



# YELLOWSTONE COUNTY BOARD OF PLANNING

CITY OF BILLINGS AND  
YELLOWSTONE COUNTY, MONTANA



## AGENDA

**NOVEMBER 28, 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: [bernsb@billingsmt.gov](mailto:bernsb@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 Brenda Berns, Planning Clerk at [bernsb@billingsmt.gov](mailto:bernsb@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 MEETING MINUTES**
  - a. **Minutes of October 24, 2023**
  - b. **Minutes of November 14, 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.*
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!
  - b. **Public Hearing. Motion/Recommendation. Serenity (Lorenz & Marsich) County Major Subdivision. Dan Marsich and Rod Lorenz, Applicants. Scott Worthington, InSite Engineering, Agent. Presented by Dave Green, Planner II**
8. **NEW BUSINESS:** (Agenda items new to this meeting).
  - a. **Establish a Board Nominating Committee for the Board Leadership per Board Bylaws for 2024**

9. **OTHER BUSINESS:**

- a. **Planning Board Recommendation to BOCC for County District 6 Board Applicant: Alexis Bonogofsky**
- b. **(Standing Item) Long Range Strategic Issues and an overview of future City and County issues and projects.**

10. **ADJOURNMENT**

**CITY/COUNTY PLANNING BOARD**  
**1st Floor Large Conference Room, Miller Building**  
**2825 3rd Avenue North, Billings, Montana 59101**



### **Public Hearing Participation Guidelines**

**NOTICE:** All meetings and official activities of the MPO are held in buildings and locations that comply with accessibility standards according to the Americans with Disabilities Act (ADA). A TTY number for the hearing impaired, 406-657-3079, is available upon request. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify the Planning Division Office, at 406-247-8676.

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. 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**

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.

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.

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 questions 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.

After the public comment portion of the hearing is closed, no further comments are allowed unless you are addressed directly by a Board member.

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:** 11/28/2023

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**Information**

**Subject**

**Minutes of October 24, 2023**

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**Attachments**

**Minutes of October 24, 2023**

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# CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview, and Yellowstone County"

**1 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	1	C	C	C	1			
Roger Gravgaard	Mayor/Billings Ward II	1	1	1	1	1	1	1	1	1	1	V	1	V	V	1	1	C	C	C	1			
Dennie Stephenson	Mayor/Billings Ward III	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	C	C	C	1			
John Staley	Mayor/Billings Ward IV	1	1	1	1	1	1	1	1	1	E	V	V	1	1	1	1	C	C	C	V			
David Nordel	Mayor/Billings Ward V	1	E	E	1	1	1	1	1	1	1	1	1	1	1	1	1	C	C	C	1			
Troy Boucher	YC District 1	A	A	A	A	A	1	A	1	1	E	A	A	A	A	A	A	C	C	C	V			
Dennis Cook	YC District 2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	C	C	C	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	1	C	C	C	1			
Vacant	YC District 6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
Morgan Tuss	YC District 7	-	-	-	-	-	-	-	-	-	-	V	1	E	A	1	1	C	C	C	A			
Vacant	Y County Cons. District	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			



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## CITY/COUNTY PLANNING BOARD

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

### **3. Approval of Minutes: August 22, 2023**

**Motion made by Board Member Ronquillo and it was seconded by Board member Woods to approve the August 22, 2023 meeting minutes as submitted. The motion was 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:** There was no old business

### **8. NEW BUSINESS**

**8a. West End Ground Study Update – Elizabeth Meredith, Hydrogeologist, Montana Bureau of Mines and Geology, Montana Technological University.**

Ms. Meredith opened with a brief overview of the Groundwater Investigation of the Billings Aquifer. The project was originally nominated by the City of Billings through Boris Krizek of the Billings Public Works Environmental Affairs and was ultimately approved by the State. The objective of the study is to evaluate the ground water conditions in west Billings and develop a conceptual groundwater model and identify the extent and source of nitrates. The BBWA is the largest canal in the area. Some City of Billings properties are already invested in wells, mostly used for lawn watering, but the area outside the City in west Billings is highly invested in the groundwater for domestic use. The downtown area has the oldest neighborhoods, progressing westwardly and outside of City water. Future growth outside the City not on municipal services, is highly dependent on the groundwater. Billings is considered a two Terrace system in terms of the location of groundwater. Terrace 2 is downtown/southside, Terrace 3 is midtown/west end. How they interact will determine how the aquifers work, they are independent but inter-linked.

The Billings area has experienced sustained, consistent growth and urbanization for the last 60 years. The number of housing units west of the core downtown area has grown from 11,000 in 1960 to 30,000 in 2020; a rate of over 300 residences per year. Most new developments are in areas beyond City services and depend on wells for drinking water and septic tanks for wastewater treatment.

