.safelinks.protection.outlook.com\]](mailto:[nam04.safelinks.protection.outlook.com]) | vCard [\[dynamend.com\]](mailto:[dynamend.com]) [\[nam04.safelinks.protection.outlook.com\]](mailto:[nam04.safelinks.protection.outlook.com]) | map [\[google.com\]](http://google.com) [\[nam04.safelinks.protection.outlook.com\]](mailto:[nam04.safelinks.protection.outlook.com])

Learn more [\[imegcorp.com\]](mailto:[imegcorp.com]) [\[nam04.safelinks.protection.outlook.com\]](mailto:[nam04.safelinks.protection.outlook.com]) about us and the IMEG story!

This email may contain confidential and/or private information. If you received this email in error please delete and notify sender.

From: Kirkemo, Zach <zkirkemo@mt.gov>
Sent: Monday, May 9, 2022 10:25 AM
To: Shawn M. Thorson <Shawn.M.Thorson@imegcorp.com>
Cc: Kolten L. Knatterud <Kolten.L.Knatterud@imegcorp.com>
Subject: RE: MDT Approach Permit

External Email: Treat links and attachments with caution.

Shawn,

A few questions/comments on this:

- Has this received any preliminary approvals from the County? A couple of items I am curious about are:
 - Existing property lines show a possible cul-de-sac which makes me wonder if this was planned to be a residential subdivision?
 - Has the County DES approved the proposed King Ave access being an emergency-only access?
- Will the existing access to 8043 King Ave W be removed as part of this development?
- MDT will need to review the DEQ Circular 8 design report to review to verify stormwater management requirements are met.
- The landowner will need to sign the approach permit application to verify the landowner acknowledges all terms and conditions of the approach permit.

Thanks,

Zach Kirkemo
MDT Billings District Traffic Engineer
(406) 657-0240
zkirkemo@mt.gov

From: Shawn M. Thorson <Shawn.M.Thorson@imegcorp.com>
Sent: Tuesday, May 3, 2022 9:36 AM
To: Kirkemo, Zach <zkirkemo@mt.gov>
Cc: Kolten L. Knatterud <Kolten.L.Knatterud@imegcorp.com>
Subject: [EXTERNAL] MDT Approach Permit

Good Morning Zack,

Attached is an application for an approach permit on King Avenue West between 80th St W and 82nd St W. Please take a look and let me know if you would need any other information? Also, can we submit this to you?

Shawn Thorson, P.E.
Civil Project Engineer



[\[imegcorp.com\]](mailto:[imegcorp.com]) [\[nam04.safelinks.protection.outlook.com\]](mailto:[nam04.safelinks.protection.outlook.com]) [\[nam04.safelinks.protection.outlook.com\]](mailto:[nam04.safelinks.protection.outlook.com])

IMEG Corp.
175 N 27th Street Suite 1312 Billings, MT 59101

(406) 414-7768 single reach
(307) 620-0130 mobile
Shawn.M.Thorson@imegcorp.com

[website \[imegcorp.com\] \[nam04.safelinks.protection.outlook.com\] \[nam04.safelinks.protection.outlook.com\]](#) | [vCard \[dynasend.com\] \[nam04.safelinks.protection.outlook.com\]](#) | [regional news \[imegcorp.com\] \[nam04.safelinks.protection.outlook.com\]](#)

All,

I have spoken with MDT Billings District supervisory personnel as requested. Because there is no residential development planned with this subdivision and the Laurel Fire Department has agreed to the emergency gated access, MDT has chosen to maintain its original position of requiring an approach at this location be emergency-only access in an attempt to maintain some semblance of access control along the King Ave corridor. MDT has already made concessions to its requirements in allowing this location at all. If approved, this would like have been the access used by most customers which is not MDT's desire. MDT's desire is for developments with access to existing County roads to use County roads.

I wish to reiterate the County and landowner that MDT is not opposed to a full access approach on King Ave for this subdivision. The issue is the location of the current approach. A full access approach would only be allowed if the new approach were relocated to the west satisfying the 400' spacing requirement between all approaches for rural highways. This would locate the approach roughly at the midpoint between the driveways for 8043 King Ave W and 8243 King Ave W. If this realignment is ultimately done, MDT would require removal of the newly-built approach and restoring the disturbed area to its original state.

