

## FINDINGS OF FACT

The City-County Planning Division Staff has prepared the Findings of Fact for Lone Eagle North 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 open grass and scrub with some trees along Alkali Creek. No water rights or shares are available to this subdivision so there will be none transferred to individual lot owners. There are no irrigation ditches that exist on the perimeter of this development. Perimeter drains shall remain in place and shall not be altered by the subdivider or subsequent owners. There will be no effect on the water users downstream from this property.

#### **2. Effect on local services**

a. **Water** – The proposed subdivision is not located within any public water district. In accordance with Section 4.4.E. Yellowstone County Subdivision Regulations, all proposed water systems must obtain approval by MDEQ, or its designee.

Individual wells or cisterns 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.

Water systems will be installed meeting the requirements outlined in Section 4.9 of the Yellowstone County Subdivision Regulations and the MDEQ. **(Condition #1)**

b. **Septic** - The proposed subdivision is not located within any public sewer district. In accordance with Section 4.4.E. Yellowstone County Subdivision Regulations, all proposed sanitary sewer systems must obtain approval by 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.

Septic systems will be installed meeting the requirements outlined in Section 4.8 of the Yellowstone County Subdivision Regulations and the MDEQ. **(Condition #1)**

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

c. **Streets and roads** – Access to the subdivision shall be from proposed approaches on Alkali Creek Road. The roads will be built to the County standard paved surface roads. They will be in a 60-foot-wide rights of way and be built with a 24-foot paved surface. An RSID will be created to maintain the public roads within the subdivision. **(Condition #2)**

A TIS has been submitted for this proposed subdivision. The traffic study showed the impacts would be minimal to the studied intersections and do not meet the threshold for contributions to the County for intersection improvements. In the future should there be more development, then this subdivision can be assessed proportional cost through the Waiver of Right to Protest.

**INTERSECTION COST PARTICIPATION from TIS**

The net new trips identified in this report are subject to examination under Yellowstone County’s cost participation program to the extent that they would travel through studied intersections. Cost participation has been estimated for the three public-street intersections in this study under the assumptions that (a) the peak with the highest percentage of trips added to the intersection’s critical volume pairs governs cost contribution and (b) site traffic must result in an increase of 2% in total critical-movement volume, after project trips are considered, to be subject to cost participation. The project trips used in this calculation are those shown previously in Exhibit 10. Once it is demonstrated that an intersection is eligible, the applicant pays the entire percentage, not just the marginal part above 2%, unless another arrangement is made with the County. Exhibit 14 shows the intersection cost participation summary for project trips.

**Exhibit 14. Intersection Cost Participation**

Intersection	AM	PM	Higher Peak, if 2% or Greater
1. MT 3 at Alkali Creek Road	0.7%	0.6%	n/a
2. MT 3 at Lone Eagle Drive	0.7%	0.8%	n/a
3. Skyway Drive at Alkali Creek Road	0.7%	0.9%	n/a
Total Participation %: 0%			
x \$500,000			\$0

None of the intersections studied would experience a high enough critical-movement volume increase to require participation in the cost of future intersection improvements.

d. **Fire and Police services** – The property is within the Fuego Volunteer Fire boundary. The subdivision will have a dry hydrant tank installed alongside the road Stagecoach Trail within Lot 6, Block 1. There will be a second dry hydrant tank along Swift Hawk Road within Lot 2, block 4 of the proposed subdivision. The applicant will submit drawings for the tank to the Fuego Volunteer Fire for review and approval. When the tank is installed the applicant will have the system tested and signed off by the Fuego Volunteer Fire. **(Condition #3)**

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

e. **Solid Waste disposal** – The Billings Landfill has capacity for solid waste disposal.