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## CITY/COUNTY PLANNING BOARD

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To forecast the need for future City services (water, sewer, and storm), and understand what ongoing permitting of development on wells and septic systems will result in, if groundwater availability keeps decreasing. We must understand the replenishment of water to the local aquifer contributed by agricultural irrigation and canal seepage, in addition to how land use changes will affect the shallow aquifer.

**President Cook asked if any Board members or Planning Staff had any additional questions.**

### **Discussion**

**Monica Plecker, Planning Manager** stated, Yellowstone County is not involved in any process related to permitting of wells and septic systems through local subdivision regulations. As far as actual water rights, Yellowstone County leaves that authority to the DNRC. As it pertains to water quality, that is the DEQ permitting process and responsibility. However, the City and County have this knowledge that there is the potential for water recharge concerns over time. What can the Bureau do to make sure these other agencies know this data is available, and how they can be using it. How do we make sure the appropriate people get this information in their hands, so that they’re making informed decisions.

Board member Dave Nordel asked when developers need to prove they have adequate water and how they are going to mitigate it. Subdivision developers must show they have adequate water for their project. Board member Woods stated that we are seeing subdivisions with 300-400 lots, not 20-30 and we need to extend those utility services all at once.

Boris Krizek stated, I knew the Bureau of Mines have been working on a model since the 1990’s, but we did not have a good understanding of what was happening from Shiloh and further west. I wanted to get the Bureau of Mines ramped up to go to the DNRC and DEQ with the proper tools to present this model. There has been talk regarding ditches, where maintenance is difficult, and that some sections may be abandoned. The long-term impact is unknown. The other part, specifically related to the City’s new west end reservoir, may have impact on Terrace 1 & 2. I wanted investigations and measurements done before the reservoir is completed.

Board member Woods stated that the Bureau of Mines has made presentations previously regarding the west end development and ground water depletion. Boris said we’re getting gravel pits established on the west end, which may impact subdivisions, and may also impact city utilities to the west. Monica stated there is an opportunity for updated info, and assumptions may be in more real time and more accurate.

**President Cook asked if any Board members or Staff had any additional questions.** There were none.

### **8b. DEQ Subdivision Review Process – Shawn Rowland, Montana DEQ**

Shawn Rowland presenting. Subdivision supervisor for DEQ. Shawn explained that the presentation he is making is very basic, as it pertains to subdivision review. Our mission is to champion a healthy environment for a thriving Montana. We review the minor subdivisions, family transfers, and boundary line adjustments. When those projects are larger, like public or municipal systems, they are moved to professional engineers. There has been a lot of data generated, we want to capture the data and put

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plans in place. For the DEQ, Statutory Authority comes from the Water Supply Act. We look at impacts to ground and surface water. For residential & commercial projects, we review the water, wastewater, stormwater, and solid waste. For water from individual and shared wells, we review water quality, quantity, and availability. For water quality, we test for bacteria and nitrates in measurable quantities. Public water and multiple user systems (3 or more) receive more extensive reviews from DEQ. The wells are checked for local contamination issues, which may arise from the well’s physical construction.

### **Staff Discussion**

**Mr. Rowland asked if there were questions from Board members or Planning Staff.** There were none.

**Mr. Rowland continued with the Wastewater review.** DEQ reviews Site evaluations for soil, slope, setbacks, and depth to limiting layers. Regarding non-degradation, they look at the impacts of nitrogen levels in drain fields. Subdivisions would be halted due to lack of water availability, but cisterns could be proposed as an alternative. We also review municipal wastewater systems and treatment plants. Stormwater review is trickier, we review a gamut of projects, such as family transfers where conditions are not known, such as road requirements. These projects may require landscaping and culvert sizing, but we do not have authority to enforce the stormwater plans. Solid waste facilities nearby may require review and we are making sure there are facilities close to the project and available.

When an application is submitted to DEQ, the applicant must provide a Preliminary Plat and Findings of Fact. If a site has an issue with standing water, comments need to go to DEQ for discussion and may be forwarded to local jurisdictions. The DEQ contracts with the local public health departments for minor subdivisions, family transfers, and boundary line adjustments. The DEQ prefers the local public health department be involved as they are more familiar with local conditions. The DEQ is not a planning tool, but rather an agency that makes sure the Sanitation Act is followed, and that a plan for water and sanitation is in place.

### **Discussion**

**Mr. Rowland asked if there were questions from Board members or Planning Staff questions.**

**Board member Nordel** stated that the Board may approve a project with pending DEQ certification of septic systems. Is there a way to have DEQ review information available in advance. Shawn said DEQ is not statutorily set up to provide approval before Board review. The developer must do the preliminary work so that you can make those decisions regarding water and sanitation.

