

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

MAY 20, 2025 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

March 18, 2025

D. PUBLIC HEARINGS

High Ridge Subdivision

E. REGULAR BUSINESS

High Ridge Subdivision – Discussion and Recommendation
to County Commission

Purgatory 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

Special Meeting June 5, 7:00 pm, Fromberg Town Hall

J. ADJOURN

Carbon County Planning Board
March Meeting
3-18-25

- A. Call Meeting to Order, 7:00 pm, Gordy Hill – Chairperson
- B. Roll Call
 - Present: Dean Webb, Clint Peterson, Betsy Scanlin, Mike Hayes, Dan Auch, Clinton Giesick, Gordy Hill, Angela Kallevig (via phone), Skip Bratton (via phone), Forrest Mandeville
 - Audience: see attached sign-in sheet
- C. Approval of 1-21-25 Minutes
 - Betsy moved to approve w/ amendments. Clint second.
 - Motion passed unanimously
- D. Public Hearings
 - *Woodlands on Rock Creek Subdivision*
- E. Regular Business
 - *Woodlands on Rock Creek Subdivision*
 - 2 lot subdivision
 - 4.51 and 5.01 acre lots
 - Homes are already located on each lot
 - No additional homes will be built
 - Existing dry hydrant near subdivision
 - City sewer with individual wells for each home
 - Covenants are already in place
 - Gordy Hill
 - Question regarding DEQ requirements
 - Betsy Scanlin
 - Add to conditions that SIA shall be provided to ensure ongoing control of noxious weeds & fire protection
 - Betsy moved to recommend Commissioner's approval. Dean second.
 - Motion passed unanimously
- F. Audience Communication
 - *Woodlands on Rock Creek Subdivision*
 - Jade Langender – HOA President
 - Discussion of HOA covenant enforcement
 - Covenants are internal to the subdivision

- Lynna LaRoque – HOA vice president
 - Question if county has authority over subdivision covenant enforcement
- Travis West – Engineering West
 - Subdivision area was removed from the floodplain in 2007
 - Wells are 39 ft. deep

G. Written Communication

- *None*

H. Committee Reports

- *Carbon County Conservation District*
 - Summary of issues between Stillwater Conservation District and Carbon Conservation District. The issues at hand have recently been featured in the Billings Gazette.

B. Staff Reports

- *Forrest Mandeville – legislative update*
 - Bill currently underway to remove RV and mobile home parks out of subdivision review, but not out of sanitation review
 - A Ravalli County bill to notify everyone in the “sub-basin” of a family transfer has died in the Senate
 - Bill underway for applicants to notify adjacent landowners of a family transfer within 5 days

C. Adjourn Meeting

- 8:10 pm

LOCATED IN THE C.O.S. 1884 RB OF SECTION 21 AND SECTION 16, T.7S., R.20.E., P.M.M.,
CARBON COUNTY, MONTANA



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PROJECT MEMORANDUM

TO: Members of the Carbon County Planning Board

FROM: Forrest J. Mandeville, AICP – Contract Planner

DATE: May 9, 2025

RE: High Ridge 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 High Ridge Subdivision, with the findings and conditions included in the project memorandum.*

Project/Application Summary:

IMEG, on behalf of Nathan and Amber Pirtz, has submitted a preliminary plat application for a 15-lot major subdivision. The subdivision area is approximately 71.13 acres with the proposed lots ranging from 3 to 19.97 acres in size. There is a private parkland area of 2.39 acres.

The subject property is located about 2 miles west of Red Lodge near the southeast corner of Smith Road and Highway 78. There are two internal roads proposed with access to Highway 78, which will provide internal access to the subdivision lots. The property is legally described as Tract 2A of COS 1884 RB, located in Section 16, Township 7 South, Range 20 East, P.M.M., Carbon County, Montana.

Required Planning Board Action:

Following a public hearing, 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.

