

Yellowstone County



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August 3, 2021

Regal Land Development
PO Box 80445
Billings, MT 59101

To Whom It May Concern:

Please be advised the Board of County Commissioners of Yellowstone County, Montana, at their regularly scheduled Board meeting on Tuesday August 3, 2021, voted to conditionally approve RL Subdivision – Preliminary Minor Plat with the following conditions:

1. To ensure safe roads and access to the subdivision, prior to final plat approval, the applicant will provide an additional 15 feet of right of way for Colton Boulevard and work with County Public Works to determine access points and 1 foot no access strips along 54th and 58th Streets West. The no access strip shall be depicted on the final plat.
2. 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.
3. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the County Subdivision Regulations, rules, regulations, policies, and resolutions of the Yellowstone County, including laws regarding moving houses onto or off the property, and the laws and Administrative Rules of the State of Montana.

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The applicant may appeal to District Court a decision of the County Commissioners approving or rejecting a proposed subdivision plat upon application for a writ of certiorari. The application shall specify the grounds upon which it alleges the illegality of the action of the County Commission. If you have any questions, please contact Dave Green at (406) 247-8666, or stop by the City/County Planning Office located at 2825 3rd Avenue North, 4th Floor, Billings, MT 59102.

Sincerely,




A handwritten signature in cursive script that reads "Teri Reitz". The signature is written over a horizontal line.

Teri Reitz
Clerk to the Board of County Commissioners
Yellowstone County, Montana

BOARD of COUNTY COMMISSIONERS

has taken the following action:

Approved Denied Conditionally approved

 Chairman
 Member
 Member

Agenda Item 18.

B.O.C.C. Regular

Meeting Date: 08/03/2021

SUBJECT: RL Subdivision - Preliminary Minor Plat

THROUGH: Monica Plecker

FROM: Dave Green

TOPIC

RL Subdivision - Preliminary Minor Plat

INTRODUCTION

On July 1, 2021, the Planning Division received an application for RL Subdivision minor preliminary plat. The property is generally located between 54th Street West and 58th Street West, south of Rimrock Road. This subdivision would create 2 lots from an 87.315-acre parcel of land. The applicant is proposing to create two lots for future development. The land is within County Zoning Jurisdiction and is zoned N4 – Large Lot Suburban Neighborhood. Large part of the land is used for farming, the remaining portions are dryland grasses and trees.

RECOMMENDATION

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

VARIANCE REQUESTED

The subdivider has not requested any variances.

PROPOSED CONDITIONS OF APPROVAL

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

1. To ensure safe roads and access to the subdivision, prior to final plat approval, the applicant will provide and additional 15 feet of right of way for Colton Boulevard and work with County Public Works to determine access points and 1 foot no access strips along 54th and 58th Streets West.
2. 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.
3. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the County Subdivision Regulations, rules, regulations, policies, and resolutions of the Yellowstone County, including laws regarding moving houses onto or off the property, and the laws and Administrative Rules of the State of Montana.

PROCEDURAL HISTORY

- Pre-application meeting June 3, 2021
- Preliminary plat application submitted to Planning Division July 1, 2021
- Preliminary plat to Yellowstone County Board of County Commissioners August 3, 2021
- 35 working-day preliminary plat review period ends August 19, 2021.

PLAT INFORMATION

General location: Between 54th Street West and 58th Street West, south of Rimrock Road
Legal Description: Yellowstone Meadows Phase 3, Block 7, Amended Planting area, Amended Block 7 & Tract 2, COS 3618
Owner/Subdivider: Regal Land Development Inc.
Surveyor/Engineer: Site Pro LLC and Performance Engineering
Existing Zoning: N4
Proposed Zoning: N4
Existing Land Use: Farming / dryland grasses and trees
Proposed Land Use: Farming / dryland grasses and trees
Gross area: 87.315 acres
Net area: 87.315 acres
Proposed number of lots: 2
Max.: 55.67 acres
Min.: 31.65 acres
Parkland requirements: There is no required parkland dedication as this is a minor subdivision.

PLANNING BOARD PUBLIC HEARING DISCUSSION

A public hearing is not required for minor subdivisions, however nearby property owners may attend the Board of County Commissioners meeting to provide public comment. The Planning Division has received no public comments or questions regarding the proposed subdivision at the time of the writing of this staff report.

YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS FINDINGS OF FACT

See Attachment Findings of Fact

CONCLUSIONS OF FINDINGS OF FACT

See Attachment Findings of Fact

RECOMMENDATION

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

Attachments

Findings of Fact

Proposed Preliminary Plat

SIA / Waiver

FINDINGS OF FACT

The City-County Planning Division Staff has prepared the Findings of Fact for RL 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 partially used for agricultural purposes. The Hi-Line Canal does run through a part of proposed Lot 2 of this subdivision. There are no water rights or shares for water from the Hi-Line Canal. This proposed subdivision will have minimal impact on water users' facilities. There are no plans for this subdivision to develop as two large lots. They will be subdivided in the future into smaller parcels for development. The effect on agriculture and agricultural water users' facilities will be minimal if any at all.

2. Effect on local services

a. **Water and Septic** – This subdivision will not be developed as two single lots of 55 and 31-acre parcels. There will be no water or septic systems developed with this subdivision. Both lots are over the 20-acre size for review. In the future when the lots are further subdivided for development, they will be required to have a review of any proposed water and septic systems.

b. **Streets and roads** – There will be no roads built around or within this proposed subdivision. Access to the proposed lots is from 54th Street West and 58th Street West. They will need to provide an additional 15 feet of right of way for Colton Boulevard. County Public Works has also requested a 1 foot no access strip to be shown on the along the 54th and 58th with an access point shown along the roads to the lots. **(Condition #1)**

c. **Fire and Police services** – The property is within the Billings Urban Service Area (BUFSA). Subdivision regulations do not require the developer to install any fire suppression systems with only two lots being proposed.

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

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

e. **Storm water drainage** – Storm water drainage shall remain as historically has been taking place on the property. There will be no changes to stormwater drainage on the land

at this time.

f. **School facilities** – The proposed subdivision is located within School Districts #2. Development on the lots is not proposed at this time, there will be no effect on School District #2.

g. **Parks and recreation** – This proposed subdivision is not required to provide parkland. Yellowstone County Subdivision Regulations Section 10.8 A. A Minor Subdivision is not required to provide parkland.

h. **Postal Service** – There is no proposed development on these two lots. No postal service will be required at this time.

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

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

3. Effects on the natural environment

The development will use noxious weed control measures to prevent the spread of noxious weeds to adjacent developed or agricultural land. 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 #2**)

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 not be reviewed at this time, there is no proposal to develop the lots at this size. Both lots are over 20 acres and do not require review.

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

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

An environmental assessment was not required for this subdivision pursuant Section 9.2 C. 1. of the County Subdivision Regulations.

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

1. Yellowstone County - 2008 Growth Policy

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

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

The subdivision is consistent with the type of development in the surrounding area, large lots.

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

This land is currently farmland and dryland grasses. It will remain that way with this proposed subdivision, although residential development is happening around this land.

- 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 the study area of the Transportation Plan. As proposed, there is only one local street associated with this subdivision.

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

54th Street West is identified as a proposed short-range bike lane. There is also a potential future alignment along the High Ditch. This subdivision will not be required to build any trail as part of the development.

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

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

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

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

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

The proposed subdivision is within County Zoning Jurisdiction. No development is proposed on the two parcels. Any development will be required to meet current zoning code adopted by the County.

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

Private utilities are not to be installed at this time. Should the private utility companies require easements the applicant will be required to coordinate the easements needed with the private utility companies.

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

Legal and physical access will be provided for the new proposed lots from 54th Street West and 58th Street West.