MDT doesn't believe the State should have to concede access management requirements and sacrifice the safety of the travelling public in order to reduce the developer's cost. MDT would support the County if the County denied the variance request and imposed the approach relocation requirements stated above.

Respectfully,

Zach Kirkemo
MDT Billings District Traffic Engineer
(406) 657-0240
zkirkemo@mt.gov

From: Tim Miller <tmiller@yellowstonecountymt.gov>
Sent: Tuesday, August 23, 2022 9:16 AM
To: Kirkemo, Zach <zkirkemo@mt.gov>; Shawn M. Thorson <Shawn.M.Thorson@imegcorp.com>;
Pleckner, Monica <pleckerm@billingsmt.gov>; Green, Dave <green@billingsmt.gov>
Cc: Anna M. Vickers <anna.m.vickers@imegcorp.com>; Kolten L. Knatterud
<Kolten.L.Knatterud@imegcorp.com>
Subject: [EXTERNAL] RE: Shop World Condos Second Access Discussion

Zach

If the development were able to access both Stillwater and 80th that would be acceptable for two accesses being that traffic can exit on 80th by going either north or south. If 80th were a dead end then it would not be acceptable for a second access.

Hope this helps

Tim Miller
Yellowstone County Public Works Director / Floodplain Administrator

*Phone 406-256-2735
e-mail tmiller@yellowstonecountymt.gov
Po Box 35024
Billings Mt 59107*

My e-mail has changed to tmiller@yellowstonecountymt.gov

From: Kirkemo, Zach <zkirkemo@mt.gov>
Sent: Tuesday, August 23, 2022 7:50 AM
To: Shawn M. Thorson <Shawn.M.Thorson@imegcorp.com>; Plecker, Monica <pleckerm@billingsmt.gov>; Tim Miller <tmiller@yellowstonecountymt.gov>; Green, Dave <greend@billingsmt.gov>
Cc: Anna M. Vickers <anna.m.vickers@imegcorp.com>; Kolten L. Knatterud <Kolten.L.Knatterud@imegcorp.com>
Subject: RE: Shop World Condos Second Access Discussion

All,

I have a hypothetical question for City/County Planning to help ensure my understanding of the two access requirement. I wish I had thought to ask this yesterday.

Say this particular development was adjacent to 80th St W and Stillwater Dr. Would having one access to 80th St W and one access to Stillwater Dr satisfy Planning's requirements, or would the development still need one additional access point off King Ave W in this hypothetical?

Thanks,

Zach Kirkemo
MDT Billings District Traffic Engineer
(406) 657-0240
zkirkemo@mt.gov

From: Shawn M. Thorson <Shawn.M.Thorson@imegcorp.com>
Sent: Monday, August 22, 2022 11:55 AM
To: Kirkemo, Zach <zkirkemo@mt.gov>; Plecker, Monica <pleckerm@billingsmt.gov>; Tim Miller <tmiller@yellowstonecountymt.gov>; Green, Dave <greend@billingsmt.gov>
Cc: Anna M. Vickers <anna.m.vickers@imegcorp.com>; Kolten L. Knatterud <Kolten.L.Knatterud@imegcorp.com>
Subject: [EXTERNAL] Shop World Condos Second Access Discussion

All,

Thank you for your time today for a discussion regarding the second access to King for this project. Please use this email when providing correspondence to keep everyone in the loop.

Just a few notes regarding the discussion:

- MDT requested emergency access only due to the proximity of the approach to the east.
- The estimated trips per day are less than 50 due to the development being storage units.
- If this gets approved as a full access, the access will still be controlled by a coded gate.
- IMEG's response timeline is being granted some leniency due to this decision.

If you have any questions or comments, please let me know.

Thank you,

Shawn Thorson, P.E.

Civil Project Engineer

 [imegcorp.com]

IMEG Corp.

175 N 27th Street Suite 1312 Billings, MT 59101

(406) 414-7768 single reach

(307) 620-0130 mobile

Shawn.M.Thorson@imegcorp.com

This email may contain confidential and/or private information. If you received this email in error please delete and notify sender.