Monica asked if the DEQ is using any of their own data to aid their decisions when understanding water, quantity, and availability in the decision-making process, or are their decisions based on the well logs. Shawn said they are using their own data, but they also rely on the Bureau of Mines studies. The data is being shared, but the DEQ wants more dialogue with Bureau of Mines and resources like GIS. Monica asked if the DEQ has their own water quality model used to make their decisions. Shawn said no, we use software models along with pump test data. The Billings aquifer is the “accidental” aquifer, as it wouldn’t be there if not for the irrigation system. Western Montana does not have the same type of aquifers.

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President Cook asked if in the future, the Bureau of Mines and DEQ might have software that would share all the data, as a more collaborative effort.

Shawn responded that perhaps in the future, they will be working on it.

**President Cook asked if the Board members or Staff had any more questions.** There were none.

### **9. OTHER BUSINESS:**

**President Cook asked if there was any other business.**

**Wyeth Friday, Planning and Community Services Director** stated that we are seeing a significant drop in subdivision applications, we will watch this trend. We are currently in contract negotiations for the West Billings Neighborhood Plan Update, and the Heights Neighborhood Plan Update kick off early next year.

**President Cook** asked when the inter-belt loop would be completed. Wyeth said the project is in the process of base gravel work being done and crews will come back in spring to complete the paving process. This project will be completed in 2024. The Skyline trail is close to being completed, along Highway 3 the trail is paved, with some work left to do. This project will also wrap up in Spring 2024. As a reminder, we will have the City of Billings Boards and Commissions Volunteer Appreciate Dinner on Thursday, October 26, 2023, at 6:00pm.

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

### **10. FUTURE AGENDA ITEMS:**

#### **10a. MPO Boundary Amendment**

**Wyeth stated,** said that our Metropolitan Planning Organization is working through an update to our urban planning boundary since the last census was completed. We are working with MDT and Federal Highways regarding adjustments proposed based on population. This went to our Technical Advisory Committee last week and will be coming before this Board as well in November.

#### **10b. Establish Board Nominating Committee for the Board Leadership on the first November meeting per Board By Laws for 2024.**

**Wyeth Friday** said at the first meeting in November, the Planning Board will appoint the 3 members that will represent the Nominating Committee.

### **11. ADJOURNMENT 7:48PM**

**The next Planning Board meeting will be held Tuesday, November 14, 2023 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Ave N at 6:00pm**

**DRAFT—TO BE APPROVED BY A MOTION AT THE NEXT SCHEDULED MEETING**

*-Brenda J Berns, Planning Clerk*

**Planning Board Meeting 2 (4th Tuesday)**

**Meeting Date:** 11/28/2023

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**Information**

**Subject**

**Minutes of November 14, 2023**

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**Attachments**

Minutes of November 14, 2023

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# CITY/COUNTY PLANNING BOARD

"Serving Billings, Broadview, and Yellowstone County"

**1 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)**  
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	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
<b>Jim Ronquillo</b>	Mayor/Billings Ward I	1	1	1	1	1	1	E	1	1	1	1	A	1	1	1	1	C	C	C	1	A		
<b>Roger Gravgaard</b>	Mayor/Billings Ward II	1	1	1	1	1	1	1	1	1	1	V	1	V	V	1	1	C	C	C	1	V		
<b>Dennie Stephenson</b>	Mayor/Billings Ward III	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	C	C	1	1	1		
<b>John Staley</b>	Mayor/Billings Ward IV	1	1	1	1	1	1	1	1	1	E	V	V	1	1	1	1	C	C	C	V	A		
<b>David Nordel</b>	Mayor/Billings Ward V	1	E	E	1	1	1	1	1	1	1	1	1	1	1	1	1	C	C	C	1	A		
<b>Troy Boucher</b>	YC District 1	A	A	A	A	A	1	A	1	1	E	A	A	A	A	A	A	C	C	C	V	A		
<b>Dennis Cook</b>	YC District 2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	C	C	C	1	1		
<b>Vacant</b>	YC District 3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
<b>Vacant</b>	YC District 4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
<b>Woody Woods</b>	YC District 5	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	C	C	C	1	1		
<b>Vacant</b>	YC District 6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
<b>Morgan Tuss</b>	YC District 7	-	-	-	-	-	-	-	-	-	-	V	1	E	A	1	1	C	C	C	A	A		
<b>Vacant</b>	Y County Cons. District	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		



**Dave Green gave a brief overview of the project.**

This is a County Major Subdivision located on the south west corner of the intersection of Neibauer Road and South 48<sup>th</sup> Street West. The general description is Lot 2 of the LM subdivision with existing zoning of N4-Large Lot Suburban/Agriculture. The existing land use is Farmland, which the Applicant is proposing Residential use. There is 86.351 acres with 59.55 net area, and 58 lots proposed. Parkland dedication requirement is 3.939 acres, which the Applicant is providing 4.398 acres.

