

**REGULAR MEETING OF THE CARBON COUNTY PLANNING
BOARD**

DECEMBER 17, 2024

TUESDAY 7:00 PM

CARBON COUNTY PERSONAL SERVICES BUILDING

10 OAKES AVENUE SOUTH

RED LODGE, MT

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF MINUTES OF PREVIOUS MEETING

November 19, 2024

D. PUBLIC HEARINGS

Fair Haven RV Park Subdivision

E. REGULAR BUSINESS

1. Fair Haven RV Park Subdivision – Discussion and
Recommendation to Bridger Town Council

2. High Country Acres Subdivision - Discussion and
Recommendation to County Commission

F. PETITIONS & COMMUNICATION FROM AUDIENCE

G. WRITTEN COMMUNICATIONS

**H. REPORTS FROM PLANNING BOARD MEMBERS AND
COMMITTEES**

I. STAFF REPORTS

J. ADJOURN

Carbon County Planning Board
November Meeting
11-19-24

- A. Call Meeting to Order, 7:00 pm, Gordy Hill – Chairperson
- B. Roll Call
 - Present: Dean Webb, Betsy Scanlin, Mike Hayes, Marni Echols-Bell, Skip Bratton, Clinton Giesick, Gordy Hill, Forrest Mandeville
 - Audience: see attached sign-in sheet, Jeremy Fadness – Red Lodge Contract Planner (via phone)
- C. Approval of 10-15-24 Minutes
 - Betsy moved to approve. Marni second.
 - Motion passed unanimously
- D. Public Hearings
 - *None*
- E. Regular Business
 - *Red Lodge Area Future Land Use Map*
 - Discussion included various topics
 - Future land use of a 1 mile area surrounding Red Lodge
 - City and County cooperative planning
 - To be used a planning tool, not zoning
 - Commercial, high density residential, medium density residential, low density residential, and open space/agriculture
 - Basing areas off of what is already in place
 - Open space/agricultural could have multiple options
 - Some landowners have an intent to annex into the City, some do not
 - Betsy Scanlin
 - Would like to see ag land be preserved
 - In some cases, the City may not want to expand
 - Skip Bratton
 - Some areas may need to be a higher density than 5 acre lots
 - *Carbon County Subdivision Regulations Update*
 - Discussion of enforcing conditions in newly approved subdivisions
 - DEQ can issue a re-write of cistern vs well
 - If cisterns are no longer required, the new subdivision could have an impact on local aquifers
 - What's applied for is not always necessarily what's happening
 - Weed control, dry hydrants, involvement from other agencies such as DEQ are good examples
 - Currently there is a lack of enforcement ability
 - Once a final plat is filed, there is very little that can be done to enforce conditions
 - SIA (Subdivision Improvements Agreement) could be used to enforce requirements
 - Betsy Scanlin
 - Concern about filing for variances after construction has started

F. Audience Communication

- *Red Lodge Area Future Land Use Map*
 - Jeff DiBenedetto, Al Bloomer, Dave Westwood, Jeremy Fadness
 - Availability of city services was a factor in creating the map
 - In some cases, subdivisions having their own well and septic can be cost prohibitive
 - Currently, there is a waiver process to opt out of city services
 - Generally, city services require annexation
 - Higher density developments will generate more tax revenue

G. Written Communication

- *None*

H. Committee Reports

- *Carbon County Conservation District*
 - Regular 310 permit activity in the Rock Creek drainage
 - Some fine collections are now being handled by the County Attorney

I. Staff Reports

- *None*

J. Adjourn Meeting

- 8:30 pm

CARBON COUNTY
Planning Office
P.O. Box 466, Red Lodge, MT 59068
Main: (406) 446-1694
Fax: (406) 446-2640

PROJECT MEMORANDUM

TO: Members of the Carbon County Planning Board
FROM: Forrest J. Mandeville, AICP – Contract Planner
DATE: December 6, 2024
RE: Fair Haven Subdivision RV Park Preliminary Plan Application–Staff Report and Findings

REQUIRED PLANNING BOARD ACTION: Review, receive public comment, and recommendation to approve, conditionally approve, or deny the proposed preliminary plan.

RECOMMENDATION: **Approval with Conditions**

RECOMMENDED MOTION: *Having reviewed and considered the application materials, project memorandum, public comments and all of the information presented, I hereby move to recommend approval of the Fair Haven Subdivision RV Park, with the findings and conditions included in the project memorandum.*

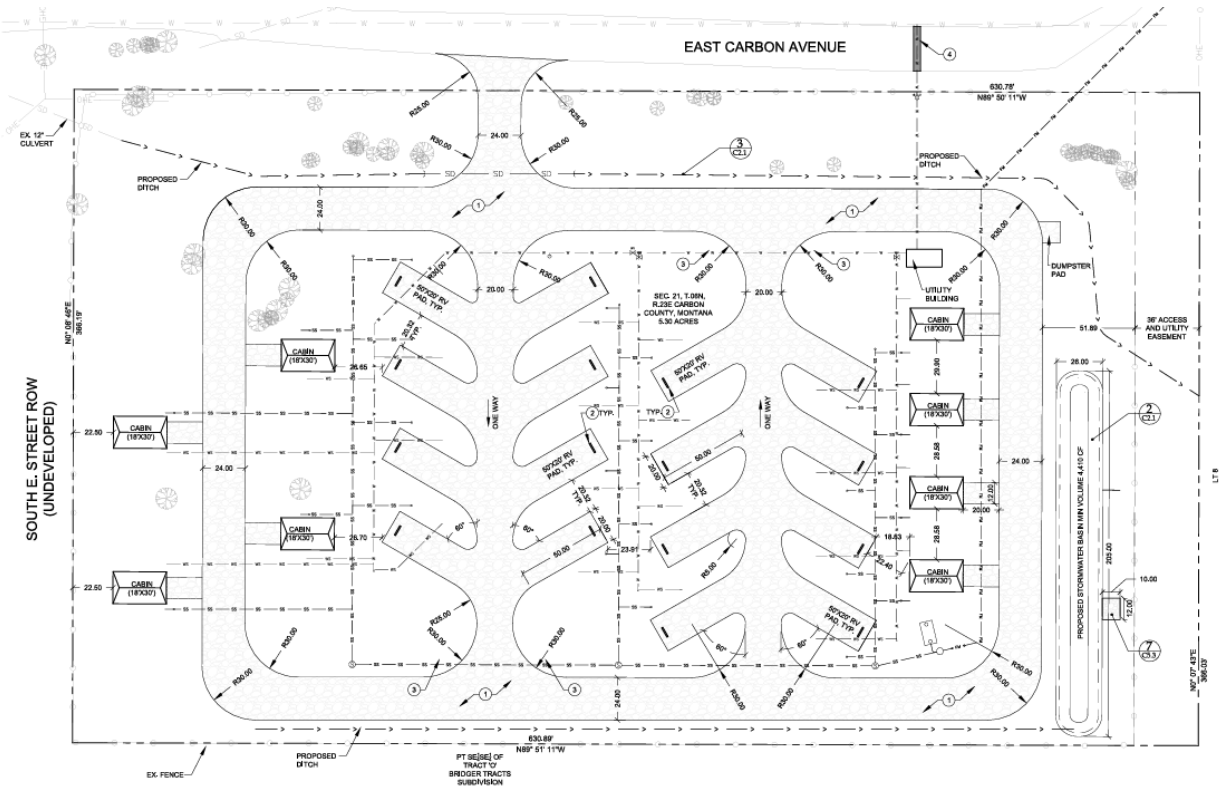
Project/Application Summary:

Papez Development Services and Essex Surveying, on behalf of Rebecca Klein and Janet Halland, has submitted a preliminary plan application for subdivision consisting of 16 RV sites and 8 cabins on 5.3 acres in the southeast part of the Town of Bridger, MT. RV sites are defined as subdivisions under state law and the Carbon County Subdivision Regulations, necessitating the subdivision review process. The subdivision is classified as a major subdivision because of the number of RV sites.