LOCATED IN THE C.O.S. 1884 RB OF SECTION 21 AND SECTION 16, T.7S., R.20E., P.11M.,
CARBON COUNTY, MONTANA

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 will utilize individual wells for potable water and individual septic/drainfield systems for wastewater disposal. Review by the Montana Department of Environmental Quality (DEQ) is required to ensure all facilities are properly designed.

Access is provided from Highway 78, a State-owned highway, and Smith Road, a County-owned and maintained road. Chaffin Drive and High Ridge Drive will provide internal access to the lots. High Ridge Drive is currently in use as a private drive serving area residents.

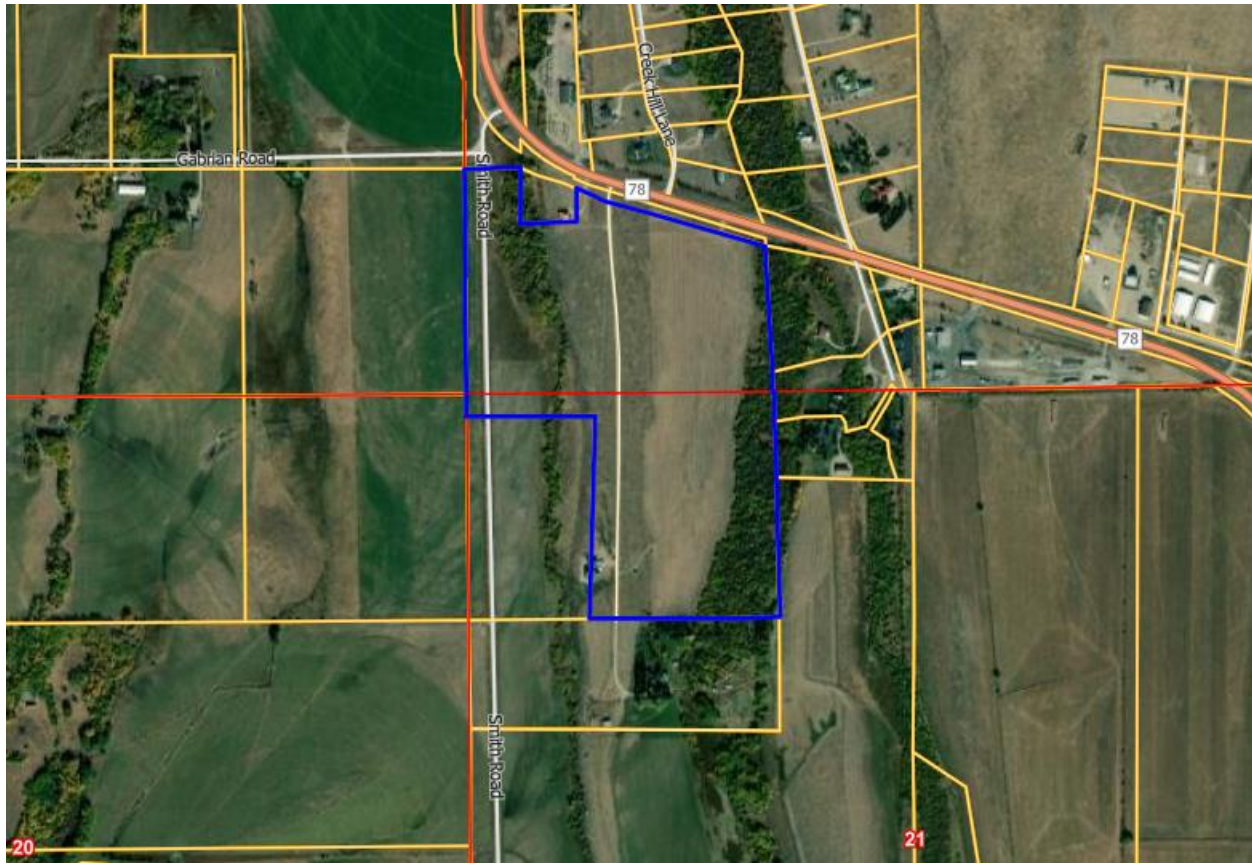
b. Summary of Probable Impacts

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 currently used for hay production, which will cease with the development of 15 residential homes. There are agricultural uses along Smith Road to the west, Gabrian Road to the northwest, and to the southeast of the subdivision. The subject property is not classified as prime farmland by the USDA. Approval of the subdivision will continue the trend of agricultural land being converted into non-agricultural purposes. There are expected to be minimal conflicts with surrounding agricultural uses, as the property is relatively isolated with 14 of the lots using Highway 78 for access, and one lot using Smith Road for access.