**Recommendation**

The Planning Board will conduct a plat review at this meeting and a public hearing, with action at the November 28 meeting. Staff is proposing that after the plat review and public hearing process, the Planning Board recommend to the Board of County Commissioners conditionally approval for the preliminary plat of Serenity Subdivision and adopt the Findings of Fact as presented in the staff report.

**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 maintenance of the new public roads within the subdivision.
3. 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 for infrastructure County Public Works and the Board of County Commissioners determine need to be built will also be included in the final SIA.
4. To protect public health and safety with proper fire suppression, prior to final plat approval, the applicant will submit construction drawings for 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.
5. To provide for future maintenance of the public parkland, prior to final plat approval, the applicant will create an RSID for the maintenance of the 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.
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.
10. In order to minimize the impacts to local services, prior to final plat approval, the developer is required to contribute a cash contribution based on its proportionate share of use for future

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## CITY/COUNTY PLANNING BOARD

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improvements on South 50<sup>th</sup> St W. Cost estimates for the proportionate share should include the aspects required to bring the existing road to the standards identified in Section 4.6.C.2 of the Yellowstone County Subdivision Regulations. The developer shall use trip generation data from the Traffic Impact Study submitted with the subdivision application. The methodology for determining proportionate share will all be approved by public works and the funds shall be received by the County prior to final plat approval.

### **Discussion**

#### **President Cook called for questions and discussion from the members of the Board.**

Board Member Woods asked if there are any plans for improvements to the park other than grass, or will there be equipment for the children and families.

Mr. Lorenz stated that has not yet been discussed.

Board member Woods said, we see quite a few subdivisions with parks and some of them are basically unusable land, I believe you have enough usable land for some improvements to be made, that could be an asset to the subdivision.

Mr. Lorenz said absolutely, there is certainly enough usable land.

Board President, Dennis Cook asked if anyone had a question or comment regarding the Plat Review for Serenity Subdivision and reiterated to the Applicant that there will be a Public Hearing on November 28, 2023, which will go before the County Commissioners on December 12, 2023.

**7b. Public Hearing. MPO Boundary Map Amendment. Lora Mattox, Transportation Coordinator. Due to lack of a quorum, no hearing was held and information only was received by the board members present.**

**Lora gave a brief overview of the Boundary Map Amendment for informational purposes.**

### **Recommendation**

The Technical Advisory Committee and MPO staff recommends the Planning Board receive a presentation on the proposed Map Amendment, conduct a Public Hearing to gather public comment, and forward a recommendation to the Policy Coordinating Committee (PCC). In absence of a quorum, these actions will not occur at this meeting. Given the limited scope of this item and the schedule expected by MDT, this will be forwarded to the Policy Coordinating Committee without a vote from the Planning Board.

### **Background**

The Billings Metropolitan Planning Organization (MPO) is tasked with coordinating transportation planning within the Billings metropolitan area. Its responsibilities encompass long-term transportation planning, allocation of funding, and ensuring that transportation projects align with regional goals and objectives. The MPO's planning boundary defines the specific geographic area over which it exercises planning authority. In response to the recently released 2020 Census data, the Federal Highway Administration (FHWA) mandates that the MPO, in collaboration with the Montana Department of Transportation (MDT) and local government agencies, adjust the planning boundary accordingly. These adjustments are based on the 2020 Census urban area boundaries, which are determined by housing density. The population within these adjusted urban areas determines their respective share of urban

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## CITY/COUNTY PLANNING BOARD

*“Serving Billings, Broadview, and Yellowstone County”*

program funds. Final approval of the proposed boundaries is granted by the FHWA. To define the MPO boundary, certain criteria were employed: Reasonable Distance: Areas within the urban boundary must be reachable within a 0.5-mile drive. Large Traffic Generator: This category includes industrial, commercial, or retail areas that do not encompass residential zones. Large traffic generators must primarily serve the urban area's population and have a significant impact, such as major hospitals, for example. Minimizing Impacts to the Highway Systems: The overarching goal is to avoid any adverse effects on the state highway system. Additionally, when adjusting the urban boundaries, it is essential to consider the most recent city limit boundary, create a single contiguous area, adhere to political boundaries, census blocks, or physical features/intersections. The first attached map illustrates the 2010 Urban Boundary, City Limits, 2020 Census Urban Area Boundary, and the proposed 2020 Urban Area Boundary. After discussions involving MDT Helena, MDT Billings District, City and County Public Works, and the Billings MPO, all proposed changes were accepted, with the exception of a section of King Avenue West. MDT Helena recommended converting a portion of this route from an Urban to a Secondary route. However, MDT Billings District and MPO and City and County staff opposed this change due to the area's complex and rapidly changing land use. Ultimately, MDT Helena reviewed and concurred with the local recommendation. The second map illustrates the ultimate proposed version, and MDT Helena is seeking a review and endorsement of this map from the municipal and county authorities. On October 18, 2023, the Technical Advisory Committee (TAC) conducted a review of the map amendment. TAC is recommending the Planning Board approve the map to the PCC, which would then enable the Mayor and the Board of County Commissioners to officially sign the map.