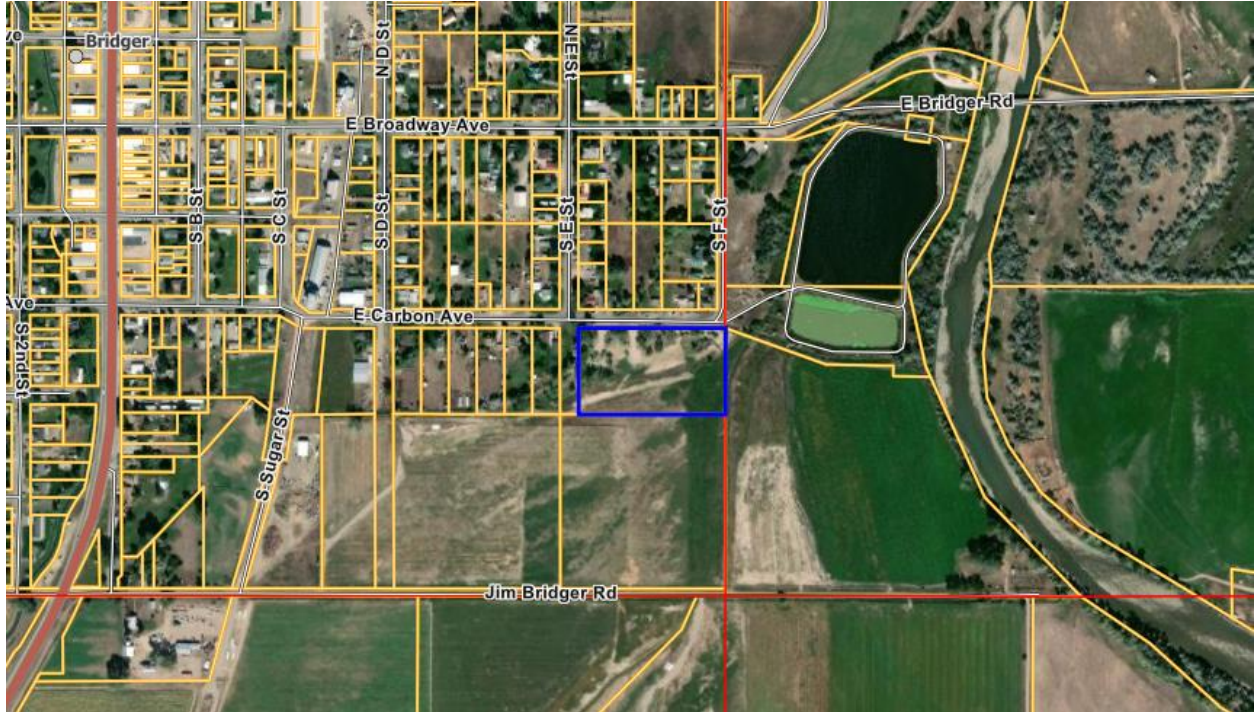
The subject property is located on the south side of E Carbon Ave, east of South “E” Street, in the Town of Bridger. The property is addressed as 510 E Carbon Ave and is legally described as Tract O of the Bridger Tracts, in Section 21, Township 6 South, Range 23 East, P.M.M., Carbon County, Montana.

Required Planning Board Action:

During a public meeting, and after holding a public hearing, the Planning Board shall make a recommendation to the Bridger Town Council to approve, conditionally approve, or deny the preliminary plan. The Planning Board may recommend conditions for approval intended to ensure compliance with the Subdivision Regulations and to mitigate any anticipated impacts of the subdivision.



Preliminary Layout Plan



Subdivision (Blue) and Vicinity

Subdivision Regulations – Compliance Review/Findings Summary: (Section references are to the Carbon County Subdivision Regulations unless otherwise noted)

a. Relevant evidence relating to the public health, safety, and welfare

The property will be served by Bridger water and sewer. Water will be extended from an existing water line in East Carbon Avenue to a utility building and distributed in a private system through the subdivision. Wastewater will be provided by private sewer lines to a tank in the southeast corner of the subdivision, then pumped to the Bridger sewer lagoons to the east of the property. Montana Department of Environmental Quality (DEQ) review and approval is required. The internal water and sewer systems will be privately owned but are classified as “public” systems per DEQ rules which require certain standards be met due to the size of the systems.

Access is provided to the property by East Carbon Avenue, which is owned and maintained by the Town of Bridger. There is an existing approach to the property. There is some grade difference between the access road and the subject property, which the fire chief has expressed some concern about.

The property is within municipal limits of the Town of Bridger but is unzoned. The Town will require rezoning to Residential D prior to operation. The Town does have standards for “Trailer Courts”, which will need to be adhered to as required by the Town.

b. Summary of Probable Impacts

Except where exempt by state law, all subdivisions must be reviewed for the specific, documentable, and clearly defined impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety.

- Effect on agriculture: The property is not in agricultural production. The property is adjacent to agricultural uses to the south and west. Land to the north and east is residential. Montana has right to farm laws that protect agricultural practices from complaints due to common agricultural practices. The subject property is within the limits of the Town of Bridger and no impacts other than what is typical with agricultural operations next to towns should be anticipated.

The application included a Weed Management Plan filled out by the subdivider. The developer should coordinate an inspection by the Weed District to ensure any noxious weeds are identified and a plan developed to mitigate any weeds.

Finding: Because the property is in town, any impacts to agriculture other than what may have already occurred is expected to be minimal. The developer should obtain a weed inspection from the County Weed District.

Effect on agricultural water user facilities: There are no irrigation ditches on the property. The layout shows a proposed stormwater ditch on the north side of the subdivision and a drainage ditch on the south side to direct runoff to a planned stormwater basin on the southeast side of the subdivision.

There are no known water rights associated with the property.

Finding: Because there are no agricultural water user facilities on the property, there should be minimal adverse impacts on agricultural water user facilities as a result of this subdivision.

- Effect on local services: The Bridger Police Department has jurisdiction to provide law enforcement services to the subdivision. The application indicates Chief Buechler noted that response time would be a matter of minutes and that the area is already patrolled.

Finding: This subdivision will have minimal adverse impacts on law enforcement, since services can be provided.

The Bridger Fire Department provides fire protection. The applicant has indicated that Chief Fendler has expressed some concerns about a single point of ingress/egress and noted that it may be preferred to have a hydrant installed at the entrance to the subdivision. The Chief also noted the steepness of the entrance to the subdivision. The engineer noted that a second point of access could be provided by South E Street, but that it is currently undeveloped and would present similar grade concerns.

Finding: This subdivision may have adverse impacts on fire protection which can be somewhat mitigated by placing a new hydrant at the access to the subdivision.

E Carbon Ave is a paved road owned and maintained by the Town of Bridger. The internal roads would be privately owned and maintained.

The application documents indicate that if all RV spots and all cabins are occupied, the development could generate 117.6 trips per day. However, the application indicates actual trips would likely be less than this number.

Finding: There will be some additional impacts on the road system as a result of this subdivision. However, the Bridger road system can likely accommodate this increase as area roads are in fair condition.

There is an overhead power line on the north side of E Carbon Ave. and an existing access and utility easement on the east side of the proposed subdivision. Extension of utilities to the RV spots will be privately financed.

Utility easements should be shown on the final plan per section V-A-15.a., and the standard utility language should be placed on the final plan, per section V-A-15.h. of the Subdivision Regulations: “The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric, power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of the lines and other facilities, in, over, under and across each area designated on this plat as “Utility Easement” to have and hold forever.”

Finding: There will be no significant adverse impacts on utility providers if utility easements are referenced and shown on the plan, and the standard utility easement language is provided.

The subdivision is located within the Bridger School District. It is unlikely that an RV park will generate many, if any, additional students. Taxes on the property are currently about \$400/year, which will likely increase substantially after development. While large-lot rural development is unlikely to generate enough additional tax revenue to offset high costs of services, higher density residential development, development located closer to existing facilities, and commercial/industrial development generally are more likely to offset costs associated with provision of services.

Finding: The subdivision should have minimal impacts on other local services because no service providers indicated an inability to service the proposed subdivision.



