

FINDINGS OF FACT

The City-County Planning Division Staff has prepared the Findings of Fact for Whitehorse Estates Subdivision, 2nd Filing. 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. Each lot will receive shares for water from the Big Ditch Company, prorated for the size of the lot based on the original allotment associated with the original tract. In the Yellowstone County Subdivision Regulations Section 4.13 Disposition of Water Rights, it states that if the water rights are to be shared among the new lots and property owners there needs to be a single entity that handles the water rights. This entity handles water rights for the owners within the subdivision. Also, a landowner's water use agreement must be established. **(Condition #1)** 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. Each lot within the Whitehorse Estates Subdivision, 2nd Filing, will be served by individual wells. The operation and maintenance of the water system will be the responsibility of individual lot owners. Water systems will be installed meeting the requirements outlined in Section 4.9 of the Yellowstone County Subdivision Regulations and the MDEQ. **(Condition #2)**

b. **Septic** - The proposed subdivision is not located within any public sewer district. Wastewater treatment for the subdivision will be managed through individual septic systems installed on each lot. The wastewater disposal systems will be 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. Septic systems will be installed to meet the requirements outlined in Section 4.8 of the Yellowstone County Subdivision Regulations and the MDEQ. **(Condition #2)** 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 and private right of way or easements identified on the plat.

c. **Streets and roads** – Access will be provided from a proposed road within the subdivision, Sea Biscuit Way. They also show access from S 52nd Street West, both accesses have a connection to Hesper Road. There is a variance request concerning S 52nd Street West right-of-way and one for built street width.

Roads within the subdivision will be public roads and will be built to the County standard paved surface road. The public roads will be in 60-foot-wide rights-of-way. Roads will be built with a 24-foot paved surface and 2-foot gravel shoulders on each side. An RSID will be created to maintain the public road portion. **(Condition #3)**

Should the variances for the right-of-way and road width not be granted, the applicant shall provide the required right-of-way for a collector road and be responsible for building the required road width as determined by County Public Works. **(Condition #4)**

Traffic Study – According to the ITE Trip Generation Manual, 11th Edition, a 13-lot single-family detached housing subdivision would generate approximately 123 trips on a typical weekday with an average rate of 9.43 trips per household. This falls below the 300 vehicular trip threshold set in the Yellowstone County Subdivision Regulations. No TIS is warranted under the regulations.

d. **Fire and Police services** – The property is within the Billings Urban Fire Service Area (BUFSA) boundary. This subdivision will be provided fire service from the BUFSA. There is an existing dry hydrant tank installed alongside Hesper Road just east of the proposed subdivision and within the ½ road mile from the farthest point in the subdivision.

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** – Because of the large lots of this subdivision, 1 acre and above, the majority of storm water will remain on each lot. 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 District for K through 8. Elder Grove School responded that the Elementary School has a capacity of 550 with recent enrollment at 500. The Middle School capacity is 300 with a recent enrollment of 250. West High School will provide school for grades 9 through 12. West High School capacity is shown as 1731 with current enrollment of 2133.

h. **Parks and recreation** – Parkland dedication is required for this subdivision. They are

required to provide 36,444 square feet of parkland. The applicant is proposing to provide a cash in lieu contribution to satisfy the requirement of parkland. **(Condition #7)**

i. **Postal Service** – The applicant will be required to coordinate with the USPS to ensure the space they are proposing is a safe location for the postal worker to deliver the mail and the residents to retrieve their mail. The applicant is currently showing the location on the north entrance where the road is a public road. **(Condition #5)**

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

k. **Phasing of Development** – No phasing is proposed for this subdivision.

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

This subdivision is not required to provide an Environmental Assessment. It is exempt from the requirement as outlined in Yellowstone County Subdivision Regulations, Section 9.2, C. 3. a. and b.

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)

This subdivision was not required to provide an Environmental Assessment. It is exempt from the requirement as outlined in Yellowstone County Subdivision Regulations, Section 9.2, C. 3. a. and b.

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 large lot residential development to the north, southwest and southeast along Hesper Road.

- 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. S 52nd St West is also identified on the Long-Range Transportation Plan.

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

This subdivision is within the BABTMP boundaries for trails. There is a future trail identified on what will become S 52nd St W, on the western side of the subdivision. There is also a future trail identified on Hesper and S. 48th ST W. This subdivision will not be required to install a trail.

4. West Billings Neighborhood Plan

In the West Billings Neighborhood Plan this subdivision, being a county subdivision, does not meet a great number of the guiding principles as may be with a city subdivision. The nearest city water lines are at Shiloh Road and Hesper Road, a 1.33 mile distance. A sewer line is in Hesper Road, but it is 0.67 miles away. This makes it difficult to build density without either city water or sewer to connect onto. They are proposing large lot residential to match the Whitehorse 1st Filing to the east.

This development does not leapfrog, Policy LU 3.2. This filing of Whitehorse connects directly with first filing of Whitehorse subdivision. They share a common lot line and will have connections within the subdivisions. They are providing connectivity to have as few connections to a major arterial, Hesper Road, as possible. This will allow those living within the neighborhood to walk or bike between the two filings without going onto an arterial street.

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 each have wells and septic systems. These individual 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 land for the proposed subdivision is zoned Rural Residential 1 (RR1) within the County Zoning Jurisdiction. They do meet the requirements of zoning with lot sizes that are over 1 acre in size and under 3 acres. This meets the requirements of zoning.

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. The applicant is showing utility easements along the lot frontages.

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 a proposed road within the subdivision, Sea Biscuit Way. There is also a road, currently labeled Road A, that runs north and south within the subdivision. Road A will be named before preliminary plat takes place. Both of these internal roads will provide legal and physical access to the proposed lots in 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

The Planning Board is forwarding a recommendation of conditional approval to the Board of County Commissioners for the preliminary plat of Whitehorse Estates

Subdivision, 2nd Filing, approve the variance requests and adopt the Findings of Fact as presented in the staff report.