CONCLUSIONS OF FINDINGS OF FACT

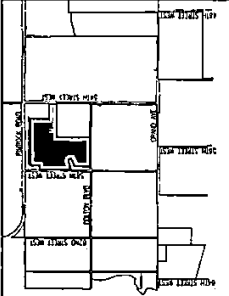
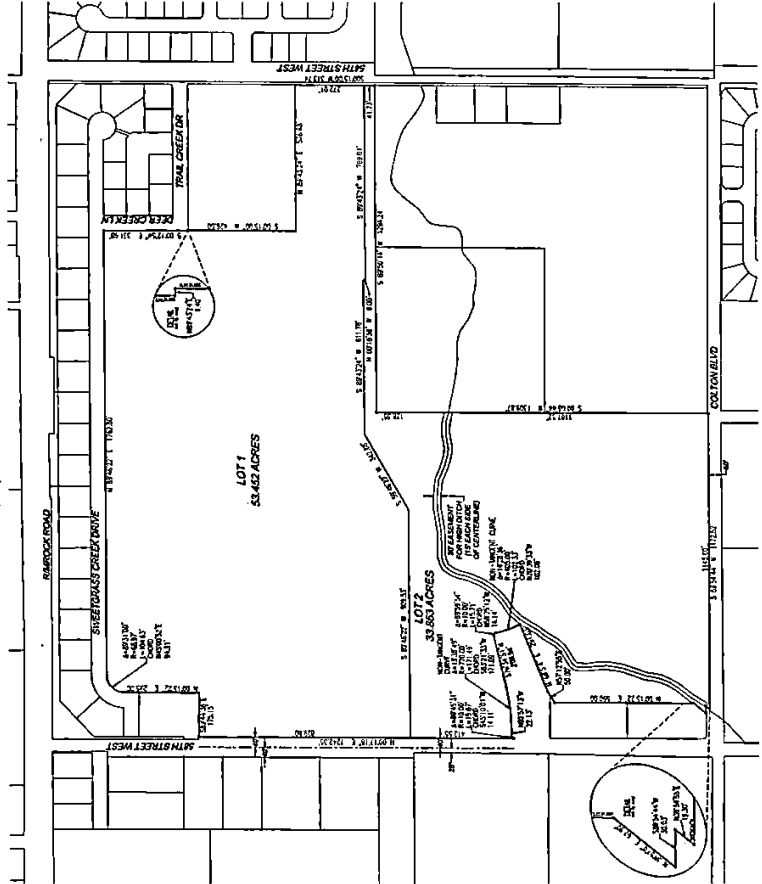
- This subdivision does not create adverse impacts that warrant denial of the subdivision.
- Impacts to agriculture, agriculture water user facilities, local services, public health and safety, the natural environment, and wildlife should be minimal, and can be mitigated by reasonable conditions of final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

RECOMMENDATION

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

R.L. SUBDIVISION
 A Resubdivision of Yellowstone Meadows Phase Three, Block 7 Planting Area
 Located in the NE 1/4 of Section 31, T1N, R25E, P1M,
 Yellowstone County, Montana

DATE: MAY 2021
 PREPARED FOR: RECAL LAND DEVELOPMENT, INC.
 PREPARED BY: IN SITE ENGINEERING, P.C. &
 PERFORMANCE ENGINEERING, LLC



VICINITY MAP
 NOT TO SCALE

CERTIFICATE OF COUNTY COMMISSIONER APPROVAL

STATE OF MONTANA
 County of Yellowstone 1 24

The hereby certify that the above described land is being subdivided in accordance with the provisions of the Yellowstone County Board of Planning & Zoning Ordinance, and that the subdivision is in compliance with the provisions of the Yellowstone County Board of Planning & Zoning Ordinance.

By: _____
 County Commissioner

BOARD OF COUNTY COMMISSIONERS
 Yellowstone County, Montana

Approved: _____
 By: _____
 Chairman

LANDOWNER'S STATEMENT

I, the undersigned property owner, do hereby certify that the above described land is being subdivided in accordance with the provisions of the Yellowstone County Board of Planning & Zoning Ordinance, and that the subdivision is in compliance with the provisions of the Yellowstone County Board of Planning & Zoning Ordinance. I have read the above described plat and the information contained therein, and I hereby certify that the information is true and correct. I have also read the provisions of the Yellowstone County Board of Planning & Zoning Ordinance, and I hereby certify that the subdivision is in compliance with the provisions of the Yellowstone County Board of Planning & Zoning Ordinance.

By: _____
 Property Owner

CERTIFICATE OF COUNTY ATTORNEY

STATE OF MONTANA
 County of Yellowstone

I have examined the above described plat and the information contained therein, and I hereby certify that the information is true and correct. I have also read the provisions of the Yellowstone County Board of Planning & Zoning Ordinance, and I hereby certify that the subdivision is in compliance with the provisions of the Yellowstone County Board of Planning & Zoning Ordinance.

By: _____
 County Attorney

CERTIFICATE OF COUNTY TREASURER

STATE OF MONTANA
 County of Yellowstone

I have examined the above described plat and the information contained therein, and I hereby certify that the information is true and correct. I have also read the provisions of the Yellowstone County Board of Planning & Zoning Ordinance, and I hereby certify that the subdivision is in compliance with the provisions of the Yellowstone County Board of Planning & Zoning Ordinance.