Looking East on E Carbon Ave

- Effect on the natural environment: The property is proposed to be served by Bridger water and sewer. Water will be extended to the subdivision and a privately-owned distribution system will provide water throughout the subdivision. Sewer will be collected in the park and pumped into the Town sewer main. DEQ review and approval is required. All requirements of the Bridger Public Works Department should also be met.

Finding: There should be no adverse impact on the natural environment if the property is developed in compliance with DEQ and Public Works requirements. The DEQ approval should be filed with the final plan.

A recent order from the Montana First Judicial District Court regarding a proposed subdivision in Broadwater County suggests that counties should require subdividers

provide as much detail as possible on the impacts of a proposed subdivision on the potentially affected aquifer and should not simply rely on the Montana Department of Natural Resources and Conservation's (DNRC) water right predetermination process. The Court also found errors with the DNRC process, which may result in only a single exempt well being allowed in each subdivision, regardless of water use of the whole subdivision.

The acquisition of a new water right for a subdivision is not typically required unless the combined subdivision lots will use 10 acre-feet of water per year, or if a well will pump more than 35 gallons per minute. If existing water rights are interfered with either as part of a subdivision or otherwise, DNRC has an adjudication process that can result in later appropriations being limited to protect senior water right holders.

The subdivision utilizes existing hookups to the Town of Bridger water system. No new wells are proposed.

Finding: There should be no adverse impacts on the aquifer since the site is using Town water and sewer.

The applicant submitted a Weed Management Plan, but no inspection has been completed by the Carbon County Weed District Coordinator. An inspection should be required.

Finding: There should be minimal impacts on the natural environment due to the proliferation of noxious weeds if the subdivider is required to have the Weed District inspect the site and complies with any required mitigation. The District has enforcement ability should the property fall into noncompliance at a future date.

- Effect on wildlife: Wildlife does frequent the area; the subject property is currently adjacent to residential areas. Therefore, no significant adverse impacts on wildlife are anticipated other than what may have already occurred.

Finding: No significant adverse impacts to wildlife are anticipated due to the existing human occupation in the area.

- Effect on wildlife habitat: The subdivision is surrounded by Sage Grouse Core Area, but the municipal limits of Bridger are excluded by the Montana Sage Grouse Habitat Conservation Program. Because the property is within municipal limits, it is unlikely that the subdivision will cause additional adverse impacts on wildlife habitat. There does not appear to be other critical wildlife habitat on the site.

Finding: There should be no significant impact on wildlife habitat since no critical habitat exists on the property.

- Effect on public health and safety: The Bridger Police Department provides law enforcement service in the area; the Bridger Fire Department provides fire protection in the area. See discussion and findings under Effect on Local Services.

The property is served by Bridger water and sewer. DEQ approval of the subdivision is required.

RV Parks and similar developments that provide public accommodations are required to obtain licensing through the Montana Department of Public Health and Human Services (DPHHS).

Finding: There should be minimal impacts on public health and safety if recommended conditions are imposed and proper licensing is obtained from the DPHHS.

c. Whether the application and plat conform to the provisions of the following:

- i. The Montana Subdivision and Platting Act: The Plan has been prepared and processed in accordance with the Montana Subdivision and Platting Act (MSPA). The final plan should include a notation that each lot has legal and physical access (76-3-608(3)(d), MCA, and Section III-B-11.f.v of the Carbon County Subdivision Regulations).

Finding: Upon compliance with the recommended conditions of approval and adherence to the process outlined in statute, the subdivision will have complied with the MSPA.

- ii. Compliance with Survey Requirements: Subdivisions created by lease or rent, such as RV parks, are exempt from survey requirements, but must be approved prior to rent and occupation of RV sites. A final plan in conformance with the preliminary plan must be submitted (Sections VI-A and VI-B-4 of the Carbon County Subdivision Regulations).

Finding: The subdivision is not subject to survey requirements but must provide a final plan that conforms to the approved preliminary plan. The final plat must be approved prior to rent and occupation of the RV spots.

- iii. The Carbon County Subdivision Regulations: The subdivision, once conditions have been met, will conform to the requirements of the adopted Subdivision Regulations.

The final plan must be substantially similar to the preliminary plan application, except as modified by conditions. If the final plan differs substantially from the preliminary plan, additional review may be required (Section III-C-5 of the Carbon County Subdivision Regulations).

The Carbon County Subdivision Regulations, Section III-B-12 states that a preliminary plat approval is in force for two years. If a final plan is not filed within that timeframe, an extension must be granted, or a new application submitted. The Town of Bridger is under no obligation to grant such an extension.

The Subdivision Regulations, Section VI-E includes requirements for Recreational Vehicle Parks, including road standards, spacing requirements, and square footage requirements. These requirements appear to be met based on the information provided with the subdivision application.

A condition requiring final plan preparation to be in conformance with the Subdivision Regulations will ensure compliance with County and Town requirements, even if not specifically discussed in this memorandum.

Finding: To ensure compliance with the Subdivision Regulations, conditions should be required to ensure the final plan is substantially similar to the preliminary plan, that the final plan is filed within two years of preliminary plat approval, and that the final plan be submitted in conformance with the Subdivision Regulations.

- iv. Applicable Zoning Regulations: The property is within the Town of Bridger jurisdiction and is unzoned. The zoning ordinance is administered by the Town. The applicant provided a copy of a November 18, 2024, letter from Raymond G. Kuntz, the Bridger City Attorney, who indicated that the property will need to be rezoned to “Residential D” before use as a campground.

Finding: The property should be rezoned to comply with the Bridger Town Code and zoning regulations.

- v. Other regulations in effect in the area of the proposed subdivision: The Town of Bridger has public works standards and standards for “trailer courts”. The public works standards and other ordinances of the Town are administered by the Town. The subdivision should be compliant with Town standards and requirements as applicable.

Finding: The subdivision should be in compliance with all applicable Town of Bridger ordinances, standards, and requirements.

- vi. Whether DEQ has approved the subdivision for proposed subdivisions that will create parcels of less than twenty (20) acres: DEQ approval is required to be obtained and should be filed with the final plan.

Finding: DEQ approval should be filed with the subdivision.

- vii. Whether the subdivider has demonstrated that there is an adequate water source and at least one are for a septic system and a replacement drainfield for each lot for a proposed subdivision that will create one or more parcels containing twenty (20) acres or more: The subdivision is not subject to review and approval by the Carbon County Sanitarian.

Finding: There are no lots over 20 acres.

d. Compliance with Growth Policy:

State law, 76-1-605, MCA, requires that after the adoption of a growth policy, the governing body must be “guided by and give consideration to the general policy and pattern of development set out in the growth policy” in the “authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities; authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities; and adoption of zoning ordinances or resolutions.” However, statute also states that “A growth policy is not a regulatory document and does not confer any authority to regulate that is not otherwise specifically

authorized by law or regulations adopted pursuant to the law. A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy [...].” It is, though, beneficial to examine the proposed subdivision in consideration of the adopted growth policy.

Chapter 6 of the Carbon County Growth Policy contains goals and objectives for the implementation of the Growth Policy. The following goals and objectives may be relevant to the proposed subdivision:

- Objective 1.4: Encourage development in areas that are not in agricultural production
 - 1.4.A. As authorized by the state legislature in 2003, in 76-3-509 MCA, formulate and adopt regulations to encourage cluster development for those developments that meet the definitions.
- Objective 1.7: Direct growth to existing communities, incorporated towns and cities, or platted unincorporated places.
 - 1.7.A. Explore the potential for future land use mapping in areas immediately adjacent to existing communities

e. Planning Staff Recommendation:

The basis for the governing body's decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the proposed subdivision is in compliance with the Montana Subdivision and Platting Act and the adopted Subdivision Regulations.