### **Discussion**

**Board President Cook asked if any Board members or Planning Staff had any additional questions.**

Board Member Woods asked if the new subdivision they were going to plat in Lockwood, falls within that boundary.

Lora stated, yes it does.

**No other information was received.**

### **11. ADJOURNMENT 6:27 PM**

**The next Planning Board meeting will be held Tuesday, November 28, 2023 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Ave N at 6:00pm**

**DRAFT—TO BE APPROVED BY A MOTION AT THE NEXT SCHEDULED MEETING**

*-Brenda J Berns, Planning Clerk*

## Planning Board

**Date:** 11/28/2023  
**Title:** Serenity Subdivision - Preliminary Major Plat - Public Hearing  
**Presented by:** Monica Plecker  
**Department:** Planning & Community Services  
**Presentation:** Yes

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### Information

#### RECOMMENDATION

The Planning Board will conduct a public hearing and take action at this meeting. The Board conducted a plat review at its November 14 meeting. Staff is proposing that after the plat review and public hearing process, the Planning Board recommend to the Board of County Commissioners conditional approval for the preliminary plat of Serenity Subdivision, and adopt the Findings of Fact as presented in the staff report.

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

On October 2, 2023, In Site Engineering, agent for Lorenz Construction LLC, and Marsich Investments Inc., applied for preliminary major plat approval of Serenity Subdivision. The subject property is generally located on the southwest corner of the intersection of Neibauer Road and South 48th Street West. This parcel of land is zoned Large Lot Suburban (N4) and Agriculture (AG). There is residential development to the north, south and west of the proposed subdivision. Land to the east is used for farming.

#### VARIANCES REQUESTED

The applicant is not requesting a variance from the 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. In order to minimize the impact on local services, prior to final plat approval, the developer is required to make a cash contribution based on its proportionate share of use for future improvements on South 50th Street West. Cost estimates for the proportionate share should include the aspects required to bring the existing road to the standards identified in Section 4.6.C.2 of the Yellowstone County Subdivision Regulations. The developer shall use trip generation data from the Traffic Impact Study submitted with the subdivision application. The methodology for determining proportionate share shall be approved by public works and the funds shall be received by the county prior to final plat approval.
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 for infrastructure 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 for 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 future maintenance of the public parkland, prior to final plat approval, the applicant will create and RSID for the maintenance of the 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 August 31, 2023
- Preliminary plat application submitted to Planning Division on October 2, 2023
- Departmental review meeting October 19, 2023
- Preliminary plat resubmittal October 26, 2023
- Planning Board plat review November 14, 2023
- Planning Board public hearing November 28, 2023
- Preliminary plat to Board of County Commissioners, December 12, 2023
- 60 working-day preliminary plat review period ends December 28, 2023

**PLAT INFORMATION**

General location:	Southwest corner of the intersection of Neibauer Road and South 48th Street West
Legal Description:	Lot 2 of L.M. Subdivision
Owner/Subdivider:	Lorenz Construction LLC, and Marsich Investments Inc
Engineer and Surveyor:	In Site Engineering
Existing Zoning:	N4 and AG
Existing land use:	Farmland
Proposed land use:	Residential / Ag
Gross and Net area:	86.351 acres / 59.55 acres
Proposed number of lots:	58
Lot size:	Max: 16.441 acres Min: 31,059 square feet
Parkland requirements:	Parkland dedication required is 3.939 acres. The applicant is providing 4.398 acres.

**STAKEHOLDERS**

There are no stakeholder responses at this time. Stakeholder input will be received at the public hearing scheduled for this subdivision at this meeting.

A plat review was scheduled for a regular Planning Board meeting on November 14, 2023. A quorum was not present so a formal meeting did not occur. The board members who were present received information. Planner Dave Green provided an overview of the proposed subdivision. Board President Dennis Cook asked if there were any questions for staff. There was one question regarding if there would be any improvements to the park area, like play structures or basketball courts. Staff deferred the question to the developer, who was present at the meeting. The developer stated they had not thought about it, but it would be a good amenity for the neighborhood to have those things in the park. There were no other questions from the board, the staff or developer.

