



YELLOWSTONE COUNTY BOARD OF PLANNING

CITY OF BILLINGS AND
YELLOWSTONE COUNTY, MONTANA



AGENDA

AUGUST 22, 2023 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. **APPROVAL OF MINUTES: AUGUST 8, 2023**
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 BOCC. Gresham Subdivision - Preliminary County Major Plan.** Greg Reid, WWC Eng, agent for Heath Olson, applicant. Hunter Kelly, Planner.
Staff proposes the Planning Board recommend to the Board of County Commissioners conditional approval for the preliminary plat of Gresham Subdivision, and adoption of the Findings of Fact as presented in the staff report.
2. **Public Hearing/Motion Recommendation to BOCC. Onyx Subdivision - Preliminary County Major Plan.** Forrest Mandeville, Land Dev. Solutions, agent for Myron and Nancy Gross, applicants. Dave Green, Planner.
Staff recommends the Planning Board forward to the Board of County Commissioners a recommendation to conditionally approve the preliminary plat of Onyx Pointe Subdivision and adopt the Findings of Fact as presented in the staff report.
8. **NEW BUSINESS:** (Agenda items new to this meeting).
9. **OTHER BUSINESS:**
 - a. (Standing Item) Long Range Strategic Issues and an overview of future City and County issues and projects.
10. **ADJOURNMENT**

FUTURE AGENDA ITEMS FOR TUESDAY, SEPTEMBER 12, 2023

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: 08/22/2023

Information

Subject

APPROVAL OF MINUTES: AUGUST 8, 2023

Attachments

Minutes of 8/8/2023

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	01/10/2023	01/24/2023	02/14/2023	02/28/2023	03/14/2023	03/28/2023	04/11/2023	04/25/2023	05/09/2023	05/23/2023	06/13/2023	06/27/2023	07/11/2023	07/25/2023	08/08/2023	08/22/2023	09/12/2023	09/26/2023	10/10/2023	10/24/2023	11/14/2023	11/28/2023	12/12/2023
Jim Ronquillo	Mayor/Billings Ward I	1	1	1	1	1	1	E	1	1	1	1	A	1	1	1								
Roger Gravgaard	Mayor/Billings Ward II	1	1	1	1	1	1	1	1	1	1	V	1	V	V	1								
Dennie Stephenson	Mayor/Billings Ward III	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1								
John Staley	Mayor/Billings Ward IV	1	1	1	1	1	1	1	1	1	E	V	V	1	1	1								
David Nordel	Mayor/Billings Ward V	1	E	E	1	1	1	1	1	1	1	1	1	1	1	1								
Troy Boucher	YC District 1	A	A	A	A	A	1	A	1	1	E	A	A	A	A	A								
Dennis Cook	YC District 2	1	1	1	1	1	1	1	1	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	1	1	1	1	1	1	1	1	1	1								
Vacant	YC District 6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-								
Morgan Tuss	YC District 7	-	-	-	-	-	-	-	-	-	-	V	1	E	A	1								
Vacant	Y County Cons. District	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-								

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2. Approval of Agenda – Board member Ronquillo made a motion and it was seconded by Board member Dennie Stephens to approve the agenda as submitted. The motion carried with a unanimous voice vote.

3. Approval of Minutes: July 25, 2023

Motion by Board member John Staley and seconded by Board member Jim Ronquillo to approve the July 25, 2023 meeting minutes as submitted. The motion carried with a unanimous voice vote.

4. Public Comment: President Dennis Cook asked if there was anyone wishing to speak during the public comment portion of the meeting. He stated any member of the public might be heard on any subject that is not on the agenda; the Planning Board will not take any action on these items at this time but could choose to add an item to the next meeting agenda for discussion. There were no questions from the public.

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

7a. Motion/Recommendation to City and County Governing Bodies and PCC. Billings Urban Area Unified Planning Work Program, (UPWP), 2024-Highway and Transit DRAFT. Scott Walker, Transportation Coordinator, Rusty Logan, Transit Manager, presenting.

RECOMMENDATION

Staff recommends the Planning Board complete its review of the Draft 2024 UPWP and take action at this meeting. The Board reviewed the UPWP and conducted a public hearing at its meeting on August 8th and is scheduled to take action on the 2024 UPWP at this meeting and instruct PCC Designee President Cook to give a positive recommendation to PCC for final local approval.

BACKGROUND

The City-County Planning Division is presenting the 2024 Unified Planning Work Program (UPWP) for the Billings Metropolitan Planning Organization (MPO) for Planning Board review and recommendation to the Billings Policy Coordinating Committee (PCC). At this meeting, the Board is scheduled to review the document and take action on the UPWP. At the July 25th Planning Board meeting, the Board reviewed the UPWP and conducted a public hearing. The Board is scheduled to forward a recommendation to the PCC at this meeting.

The UPWP is primarily for the purpose of programming the federal dollars that Billings receives from the Federal Highway Administration (FHWA) for transportation planning and the Federal Transit Administration (FTA) for transit (MET) planning. These funds are passed through the

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Montana Department of Transportation (MDT). All transportation planning activities are included in the UPWP so that it represents a comprehensive document for the urban transportation planning program. This UPWP proposes planning activities for Federal Fiscal Year 2024 which runs from October 1, 2023, through September 30, 2024. This UPWP corresponds directly with the Planning Division's annual work plan. The significant changes in this year's program include completion of the 2024 Bike and Pedestrian Plan, the 21st Street Underpass Feasibility Study, and comprehensive transportation specific analysis and updates to two neighborhood plans - the West Billings Plan and the Heights Neighborhood Plan. The Transit section is Chapter II of the UPWP. The document is consistent with past programs in its content and format.

DISCUSSION

Scott stated the County Commissioners would like to remove the reference to ‘Complete Streets’. The City has a Complete Streets policy, the County does not. The Federal Government requires 2.5% of PL funds must be set aside for Complete Streets planning.

Commissioner Ostlund made it clear they would like all reference to Complete Streets taken out of this document.

Scott identified the County does not want to participate in this and in the past, this has sufficed. We are asking for your recommendation to PCC.

Wyeth Friday, Director Planning & Community Services, said we’ve talked about obtaining more information from Federal Highways and MDT, in terms of language for the Federal Government.

Scott Walker said he thought it could be resolved with some minor changes to the language.

Board member Staley asked how the changes being requested by the County Commissioners, effects the document.

Scott said the County Commissioners approved the document without the Complete Streets language. There are two Work Program elements where it’s reflected, Zoning and Transportation System.

Board member Woods asked if Yellowstone County receives any of the 2.5% funding.

Scott affirmed, stating indirectly.

Board member Woods asked if adding wording, “within the City of Billings” would be acceptable.

Scott indicated it would not.

Wyeth Friday understood the concern and commented it is being looked into with the Federal Highways and MDT to see what might be done. The issue is that this Work Program is for the urban area and the urban area isn’t just the City. That is part of what needs to be explored, whether it can be parsed or not. In the past, we have spent more funds in the urban City area.

Board member Woods is concerned about the removal of the Complete Streets language and the potential loss of funds.

Scott Walker said he knows that as a MPO, this is for both the City and County, and it was not set up to be divided. The County Commissioners is one branch of our government and they do not want Complete Streets language. It is creating a situation that will need to be delved in further. At this time, the document may be voted on and moved forward to PCC for discussion and a vote.

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8. NEW BUSINESS:

8a. Plat Review. Board Discussion. Gresham Subdivision – Heath Olson, Applicant. Aaron Redland, WWC Eng, Agent. Greg Reid, WWC Eng, Agent. Hunter Kelly, Planner presenting.

INTRODUCTION

On July 3, 2023, WWC Engineering, agent for Heath Olson, applied for preliminary major plat approval of Gresham Subdivision. The subject property is generally located north of Hesper Road and east of South 64th Street West. This parcel of land is outside of zoning. There is residential development to the north and south, farmland to the east of the subject property and to the west, farmland, and Elder Grove Middle School.

RECOMMENDATION

Staff proposes the Planning Board recommend to the Board of County Commissioners conditional approval for the preliminary plat of Gresham Subdivision, and adoption of the Findings of Fact as presented in the staff report.

VARIANCES REQUESTED

No variance has been requested from the County Subdivision Regulations.

PROPOSED CONDITIONS OF APPROVAL

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

1. To protect public health and safety, prior to final plat approval, the applicant will receive approval from the MDEQ for the proposed water systems, septic systems, and the proposed storm water management.
2. To protect public health and safety and provide for future road maintenance, prior to final plat approval, the applicant will create an RSID for the new public roads within the subdivision.
3. To protect public health and safety and the impact to local services, prior to final plat approval, the applicant may be required by Public Works to include mitigation measures based on the approved Traffic Impact Study. Required mitigation measures shall be adequately addressed in the Subdivision Improvement Agreement.
4. To protect public health and safety with proper fire suppression, prior to final plat approval, the applicant will expand the existing RSID #810M created to maintain the 30,000-gallon dry hydrant system in Hesper Meadows Subdivision. This information is outlined in the SIA under the heading IV Emergency Service.
5. To provide for the correct cash-in-lieu contribution for parkland, prior to final plat approval, the applicant will follow Section 10.6 Determining Cash Contributions for Parkland, for the correct amount to be paid to Yellowstone County parks department. The applicant will also create and RSID for parkland maintenance of any public parkland.
6. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.