The Carbon County Weed District inspected the property last September and reports there is Canada Thistle, tall buttercup, spotted knapweed, houndstongue, and absinthe wormwood on the site. A Subdivision Improvements Agreement should include weed management. Entering into a Weed Management Plan with the Weed District would also help ensure noxious weeds are managed on the property.

Finding: The subdivision will remove some land from agricultural production. The subdivision should not create significant additional conflicts with surrounding agricultural operations, as the subdivision is in close proximity to established access routes. A Subdivision Improvement Agreement and weed management plan would help minimize the proliferation of noxious weeds.



Proposed Subdivision Location (Blue) and Vicinity

- Effect on agricultural water user facilities: There are no irrigation ditches within the proposed subdivision. There is an existing irrigation water right associated with the property. The application indicates the developer is in the process of securing water rights for the 15 residential wells with the Montana DNRC. The proposed Declaration of Restrictions and Covenants, Section II.cc) requires each homeowner to apply for a 602 permit from DNRC and limit uses to no more than .667 acre-feet per lot. The proposed covenants also note that additional lawn/garden water may be purchased from the developer.

Finding: Because there are no irrigation ditches on the property there should be minimal adverse impacts on agricultural water user facilities as a result of this subdivision, as long as proper water rights are obtained for the lots and senior water rights are respected. The private covenants should contain a restriction on water use and be filed with the final plat.

- Effect on local services: The Carbon County Sheriff's office will provide law enforcement services to the subdivision and is located about three miles from the subdivision with an estimated response time of 10 minutes.

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

The Red Lodge Fire District provides fire protection in the area and is located about three miles from the subdivision. The applicant has been in contact with the Fire Department and has designed the subdivision to address some initial concerns regarding lot size and access. A Fire Suppression Plan was submitted which discusses the measures taken to address fire suppression in the subdivision. The Fire Suppression Plan should be filed with the subdivision and/or incorporated into a Subdivision Improvements Agreement (Section III-C-4; Section V-A-21).

Finding: Filing and following the Fire Suppression Plan should mitigate any increased fire risk associated with this subdivision.

Highway 78 and Smith Road provide access to the subdivision. Highway 78 is a state highway and the Montana Department of Transportation will require approach permits be obtained for Chaffin Drive and High Ridge Drive, which will provide internal access to lots 2-15. Lot 1 will have access to Smith Road, which is a gravel County road. The applicant has been in contact with MDT, which did not express any concerns about the proposal.

Chaffin Drive and High Ridge Drive will be built to County subdivision standards and maintained by the lot owners through a Homeowners' Association, as referenced in the Declaration of Restrictions and Covenants. Construction of the new roads shall adhere to the design standards in Table 1 of the Subdivision Regulations and shall be completed prior to final plat. Construction should be certified by a registered professional engineer.

The County does not maintain private roads. The following statement is required to be shown on the final plat: "(I, (We) the undersigned property owner(s) do hereby certify that (I) (We) have caused to be surveyed, subdivided and planned into lots , parcels, blocks, roads and alleys, and other divisions and dedications , as shown by this plan hereunto included the following described tract of land (insert description) . The above described tract of land is to be known and designated as _____, Carbon County, Montana, and the lands included in all roads, avenues, alleys, and parks or public squares shown on said plat are hereby granted and donated to the use of the public forever. The roadways dedicated to the public are accepted for public use but the county accepts no responsibility for maintaining the same. The owner(s) agree(s) that the County has no obligation to maintain the roads hereby dedicated to the public use."