**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 December 28, 2023. State and Yellowstone County subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The County may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 working day review period, the Board of County Commissioners is required to:

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

**FISCAL EFFECTS**

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

**SUMMARY**

One of the purposes of the County's subdivision review process is to identify potential negative effects of property being

subdivided. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various County departments, private service/utility providers and the affected school district(s), have reviewed this application and provided input on effects and mitigation. The Findings of Fact, which are presented as an attachment, discuss potential negative impacts of the subdivision and conditions of approval are recommended as measures to further mitigate any impacts. In this case, there were found to be some impacts from this proposed subdivision.

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### **Attachments**

Findings of Fact  
Proposed Plat  
SIA Draft

## FINDINGS OF FACT

The City-County Planning Division Staff has prepared the Findings of Fact for Serenity 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. Should a different method be proposed that will work better for the proposed subdivision, that system will be developed by the applicants engineer and reviewed and approved by the Montana Department of Environmental Quality (MDEQ). The system will be installed meeting the requirements outlined in Section 4.9 of the Yellowstone County Subdivision Regulations and the MDEQ. The operation and maintenance of the well shall be the responsibility of the lot owner.

b. **Septic** - The applicant is proposing each lot will have their own septic system. Should a different method be proposed that will work better for the proposed subdivision, that system will be developed by the applicants engineer and reviewed and approved by the MDEQ. They will be built in compliance with Section 4.8 of the Yellowstone County Subdivision Regulations and the MDEQ. 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 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. Yellowstone County Subdivision Regulations 4.6 Streets and Roads; B Streets and Roads, General: 2 Relations to Developed Areas: *The subdivider shall arrange the streets to provide for the continuation of streets between adjacent developed properties when such continuation is necessary for the convenient movement of traffic, effective provision*

*of emergency services and efficient provision of utilities. Such provision may be waived where the adjacent land use is incompatible with the proposed subdivision, or when prevented by topography or other physical conditions.*

The applicant is proposing to connect to the existing South 50<sup>th</sup> Street West that is in the subdivision to the south, Canyon Creek Acreage Tracts. This subdivision was platted in 1958 and the streets were dedicated to the public. Serenity is proposing to connect to the existing public roads within Canyon Creek Tracts Subdivision.

County Public Works has requested that since this subdivision will be connecting to South 50<sup>th</sup> Street West they will be required to provide a proportional share of the cost to pave the existing South 50<sup>th</sup> Street West, which is currently a county-maintained gravel surface road. **(Condition #2)**

Drainage swales will be installed along the new road sides as required by MDEQ for stormwater management. The applicant will be required to create an RSID for maintenance of the new 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 west of Lot 46. It is on the west side of the proposed road Barndominium Boulevard. 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 #1)**

g. **School facilities** – The proposed subdivision is located within Canyon Creek 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 3.939 acres. They are proposing to provide 4.398 acres for parkland. The applicant will create an RSID for the maintenance of the park land for this 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 Billings Fire Department and the Yellowstone County Sheriff’s department.

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

An environmental assessment was 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 large lot residential development on the land north, south and west 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. 2023 Billings Urban Area Long Range Transportation Plan**

The subject subdivision maintains the road hierarchy as outlined in the Transportation Plan. The internal streets in the proposed subdivision are local streets and do not conflict with the Transportation Plan.

**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 48<sup>th</sup> Street West and Neibauer. 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 within County Zoning Jurisdiction. The zoning is N4 – Large Lot Suburban on Lots 1 through 57, and Lot 58 is zoned Agriculture.

**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 48<sup>th</sup> 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**

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



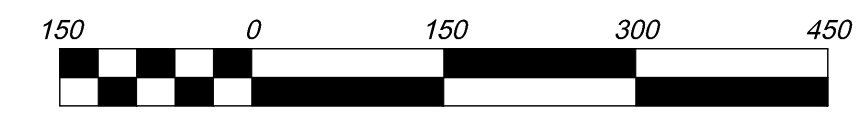
NORTHEAST CORNER SECTION 28 T1S, R25E, P.M.M. (REBAR)

**LEGAL DESCRIPTION**

LOT 2 OF L.M. SUBDIVISION, LOCATED IN THE NE 1/4 OF SECTION 28 TOWNSHIP 01 SOUTH, RANGE 25 EAST, P.M.M., YELLOWSTONE COUNTY, MONTANA CONTAINING 86.351 ACRES

**TABULATIONS**

GROSS AREA:	86.351 AC
AREA OF ROADS:	10.360 AC (12% OF GROSS)
NET FUTURE DEVELOPMENT AREA:	16.441 AC
NET RESIDENTIAL AREA:	59.550 AC
AREA OF RESIDENTIAL LOTS:	
1 AC < LOTS < 3 AC:	21.088 AC
1/2 AC < LOTS < 1 AC:	38.462 AC
PARKLAND REQUIRED:	
(0.05)(21.088) + (0.075)(38.462) =	3.939 AC
PARKLAND PROVIDED:	4.398 AC
NUMBER OF RESIDENTIAL LOTS:	57
AVERAGE LOT SIZE:	1.045 AC = 45,509 SF