In consideration of the findings included in this Memorandum, Planning Staff recommends approval of Fair Haven Subdivision RV Park, pursuant to the following conditions (Section references are to the Carbon County Subdivision Regulations unless otherwise noted):

1. Prior to filing of the final plan, the subdivider shall obtain an inspection by the County Weed District and comply with any recommendations and requirements of the Weed District. (Section V-A-17; Effect on Agriculture; Effect on the Natural Environment)
2. A fire hydrant shall be installed near the entrance to the subdivision prior to filing of the final plan. (Section V-A-21; Effect of Local Services; Effect on Public Health and Safety)
3. The final plan shall show the location of all existing and required utility easements. Easements for utilities shall be noted on the final plan. (Section V-A-15.a; Effect on Local Services)
4. The final plan must include the following statement: “The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric, power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of the lines and other facilities, in, over, under and across each area designated on this plat as “Utility Easement” to have and hold forever.” (Section V-A-15.h; Effect on Local Services)
5. Filing of the final plan shall be subject to the review and approval by the Montana Department of Environmental Quality (DEQ) and the Town of Bridger Public Works

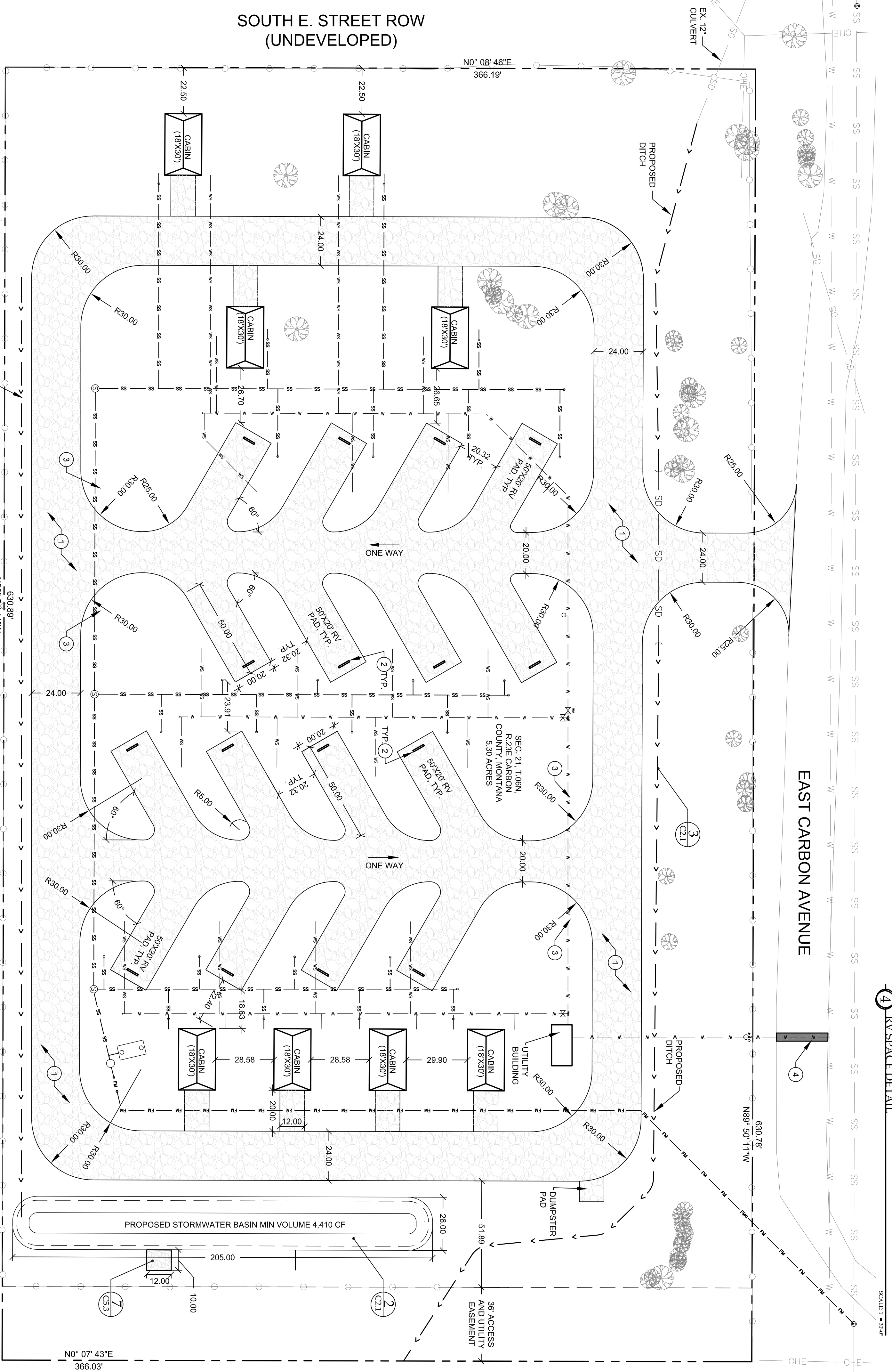
Department, as appropriate, for water, wastewater, solid waste, and stormwater drainage provisions, as applicable. DEQ approval shall be filed with the final plan. (Sections III-B-8.b. and V-A-11, 12,13, and 14; Effect on the Natural Environment; Effect on Public Health and Safety)

6. Prior to final plan approval, appropriate licensing shall be obtained through the Montana Department of Health and Human Services (DPHHS). (Section VI-B-5; Effect of Public Health and Safety)
7. A notation shall be provided on the final plan that legal and physical access is provided per 76-3-608(3)(d), MCA. (Section III-B-11.f.v; Compliance with the Montana Subdivision and Platting Act)
8. The final plan shall be in substantial compliance with the plans and documents submitted as part of the preliminary plan application. (Section III-C-5; Compliance with the Subdivision Regulations)
9. The final plan shall comply with the requirements of Section V-E of the Carbon County Subdivision Regulations. (Compliance with the Subdivision Regulations)
10. The final plan shall be submitted within two years of the date of preliminary plat approval, or an extension(s) to the approval period obtained. (Section III-B-12; Compliance with the Subdivision Regulations)
11. The final plan shall be prepared and reviewed in accordance with Section VI-B-4 of the Carbon County Subdivision Regulations. (Compliance with the Subdivision Regulations)
12. Prior to final plan approval, the developer shall obtain approval from the Town of Bridger for rezoning of the property to “Residential D”. (Compliance with applicable zoning regulations).
13. The subdivision shall be in compliance with all applicable Town of Bridger ordinances, standards, and requirements. (Compliance with other Regulations)

PROJECT INFORMATION

LEGAL: BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION 21, WHICH SAID POINT BEARS NORTHERLY ALONG SAID EAST LINE A DISTANCE OF 772.6 FEET FROM THE SE CORNER OF SECTION 21; THENCE NORTH ALONG THE EAST LINE OF SECTION 21, A DISTANCE OF 366 FEET; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SECTION 21, A DISTANCE OF 630.0 FEET; THENCE NORTHERLY ALONG THE WEST LINE OF SAID SECTION 21, A DISTANCE OF 630.0 FEET; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SECTION 21 A DISTANCE OF 366 FEET; THENCE EASTERLY PARALLEL TO THE SOUTH LINE OF SAID SECTION 21 A DISTANCE OF 631 FEET TO THE POINT OF BEGINNING, SAID TRACT ALSO SOMETIMES DESCRIBED AS TRACT O OF THE UNRECORDED TRACTS TO THE TOWN OF BRIDGER.