To ensure proposed road names are not duplicative or will cause confusion, approval of road names should be obtained from the County GIS/Rural Addressing Department and shall be shown on the final plat.

High Ridge Drive is currently a driveway providing access to at least two residences through an easement. This easement will be kept accessible and usable for these residences.

As more lots develop on County roads, impacts will increase through demands for a higher level of maintenance. The County may eventually need to seriously consider

requiring RSIDs for road maintenance, the adoption of impact fees, or other mitigation measures to address these cumulative impacts. Impacts to County roads should be minimal since only one lot, Lot 1, will have direct access to a County road.

Finding: The County does not maintain private roads. Conditions should be imposed to ensure approach permits are obtained from MDT, that roads are constructed to the required standards and maintained through an HOA. Road names should be obtained through the GIS/Rural Addressing Department. There are minimal impacts anticipated to County roads, though complaints about road maintenance may still increase as a result of this subdivision.



Looking South along Smith Road

Beartooth Electric Co-op provides electrical services in the area. There is overhead power along Highway 78 and Smith Road. Easements for utilities are shown in the road easements within the subdivision, as is typical, and utilities will need to be brought to each lot prior to development.

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 easement are shown on the plat and the standard utility easement language is provided.

The Red Lodge School District serves students in the area. The subdivision application estimates a total of five school-age children will be added as a result of the subdivision. It is not anticipated that there will be a large adverse impact on school facilities.

Finding: There is not anticipated to be any adverse impacts on school facilities as a result of this subdivision.



Looking across Subdivision from Smith Road

- Effect on the natural environment: The subdivision is required to be reviewed by the Montana Department of Environmental Quality (DEQ) for water, wastewater, stormwater drainage, and solid waste disposal. Potable water is proposed to be provided by individual wells on each lot. Wells may qualify for an exempt water right if the combined appropriation from the subdivision is less than 35 gallons per minute and will not exceed 10 acre-feet per year. The application indicated that the applicant is pursuing this option. Each lot owner will need to apply for a 602 permit with the Montana Department of Natural Resources and Conservation (DNRC). The proposed Declaration of Restrictions and Covenants limit water use to .667 acre-feet per lot, assuming .34 acre-feet for domestic use and the balance available for lawn/garden irrigation. The developer does own some irrigation water rights, which is noted in the covenants may be available for purchase by lot owners.

Wastewater disposal is proposed to be accomplished through the use of on-site septic/drainfield systems designed and installed per DEQ requirements. The application notes that test pits were excavated and monitored to determine depth to groundwater. Groundwater was noted above eight feet on Lot 1 and Lots 12-14, so the applicant is proposing an evapotranspiration system for Lot 1 and shallow cap systems for Lots 12-14. The rest of the lots are proposed to utilize gravity drainfields. All drainfield proposals are subject to DEQ approval and the approval will be filed with the final plat.