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7. To minimize effects on the natural environment, prior to final plat approval a weed management plan and property inspection shall be completed by the County Weed Department.
8. 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.
9. The final plat shall comply with all requirements of the Yellowstone County Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

DISCUSSION

President Cook asked the Board Members for questions and discussion.

Hunter Kelly clarified that the current Traffic Impact Study is actively being reviewed by the Public Works Department.

Board member Woods asked what entity will provide maintenance for the 10' paved access to the trail. Hunter Kelly said the Parks department will maintain it.

Board member Nordel asked when the Traffic Impact Study will be complete. Hunter advised they have an initial response from the engineers; however, an exact timeline is not known. Board member Nordel said it was imperative for them to have the information to vote.

Board member Staley asked where the dry hydrant will be located. Hunter advised the neighboring subdivision.

APPLICANT PRESENTATION

Greg Reid, WWC Engineering / Aaron Redland, WWC Engineering.

Greg Reid, representing the applicant, pointed out the trail across the southern edge, which the requirements was to build a trail and put a RSID in place to maintain it, so that it was not Parks responsibility. Pertaining to the trail, it is gaffed by one lot to get to the school. There's one remaining lot that would be there. It is anticipated that the trail would eventually end up crossing the remaining lot. Greg responded to question on the fire suppression. The dry hydrant is located south, across street at Hesper Road and is less than a half mile. DQ application has been put in for water sanitation and is in process. The one large lot owner has also made DQ application for water sanitation.

Board member Woods asked if there are any large public parks to the east or west for children and families. Greg indicated there is the school to the west.

Board President Cook asked if the Traffic Impact Study might be completed in the next couple weeks. Greg stated the comments were straightforward and would be addressed timely.

Planning Board President Cook asked if there were any additional questions. There were no questions.

A public hearing will be held for Gresham - Heath Olson Subdivision August 22, 2023

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8b. Plat Review. Board Discussion. Onyx Pointe Subdivision - Myron and Nancy Gross, Applicants. Forest Mandeville, Agent. Dave Green, Planner presenting.

INTRODUCTION

On July 3, 2023, Land Development Solutions, LLC, agent for Myron and Nancy Gross, applied for preliminary major plat approval of Onyx Pointe Subdivision. The subject property is generally located west of South 64th Street West and south of Hesper Road. This parcel of land is outside of zoning. It is surrounded by residential uses and farmland.

RECOMMENDATION

Staff recommends the Planning Board forward to the Board of County Commissioners a recommendation to conditionally approve the preliminary plat of Onyx Pointe Subdivision and adopt the Findings of Fact as presented in the staff report.

VARIANCES REQUESTED

The applicant is not requesting a variance.

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 maintenance of the proposed community septic system for some of the lots within this subdivision, prior to final plat approval, the applicant will create RSID's for the maintenance of the community septic systems and define which lots are part of which RSID.
2. To protect public health and safety, prior to final plat approval, the applicant will receive approval from the MDEQ for the proposed water systems, septic systems, and the proposed storm water management.
3. To protect public health and safety and provide for future road maintenance, prior to final plat approval, the applicant will create an RSID for the maintenance of the new public roads within the subdivision.
4. To protect public health and safety, prior to final plat approval, any information in the TIS that needs to be included in the SIA will be added to the final SIA for the subdivision. Any recommendations County Public Works and the Board of County Commissioners determine need to be built will also be included in the final SIA.
5. To protect public health and safety with proper fire suppression, prior to final plat approval, the applicant will submit construction drawings of the dry hydrant system to Billings Fire Department for review and approval. Once installed the applicant will request Billings Fire Department to test the system to ensure it works correctly and get a sign off from Billings Fire Department. The applicant will also create an RSID for the dry hydrant system maintenance and create a public easement for where the fire tank is located.
6. To provide for the correct cash-in-lieu contribution for parkland, prior to final plat approval, the applicant will follow Section 10.6 Determining Cash Contributions for Parkland, for the correct amount to be paid to Yellowstone County parks department. The applicant will also create and RSID-M for parkland maintenance of any public parkland.

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7. 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.
8. 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.
9. 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.
10. The final plat shall comply with all requirements of the Yellowstone County Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

DISCUSSION

President Cook asked the Board Members for questions and discussion.

Board member Staley commented there appears to be a cash provision in lieu of building a park in the subdivisions. They deserve parks for the kids and families, and there doesn't appear to be parks nearby.

Board member Woods asked if the two parks shown on each side of the subdivision are no longer parks, and if they are going to be retention ponds. Dave Green, said it is still undetermined as to the stormwater, but the agent indicated the majority would be held by the retention pond.

Planning Board President asked if there were any questions. There were no questions.

APPLICANT

Forest Mandeville, Land Development Solutions.

Kate Stout, Red Lodge Surveying.

A public hearing will be held for Onyx Pointe Subdivision August 22, 2023.

9. OTHER BUSINESS:

9a. Long Range Strategic Issues and an overview of future City and County issues and projects.

Wyeth Friday, Planning & Community Services Director gave a brief overview. State Community Block grants and funds were received to help match local funds to update neighborhood plans. Initial neighborhoods slated to receive funds are the Westend and Heights. The West Billings plan application went through the County for CBD funding, so the County will be managing the grant. The applicants will also be the manager for those funds. A FRP has been developed for the West Billings plan that has gone through City review and County review, and that will get posted in the next day or two. We will solicit responses until September 1, 2023. City and County are looking at future annexation areas. The County is looking at making permanent, some interim marijuana regulations that have been in place for the last year. They will do a study & analysis, and put something in place permanently for the zoned area of the County. We are finalizing the schedule for getting it to the Commissioners as we go into September and October.

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President Cook asked for clarification on the City’s annexation policy.

Wyeth said we have some proposed amendments to the annexation map, which is reviewed every year. It is driven by what the City is planning and its capital recruitment program, and also if we have requests from property owners within or on the edge of the annexation area to have a map change to include properties within that area. We are going back to City Council with recommendations to map amendments that were private property request driven. There are already several areas for potential petition for annexation.

Planning President Cook asked about a Rate Study and if there is one in the works.

Wyeth said we are doing a Cost-of-Service Study currently in the beginning stages with a consultant to look at the cost of delivering City services to all areas, including fire, police, public safety, and other programs to existing City areas.

Planning President Cook asked for information regarding the new property tax assessment and the impact on the City.

Wyeth said the City is just now compiling information regarding the impact.

ADJOURNMENT 7:00PM

DRAFT—TO BE APPROVED BY A MOTION August 22, 2023

Brenda Berns, Planning Clerk

Planning Board

Date: 08/22/2023
Title: Gresham Subdivision - County Major Preliminary Plat Public Hearing
Presented by: Hunter Kelly, Planner 1
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Staff proposes the Planning Board recommend to the Board of County Commissioners conditional approval for the preliminary plat of Gresham Subdivision, and adoption of the Findings of Fact as presented in the staff report.

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

On July 3, 2023, WWC Engineering, agent for Heath Olson, applied for preliminary major plat approval of Gresham Subdivision. The subject property is generally located north of Hesper Road and east of South 64th Street West. This parcel of land is outside of zoning. There is residential development to the north and south, farmland to the east of the subject property and to the west, farmland and Elder Grove Middle School.

VARIANCES REQUESTED

No variance has been requested from the County Subdivision Regulations.

PROPOSED CONDITIONS OF APPROVAL

1. 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:
2. To protect public health and safety, prior to final plat approval, the applicant will receive approval from the MDEQ for the proposed water systems, septic systems and the proposed storm water management.
3. To protect public health and safety and provide for future road maintenance, prior to final plat approval, the applicant will create an RSID for the new public roads within the subdivision.
4. To protect public health and safety and the impact to local services, prior to final plat approval, the applicant may be required by Public Works to include mitigation measures based on the approved Traffic Impact Study. Required mitigation measures shall be adequately addressed in the Subdivision Improvement Agreement.
5. To protect public health and safety with proper fire suppression, prior to final plat approval, the applicant will expand the existing RSID #810M created to maintain the 30,000-gallon dry hydrant system in Hesper Meadows Subdivision. This information is outlined in the SIA under the heading IV. Emergency Service.
6. To provide for the correct cash-in-lieu contribution for parkland, prior to final plat approval, the applicant will follow Section 10.6 Determining Cash Contributions for Parkland, for the correct amount to be paid to Yellowstone County parks department. The applicant will also create and RSID for parkland maintenance of any public parkland.
7. 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.
8. 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.
9. 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.
10. The final plat shall comply with all requirements of the Yellowstone County Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

PROCEDURAL HISTORY

Pre-application meeting January 19, 2023
Preliminary plat application submitted to Planning Division on July 3, 2023
Departmental review meeting July 13, 2023
Preliminary plat resubmittal July 20, 2023
Planning Board plat review August 8, 2023
Planning Board public hearing August 22, 2023
Preliminary plat to Board of County Commissioners, September 19, 2023
60 working-day preliminary plat review period ends September 27, 2023

PLAT INFORMATION

General location: North of Hesper Road and east of South 64th Street West

Legal Description: Lot 2, Miller Farm Subdivision

Owner/Subdivider: Heath Olson

Engineer and Surveyor: WWC Engineering

Existing Zoning: Outside zoning

Existing land use: Farmland

Proposed land use: Residential

Gross and Net area: 39.166 acres 31.86 acres

Proposed number of lots: 40

Lot size: Max: 1.50 acres

Min.: 0.246 acres

Parkland requirements: 2.18 acres required / 0.80 acres provided, maintained by an RSID. The remaining 1.38 acres of required parkland dedication will be covered by a cash-in-lieu contribution.