OWNER: REBECCA KLEIN AND JANET HALLAND
 LOT AREA: 5.30 ACRES
 RV SITES: 16 (20'X30')
 CABINS: 8 (18'X30')



LEGEND

- EX TREE
- STORM SEWER/CULVERT
- DITCH
- GRAVEL ROADWAY
- PROP. SANITARY SEWER SERVICE
- PROP. SANITARY SEWER FORCE MAIN
- PROP. WATER LINE
- PROP. WATER SERVICE
- SS EX. SANITARY SEWER
- SD EX. STORM SEWER
- W EX. WATER MAIN
- UE EX. UNDERGROUND ELECTRIC
- EX. OVERHEAD ELECTRIC

PROJECT NOTES

1. EXISTING SITE FEATURES BASED ON TOPOGRAPHIC SURVEY COMPLETED BY ESSEX SURVEYING, DATED JULY, 2022.
2. CONDUCT ALL WORK IN ACCORDANCE WITH THE MONTANA PUBLIC WORKS STANDARD SPECIFICATIONS, CURRENT EDITION AND SPECIAL PROVISIONS NOTED ON THE CONTRACT DOCUMENTS.
3. PROTECT EXISTING VEGETATION, EQUIPMENT, STRUCTURES, UTILITIES AND OTHER IMPROVEMENTS AT THE PROJECT SITE AND REMOVED MATERIALS SHALL BE REUSED OR RECYCLED. EXISTING UTILITIES ARE SHOWN IN APPROXIMATE LOCATION. CONTRACTOR SHALL FIELD VERIFY EXACT LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO DEMOLITION OR CONSTRUCTION ACTIVITIES.
4. IMMEDIATELY REPORT ANY AND ALL DISCREPANCIES FOUND ON THE PROJECT TO THE PLANS OR OTHERWISE TO THE CONDITIONS TO THE OWNERS REPRESENTATIVE.
5. EXISTING UTILITIES ARE SHOWN IN APPROXIMATE LOCATION. CONTRACTOR SHALL FIELD VERIFY EXACT LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO DEMOLITION OR CONSTRUCTION ACTIVITIES.
6. LEGALLY REMOVE AND DISPOSE ALL SURPLUS MATERIAL FROM PROJECT AREA TO OBTAIN LINE AND GRADE.
7. PROVIDE AND MAINTAIN BEST MANAGEMENT PRACTICES DURING CONSTRUCTION AS NECESSARY TO PREVENT OFF-SITE TRACKING CONSTRUCTION OPERATIONS.
8. A STORM WATER POLLUTION PREVENTION PLAN (SWPPP) IS REQUIRED FOR THE DEVELOPMENT. CONTRACTOR IS RESPONSIBLE FOR THE DEVELOPMENT, PERMITTING AND IMPLEMENTATION OF THE SWPPP.
9. ALL MONUMENTS, SECTION CORNERS OR PROPERTY CORNERS DAMAGED OR DESTROYED DURING CONSTRUCTION ACTIVITIES SHALL BE REPLACED AND RESET BY A LICENSED SURVEYOR AT THE EXPENSE OF THE SOLE CONTRACTOR.
10. IN CONFORMANCE WITH SUBDIVISION REGULATIONS, RV PADS AND CABIN ARE SEPARATED BY A MINIMUM OF 20'.
11. EACH RV SITE PROVIDES A MINIMUM OF 1,500 SF PER SITE INCLUSIVE OF THE PAD AND HALF THE OPEN SPACE LOCATED BETWEEN RV PADS AS REQUIRED BY SUBDIVISION REGULATIONS.

FLAG NOTES

1. GRAVEL ROADWAY
2. PRECAST WHEEL STOP
3. ONEWAY DO NOT ENTER SIGNAGE
4. SAWCUT, REMOVE AND REPLACE EXISTING ASPHALT PAVEMENT IN KIND
5. RIPRAP OUTLET CHANNEL

UTILITY INFORMATION, AS SHOWN, INDICATES APPROXIMATE LOCATIONS AND THE TYPES OF FACILITIES ONLY, AS DISCLOSED TO THIS FIRM BY THE VARIOUS UTILITY COMPANIES'S RECORDS. UTILITY COMPANY'S RECORDS IMPLIED AS TO THE OPEN OR COMPLETENESS OR ACCURACY THEREOF.

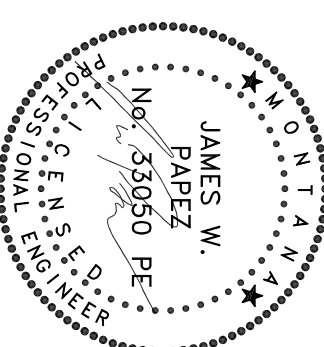
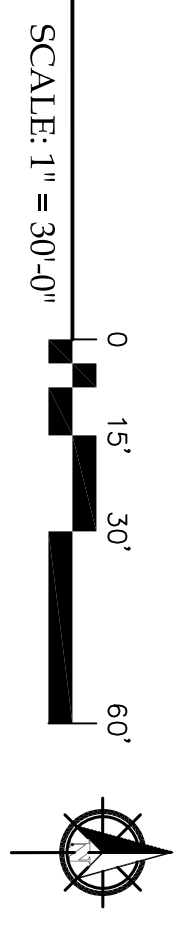
PRIOR TO CONSTRUCTION, VERIFY THE LOCATION OF EXISTING OVERHEAD AND UNDERGROUND UTILITIES (IN CONFLICT WITH THE PROPOSED IMPROVEMENT).

DURING CONSTRUCTION, USE EXTREME CAUTION WHEN OPERATING NEAR OVERHEAD AND/OR BURIED UTILITIES.

811 KNOW WHAT'S BELOW
 CALL BEFORE YOU DIG
 1-800-551-8344

3 WORKING DAYS BEFORE YOU DIG
 CALL MISS DIG
 1-800-551-8344

LAYOUT PLAN



Papez Development Services, LLC
 james@pds-eng.net (406) 545-5284

PROJECT TITLE
FAIR HAVEN SUBDIVISION
BRIDGER, MONTANA

DRAWN: JWP
 DATE: 07/29/2024
 PROJECT NO.: 21027

SHEET TITLE
LAYOUT PLAN

SHEET
C2.1

CARBON COUNTY
Planning Office
P.O. Box 466, Red Lodge, MT 59068
Main: (406) 446-1694
Fax: (406) 446-2640

PROJECT MEMORANDUM

TO: Members of the Carbon County Planning Board
FROM: Forrest J. Mandeville, AICP – Contract Planner
DATE: December 6, 2024
RE: High Country Acres Subdivision Preliminary Plat Application–Staff Report and Findings

REQUIRED PLANNING BOARD ACTION: Review, receive public comment, and recommendation to approve, conditionally approve, or deny the proposed preliminary plat.

RECOMMENDATION: **Approval with Conditions**

RECOMMENDED MOTION: *Having reviewed and considered the application materials, project memorandum, public comments and all of the information presented, I hereby move to recommend approval of the High Country Acres Subdivision, with the findings and conditions included in the project memorandum.*