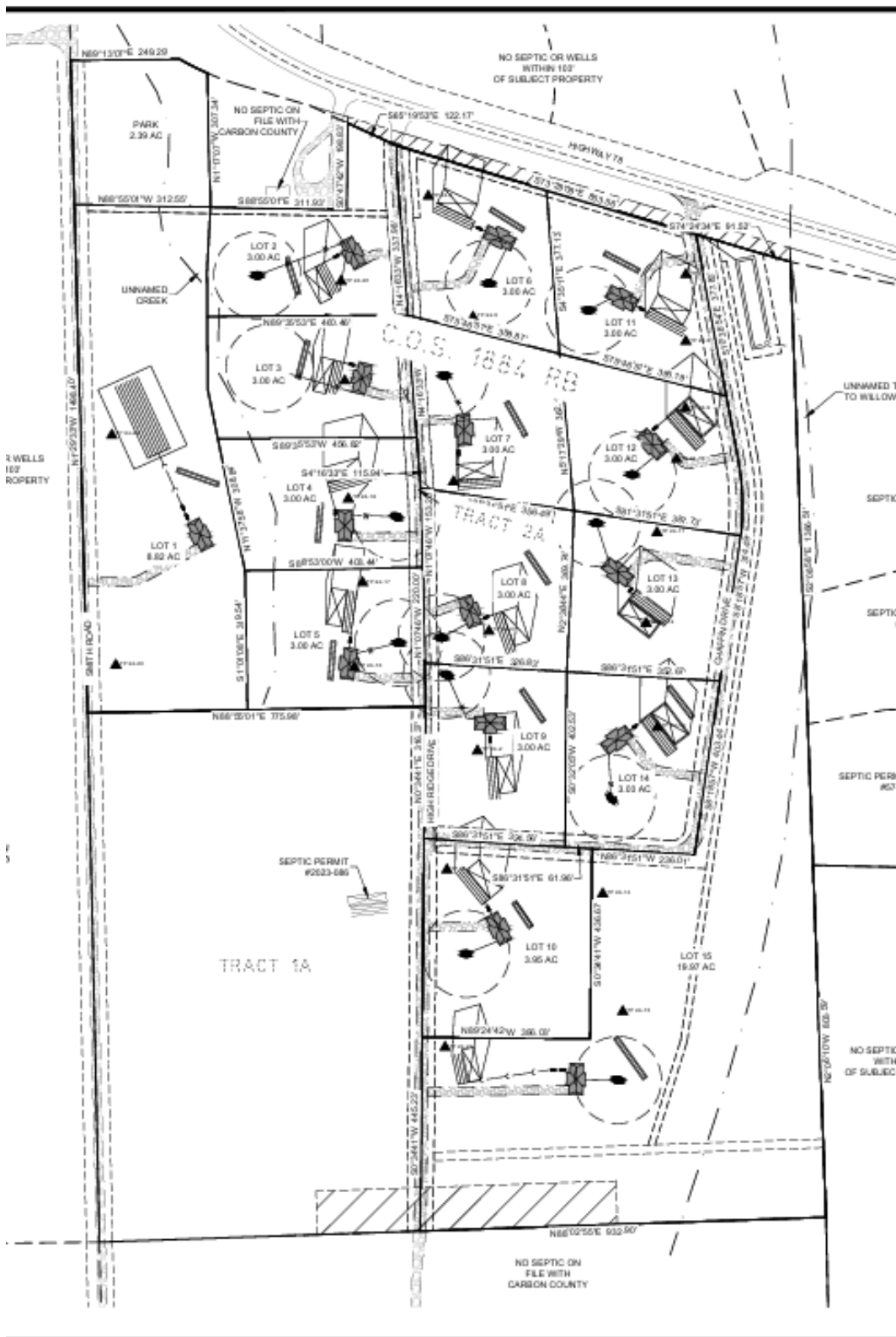
Stormwater will be retained on site per DEQ requirements through retention ponds. There is a storm pond easement shown in the northeast of the subdivision to which roadside ditches will convey runoff. The project will also need to obtain a Storm Water Pollution Prevention Plan (SWPPP) approval from DEQ prior to construction.

Solid waste disposal is anticipated to be provided through Republic Services and disposed of at the Billings Regional Landfill, according to the application documents.

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

There are two creeks on the property that flow into Willow Creek north of the subdivision. One is located on the west portion of the property and runs roughly along the boundary of Lots 1-5 and through the proposed parkland parcel. The second is located on the east side of the property and runs through portions of Lot 15. The location of these creeks in the rear portions of lots away from proposed development should help reduce impacts on the creeks. There is no mapped floodplain associated with the creeks in the area.

Finding: Impacts on the two creeks located on the property should be minimal due to the location being in the rear of lots.



Lot Layout Showing Proposed Wells, Septics, and Drainfields

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) processes to ensure an underlying aquifer will not be adversely affected.

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.

