

## **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 64<sup>th</sup> 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 64<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**

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.