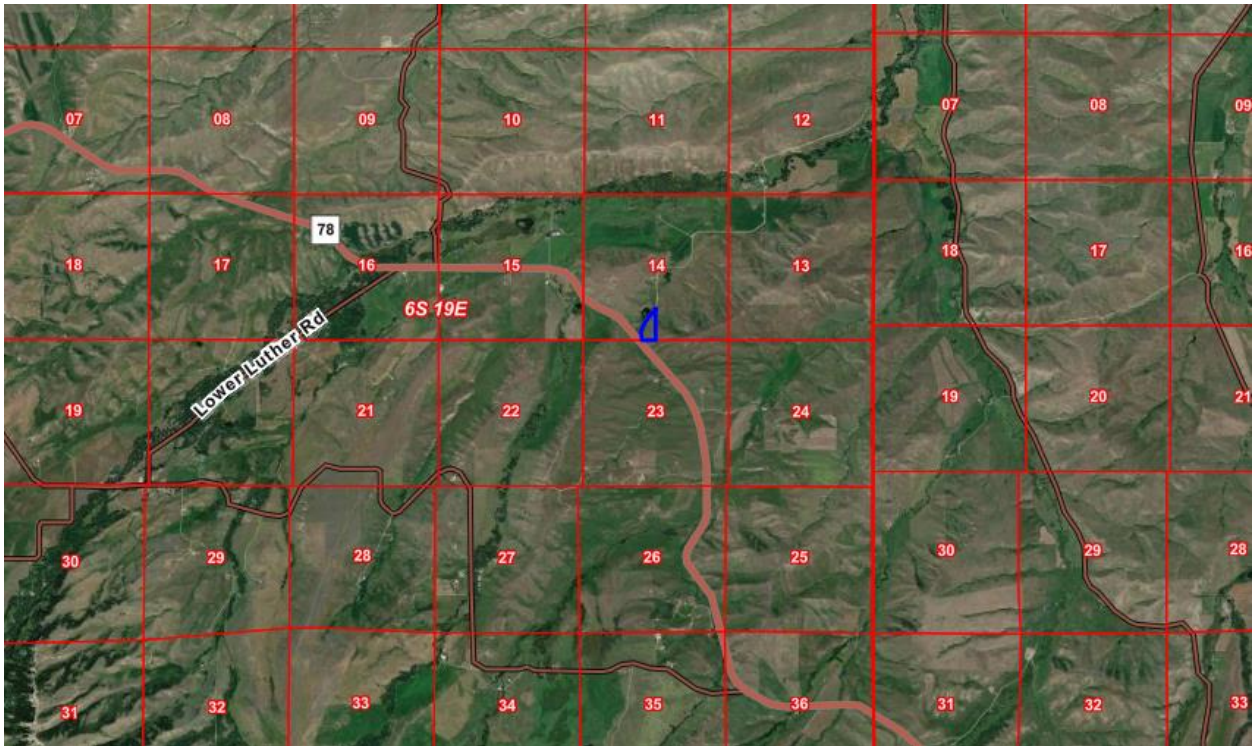
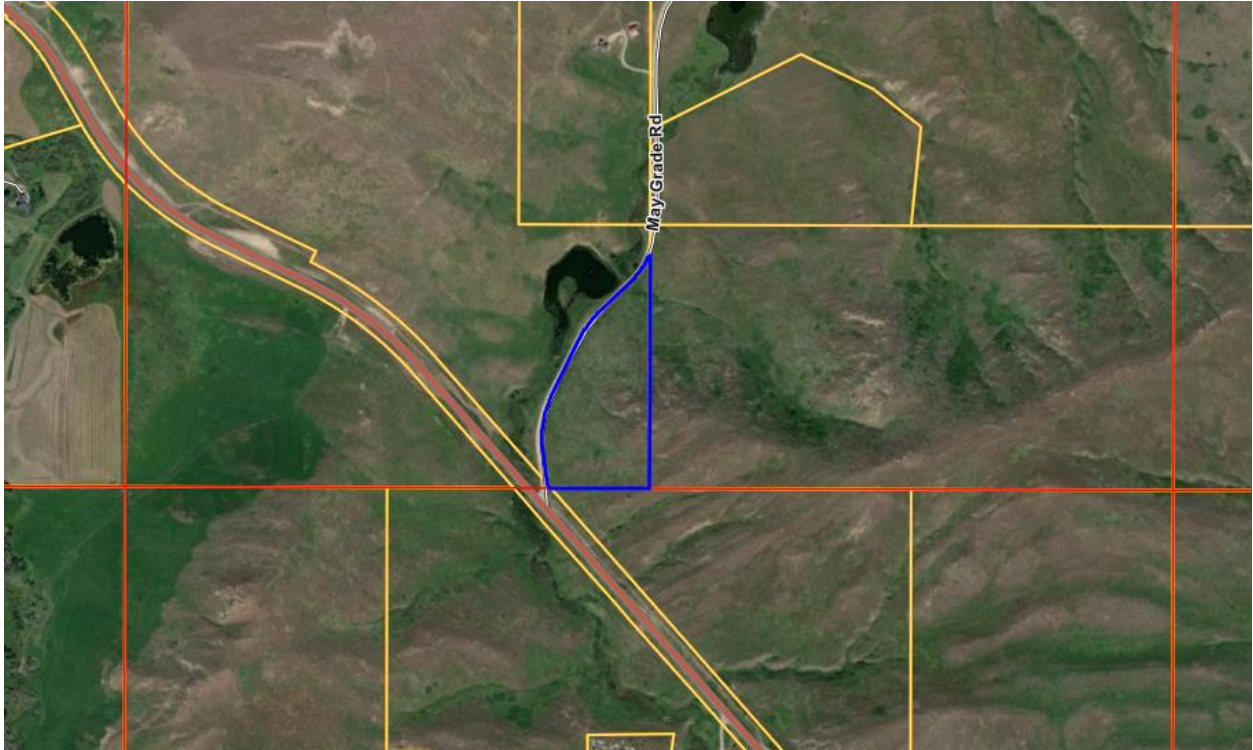
Project/Application Summary:

Engineering West, on behalf of Martin and Magdalen Kosel, has submitted a preliminary plat application for a 2-lot minor subdivision. The subdivision area is approximately 10 acres with proposed lots of 5.01 acres and 4.99 acres in size. The lots are designed for single-family residential use

The subject property is located on May Grade Road, on the northeast corner of the intersection with Highway 78, approximately 10 miles northwest of Red Lodge. The property is legally described as Tract 1 of COS 2063, in the SE ¼ SW ¼ of Section 14, Township 6 South, Range 19 East, P.M.M., Carbon County, Montana.

Required Planning Board Action:

During a public meeting, the Planning Board shall make a recommendation to the County Commission to approve, conditionally approve, or deny the preliminary plat. The Planning Board may recommend conditions for approval intended to ensure compliance with the Subdivision Regulations and to mitigate any anticipated impacts of the subdivision.



Subdivision Location (Blue) and Vicinity

Subdivision Regulations – Compliance Review/Findings Summary: (Section references are to the Carbon County Subdivision Regulations unless otherwise noted)

a. Relevant evidence relating to the public health, safety, and welfare

Each lot is proposed to utilize individual drainfields and wells located on each lot. Review by the Montana Department of Environmental Quality (DEQ) is required, since each lot is less than 20 acres in size.

Access is proposed to be provided to the subdivision via May Grade Road, a dirt/gravel road which is owned and maintained by the County. There is an existing approach to Lot 1; a new approach permit will be needed for Lot 2.

b. Summary of Probable Impacts

Except where exempt by state law, all subdivisions must be reviewed for the specific, documentable, and clearly defined impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety.

- **Effect on agriculture:** The site is not classified as prime farmland by the USDA and is likely not suitable for crops due to the slopes (generally 10-22%). The property has been and currently appears to be used for grazing. This use will likely cease once the property is developed with new homes, though the subdivision application documents indicate it may be possible that small-scale agricultural operations persist, such as pasturing horses and small farm animals.

May Grade Road provides access to several large-lot residential property and farming and grazing operations. Because the property is in an agricultural area, it should be recognized that as more people move into such areas there is the possibility of conflicts. Montana has right to farm laws that protect agricultural practices from complaints due to common agricultural practices.

Two new single-family homes could generate an additional 16-20 vehicle trips per day. The application indicates that there are currently approximately 9 homes located on May Grade Road, and that two additional homes could increase traffic in the area by about 22%, though the new lots would be only about 1000 feet from Highway 78, which is where most of the new traffic will likely be going to or coming from.

May Grade Road is a County-owned and maintained gravel road with a width of about 24 feet, and the expected increase in traffic is not expected to create significant additional conflicts with agricultural operations, according to the application.

Carbon County Weed District Coordinator Brian Ostwald inspected the site on October 22, 2024, and noted that Canada thistle is present on the property, especially along the May Grade Road, and should be sprayed in the spring prior to development.

Finding: The subdivision will add traffic and people in an agricultural area. However, the scale of the subdivision is fairly small and any impacts directly related to the subdivision should be minimal.

There are weeds on the property which should be sprayed prior to development. A Subdivision Improvements Agreement (SIA) could be utilized to ensure future owners understand their responsibilities regarding noxious weed control.



Looking North Along May Grade Road

- Effect on agricultural water user facilities: There is an existing stock well and water line easement shown on the preliminary plat which is used by a neighboring property owner. The Subdivision Regulations, Section V-A-18 requires the following statement appear on the final plat: “Nothing herein nor any covenant shall diminish the unobstructed use and maintenance of the existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to land adjacent or to beyond the subdivision in quantities and in a manner that are consistent with historic and legal rights.”

There are no known water rights associated with the property.

Finding: As long as an easement for the stock well and associated water line is provided on the plat and the required language appears on the plat, there should be minimal adverse impacts on agricultural water user facilities as a result of this subdivision.