STAKEHOLDERS

There are no stakeholder responses at this time. Stakeholder input will be received at a public hearing scheduled for this subdivision on August 22, 2023.

Planning Board plat review meeting August 8, 2023.

Staff gave a brief presentation about the proposed subdivision to the planning board. Planning Board President Dennis Cook asked if there were any questions for staff about the proposed subdivision. Board Member Woods inquired on who will be maintaining the 10-foot paved trail along the southern edge of the subdivision. Staff responded it will be maintained privately through the Parkland RSID. Board Member Woods following up asking if said trail connected to any other developments, which staff responded in the negative. Board Member Nordel asked if the Traffic study review by Public Works will be complete by the time of the Planning Board Public Hearing. Staff responding by saying he did not specifically know when it would be ready, but had assurances from the County Public Works it would be ready prior to August 22. Board member Staley asked where the closest dry hydrant will be located. Staff affirmed the Subdivision will be connected to the Dry Hydrant RSID in Hesper Meadows Subdivision, as stipulated in Condition #4. Director Wyeth Friday then prompted the applicants' engineer, Greg Reid of WWC Engineering to provide any comments. Greg began to speak on various details of the proposal, including connectivity of the proposed trail, fire protection coverage, and MDEQ approvals. Board member Woods asked Greg if there were any larger parks in the immediate vicinity, to which Greg responded by stating Elder Grove School was west of the subdivision. Board president Cook asked about the status of the Traffic Study with Greg Reid. Greg went on to explain the process for the review of the study, and believed it would be ready prior to the Planning Board Public Hearing. Director Friday asked Greg what the frontage distance between the Elder Grove School and the buffer lot between it and subdivision. Greg responded by saying he did not know.

There were no other questions or comments from the board.

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 September 27, 2023. 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:

- Approve;
- Conditionally Approve; or
- Deny the Preliminary Plan

FISCAL EFFECTS

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

Attachments

Preliminary Plat

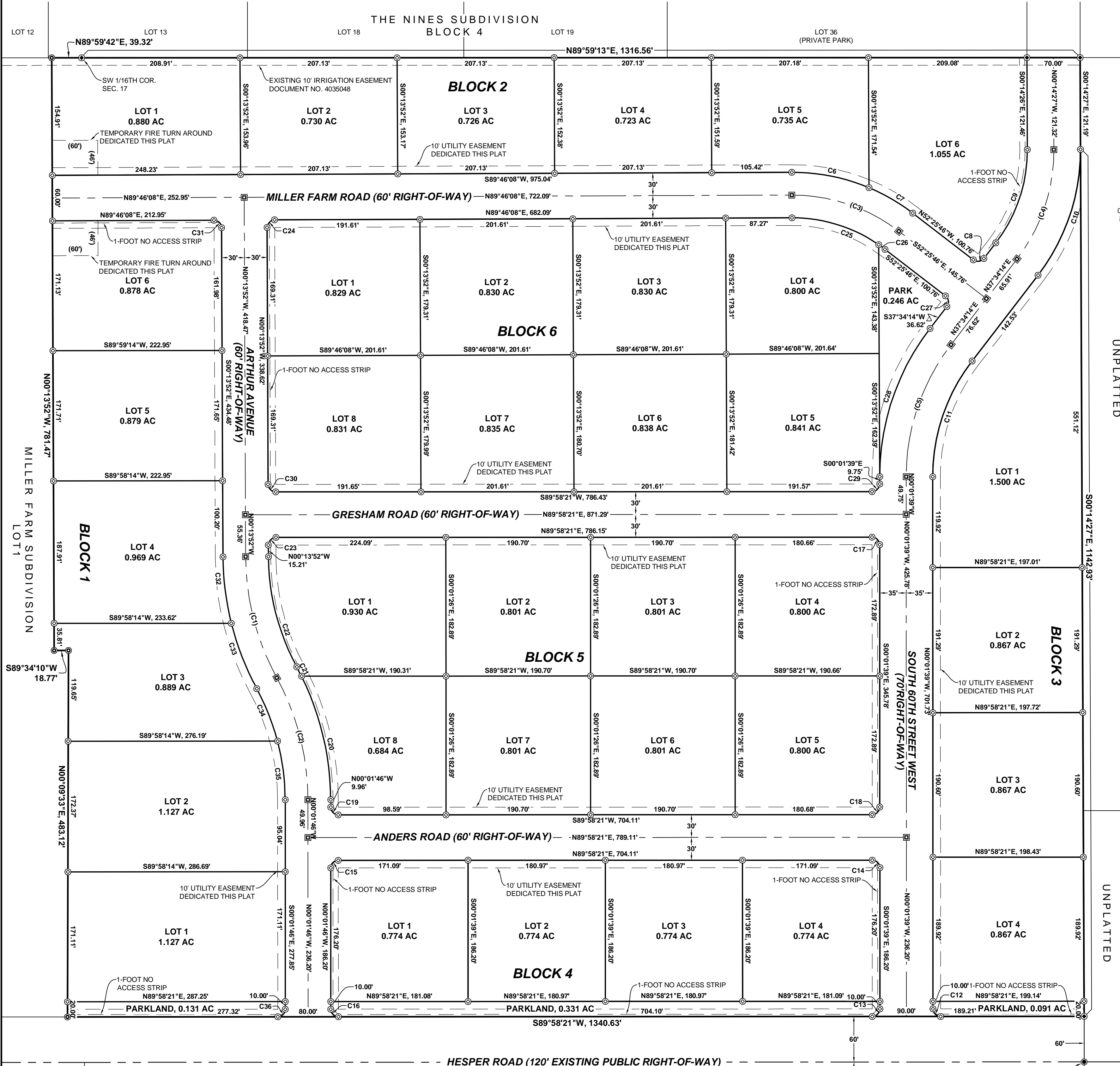
Draft Subdivision Improvement Agreement

Findings of Fact

PLAT OF GRESHAM SUBDIVISION

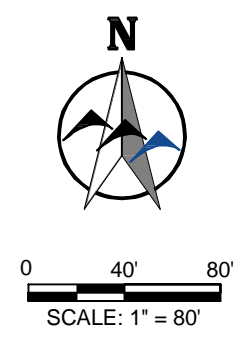
BEING LOT 2 OF MILLER FARM SUBDIVISION, DOCUMENT NO. 4035046
SW 1/4 OF SECTION 17, T. 01 S., R. 25 E., P.M.M.
YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: BIGHORN DRYWALL AND CONSTRUCTION, LLC
DATE SURVEYED: AUGUST 2022
PREPARED BY: WWC ENGINEERING



Curve No.	Radius	Length	Delta	Chord Bearing	Chord Length
(C1)	336.00	166.52	28°23'42"	N14°25'43"W	164.82
(C2)	336.00	167.70	28°35'48"	N14°19'40"W	165.97
(C3)	230.00	151.75	37°48'06"	S71°19'49"E	149.01
(C4)	235.00	155.08	37°48'41"	N18°39'53"E	152.29
(C5)	285.00	187.02	37°35'53"	N18°46'17"E	183.69