Attachment B

Staff Analysis and Recommendation

County Planning, County Public Works, County Legal staff and Laurel Fire Department have reviewed the request for a variance from Yellowstone County Subdivision Regulations Section 4.6.B.5 of the Yellowstone County Subdivision Regulations, which requires a variance request for an Emergency Access Road rather than a full access road.

The applicant is proposing to develop a subdivision that does not provide a second full access into or out of the subdivision. They are proposing to instead build an Emergency Access Road (EAR) for emergency use only. When an applicant proposes an EAR they are required by Yellowstone County Subdivision Regulations to apply for a variance. The applicant is also asking for a variance from the requirement of a second way in and out of the subdivision. It is the opinion of County Planning, Public Works and Legal that there is an option for a second full access in and out of the subdivision making this requested EAR unnecessary. They could build a second way in and out using an existing dedicated right of way Rosebud Drive that would make a connection to South 80th Street West. MDT has also determined there is a possibility of a full access to King Avenue West. This connection would require more work to get a road from the subdivision down to King Avenue West.

Staff has reviewed the proposed subdivision and the variance request for an EAR, and is forwarding a recommendation of denial.

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 granting of this variance would be detrimental to public health, safety, and general welfare or injurious to other adjoining properties. Granting this variance would create a subdivision with only one way in and out. Although there are subdivisions in the county that currently have this configuration it is a trend not worth continuing. An Emergency Access Road would only provide an access for the fire department having jurisdiction. It does not provide emergency access for those that may be inside the subdivision and need to get out in an emergency situation, they would still have only one way in and out. This scenario is detrimental to public health, safety and general welfare of those having storage units inside the subdivision.

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.

There are no surrounding physical conditions that would result in an undue hardship to the developer to build Rosebud Drive. There is a 60-foot dedicated access on the east of the proposed subdivision going out to South 80th Street West. An access road to King Avenue West does have some topographic challenges but could be built.

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

The variance 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.

Approval of this variance will not place this subdivision in nonconformance of adopted zoning regulations or the growth policy. This subdivision is outside of county zoning.

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

This is the alternative to having a full 2nd access for the subdivision. It will only provide access for the fire department having jurisdiction, it does not provide an emergency access for storage unit owners within the subdivision.

Therefore, staff and the Planning Board is recommending denial of the proposed variance to the Board of County Commissioners.

Variance Request #2– Secondary Access

4.6 Streets and Roads

4.6.B Streets and Roads, General

(5) Second Access: To facilitate traffic movement, the provision of emergency services, and the placement of utility easements, all major subdivisions and subsequent minor subdivisions shall provide at least two means of vehicular access built to the standards of this Chapter and designed to ensure public health and safety.

Exceptions to the requirement to provide at least two means of vehicular access may be made for major and subsequent minor subdivisions may only be granted through a variance to these regulations.

Provision of a second means of vehicular access may be required for any subdivision when deemed necessary for public health, safety and welfare.

When not otherwise exempt, if a second means of vehicular access built to County road standards cannot be provided for reasons of topography or other physical conditions, the subdivider shall provide an emergency secondary access road, built to the standards detailed in Section 4.14 of these Regulations.

Per MCA 76-3-506: Strict compliance with these regulations will cause undue hardship for the applicant:

A variance is being pursued to relieve the applicant from the requirement to have at least two means of vehicular access for the proposed major subdivision. In lieu of a second access the subdivision will provide a gated emergency access off of King Ave. W. This gated emergency access will have nox box for the fire department’s use. The gated emergency access will also be built to full subdivision road standards. However, this access point will remain gated due to Montana Department of Transportation (MDT) rules regarding access separation of 400’. This separation requirement along with the topography constraints of other access points is the basis of hardship for secondary access. The sole public access proposed off Stillwater Drive will provide safe, adequate access to the proposed commercial buildings for future users. Shop World Condos is anticipated to produce 43 trips per day. During correspondence with MDT the request for a different access and denial of access off of King was made. MDTs requested access point is not feasible due to slope, drainage, and a wetland being in this spot. Therefore, the applicant requests a variance from Yellowstone County Subdivision Regulations requiring two accesses for major subdivisions.

1. The granting of this variance does not result in a threat to public safety, health, or welfare, and is not injurious to persons or property.