The subdivision application included information suggesting the subdivision is served by an unconfined aquifer. Non-degradation analysis is required by DEQ to ensure there will be no adverse impacts on groundwater quality. Area well logs indicate water flow in the area is sufficient to serve the proposed wells. New lots are proposed to obtain an exempt water right. The proposed covenants limit water use to no more than .667-acre feet of water per year, though additional irrigation water may be able to be obtained through the developer.

Finding: There should be minimal impacts on the aquifer since lots will be equally allocated available water, which appears to be available in the area.

The applicant submitted a Weed Inspection Report completed by Carbon County Weed District Coordinator Brian Ostwald dated September 23, 2024. The report indicates that there are several noxious weeds present, including Canada thistle, tall buttercup, spotted knapweed, houndstongue, and absinthe wormwood. No weed bond was required, but the District is monitoring the project and noted the need to spray weeds in the spring before ground disturbance begins. A Subdivision Improvements Agreement should include weed management. Entering into a Weed Management Plan with the Weed District would also help ensure noxious weeds are managed on the property.

Finding: There could be adverse impacts associated with weed proliferation if conditions are not required to ensure weeds are controlled on site. Requiring a Subdivision Improvements Agreement that includes a requirement to spray weeds is recommended, as is a Weed Management Plan.

- Effect on wildlife: Wildlife does frequent the area. The application notes the area has not been identified as critical habitat and notes the area is home to a few species identified as special status by the EPA Endangered Species Act such as grizzly bear, wolverine, cutthroat trout, several migratory bird species, and birds of prey, including bald and golden eagles. However, since the property is used for agricultural purposes and the area contains several other developments, no significant adverse impacts on wildlife is anticipated other than what may have already occurred. The Red Lodge area has experienced several instances of bears getting into garbage containers, which may be mitigated through the use of bear-proof containers. This requirement could be included in the covenants and noted in a Subdivision Improvements Agreement.

Finding: No significant adverse impacts to wildlife is anticipated if bear-proof garbage containers are utilized in the subdivision.

- Effect on wildlife habitat: No critical wildlife habitat has been identified on the property. The site is not identified as sage grouse habitat by the Montana Sage Grouse Habitat Conservation Program. Also see discussion under Effect on wildlife, above.

Finding: There should be no significant impact on wildlife habitat since there is no identified critical wildlife habitat 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 provides fire protection. See discussion and findings under Effect on Local Services.

Finding: Adverse impacts should be minimal since services are available. Filing and following the Fire Suppression Plan should mitigate any increased fire risk associated with this subdivision.

The Red Lodge area has seen several instances of bears getting into garbage containers, which can be somewhat mitigated through the use of bear-proof containers. See discussion under Effect on Wildlife.

Finding: The use of bear-proof garbage containers can mitigate risks associated with bear conflicts.

Highway 78 carries a relatively high volume of traffic at high speeds, necessitating proper approval and design of access road through MDT. There is no mapped floodplain on the property, nor are there areas of steep slopes.

Finding: Other possible safety hazards can be mitigated through recommended conditions.

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 III-B-11.g.v of the Carbon County Subdivision Regulations).

The submitted Subdivision Guarantee indicates the presence of two mortgages on the property through the Bank of Baker. The application included a consent to the subdivision from the bank.

Major subdivisions containing more than one lot, which are creating lots of less than five acres are required to provide a parkland dedication of 2.5%. To meet this requirement, the applicant is proposing a 2.39-acre park in the northwest of the subdivision. This dedication exceeds the minimum dedication requirement of approximately 1 acres. There

are also proposed pedestrian trails in the subdivision as shown on the plat providing pedestrian access to the parkland. Maintenance of the parkland and trails are provided for in the covenants.

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: 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.

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 III-C-5.b 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 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. There are requirements for development, none of which appear to be in conflict with the proposed subdivision or proposed covenants.

Finding: The application complies with the Development Regulations to the extent required.