- Effect on local services: The Carbon County Sherriff's office has jurisdiction to provide law enforcement services to the subdivision. The subdivision application indicated an anticipated response time of 30 minutes in normal circumstances.

Finding: This subdivision will have minimal adverse impacts on law enforcement, since services can be provided.

Red Lodge Fire Rescue provides fire protection and EMS services. The application notes that comments from the Fire Department had not been received, but they anticipate a response time of about 30 minutes. A Fire Control and Prevention Plan was submitted with the subdivision and should be approved by the Fire Department and filed with the final plat.

Finding: This subdivision will have minimal adverse impacts on fire protection in the area since fire protection can be provided, if a Fire Control and Prevention Plan, acceptable to the Fire Department, is filed with the final plat.

May Grade Road is a dirt/gravel road owned by the County. Maintenance appears to be regular according to the Road Priority Map on the Road and Bridge web page. The subdivision application notes that trips could increase by 22% as a result of the two new homes in the subdivision, though most of that traffic is expected to be travelling to and from Highway 78, which is located about 1000 feet from the farthest proposed lot.

Additional traffic may result in more requests for maintenance and more complaints regarding dust control. The County has a process in which landowners can apply to the County to coordinate spraying for dust control.

As more lots develop on gravel County roads, impacts will increase through demands for a higher level of maintenance. The County may need to seriously consider requiring RSIDs for road maintenance, the adoption of impact fees, or other mitigation measures to address these cumulative impacts. Another option would be to require the developer enter into a waiver of the right to protest the creation of an improvement district for road maintenance.

Finding: There should be minimal additional impacts on the County road system as a result of this subdivision due to the relatively small scale of the subdivision. However, the County should require the subdivider petition that an RSID be created to pay for dust control and road maintenance for the frontage of May Grade Road associated with the Subdivision. The County may also require a waiver of the right to protest the creation of an improvement district for road maintenance.

Beartooth Electric Cooperative provides electrical services in the area. BEC had not responded to requests for comments according to the applicant. There is underground

power installed to Lot 1 and power is available to Lot 2 within the May Grade Road right of way.

Utility easements should be shown on the final plat per section V-A-15.a., and the standard utility language should be placed on the final plat, per section V-A-15.h. of the Subdivision Regulations: “The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric, power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of the lines and other facilities, in, over, under and across each area designated on this plat as “Utility Easement” to have and hold forever.”

Finding: There will be no significant adverse impacts on utility providers if utility easements are referenced and shown on the plat, and the standard utility easement language is provided.

The subdivision is located within the Red School High School District and Luther Elementary School District. At full build out, the subdivision could generate 1-5 students in the local school districts. The application indicates that the Red Lodge School District noted that the district can accommodate bus services for high school students, and they can also accommodate transportation for elementary age students in this subdivision as long as there are high school students at the bus stop as well.

The current tax revenue from the property is about \$1,067.87 according to the subdivision application. New residences valued at \$400,000 to \$500,000 could generate \$4,000 to \$5,000 per lot, per year, assuming a 1% tax rate. It should be noted that increased tax revenue associated with large-lot rural development is generally not sufficient to completely offset increased costs associated with additional demands for service. Higher density residential development, development located closer to existing facilities, and commercial/industrial development generally are more likely to offset costs associated with provision of services.

A Subdivision Improvements Agreement (SIA) could be utilized to note responsibilities for maintenance for public and private infrastructure.

Finding: High Country Acres Subdivision should have minimal impacts on other local services due to the small scale of the subdivision and because no service providers indicated an inability to service the proposed subdivision if an SIA is prepared outlining maintenance responsibilities.

- Effect on the natural environment: New septic/drainfield systems are proposed for each lot. New wells will be used for potable water supply.

Review and approval of new septic, potable water, solid waste, and stormwater drainage is required by the Montana Department of Environmental Quality (DEQ) as the lots are less than 20 acres. (See Sections IV-B-8.b, V-A-11 through 14, and MCA 76-3-622).

Finding: New water, wastewater, stormwater drainage, and solid waste disposal will not have an adverse impact on the natural environment if DEQ review and approval is required to be obtained prior to final plat.



May Grade Road

A recent order from the Montana First Judicial District Court regarding a proposed subdivision in Broadwater County suggests that counties should require subdividers provide as much detail as possible on the impacts of a proposed subdivision on the potentially affected aquifer and should not simply rely on the Montana Department of Natural Resources and Conservation's (DNRC) water right predetermination process. The Court also found errors with the DNRC process, which may result in only a single exempt well being allowed in each subdivision, regardless of water use of the whole subdivision.

The acquisition of a new water right for a subdivision is not typically required unless the combined subdivision lots will use 10 acre-feet of water per year, or if a well will pump more than 35 gallons per minute. If existing water rights are interfered with either as part of a subdivision or otherwise, DNRC has an adjudication process that can result in later appropriations being limited to protect senior water right holders.

The applicant submitted a Ground Water Availability Report prepared by Travis West, P.E., RS, regarding the impact on the underlying aquifer. This report indicates the area is in the Fort Union Aquifer formation consisting of water bearing fractures of sandstones and shales. Water layers are not uniform in the formation and vary by location. Wells in the aquifer have a wide range of depths, with a median of 118. Median water yields are 12 gallons per minute. The report concludes that the entire subdivision is expected to use less than 10-acre feet of water per year, therefore the subdivision lots qualify for an exempt water right.

There should be some mechanism created to ensure water is limited per lot, such as covenants.

Finding: To ensure water is limited to 10-acre feet per year for the entire subdivision, covenants or a similar document should be filed with the final plat which include water use restrictions.

The applicant submitted a Weed Inspection Report completed by Carbon County Weed District Coordinator Brian Ostwald dated October 22, 2024. The report indicates that Canada thistle is present on the property, especially along the May Grade Road, and should be sprayed in the spring prior to development.

Finding: If the weeds are addressed there should be minimal impacts on the natural environment due to noxious weed proliferation. The Weed District has enforcement ability should the property fall into noncompliance at a future date.

- Effect on wildlife: Wildlife does frequent the area, but there is a certain amount of human activity in the area, specifically the presence of Highway 78. Therefore, no significant adverse impacts on wildlife are anticipated other than what may have already occurred.

Finding: No significant adverse impacts to wildlife are anticipated due to the existing human activity in the area.

- Effect on wildlife habitat: The subdivision is not included in mapped Sage Grouse general habitat according to the Montana Sage Grouse Habitat Conservation Program. The property has not been identified as significant habitat for other species, though it should be expected that wildlife endemic to the area can be observed from time to time.

Finding: There should be no significant impact on wildlife habitat because no significant wildlife habitat has been identified on the property.

- Effect on public health and safety: The Carbon County Sheriff's office provides law enforcement service in the area; Red Lodge Fire Rescue provides fire protection in the area. See discussion and findings under Effect on Local Services.

DEQ approval of water and septic provisions is required. See discussion under effects on the natural environment.

Finding: There should be minimal impacts on public health and safety if recommended conditions are imposed.

c. Whether the application and plat conform to the provisions of the following:

- i. The Montana Subdivision and Platting Act: The Plat has been prepared and processed in accordance with the Montana Subdivision and Platting Act (MSPA). The final plat should include a notation that each lot has legal and physical access (76-3-608(3)(d), MCA, and Section IV-B-10.f.v of the Carbon County Subdivision Regulations).

The Subdivision Guarantee submitted with the preliminary plat application indicates there are two loans on the property, one with beneficiaries H. Ray and Judy Langford, and the other with a beneficiary of Yvonne Epperson. Consent to the subdivision from the lien holder will need to be provided prior to final plat, or the loans will need to be settled.

Finding: Upon compliance with the recommended conditions of approval and adherence to the process outlined in statute, the subdivision will have complied with the MSPA.



Intersection of May Grade Road and Highway 78

- ii. Compliance with Survey Requirements: The final plat must be in compliance with the requirements of Title 76, Chapter 3, Part 4, MCA, as well as Uniform Standards for Final Subdivision Plats (24.183.1107, ARM). A requirement that, prior to filing, the plat be submitted to the County's Examining Land Surveyor (ELS), and that any comments of the ELS be addressed will ensure survey requirements are followed (Section IV-C-3.b.vi of the Carbon County Subdivision Regulations).