There does not appear to be any concern regarding public safety, health, or welfare by granting this variance, nor would it be injurious to persons or property. This is not known to cause a threat to public safety, health, or welfare, nor is it injurious to persons or property. Safe, adequate, access to the proposed commercial units is best provided via the access off Stillwater Drive. The anticipated 43 trips per day also indicates no threat to public safety, health or 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 conditions upon which this variance is based are unique in that the proposed subdivision is served by two roads, Stillwater Drive to the north and King Ave. W to the south. The particular shape of the site and existing roads to the north and south dictate that only one approach be used as the Montana Department of Transportation (MDT) requires 400' separation between approaches. MDT has authorized the location of the second approach off King Ave. W. pending the access remain locked and be used for emergency access only. The unique site topography also mandates that Stillwater Drive be used as the sole, primary, access for the proposed subdivision as grading and drainage due to slopes and wetlands are located in the only other point that MDT would allow access onto King Ave. W.

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

This variance request will not result in an increase in taxpayer burden. There will not be an increase to public costs whatsoever by granting this variance.

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

The property is unzoned so the granting of this variance will not place the subdivision in nonconformance with any adopted zoning regulations.

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

The sole access off of Stillwater Drive is equally effective at providing ingress and egress options to future users of the subdivision as two access would be. This sole access is the preferred access due to the unique topographic conditions of the site. The estimated 43 daily trips align with the single access being proposed and do not contradict the intent of the subdivision regulations of Yellowstone County.

Anna M. Vickers

From: Kolten L. Knatterud
Sent: Wednesday, August 24, 2022 9:44 AM
To: Kirkemo, Zach; Tim Miller; Shawn M. Thorson; Plecker, Monica; Green, Dave
Cc: Anna M. Vickers
Subject: RE: Shop World Condos Second Access Discussion

Zach,

Thank you for the response and the information. I appreciate you reviewing the situation.

I do want to clarify however, even though our lot has the width to move the approach west in reality this is not possible as the western side of our lot has significant slope, a drainage, and a wetland so we are not able to locate our approach there. As such, our current proposed approach location is that only viable option to access King Avenue.

We will discuss internally and submit our final access proposal.



Thanks,

Kolten L Knatterud, PE
Project Executive



IMEG Corp.
175 N 27th Street | Suite 1312 | Billings, MT 59101

(406) 248-9000 phone
(406) 290-9664 single reach
(406) 544-1285 mobile
(406) 721-5224 fax
kolten.l.knatterud@imegcorp.com

[Learn more](#) about us and the IMEG story!

This email may contain confidential and/or private information. If you received this email in error please delete and notify sender.

From: Kirkemo, Zach <zkirkemo@mt.gov>
Sent: Wednesday, August 24, 2022 7:57 AM
To: Tim Miller <tmiller@yellowstonecountymt.gov>; Shawn M. Thorson <Shawn.M.Thorson@imegcorp.com>; Plecker, Monica <pleckerm@billingsmt.gov>; Green, Dave <greend@billingsmt.gov>
Cc: Anna M. Vickers <Anna.M.Vickers@imegcorp.com>; Kolten L. Knatterud <Kolten.L.Knatterud@imegcorp.com>
Subject: RE: Shop World Condos Second Access Discussion

External Email: Treat links and attachments with caution.

All,

I have spoken with MDT Billings District supervisory personnel as requested. Because there is no residential development planned with this subdivision and the Laurel Fire Department has agreed to the emergency gated access, MDT has chosen to maintain its original position of requiring an approach at this location be emergency-only access in an attempt to maintain some semblance of access control along the King Ave corridor. MDT has already made concessions to its requirements in allowing this location at all. If approved, this would like have been the access used by most customers which is not MDT's desire. MDT's desire is for developments with access to existing County roads to use County roads.

I wish to reiterate the County and landowner that MDT is not opposed to a full access approach on King Ave for this subdivision. The issue is the location of the current approach. A full access approach would only be allowed if the new approach were relocated to the west satisfying the 400' spacing requirement between all approaches for rural highways. This would locate the approach roughly at the midpoint between the driveways for 8043 King Ave W and 8243 King Ave W. If this realignment is ultimately done, MDT would require removal of the newly-built approach and restoring the disturbed area to its original state.