Curve No.	Radius	Length	Delta	Chord Bearing	Chord Length
C6	260.00	104.55	23°02'25"	N78°42'40"W	103.86
C7	260.00	66.98	14°45'41"	N59°48'37"W	66.80
C8	10.00	15.71	90°00'00"	S82°34'14"W	14.15
C9	200.00	131.99	37°48'41"	N18°39'53"E	129.61
C10	270.00	178.18	37°48'41"	S18°39'53"W	174.97
C11	250.00	164.05	37°35'53"	N18°46'17"E	161.13
C12	10.00	15.71	90°00'00"	N45°01'39"W	14.15
C13	10.00	15.71	90°00'00"	S44°58'21"W	14.15
C14	10.00	15.71	90°00'00"	S45°01'39"E	14.15
C15	10.00	15.71	90°00'00"	N44°58'17"E	14.15
C16	10.00	15.71	89°59'53"	N45°01'43"W	14.15
C17	10.00	15.71	90°00'00"	S45°01'39"E	14.15
C18	10.00	15.71	90°00'00"	S44°58'21"W	14.15
C19	10.00	15.71	89°59'53"	N45°01'43"W	14.15
C20	366.00	168.86	26°26'01"	N13°14'47"W	167.37
C21	366.00	13.82	2°09'48"	N27°32'41"W	13.82
C22	306.00	151.65	28°23'42"	N14°25'43"W	150.11
C23	10.00	15.74	90°12'13"	N44°58'21"E	14.17
C24	10.00	15.71	90°00'00"	N44°46'08"E	14.15
C25	200.00	89.65	25°40'55"	S68°11'34"E	88.90
C26	200.00	10.20	2°55'20"	S53°53'26"E	10.20
C27	10.00	15.71	90°00'00"	S7°25'46"E	14.15
C28	320.00	209.99	37°35'53"	S18°46'17"W	206.25
C29	10.00	15.71	90°00'00"	S44°58'21"W	14.15
C30	10.00	15.67	89°47'47"	N45°07'46"W	14.12
C31	10.00	15.71	90°00'00"	S45°13'52"E	14.15
C32	366.00	88.61	13°52'17"	S7°10'01"E	88.40
C33	366.00	92.78	14°31'26"	S21°21'52"E	92.53
C34	306.00	74.56	13°57'35"	S21°38'47"E	74.38
C35	306.00	78.17	14°38'13"	S7°20'53"E	77.96
C36	10.00	15.71	90°00'00"	S44°58'17"W	14.15



CERTIFICATE OF COUNTY ATTORNEY

This Subdivision Plat has been reviewed by the County Attorney's Office and is acceptable to form.
Dated this _____ day of _____, 20__.

CERTIFICATE OF RIVERSTONE HEALTH

This Subdivision Plat has been reviewed and approved by the Yellowstone City/County Health Department (d/b/a/ RiverStone Health).
Dated this _____ day of _____, 20__.

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 _____, 20__.

CERTIFICATE OF FILING BY CLERK AND RECORDER

This Subdivision Plat has been reviewed and approved by the Yellowstone City/County Clerk and Recorder.
Dated this _____ day of _____, 20__.

AREA DATA	36 RESIDENTIAL LOTS	4 PARKS/TRAILS	NET AREA ROAD DEDICATION	GROSS AREA
	30.964 ACRES	.799 ACRES	31.763 ACRES	39.166 ACRES
			7.403 ACRES	
			39.166 ACRES	

- LEGEND**
- FOUND PURPLE PLASTIC CAP (BRUCKNER 63052 LS)
 - FOUND YELLOW PLASTIC CAP (SANDERSON STEWART 83775)
 - FOUND BRASS CAP
 - SET 5/8" REBAR W/ PURPLE PLASTIC CAP (COLLINS 18626LS)
 - SET CENTERLINE MONUMENT
 - NEW PROPERTY LINE
 - SUBDIVISION BOUNDARY
 - - - EASEMENT DEDICATED THIS PLAT AS NOTED
 - - - EXISTING EASEMENT AS NOTED

CERTIFICATE OF DEDICATION

State of _____)
County of _____) SS
KNOW ALL BY THESE PRESENTS: That Bighorn Drywall & Construction, LLC, the owner of the following described tract of land, does hereby certify that it has caused to be surveyed, subdivided and platted into lots, blocks, and streets as shown on the annexed plat, said tract being situated within the SW1/4 of Section 17, T.01S., R.25E., P.M.M., Yellowstone County, Montana, being Lot 2 of Miller Farm Subdivision filed as Document No. 4035046 in the office of the Yellowstone County Clerk and Recorder.

The undersigned hereby grants unto all utility companies, as such as defined and established by Montana Law, and cable television companies, an easement for the location, maintenance, repair and removal of their lines over, under and across the areas designated on the plat as "UTILITY EASEMENT" to have and hold forever.

Said tract of land contains a gross area of 39.166 acres and net area of 30.964 acres, more or less, and is subject to any easements, reservations, or other encumbrances that have been legally acquired.

Pursuant to Section 76-3-621(1), the parkland dedication shall be provided by land and cash donation.

Said tract to be known and designated as Gresham Subdivision, and the lands included in Miller Farm Road, Gresham Road, Anders Road, Arthur Street, and South 80th Street West as shown on the annexed plat are hereby granted and donated to the use of the public forever.

Bighorn Drywall & Construction, LLC
Heath Olson, Managing Member

ACKNOWLEDGEMENT

State of _____)
County of _____) SS

on this _____ day of _____, 20__, before me, the undersigned a notary public for the State of _____, personally appeared Heath Olson, Managing Member of Bighorn Drywall & Construction, 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.

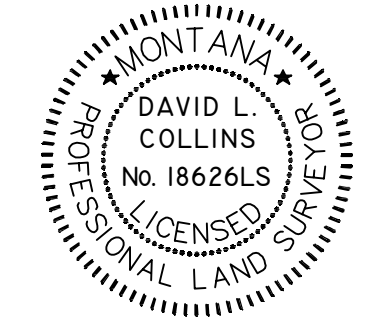
Notary Public for the State of _____

CERTIFICATE OF SURVEYOR

I, David L. Collins, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of August 2022, a survey was performed under his supervision of a tract of land to be known as PLAT OF GRESHAM 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 this _____ day of _____, 20__.

David L. Collins
Registration Number 18626LS



CERTIFICATE OF APPROVAL

STATE OF MONTANA)
County of Yellowstone) SS
We do hereby certify that we have examined the PLAT OF GRESHAM SUBDIVISION, and find that said plat conforms with the requirements of the laws of the State of Montana and approves it.

IN WITNESS WHEREOF, we have set our hands and the seal of Yellowstone County, Montana, this _____ day of _____, 20__.

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA

By: _____
Commissioner
By: _____
Commissioner
By: _____
Commissioner

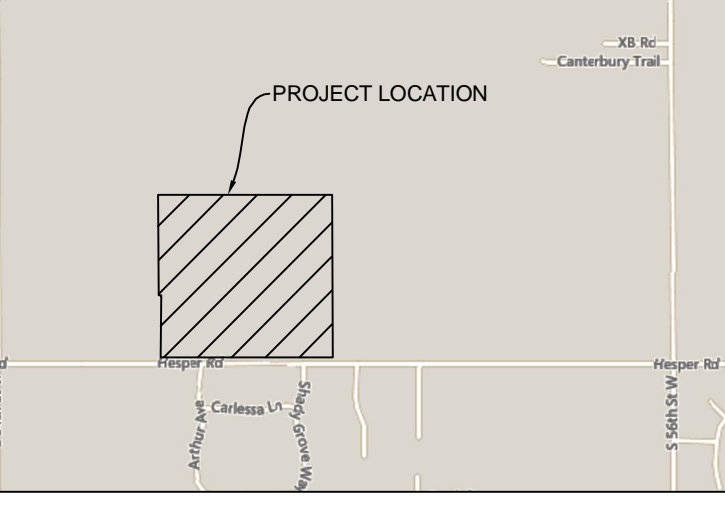
Attest: _____
Clerk and Recorder

NOTICE OF APPROVAL

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

President _____ Date _____
Executive Secretary _____ Date _____

VICINITY MAP
1" = 1500'



QTR.	SEC.	TWP.	RGE.
17	01S.	25E.	

GRESHAM SUBDIVISION

JOB #: 2022-195

REVISIONS

Date	By

550 S. 24TH ST. W., SUITE 201
BILLINGS, MT 59102
(406) 894-2210

WWC ENGINEERING

Drawn By: JPB Checked By: AMB/ELC Date: DEC 2022 Scale: 1" = 80'

Return to:
WWC Engineering
550 S. 24th St. W. Ste. 201
Billings, MT 59102

GRESHAM SUBDIVISION, 1st FILING
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(Yellowstone County)

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Gresham Subdivision, 1st Filing

This agreement is made and entered into this ____ day of _____, 20____, by and between *Bighorn Drywall and Construction, LLC*, whose address for the purpose of this agreement is **6114 Arthur Avenue, Billings, MT 59106**, 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 *Gresham Subdivision, 1st Filing*; and

WHEREAS, at a regular meeting conducted on ____ day of _____, 20____, the Yellowstone County Board of County Commissioners conditionally approved a preliminary plat of *Gresham Subdivision, 1st Filing*; 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 *Gresham Subdivision, 1st Filing* 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

There are no variances being requested with this subdivision.

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 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

A. Streets

The streets within this subdivision Miller Farm Road, Gresham Road, Anders Road, Arthur Road, and South 60th Street West, shall have a 60-foot-wide easement and be constructed to county paved road standards with a satisfactory subbase, base course, and asphalt surface. The roads within the subdivision shall be maintained by creation of an RSID.