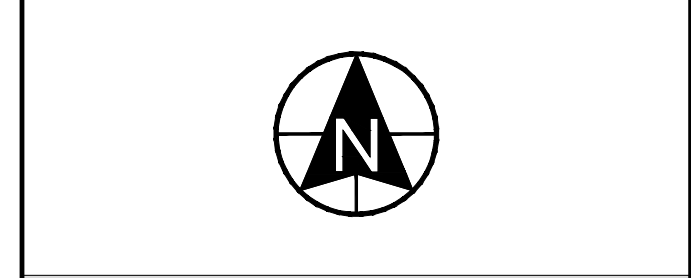


SCALE 1" = 150' (24 x 36)  
SCALE 1" = 300' (11 x 17)

DEVELOPMENT  
**PRELIMINARY PLAT**  
**Serenity Subdivision**

PREPARED FOR:  
**LORENZ CONSTRUCTION LLC,  
MARSICH INVESTMENTS INC.**

CIVIL ENGINEER  
**IN SITE**  
ENGINEERING  
4231 CREEKWOOD DR  
BILLINGS, MT 59106



NO.	DATE	DESCRIPTION
1	8/18/2023	INITIAL SUBMITTAL
2	9/8/2023	CAS SUBMITTAL
3	9/29/2023	PRELIM. PLAT APP.
4	10/26/2023	TO PLANNING BOARD
5		
6		
7		

DATE  
10/26/2023

PROJECT  
**Serenity Subdivision**

DESCRIPTION  
**PRELIMINARY PLAT**

SHEET NAME SHEET NUMBER  
**C 1**

**SUBDIVISION IMPROVEMENTS AGREEMENT**  
**(Serenity Subdivision)**  
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# SUBDIVISION IMPROVEMENTS AGREEMENT

## *(Serenity Subdivision)*

**This agreement** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between *(Marsich Investments, Inc. and Lorenz Construction, LLC)*, whose address for the purpose of this agreement is 3371 Pipestone Dr., Billings, Mt 59102-6941, hereinafter referred to as “Subdivider,” and YELLOWSTONE COUNTY, Montana, hereinafter referred to as “County.”

### WITNESSETH:

**WHEREAS**, the plat of *(Serenity 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 *(Serenity Subdivision)*; and

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Yellowstone County Board of County Commissioners conditionally approved a preliminary plat of *(Serenity 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 *(Serenity 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**

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

1. No Variance Requested

## **II. CONDITIONS THAT RUN WITH THE LAND**

- A.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.
- B.** Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.
- C.** No water rights have been transferred to the lot owners; Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- D.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.
- E.** Culverts and associated drainage swales shall not be filled in or altered by the subdivider or subsequent lot owners.
- F.** When required by road improvements, all fences and irrigation ditches in the public right-of-way adjacent to this subdivision shall be removed or relocated outside of the public right-of-way at no cost to the County and any relocation outside of the public right-of-way shall be subject to securing and recording easements.
- G.** Future maintenance of all public (or common) improvements shall be done through RSID(s) created as part of the SIA for this subdivision.
- H.** Lot 58 (16.441 acres) shall have sanitary restrictions that shall be lifted by application to the MDEQ with future development review (subdivision, site plan, or condominium).

- I. Lot owners or their agent will obtain an Access Permit from County Public Works prior to any construction on any lot within 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 owner's expense.

### **III. TRANSPORTATION**

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

#### **A. Streets**

- Streets shall be public and have Right-of-way widths of 60 feet.
- Streets shall be paved with 24 feet of asphalt with a 2-foot gravel shoulder along each edge of asphalt
- A Rural Special Improvements District (RSID) for maintenance of the public streets will be established with the Final Plat.

#### **B. Traffic Control Devices**

- Stop signs shall be installed at the 2 egresses of the subdivision onto South 48<sup>th</sup> Street West.

#### **C. Access**

- Two accesses shall be provided off of South 48<sup>th</sup> Street West
- One access shall be by way of a connection to 50<sup>th</sup> Street West, a public street

#### **D. Billings Area Bikeway and Trail Master Plan**

- The Billings Area Bikeway and Trail Masterplan shows future bike lanes along 48<sup>th</sup> Street West and Neibauer Road. There are no elements within the property being subdivided.
- No improvements are required or proposed at this time.
- Future bike lanes can be constructed with a future widening project within the existing dedicated Right-of-way.