MDT doesn't believe the State should have to concede access management requirements and sacrifice the safety of the travelling public in order to reduce the developer's cost. MDT would support the County if the County denied the variance request and imposed the approach relocation requirements stated above.

Respectfully,

Zach Kirkemo
MDT Billings District Traffic Engineer
(406) 657-0240
zkirkemo@mt.gov

From: Tim Miller <tmiller@yellowstonecountymt.gov>
Sent: Tuesday, August 23, 2022 9:16 AM
To: Kirkemo, Zach <zkirkemo@mt.gov>; Shawn M. Thorson <Shawn.M.Thorson@imegcorp.com>; Plecker, Monica <pleckerm@billingsmt.gov>; Green, Dave <greend@billingsmt.gov>
Cc: Anna M. Vickers <anna.m.vickers@imegcorp.com>; Kolten L. Knatterud <Kolten.L.Knatterud@imegcorp.com>
Subject: [EXTERNAL] RE: Shop World Condos Second Access Discussion

Zach

If the development were able to access both Stillwater and 80th that would be acceptable for two accesses being that traffic can exit on 80th by going either north or south. If 80th were a dead end then it would not be acceptable for a second access.

Hope this helps

*Tim Miller
Yellowstone County Public Works Director / Floodplain Administrator
Phone 406-256-2735
e-mail tmiller@yellowstonecountymt.gov
Po Box 35024
Billings Mt 59107*

My e-mail has changed to tmiller@yellowstonecountymt.gov

From: Kirkemo, Zach <zkirkemo@mt.gov>
Sent: Tuesday, August 23, 2022 7:50 AM
To: Shawn M. Thorson <Shawn.M.Thorson@imegcorp.com>; Plecker, Monica <pleckerm@billingsmt.gov>; Tim Miller <tmiller@yellowstonecountymt.gov>; Green, Dave <greend@billingsmt.gov>
Cc: Anna M. Vickers <anna.m.vickers@imegcorp.com>; Kolten L. Knatterud <Kolten.L.Knatterud@imegcorp.com>
Subject: RE: Shop World Condos Second Access Discussion

All,

I have a hypothetical question for City/County Planning to help ensure my understanding of the two access requirement. I wish I had thought to ask this yesterday.

Say this particular development was adjacent to 80th St W and Stillwater Dr. Would having one access to 80th St W and one access to Stillwater Dr satisfy Planning's requirements, or would the development still need one additional access point off King Ave W in this hypothetical?

Thanks,

Zach Kirkemo
MDT Billings District Traffic Engineer
(406) 657-0240
zkirkemo@mt.gov

From: Shawn M. Thorson <Shawn.M.Thorson@imegcorp.com>
Sent: Monday, August 22, 2022 11:55 AM
To: Kirkemo, Zach <zkirkemo@mt.gov>; Plecker, Monica <pleckerm@billingsmt.gov>; Tim Miller <tmiller@yellowstonecountymt.gov>; Green, Dave <greend@billingsmt.gov>
Cc: Anna M. Vickers <anna.m.vickers@imegcorp.com>; Kolten L. Knatterud <Kolten.L.Knatterud@imegcorp.com>
Subject: [EXTERNAL] Shop World Condos Second Access Discussion

All,

Thank you for your time today for a discussion regarding the second access to King for this project. Please use this email when providing correspondence to keep everyone in the loop.

Just a few notes regarding the discussion:

- MDT requested emergency access only due to the proximity of the approach to the east.
- The estimated trips per day are less than 50 due to the development being storage units.
- If this gets approved as a full access, the access will still be controlled by a coded gate.
- IMEG's response timeline is being granted some leniency due to this decision.

If you have any questions or comments, please let me know.

Thank you,

Shawn Thorson, P.E.
Civil Project Engineer

 imegcorp.com

IMEG Corp.
175 N 27th Street Suite 1312 Billings, MT 59101

(406) 414-7768 | single reach
(307) 620-0130 | mobile

Shawn.M.Thorson@imegcorp.com

website imegcorp.com | vCard dynasend.com | map google.com | regional news imegcorp.com  twitter.com  facebook.com 

Learn more imegcorp.com about us and the IMEG story!

This email may contain confidential and/or private information. If you received this email in error please delete and notify sender.