B. Traffic Control Devices

Street name and stop signs for streets within the subdivision, or located immediately adjacent thereto, shall be furnished and installed in accordance with the specifications of the Yellowstone County Public Works Departments. A stop sign will be located at the intersections of the two subdivision roads that exit onto Hesper Road.

C. Access

Access to this subdivision shall be from Hesper Road which is a paved county dedicated road with 120-foot-wide right-of-way and shall be maintained by the county.

D. Billings Area Bikeways and Trail Master Plan (BABTMP)

This subdivision is located within the area of the BABTMP. A 10-foot-wide paved pathway will be constructed adjacent to Hesper within the designed parkland area.

IV. EMERGENCY SERVICE

A 30,000-gallon water storage tank/dry hydrant was installed as part of Hesper Meadows Subdivision. The dry hydrant is located in a dry hydrant easement filed under Document No. 4042160. RSID #810M was created to maintain and service the dry hydrant. RSID #810M will be expanded to include this 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 MDEQ, or its designee.

Stormwater improvements for roadway construction shall be constructed as designed and permitted with Montana DEQ. Stormwater improvements for residential home construction will be completed when the home size and location on lot have been determined by a future lot owner.

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.

Individual wells will be permitted for the lots. An approval letter from MDEQ will be submitted with the final plat. The maintenance and operation of the individual wells will be facilitated by the individual lot owner.

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.

Individual septic systems will be permitted. An approval letter from MDEQ will be submitted with the final plat. The maintenance and operation of the individual systems will be facilitated by the individual lot owner.

C. Power, Telephone, Gas, and Cable Television

The private utilities shall be installed within the 10' utility easements that were dedicated on the plat for Gresham Subdivision per the request of the utility companies.

VII. PARKS/OPEN SPACE

The area of parkland dedication required for this subdivision is 2.18 acres. A total of 0.80-acre park is planned to be dedicated. A 10-foot-wide paved pathway adjacent to Hesper will also be completed. The remaining parkland will be finished graded and seeded with native prairie grass mixture. An RSID will be created for the maintenance of the parkland. The remaining balance, 1.38 acre of required parkland dedication, will be addressed by a cash-in-lieu contribution.

VIII. IRRIGATION

There are no irrigation systems located within this subdivision.

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 geotechnical study is not required for this subdivision.

XI. 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.

XII. 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.

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals on the date first above written.

“SUBDIVIDER”

Bighorn Drywall and Construction, LLC

By: _____
Heath Olson, managing member

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 Heath Olson, known to me to be the managing member of *Bighorn Drywall and Construction, LLC*, who executed the foregoing instrument and acknowledged to me that they executed the same.

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

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

FINDINGS OF FACT

The City-County Planning Division Staff has prepared the Findings of Fact for Gresham 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 farmland. There are no water rights or shares that will be available for the future property owners in this subdivision. Any surrounding ditches will be left in place with access to them for maintenance purposes. This proposed subdivision will have minimal impact on water users' facilities.

2. Effect on local services

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

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

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

All private utilities, power, telephone, gas and cable television will be installed in the 10-foot utility easement along the lot frontage shown on the plat.

c. **Streets and roads** – The streets within this subdivision: Miller Farm Road, Gresham Road, Anders Road, Arthur Road, and South 60th Street West, shall have a 60-foot-wide easement and be constructed to county paved road standards with a satisfactory subbase, base course, and asphalt surface. The roads within the subdivision shall be maintained by creation of an RSID.

The applicant has submitted a TIS to the Yellowstone County Public Works department for their review and comment. The County has provided initial comments to the applicant which will need to be addressed prior to final acceptance of the TIS and required mitigation measures will be identified prior to final plat approval. Any information in the

TIS that needs to be included in the SIA will be added to the final SIA for the subdivision. **(Condition #3)**

d. **Fire and Police services** – The property is within the BUFSA firefighting area, which is handled by the Billings Fire Department. Subdivision regulations require that major subdivisions have a 30,000-gallon dry hydrant system for the subdivision. There is a dry hydrant located in Hesper Meadows Subdivision across Hesper Road south of the proposed subdivision. This 30,000-gallon dry hydrant will provide the needed fire suppression for both subdivisions. Gresham Subdivision will expand the existing RSID #810M created to maintain the 30,000-gallon dry hydrant system in Hesper Meadows Subdivision. This information is outlined in the SIA under the heading IV. Emergency Service. **(Condition #4)**

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** – The storm water drainage will be collected onsite using a combination of swales, culvers, and the natural slope of the land. Proposed storm water drainage shall be submitted to the MDEQ for review and approval prior to final plat. All proposed stormwater systems shall meet the requirements of Section 4.7 of Yellowstone County Subdivision Regulation's and the requirements of MDEQ. **(Condition #1)**

g. **School facilities** – The proposed subdivision is located within Elder Grove School District. Elder Grove School will provide educational services for students from K-8. Students will attend West High School for 9-12.

h. **Parks and recreation** – This proposed subdivision is required to provide parkland. The amount the applicant is required to provide is 2.18 acres, they are proposing to provide 0.80 acres. They will be creating an RSID for the maintenance of the parkland. The remaining 1.38 acres of required parkland dedication will be covered by a cash-in-lieu contribution. This information is outlined in the SIA under the heading VII. Parks/Open Space. **(Condition #5)**

i. **Postal Service** – The applicant will coordinate with the USPS to provide areas for Central Box Units for the subdivision and enough area for the postal delivery person to safely deliver the mail. **(Condition #6)**

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 #7)**

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

4. Effects on wildlife and wildlife habitat

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

5. Effects on public health and safety

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

Fire and emergency services are provided for this proposed subdivision from 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 required for this subdivision. Because the current use of the land is for farming / grazing purposes the natural habitat has been disrupted long ago. There are no known endangered species on the land. Impact to habitat should be minimal. There were no other impacts identified on the land.

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.

There is existing residential development on the land north and south of the proposed subdivision.

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

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

- Goal: Controlled weed populations.

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

2. 2018 Billings Urban Area Long Range Transportation Plan

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

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

This subdivision is within the BABTMP boundaries for trails. There is a long-term trail identified along Hesper Road. A 10-foot-wide paved pathway will be constructed adjacent to Hesper within the designed parkland area.

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

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

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

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

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

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

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

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

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

Legal and physical access will be provided for the subdivision by Hesper Road.

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

Staff proposes the Planning Board recommend to the Board of County Commissioners conditionally approval for the preliminary plat of Gresham Subdivision, and adopt the Findings of Fact as presented in the staff report.

Planning Board

Date: 08/22/2023
Title: Onyx Pointe Subdivision - Preliminary Major Plat
Presented by: Monica Plecker
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Staff recommends the Planning Board forward to the Board of County Commissioners a recommendation to conditionally approve the preliminary plat of Onyx Pointe Subdivision and adopt the Findings of Fact as presented in the staff report.

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

On July 3, 2023, Land Development Solutions, LLC, agent for Myron and Nancy Gross, applied for preliminary major plat approval of Onyx Pointe Subdivision. The subject property is generally located west of South 64th Street West and south of Hesper Road. This parcel of land is outside of zoning. It is surrounded by residential uses and farmland.

VARIANCES REQUESTED

The applicant is not requesting a variance.

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 maintenance of the proposed community septic system for some of the lots within this subdivision, prior to final plat approval, the applicant will create RSID's for the maintenance of the community septic systems and define which lots are part of which RSID.
2. To protect public health and safety, prior to final plat approval, the applicant will receive approval from the MDEQ for the proposed water systems, septic systems and the proposed storm water management.
3. To protect public health and safety and provide for future road maintenance, prior to final plat approval, the applicant will create an RSID for the maintenance of the new public roads within the subdivision.
4. To protect public health and safety, prior to final plat approval, any information in the TIS that needs to be included in the SIA will be added to the final SIA for the subdivision. Any recommendations County Public Works and the Board of County Commissioners determine need to be built will also be included in the final SIA.
5. To protect public health and safety with proper fire suppression, prior to final plat approval, the applicant will submit construction drawings of the dry hydrant system to Billings Fire Department for review and approval. Once installed the applicant will request Billings Fire Department to test the system to ensure it works correctly and get a sign off from Billings Fire Department. The applicant will also create an RSID for the dry hydrant system maintenance and create a public easement for where the fire tank is located.
6. To provide for the correct cash-in-lieu contribution for parkland, prior to final plat approval, the applicant will follow Section 10.6 Determining Cash Contributions for Parkland, for the correct amount to be paid to Yellowstone County parks department. The applicant will also change language in the SIA under the heading VII. Parks/Open Space stating they will be providing a cash-in-lieu of parkland for the subdivision.
7. 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.
8. 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.
9. 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.
10. The final plat shall comply with all requirements of the Yellowstone County Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

PROCEDURAL HISTORY

- Pre-application meeting December 1, 2022
- Preliminary plat application submitted to Planning Division on July 3, 2023
- Departmental review meeting July 13, 2023
- Preliminary plat resubmittal July 20, 2023

- Planning Board plat review August 8, 2023
- Planning Board public hearing August 22, 2023
- Preliminary plat to Board of County Commissioners, September 19, 2023
- 60 working-day preliminary plat review period ends September 27, 2023

PLAT INFORMATION

General location: West of South 64th Street West and south of Hesper Road

Legal Description: Tract 3 of COS 3753

Owner/Subdivider: Myron and Nancy Gross

Engineer and Surveyor: Land Development Solutions, LLC

Existing Zoning: Outside of zoning

Existing land use: Farmland

Proposed land use: Residential

Gross and Net area: 40 acres 31.37 acres

Proposed number of lots: 36

Lot size: Max: 1.65 acres
Min: 0.56 acres

Parkland requirements: Parkland dedication requirement is 1.86 acres.