### **IV. EMERGENCY SERVICE**

- Fire protection facilities shall be provided via a dry hydrant system with a capable 30,000 gallon underground water storage tank. The system shall be capable of providing a minimum of 1,000 gallons per minute at draft.
- The Subdivider shall submit plans and specifications of the dry hydrant system to the Billings Fire Department for review and approval prior to installation of the system. The tank shall be installed within a dry hydrant

easement with access from the adjacent public street. The dry hydrant system shall be inspected, acceptance tested, and approved by the Billings Fire Department prior to construction of any buildings in the subdivision. An RSID will be created for maintenance of the dry hydrant with the final plat.

- Internal streets will be paved to county standards and provide emergency access.
- This subdivision is not located within an Urban Wildland Interface Area.

## **V. STORM DRAINAGE**

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

## **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.

- Water will be supplied by individual wells.
- MDEQ approval (letter submitted with final plat)

### **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.

- Wastewater will be handled with individual septic systems.
- MDEQ approval (letter submitted with final plat)

### **C. Power, Telephone, Gas, and Cable Television**

- Power, telephone, gas, and cable television utility service will be provided to all lots within an 8' wide utility easement along street frontages and behind sidewalks of all public roads.

## **VII. PARKS/OPEN SPACE**

- The parkland requirement for this subdivision is 3.939 Acres.
- The parkland requirement is met by a dedication of 4.398 Acres of public parkland.
- A Park Maintenance District will be established with the final plat.

## **VIII. IRRIGATION**

- Canyon Creek Irrigation District owns a ditch along the westerly and northerly boundaries of this subdivision.
- This ditch and access road are located within a 70-foot wide irrigation easement along and outside of the westerly and northerly boundaries of this subdivision, as defined on the face of the L.M. Subdivision final plat.

**IX. WEED MANAGEMENT**

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

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

**X. SOILS/GEOTECHNICAL STUDY**

- No geotechnical study is required.
- Lot owners shall obtain their own geotechnical study for recommendations pertinent to their particular lot.

**XI. PHASING OF IMPROVEMENTS**

- Subdivision will be completed in a single phase.
- Public improvements will be constructed by way of a private contract.

**XII. FINANCIAL GUARANTEES**

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

### **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.









Date: 11/28/2023  
Title:  
Presented by:  
Department: Planning & Community Services  
Presentation:

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### Information

#### RECOMMENDATION

Planning Board Recommendation to BOCC for County District 6 Board Applicant: Alexis Bonogofsky

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

#### ALTERNATIVES

City Council may:

- Approve; or,
- Not Approve

#### FISCAL EFFECTS

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### Attachments

YC Planning Board Application

BOARD APPLICATION FORM  
YELLOWSTONE COUNTY, MONTANA

NAME: Alexis Bonogofsky HOME PHONE: (406) 698-4720

ADDRESS: 2020 Tired Man Road WORK PHONE: (406) 698-4720

CITY: Billings STATE: MT ZIP: 59101

BUSINESS OR JOB: Sustainable Ranching Initiative Manager, World Wildlife Fund

E-MAIL ADDRESS: alexis.bonogofsky@gmail.com

BOARD OR COMMISSION APPLIED FOR: County Planning Board District 6

Please describe your experience or background that you believe qualifies you for service on this Board or Commission (attach additional sheets if needed):

I was raised on the small farm just south of Billings, in the Blue Creek area. I have a B.A. in International Studies with a focus on community development and a M.A. in International Development with a focus on rural and economic development. I have spent my career in community based work in Montana around agricultural and economic development and have a strong background in community engagement. I am a hard worker believe that my background qualifies me for this position.

Why do you wish to serve on this Board or Commission?

I am interested in being a part of the collaborative decision making around how growth in the city and county happen. I have personally experienced many of the growing pains in Billings as it has changed over the last decades. I believe in community service and want to participate in local issues around planning. I am interested in learning how Yellowstone County and the City of Billings work together and how the internal processes work when it comes to planning for the future in our region.

Additional information that you feel is pertinent (attach additional sheets if needed):

I know that filling volunteer positions such as this position are challenging. I am deeply committed to my community and am very interested in learning how the planning board works and being able to contribute from my knowledge, experience and background. I also am interested in helping other community members become more engaged in local government and decision making. Thank you so much for considering me for this position.

DocuSigned by:  
*Alexis Bonogofsky*  
D37D9C0B40C3415...

10/19/2023

Signature

Date

Return application to: Board of County Commissioners  
P.O. Box 35000  
Billings, MT 59107-5000

OFFICE USE ONLY:		
APPOINTED:	YES <input type="checkbox"/>	NO <input type="checkbox"/> DATE _____
TERM EXPIRATION DATE: _____		
(Circle one)		
ORIGINAL APPOINTMENT	REAPPOINTMENT	TERM NO: _____