Finding: Upon review by the ELS and the addressing of any comments thereof, survey requirements will have been adhered to.

- iii. The Carbon County Subdivision Regulations: The subdivision, once conditions have been met, will conform to the requirements of the adopted Subdivision Regulations.

The final plat must be substantially similar to the preliminary plat application, except as modified by conditions. If the final plat differs substantially from the preliminary plat, additional review may be required (Section IV-C-5.b of the Carbon County Subdivision Regulations).

The Carbon County Subdivision Regulations, Section IV-B-11 states that a preliminary plat approval is in force for two years. If a final plat is not filed within that timeframe an extension must be granted or a new application submitted. The County is under no obligation to grant such an extension.

A condition requiring final plat preparation to be in conformance with the Subdivision Regulations will ensure compliance with County requirements, even if not specifically discussed in this memorandum.

Finding: To ensure compliance with the Subdivision Regulations, conditions should be required to ensure the final plat is substantially similar to the preliminary plat and plans, that the final plat is filed within two years of preliminary plat approval, and that the final plat be submitted in conformance with the Subdivision Regulations.

- iv. Applicable Zoning Regulations: The Carbon County Development Regulations require a Group 1 Development Permit be obtained prior to residential development. The subdivision is compliant with the Development Regulations to the extent required.

Finding: The subdivision does not appear to conflict with local zoning regulations.

- v. Other regulations in effect in the area of the proposed subdivision: There are no other known regulations with which the subdivision would conflict if approved.

Finding: The subdivision is not in conflict with any known regulations.

- vi. Whether DEQ has approved the subdivision for proposed subdivisions that will create parcels of less than twenty (20) acres: DEQ review and approval is required prior to final plat as the lots are under 20 acres in size (Sections IV-B-8.b.i and V-A-11, 12,13, and 14 of the Carbon County Subdivision Regulations).

Finding: DEQ review and approval should be a condition of final plat.

- vii. Whether the subdivider has demonstrated that there is an adequate water source and at least one are for a septic system and a replacement drainfield for each lot for a proposed subdivision that will create one or more parcels containing twenty (20) acres or more:
There are not lots over 20 acres in size.

Finding: All lots are less than 20 acres.

d. Compliance with Growth Policy:

State law, 76-1-605, MCA, requires that after the adoption of a growth policy, the governing body must be “guided by and give consideration to the general policy and pattern of development set out in the growth policy” in the “authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities; authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities; and adoption of zoning ordinances or resolutions.” However, statute also states that “A growth policy is not a regulatory document and does not confer any authority to regulate that is not otherwise specifically authorized by law or regulations adopted pursuant to the law. A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy [...]” It is, though, beneficial to examine the proposed subdivision in consideration of the adopted growth policy.

Carbon County adopted the 2020 Growth Policy in March of 2020. Chapter 6 contains goals and objectives for the implementation of the Growth Policy. The following goals and objectives may be relevant to the proposed subdivision:

- Objective 1.3: Assist farmers and ranchers who wish to continue using their lands for agricultural production.
 - 1.3.C. Continue to fund and support an active County weed control program which includes both education and regulation. Streamline the process to treat noxious weeds and recover costs when landowners do not treat their weeds. Continue to require weed inspections and bonding as necessary for any land use change and new development with fees to cover staff time for inspections.
 - 1.3.E. Balance individual property rights with the rights of other property owners and community interests for the public health, safety and welfare of all citizens.
- Objective 1.4: Encourage development in areas that are not in agricultural production
 - 1.4.A. As authorized by the state legislature in 2003, in 76-3-509 MCA, formulate and adopt regulations to encourage cluster development for those developments that meet the definitions.
- Objective 1.6: Encourage the voluntary preservation of open space and wildlife habitat in the county
 - 1.6.C. Encourage developers to mitigate impacts to wildlife, recreation areas, and agriculture, including, but not limited to, closing water storage tanks and pits, cleaning spills, and keeping major migration corridors as open as possible.

- 1.6.D. When considering changes in land use, encourage consultation with wildlife agencies for potential impacts.
 - Objective 1.7: Direct growth to existing communities, incorporated towns and cities, or platted unincorporated places.
 - 1.7.A. Explore the potential for future land use mapping in areas immediately adjacent to existing communities
- e. Planning Staff Recommendation:

The basis for the governing body's decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the proposed subdivision is in compliance with the Montana Subdivision and Platting Act and the adopted Subdivision Regulations.

In consideration of the findings included in this Memorandum, Planning Staff recommends approval of the High Country Acres Subdivision, pursuant to the following conditions (Section references are to the Carbon County Subdivision Regulations unless otherwise noted):

1. Noxious Weeds on the property shall be sprayed prior to final plat approval and sufficient evidence of such provided to the County and to the Weed District. (Section V-A-17; Effect on Agriculture)
2. A Subdivision Improvement Agreement should be provided that is acceptable to the County and notes the landowners' responsibility to spray weeds on the property and outlines responsibilities for public and private infrastructure. (Section IV-B-1; Effect on Agriculture; Effect on Local Services)
3. An easement shall be provided and shown on the final plat for the stock well and water line. (Section V-A-18; Effect on Agricultural Water Users Facilities)
4. The following statement shall appear on the final plat: "Nothing herein nor any covenant shall diminish the unobstructed use and maintenance of the existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to land adjacent or to beyond the subdivision in quantities and in a manner that are consistent with historic and legal rights." (Section V-A-18; Effect on Agricultural Water User Facilities)
5. The subdivider shall petition for the creation of an RSID for dust control and road maintenance on the portion of May Grade Road associated with the subdivision. (Section V-A-24; Effect on Local Services)
6. The subdivider shall enter into a waiver of the right to protest the creation of an RSID for road maintenance. (Section V-A-24; Effect on Local Services)
7. The final plat shall show the location of all existing and required utility easements. Easements for utilities to the property shall be obtained and noted on the final plat. (Section V-A-15.a; Effect on Local Services)
8. The final plat must include the following statement: "The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric, power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction,

maintenance, repair and removal of the lines and other facilities, in, over, under and across each area designated on this plat as “Utility Easement” to have and hold forever.” (Section V-A-15.h; Effect on Local Services)

9. A Fire Control and Prevention Plan that is acceptable to the Red Lodge Fire Department should be filed with the final plat.
10. Filing of the final plat shall be subject to the review and approval by the Montana Department of Environmental Quality for water, wastewater, solid waste, and stormwater drainage provisions, as applicable. (Sections IV-B-8.b.ii and V-A-11, 12,13, and 14; Effect on the Natural Environment; Effect on Public Health and Safety)
11. A document, such as private covenants, shall be filed with the final plat that include a limitation of water use to ensure the subdivision does not combine to use in excess of 10-acre feet of water per year. Any new private covenants should meet the requirements of Section V-A-23 and be filed with the final plat (Sections V-A-12 and V-A-23; Effect of the Natural Environment)
12. A notation shall be provided on the final plat that legal and physical access is provided per 76-3-608(3)(d), MCA. (Section IV-B-11.g.v; Compliance with the Montana Subdivision and Platting Act)
13. Consent to the subdivision from any lienholders of record shall be provided prior to filing the final plat (Section IV-B-1; Compliance with the Montana Subdivision and Platting Act)
14. Prior to filing the final plat, the plat shall be submitted to the County Examining Land Surveyor and any comments sufficiently addressed. (Section IV-C-3.b.vi; Compliance with Survey Requirements)
15. The final plat shall be in substantial compliance with the plans and documents submitted as part of the preliminary plat application. (Section IV-C-5.b; Compliance with the Subdivision Regulations)
16. The final plat shall be submitted within two years of the date of preliminary plat approval, or an extension(s) to the approval period obtained. (Section IV-B-11; Compliance with the Subdivision Regulations)
17. The final plat shall be prepared and reviewed in accordance with Section IV-C of the Carbon County Subdivision Regulations. (Compliance with the Subdivision Regulations)