STAKEHOLDERS

There are no stakeholder responses at this time. Stakeholder input will be received at a public hearing scheduled for this subdivision on August 22, 2023.

Planning Board plat review meeting August 8, 2023.

Staff gave a brief presentation about the proposed subdivision to the planning board. Planning Board President Dennis Cook asked if there were any questions for staff about the proposed subdivision. Board member Staley asked where the closest park was to this subdivision? Staff responded there is Elder Grove school to the north, but was not aware of a public park near to this proposed subdivision. County Public Works Director, Tim Miller, stated that the county was split into park districts and any money collected from a cash-in-lieu contribution would be put into the district where the subdivision is located. It was felt by some board members that the subdivisions need to provide parkland for the residents in the development.

There were no other questions or comments from the board.

ALTERNATIVES

In accordance with state law, the Board of County Commissioners has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed subdivision ends on September 27, 2023. 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 Plat

FISCAL EFFECTS

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

SUMMARY

The purpose 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
SIA Draft

FINDINGS OF FACT

The City-County Planning Division Staff has prepared the Findings of Fact for Onyx Pointe 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 has historically been used for farming 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 individual wells for each lot. They will be installed meeting the requirements outlined in Section 4.9 of the Yellowstone County Subdivision Regulations and the DEQ. The operation and maintenance of the well shall be the responsibility of the lot owner.

b. **Septic** - The applicant is proposing some lots will have their own septic system, and some lots will be part of a community septic system. They are proposing 2 utility lots for community septic systems, utility lots 3 and 4. Those systems are for some of the lots on the east end of the subdivision. The utility lots will be dedicated to the public and an RSID created to maintain the community septic systems. The lots using the community septic systems will be part of the RSID's for maintenance. This is outlined in the SIA under VI Utilities B. second paragraph. **(Condition #1)** They will be built in compliance with the requirements outlined in Section 4.8 of the Yellowstone County Subdivision Regulations and the DEQ. Each system will be maintained by the individual lot owner.

Both the proposed water and septic systems will be reviewed and approved by MDEQ with a copy of the approval provided with the final plat. **(Condition #2)**

All private utilities, power, telephone, gas and cable television will be installed in the public right of way or easements.

c. **Streets and roads** – Roads within the subdivision will be built in 60-foot-wide right of ways with a 24-foot paved surface and 2-foot-wide shoulders on each side. Drainage swales will be installed along the road sides as required by MDEQ for stormwater management. The applicant will be required to create an RSID for maintenance of roads within the subdivision. **(Condition #3)**

The applicant has submitted a TIS to the Yellowstone County Public Works department for their review and comment. Once County Public works has reviewed the document, any corrections or clarifications will be worked out between Public Works and the applicant for a complete and acceptable TIS. Any information in the TIS that needs to be included in the SIA will be added to the final SIA for the subdivision. Any recommendations from the TIS are only implemented by the Board of County Commissioners based on recommendations from County Public Works. **(Condition #4)**

d. **Fire and Police services** – The property is within the BUFSA firefighting area, which is handled by the Billings Fire Department. Subdivision regulations require that major subdivisions have a 30,000-gallon dry hydrant system for the subdivision. The proposed location of the dry hydrant is on utility Lot 3. They will be providing a public easement for it and creating an RSID for its maintenance. The applicant will provide drawings and specification to the Billings Fire Department for review and approval prior to installation. The dry hydrant will be tested and signed off by the Billings Fire Department prior to final plat. This information is outlined in the SIA under the heading IV. Emergency Service. **(Condition #5)**

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 #2)**

g. **School facilities** – The proposed subdivision is located within Elder Grove School for K through 8. Students will attend West High School for 9-12.

h. **Parks and recreation** – This proposed subdivision is required to provide parkland. The amount the applicant is required to provide is 1.86 acres. They are proposing to provide a .2-acre lot for parkland. This would be 8,712 square feet of public parkland. County Parks and County Public Works are not accepting this as parkland and are requiring a cash in lieu contribution for the entire 1.86-acre requirement. The County does not want such a small area for parkland. The applicant is to add language in the SIA under the heading VII. Parks/Open Space stating they will be providing a cash in lieu of parkland for the subdivision. **(Condition #6)**

i. **Postal Service** – The applicant will coordinate with the USPS to provide areas for Central Box Units for the subdivision and enough area for the postal delivery person to safely deliver the mail. **(Condition #7)**

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 #8)**

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 Shepherd Volunteer 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 purposes the natural habitat has been disrupted long ago. There are no known endangered species on the land. Impact to habitat should be minimal. There were no other impacts identified on the land.

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.

There is existing residential development on the land north and south east of the proposed subdivision. With large lots residential development to the south and west.

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

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

- Goal: Controlled weed populations.

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

2. 2018 Billings Urban Area Long Range Transportation Plan

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

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

This subdivision is within the BABTMP boundaries for trails. There is a long-term trail identified along South 64th Street West. They will not be required to build any trail as part of the development.

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

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

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

The subdivider must receive approval from the MDEQ prior to final approval. New parcels are subject to MDEQ review for water and 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]

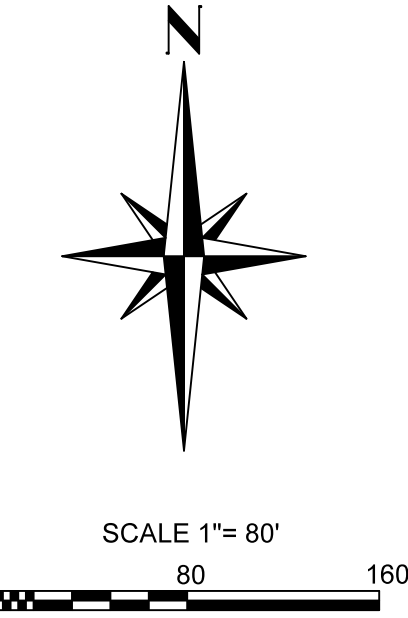
Legal and physical access will be provided for the subdivision from South 64th Street West. Access to individual lots will be from internal streets.

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.