Solid waste will be collected and disposed of by a private garbage collection company. Each lot owner will be responsible for arranging for collection.

f. **Storm water drainage** – Stormwater will be collected onsite using a combination of swales, culverts, and the natural slope of the land and delivered to onsite storm detention facilities. 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 schools are located in the Heights. Eagle Cliff Elementary, currently under maximum capacity. Castle Rock Middle School, currently under maximum capacity. Skyview High School currently under maximum capacity.

h. **Parks and recreation** – There is no Parkland dedication required for this subdivision as all lots are over 5 acres. The applicant is proposing to provide a private park area with this filing. They are proposing to have 20.57 acres of private parkland around Alkali Creek.

i. **Postal Service** – The applicant will be required to coordinate with the USPS to ensure they are providing a safe location for the postal worker to deliver the mail and the residents to retrieve their mail. **(Condition #4)**

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

k. **Phasing of Development** - The applicant is proposing to develop this subdivision in phases. Phase 1 and Phase 2. The applicant will provide the correct paperwork to be recorded with the final plat, restriction on conveyances. The subdivision improvement agreement shall be updated to reflect the date associated with the opening of each phase of the subdivision. **(Condition #6)**

- Phase I  
Swift Hawk Road will be constructed in its entirety along and a temporary cul-de-sac at the terminus of the roadway will be constructed. A dry hydrant will be constructed on Lot 2 of Block 4 in this phase. A private gate will be installed at the end of the public dedicated portion of Swift Hawk Road.
- Phase 2  
Stagecoach Trail will be constructed to the intersection with Painted Horse Road and Painted Horse Road will be constructed in its entirety. A dry hydrant will be installed on Lot 5 of Block 1.
- Phase 3  
All of Whiskey Jack Road will be constructed between Swift Hawk Road and Stagecoach Trail. Stagecoach Trail will be constructed from the end of Phase II to its terminus at the intersection with Consuela Creek Road. A temporary cul-de-sac will be constructed at the end of Stagecoach Trail.
- Phase 4

Consuela Creek Road will be extended to the east edge of Lot 5 of Block 5 with construction of a temporary cul-de-sac.

### **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. Any subdivision that has an existing Weed Management Plan is required to get an updated Weed Management Plan. A weed management plan will be completed and a copy will be submitted with final plat. **(Condition #6)**

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

### **4. Effects on wildlife and wildlife habitat**

Impacts on Significant, Important, and Critical Habitat: Because part of this land has been cultivated for farming the native habitat has been disturbed and limited to smaller animals. The property has been historically used for livestock rangeland. There are no known protected species or special status habitats within the proposed subdivision. This site is not in sage grouse habitat. There are no threatened or endangered species known to inhabit the area.

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 building construction on each lot to ensure public health and safety.

Fire and emergency services are provided for this proposed subdivision from Fuego Volunteer Fire 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)**

A summary of impacts was required for this subdivision pursuant Section 9.2 of the County Subdivision Regulations. There were no significant impacts identified in the environmental assessment submitted with the proposed subdivision.

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

#### **1. Yellowstone County - 2008 Growth Policy**

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

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

*The subdivision is consistent with the type of residential development in the surrounding area. There is residential development to the south. Large acreage lots.*

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

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

## **2. 2023 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 outside the BABTMP boundaries for trails. This subdivision will not be required to install any trails at this time.

### **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 subdivision must receive approval from the MDEQ prior to any building construction on each lot. Each lot will have its own septic and well system. These new systems will be approved by MDEQ before final plat.

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

The proposed subdivision is within the County Zoning Jurisdiction. The lots are currently zoned Agriculture, they are requesting a zone change to Rural Residential 3.

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

The applicant will coordinate with private utility companies to provide the required easements.

### **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 from Alkali Creek Road. Access to each lot will be from the internal roads of the subdivision.

**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 recommends to the Planning Board that they forward a recommendation of conditional approval to the Board of County Commissioners for the preliminary plat of Lone Eagle North Subdivision, deny the variance requests and adopt the Findings of Fact as presented in the staff report.