By: _____
 County Treasurer

CERTIFICATE OF CITY ENGINEER

STATE OF MONTANA
 County of Yellowstone

I have examined the above described plat and the information contained therein, and I hereby certify that the information is true and correct. I have also read the provisions of the Yellowstone County Board of Planning & Zoning Ordinance, and I hereby certify that the subdivision is in compliance with the provisions of the Yellowstone County Board of Planning & Zoning Ordinance.

By: _____
 City Engineer

CONSENT TO PLATING

I, the undersigned, do hereby consent to the above described plat being filed for recording in the public records of Yellowstone County, Montana.

By: _____
 Property Owner

CERTIFICATE OF CITY ENGINEER

STATE OF MONTANA
 County of Yellowstone

I have examined the above described plat and the information contained therein, and I hereby certify that the information is true and correct. I have also read the provisions of the Yellowstone County Board of Planning & Zoning Ordinance, and I hereby certify that the subdivision is in compliance with the provisions of the Yellowstone County Board of Planning & Zoning Ordinance.

By: _____
 City Engineer

CONSENT TO PLATING

I, the undersigned, do hereby consent to the above described plat being filed for recording in the public records of Yellowstone County, Montana.

By: _____
 Property Owner

CERTIFICATE OF CITY ENGINEER

STATE OF MONTANA
 County of Yellowstone

I have examined the above described plat and the information contained therein, and I hereby certify that the information is true and correct. I have also read the provisions of the Yellowstone County Board of Planning & Zoning Ordinance, and I hereby certify that the subdivision is in compliance with the provisions of the Yellowstone County Board of Planning & Zoning Ordinance.

By: _____
 City Engineer

SUBDIVISION IMPROVEMENTS AGREEMENT
R.L. Subdivision
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SUBDIVISION IMPROVEMENTS AGREEMENT

R.L. Subdivision

This agreement is made and entered into this ____ day of _____, 20__, by and between *Regal Land Development, Inc.*, whose address for the purpose of this agreement is P.O. Box 80445, Billings, MT 59108, hereinafter referred to as "Subdivider," and YELLOWSTONE COUNTY, Montana, hereinafter referred to as "County."

WITNESSETH:

WHEREAS, the plat of *R.L. Subdivision*, located in Yellowstone County, Montana, was submitted to the Yellowstone County Board of Planning;

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. No variances requested

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. Culverts and associated drainage swales shall not be filled in or altered by the subdivider or subsequent lot owners.
- F. 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.
- G. 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 improvements for a period of one (1) year from the date of final acceptance by Yellowstone County.

A. Streets

- No street right-of-way is dedicated with this minor plat.

B. Traffic Control Devices

- No traffic control devices are required for this minor plat.

C. Access

- Lot 1 has legal and physical access on Sweetgrass Creek Drive
- Lot 2 has legal and physical access on 58th Street West

D. Billings Area Bikeway and Trail Master Plan

This subdivision is within the area of the Billings Area Bikeway and Trail Master Plan with existing trail along 54th Street West. No improvements are required at this time.

IV. EMERGENCY SERVICE

- This subdivision is within the Billings Urban Fire Service Area (BUFSA). No fire suppression systems are required with this proposed subdivision.

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.

- This plat is exempt from the requirement to create a storm water management plan because lots are greater than 20 acres.

VI. UTILITIES

A. Water

In accordance with Section 4.9 Yellowstone County Subdivision Regulations, all proposed water systems must obtain approval by the MDEQ, or its designee.

- This subdivision is exempt from sanitary review because the lot sizes are greater than 20 acres.

B. Septic System

In accordance with Section 4.8 Yellowstone County Subdivision Regulations, all proposed sanitary sewer systems must obtain approval by the MDEQ, or its designee.

- This subdivision is exempt from sanitary review because the lot sizes are greater than 20 acres.

C. Power, Telephone, Gas, and Cable Television

This section is not applicable with this subdivision.

VII. PARKS/OPEN SPACE

There is no parkland requirement for proposed R.L. Subdivision, as this is a minor subdivision [MCA 76-3-621(3)(e)].

VIII. IRRIGATION

- The Hi-Line Canal traverses Lot 2 of this Subdivision.
- The Hi-Line Canal has a 30' wide easement, 15' on each side of the center line of the ditch.

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

- No geotechnical study was performed for this subdivision.

XI. PHASING OF IMPROVEMENTS

- This section is not applicable to this subdivision.

XII. 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)

- This section is not applicable to this subdivision.

XIII. 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.
- 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.
- G.** Subdivider agrees to create any required (or expansion of existing) RSID(s) for future maintenance of all public (or common) constructed improvements prior to final plat approval.

