

FINDINGS OF FACT

The City-County Planning Division Staff has prepared the Findings of Fact for Maplewood 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 been used for farming purposes. No water rights or shares will be transferred to individual 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. 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. The subdivision will be served by shared wells as approved by the Montana Department of Environmental Quality, or its designee. These wells will be owned and maintained by Aquanet. Aquanet will install wells, pumps, and service lines and then bill monthly for water usage. Usually a flat fee plus usage-based rate. They are also the entity that will hold the water right. Water systems will be installed meeting the requirements outlined in Section 4.9 of the Yellowstone County Subdivision Regulations and the MDEQ.

(Condition #1) The operation and maintenance of approved water system will be the responsibility of Aquanet. The applicant shall record a maintenance agreement for the shared wells with the final plat. **(Condition #2)**

b. **Septic** - The proposed subdivision is not located within any public sewer district. The subdivision will be served by wastewater disposal systems as submitted to and approved by Montana Department of Environmental Quality. These systems shall be located and installed as approved by Montana Department of Environmental Quality, or its designee.

The Subdivision is proposed to be served by individual septic systems on each lot. Septic systems will be installed meeting the requirements outlined in Section 4.8 of the Yellowstone County Subdivision Regulations and the MDEQ. **(Condition #1)** The operation and maintenance of the septic system will be the responsibility of individual lot owners.

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

the public portion of O'Donnell Lane, South 72nd Street West, South 71st West and South 68th Street West as approved by the Yellowstone County Public Works Department. Roads within the subdivision, will be built to the County standard paved surface road. They 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 roads within the subdivision. **(Condition #3)**

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.

d. **Fire and Police services** – The property is within the BUFSA boundary. This subdivision will be provided fire service from the Billings Fire Department. The subdivision will have a dry hydrant tank installed alongside the road Maple Leaf Trail on the edge of the park land, as shown on the plat. The applicant will submit drawings for the tank to the Billings Fire Department for review and approval. When the tank is installed the applicant will have the system tested and signed off by the Billings Fire Department. **(Condition #4)**

Fire Marshal Fender explained that the current ISO rating regulations are based on distance from fire station. Anywhere within 5 road miles, with a water source would be a 2 rating. Anything over 5 road miles from a fire station, even with a water source, is a 10 rating.

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

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

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

g. **School facilities** – The proposed subdivision is located within Elder Grove School District for K through 8. Elder Grove School recently built a new building to accommodate the additional students moving into the area. They have the ability to accommodate more students. West High School will provide school for grades 9 through 12. West High School is currently over capacity.

h. **Parks and recreation** – Parkland dedication required for this subdivision is 3.988 acres. The applicant is proposing to provide 3.193 acres with a cash in lieu contribution

for the remaining amount. There is an existing 3.84-acre park in the subdivision to the north of this proposed subdivision. It is off Skycrest Drive approximately ½ road mile away.

The proposed park meets the requirement for street frontage for parkland but, the majority of that frontage has a ditch, a lateral from The Big Ditch, along the edge of the road, O'Donnell Lane. To improve the access to the park the applicant will provide a 200-foot access by putting the lateral in a pipe or provide two pedestrian accesses across the lateral ditch from O'Donnell Lane to the park. The accesses will be a minimum of 10 feet wide. **(Condition #5)**

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 #6)**

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 #7)**

- Phase 1 consists of Lots 1-19, Block 1; Lots 1-5, Block 2; Lot 1 and Lots 6-13, Block 3; and Lots 1-11, Block 4.
- Phase 2 consists of Lots 2-5 and Lots 14-21, Block 3; Lots 12-28, Block 4; and Lots 1-4, Block 5.
- Public improvements will be constructed by way of a private contract with each phase.

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 #8)**

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 this land has been cultivated for farming for so long, there is very little wildlife inhabiting the area with the exception of some rodents and racoons. An occasional deer may wander through the area, but it provides no cover or natural food sources for them. No other wildlife has been observed nesting or frequenting the subdivision site,

and this site is not in sage grouse habitat. There are no threatened or endangered species known to inhabit the area.

This site is well-suited for development of a residential neighborhood. The development will be done in a responsible, orderly manner, and in accordance with Yellowstone County Subdivision Regulations, Administrative Rules of Montana, and DEQ, DNRC, and all other state and local development standards. By so doing, this subdivision will create no significant negative impact to the environment or community but will, instead, be an asset to the area.

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 building construction on each lot 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)

A summary of impacts was required for this subdivision pursuant Section 9.2 of the County Subdivision Regulations.

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

1. Yellowstone County - 2008 Growth Policy

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

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

The subdivision is consistent with the type of residential development in the surrounding area. There is residential development to the north and to the south.

- 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 inside the BABTMP boundaries for trails. There is future trail shown on South 72nd Street. At a future time when this road is widened the trails will be installed. 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. The new parcels will be connected to the subdivision community septic system. This system 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 outside the County Zoning Jurisdiction.

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 South 72nd Street, South 71st Street West and Maplewood Lane. 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 Maplewood Subdivision, approve the variance request and adopt the Findings of Fact as presented in the staff report.