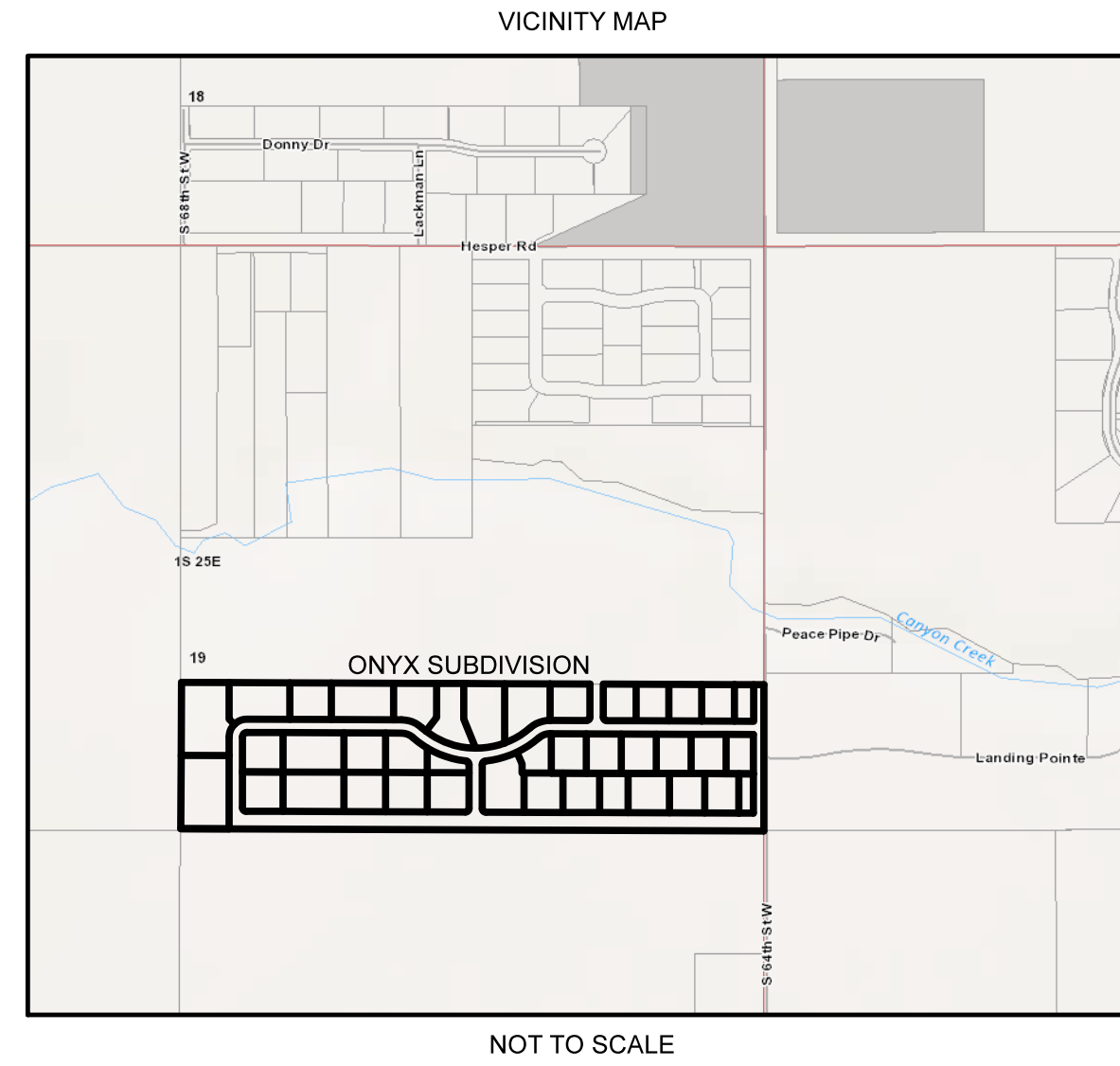
RECOMMENDATION

The Planning Board is forwarding to the Board of County Commissioners, the preliminary plat of Onyx Pointe Subdivision, recommending conditional approval and adopt the Findings of Fact as presented in the staff report.



LEGEND

- SET NO. 5 REBAR WITH 1-1/4" YELLOW PLASTIC CAP VIA RED LODGE SURVEYING LLC AND UNDERSIGNED PLS
- FOUND YPC VIA SANDERSON STEWART
- ⊠ FOUND YPC VIA PINPOINT
- ⊙ FOUND ALUMINUM CAP VIA SANDERSON STEWART
- NO MONUMENT SET
- ⊙ FOUND PEDESTAL
- ⊙ POWERPOLE
- P — OVERHEAD POWER
- G — GAS LINE
- - - EDGE OF PAVEMENT



CURVE TABLE

NUM	DELTA	ARC	RADIUS	BEARING	DISTANCE
C1	89°45'49"	25.07'	16.00'	S44°52'54"E	22.58'
C2	90°14'11"	25.20'	16.00'	N45°07'05"E	22.67'
C3	41°24'13"	106.23'	147.00'	S69°31'03"W	103.93'
C4	20°06'25"	126.34'	360.00'	N58°52'13"E	125.69'
C5	41°25'10"	99.04'	137.00'	S69°31'32"W	96.90'
C6	20°42'09"	133.69'	370.00'	N59°10'06"E	132.97'
C6A	5°59'05"	38.65'	370.00'	N68°31'36"E	38.63'
C6B	14°43'04"	95.04'	370.00'	N58°10'34"E	94.78'
C7	20°47'04"	134.22'	370.00'	N79°54'33"E	133.48'
C8	37°17'18"	240.80'	370.00'	S71°03'11"E	236.57'
C8A	6°48'50"	44.00'	370.00'	S55°48'56"E	43.98'
C8B	30°28'29"	196.80'	370.00'	S74°27'36"E	194.49'
C9	40°3'50"	26.24'	370.00'	S50°22'36"E	26.24'
C10	41°25'09"	99.04'	137.00'	N69°03'17"W	98.90'
C11	41°25'11"	77.35'	107.00'	S69°31'30"W	75.68'
C12	41°25'10"	289.16'	400.00'	N69°31'31"E	282.91'
C13	41°25'11"	289.16'	400.00'	S69°03'17"E	282.91'
C14	41°25'11"	77.35'	107.00'	N69°03'20"W	75.68'
C15	41°25'11"	55.66'	77.00'	S69°31'29"W	54.46'
C16	15°43'55"	118.07'	430.00'	N56°40'57"E	117.70'
C16A	15°03'55"	113.06'	430.00'	N56°20'58"E	112.74'
C16B	0°40'00"	5.00'	430.00'	N64°12'30"E	5.00'
C17	19°31'23"	146.52'	430.00'	N74°18'33"E	145.81'
C17A	8°22'04"	62.80'	430.00'	N79°53'13"E	62.74'
C17B	11°09'20"	83.72'	430.00'	N70°07'31"E	83.59'
C18	95°33'40"	26.69'	16.00'	S42°39'57"W	23.70'
C19	95°03'07"	26.54'	16.00'	N42°27'38"W	23.60'
C20	148°42'04"	179.23'	70.00'	S74°40'31"E	134.33'
C20A	6°28'45"	48.62'	430.00'	S62°27'44"E	48.60'
C21	10°52'40"	81.64'	430.00'	S53°47'02"E	81.51'
C22	41°25'09"	55.66'	77.00'	N69°03'17"W	54.46'
C23	44°53'34"	62.68'	80.00'	S67°47'22"W	61.09'
C23A	37°28'35"	52.33'	80.00'	S64°04'54"W	51.40'
C23B	7°24'59"	10.36'	80.00'	S86°31'34"W	10.35'
C24	45°20'34"	63.31'	80.00'	S22°40'17"W	61.67'
C25	90°14'06"	78.74'	50.00'	S45°07'06"W	70.85'
C26	90°14'06"	31.50'	20.00'	S45°07'12"W	28.34'
C27	89°46'54"	25.07'	16.00'	S44°53'33"E	22.58'
C28	89°46'55"	72.08'	46.00'	S44°53'29"E	64.93'
C29	90°13'06"	25.19'	16.00'	N45°06'39"E	22.67'
C30	89°46'54"	25.07'	16.00'	S44°53'28"E	22.58'

PRELIMINARY PLAT OF
ONYX POINTE SUBDIVISION
LOCATED IN TRACT 3 OF CERTIFICATE OF SURVEY NO. 3753 LYING
IN THE NE1/4 OF SECTION 19, T.1S., R.25E., P.M.M.,
YELLOWSTONE COUNTY, MONTANA

SURVEYED BY: RED LODGE SURVEYING LLC
PO BOX 986 | 606 S GRANT AVE
RED LODGE, MT 59068

DURING: MARCH OF 2022

LANDOWNERS: MYRON S. GROSS AND NANCY J. GROSS

CERTIFICATE OF DEDICATION AND LEGAL DESCRIPTION:

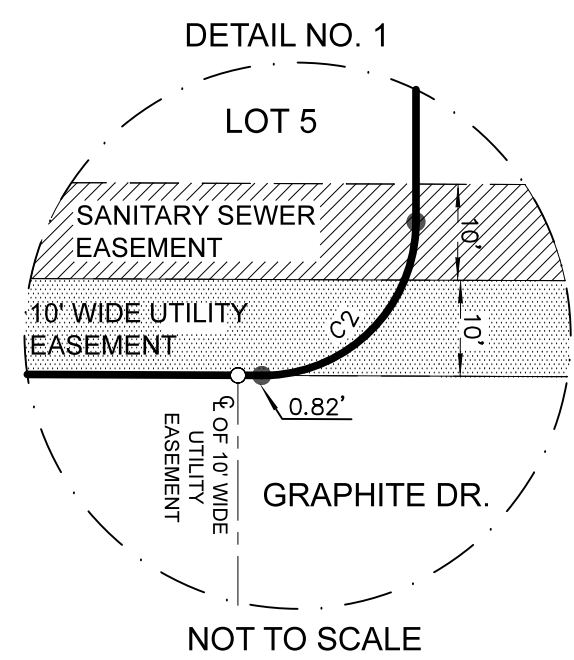
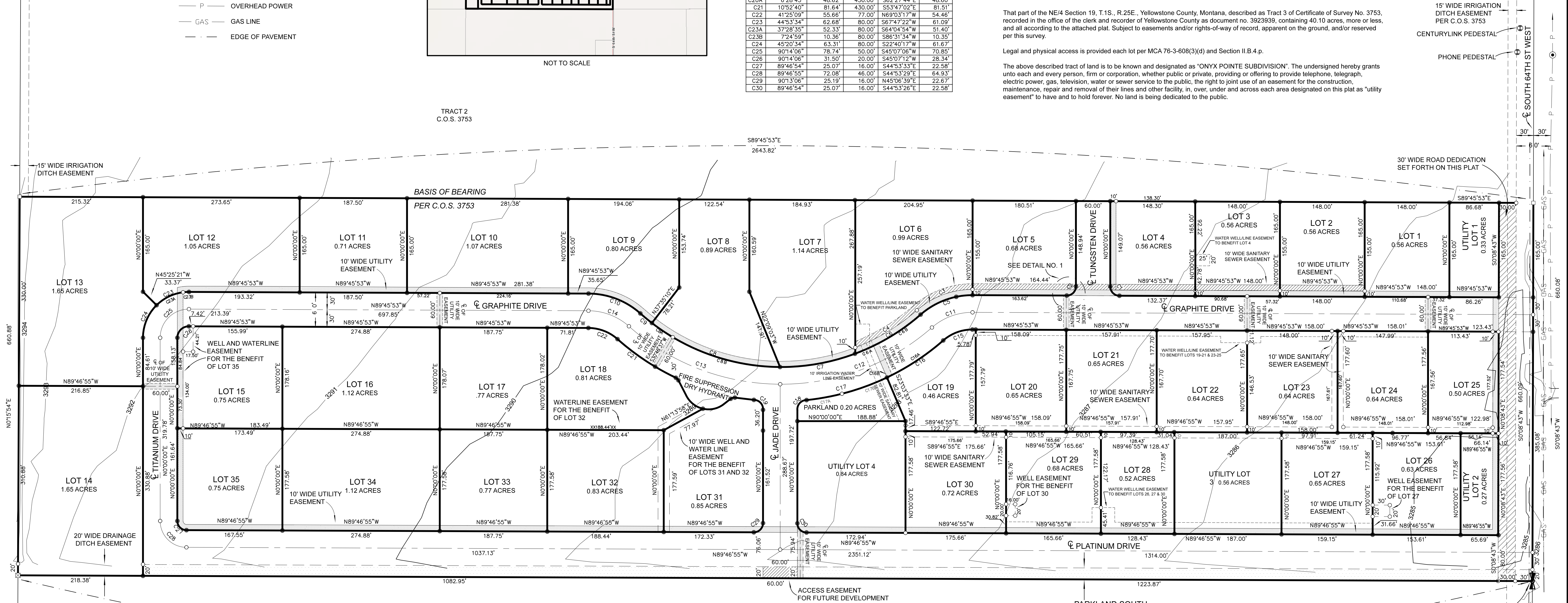
We, the undersigned landowners do hereby certify that we have caused to be surveyed, subdivided and platted into lots, as shown by the plat hereto annexed, a tract of land located in NE1/4 Section 19, T.1S., R.25E., Yellowstone County, Montana, the perimeter boundary of which is described as follows:

That part of the NE1/4 Section 19, T.1S., R.25E., Yellowstone County, Montana, described as Tract 3 of Certificate of Survey No. 3753, recorded in the office of the clerk and recorder of Yellowstone County as document no. 3923939, containing 40.10 acres, more or less, and all according to the attached plat. Subject to easements and/or rights-of-way of record, apparent on the ground, and/or reserved per this survey.

Legal and physical access is provided each lot per MCA 76-3-608(3)(d) and Section II.B.4.p.

The above described tract of land is to be known and designated as "ONYX POINTE SUBDIVISION". The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, television, water or sewer service to the public, the right to joint use of an easement for the construction, maintenance, repair and removal of their lines and other facility, in, over, under and across each area designated on this plat as "utility easement" to have and to hold forever. No land is being dedicated to the public.

TRACT 2
C.O.S. 3753



TRACT 1A
C.O.S. 3282

SUBDIVISION IMPROVEMENTS AGREEMENT
Onyx Pointe Subdivision
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Yellowstone County

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SUBDIVISION IMPROVEMENTS AGREEMENT

Onyx Pointe Subdivision

This agreement is made and entered into this ____ day of _____, 20__, by and between *Myron and Nancy Gross*, whose address for the purpose of this agreement is **21 Old Mill Road, Park City, Montana 59063**, hereinafter referred to as “Subdivider,” and **YELLOWSTONE COUNTY**, hereinafter referred to as “County.”

WITNESSETH:

WHEREAS, the plat of *Onyx Pointe 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 *Onyx Pointe Subdivision*; and

WHEREAS, at a regular meeting conducted on ____ day of _____, 20__, the Board of County Commissioners (BOCC) conditionally approved a preliminary plat of *Onyx Pointe Subdivision*; 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 *Onyx Pointe 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 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

No variances have been requested.

II. CONDITIONS THAT RUN WITH THE LAND

- A.** Lot owner and unit 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 owner and unit 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.
- D.** There is attached hereto a Waiver waiving the right to protest the creation of the Rural Special Improvement District or districts (RSID) 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.** 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.
- F.** Culverts and associated drainage swales 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 and any relocation outside of the public right-of-way shall be subject to securing and recording easements.
- H.** Lot owner or their agent will obtain an Access Permit from County Public Works prior to any construction for the subdivision. The application will include a site plan showing the desired location of the access and show that it meets the

requirements outlined by the DEQ storm water requirements for the subdivision. Failure to do so will result in the lot owner or their agent removing what has been installed and locating the access in an approved location at the lot owners' expense.

III. TRANSPORTATION

A. Streets

- The property has access to S 64th St. W. on the east side of the subdivision.
- S 64th St. W. is a paved County road approximately 23-feet wide.
- Internal access roads, Platinum Drive, Graphite Drive, Jade Drive, Titanium Drive, and Tungsten Drive, will be paved built to at least 24-feet in width with 2-foot gravel shoulders in 60-foot rights of way. Internal access roads will provide access to individual lots.
- An RSID will be established for the maintenance of the internal roads.
- Drainage ditches shall be constructed adjacent to the roadways in accordance to Yellowstone County Public Works and DEQ standards.

B. Sidewalks

- There are no existing sidewalks in the area and no sidewalks are proposed or required to be developed as part of this subdivision.

C. Street Lighting

- No street lighting is proposed or required to be developed as part of this subdivision.

D. Traffic Control Devices

- The Subdivider shall furnish and install street name signs for streets within the subdivision or located immediately adjacent thereto in accordance with the specifications of the County Public Works and the local Fire Department.

E. Access

- Access to the subdivision will be from S 64th St. W. Internal roads will provide access to each lot. Tungsten Drive provides for future connectivity to the North; Jade Drive provides for future connectivity to the south via an easement for future development.

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

- The subdivision is within the BABTMP. There is a long-range bike lane identified on S. 64th St. W. This subdivision will not be responsible for building the bike lane.

G. Public Transit

- The area is not on a Billings MET Transit route.

IV. EMERGENCY SERVICES

- The subdivision is located within the Billings Urban Fire Service Area (BUFSA).
- A 30,000-gallon dry hydrant will be located within the subdivision off of Graphite Drive, west of Jade Drive. Drawings and specifications will be provided to the Billings Fire Department for review and approval. The tank will be tested and approved prior to final plat by the Billings Fire Department. The maintenance for the tank and dry hydrant will require the formation of an RSID for maintenance.

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions set forth in Section 4.7 of the 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.

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.

- The Subdivision shall be supplied by individual wells located either on the lot it serves or on another lot. Lots served by wells not located on the lot will have a pump/piping system to supply water.
- The water distribution system shall conform to the standards set forth by the Yellowstone City-County Health Department and MDEQ.
- A MDEQ approval letter will be submitted with the final plat.

B. Sanitary Sewer

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

- The Subdivision will utilize community drainfields, located on Utility Lots 3 and 4. The utility lots will be dedicated to the public and a maintained through RSIDs specific to the lots using the drainfields.
- The system shall conform to the standards set forth by the Yellowstone City-County Health Department and MDEQ.
- A MDEQ approval letter will be submitted with the final plat.

C. Power, Telephone, Gas, and Cable Television

- Power, telephone, and cable will all be located within the right-of-way and utility easements shown on the plat.

VII. PARKS/OPEN SPACE

The required parkland dedication requirement will be met by a combination of land and cash-in-lieu. with a land dedication, as shown on the plat. 1.86 acres of parkland is required. Any land dedication will be maintained through an RSID. A parkland lot of .2 acres is located north of Utility Lot 4.

VIII. IRRIGATION

The property is not located within the boundary of an Irrigation District. No water shares will be transferred to the individual unit owners.

IX. WEED MANAGEMENT

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

The weed plan shall include the following and shall be referenced in this SIA:

- 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 geotechnical study is not required by the Yellowstone County Subdivision Regulations as part of this plat. Unit 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 limitation for proposed construction on the lots, which may require a geotechnical survey prior to construction.

XI. PHASING OF IMPROVEMENTS

There is no intended phasing of improvements. Internal roads and utilities will be constructed at the time of development.

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 special improvement district or 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).

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.

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals on the date first above written.

“SUBDIVIDER”

Myron Gross

By: _____

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 _____, known to me to be *Myron Gross* 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: _____

“SUBDIVIDER”

Nancy J. Gross

By: _____

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 _____, known to me to be *Nancy J. Gross* 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 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: _____