- v. Other regulations in effect in the area of the proposed subdivision: There is a Declaration of Restrictions and Covenants proposed, which should be filed with the final plat. The

County does not enforce these private covenants, but may require certain contents to ensure maintenance of infrastructure, public safety, etc.

Finding: There are no other known regulations with which the subdivision would conflict.

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

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

- 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: No proposed lots are over 20 acres.

Finding: There are no lots over 20 acres in the proposed subdivision.

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 1.7: 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
 - 1.7.B. Discourage development within the wildland-urban interface.

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 Ridge Subdivision, pursuant to the following conditions (Section references are to the Carbon County Subdivision Regulations unless otherwise noted):

1. Weeds shall be controlled on site to the satisfaction of the Carbon County Weed District and a Weed Management Plan, acceptable to the Weed District, shall be entered into prior to final plat. (Section V-A-17; Effect on Agriculture; Effect on the Natural Environment)
2. The Declaration of Restrictions and Covenants shall be prepared as required in the Subdivisions Regulations and shall at a minimum contain:
 - a. A restriction of water usage by each lot. (Section V-A-23; Effect of Agricultural Water User Facilities; Effect on Natural Environment)
 - b. Provisions for the maintenance of Chaffin Drive and High Ridge Drive by a Homeowners' Association (Section V-A-23; Effect on Local Services)
 - c. A requirement that bear-proof garbage containers are utilized. (Section V-A-5; Effect on Wildlife; Effect on Public Health and Safety)
 - d. Maintenance provisions for the parkland and pedestrian trails (Section V-A-20; Compliance with the Montana Subdivision and Platting Act)
3. Filing of the final plat shall be subject to the review and approval by the Montana Department of Environmental Quality and Carbon County Sanitarian, as appropriate, for water, wastewater, solid waste, and stormwater drainage provisions. (Sections III-B-11.C.ii and V-A-11, 12, 13, and 14; Effect on the Natural Environment; Effect on Public Health and Safety)
4. The Fire Suppression Plan shall be filed with the subdivision and may be referenced in a Subdivision Improvements Agreement (SIA). (Section III-C-4; Section V-A-21; Effect on Local Services; Effect on Public Health and Safety)

5. A Subdivision Improvements Agreement (SIA) shall be provided to ensure the ongoing control of noxious weeds, road maintenance, a requirement that bear-proof garbage containers be utilized, and may also incorporate the Fire Suppression Plan. (Section III-C-4; Section V-A-17; Effect on Local Services; Effect on the Natural Environment; Effect on Wildlife, Effect on Public Health and Safety)
6. Approach permits for the internal roads shall be obtained from the Montana Department of Transportation (MDT). (Section V-A-10; Effect on Local Services; Effect on Public Health and Safety)
7. Proposed road names shall be obtained from the County GIS/Rural Addressing Department and shall be shown on the final plat. (Section V-A-10; Effect on Local Services)
8. Internal roads shall be constructed prior to final plat according the design standards in the Subdivision Regulations and a registered professional engineer shall certify that the roads have been designed to said standards. (Effect of Local Services; Section V-A-10; Table 1)
9. The following statement shall appear on the final plat: “(I), (We) the undersigned property owner(s) do hereby certify that (I) (We) have caused to be surveyed, subdivided and planned into lots , parcels, blocks, roads and alleys, and other divisions and dedications , as shown by this plan hereunto included the following described tract of land (insert description) . The above described tract of land is to be known and designated as _____, Carbon County, Montana, and the lands included in all roads, avenues, alleys, and parks or public squares shown on said plat are hereby granted and donated to the use of the public forever. The roadways dedicated to the public are accepted for public use but the county accepts no responsibility for maintaining the same. The owner(s) agree(s) that the County has no obligation to maintain the roads hereby dedicated to the public use.” (Effect on Local Services; Section V-A-10)
10. The final plat shall show the location of all existing and required utility easements. (Section V-A-15.a; Effect on Local Services)
11. 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)
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 III-B-11.g.v; Compliance with the Montana Subdivision and Platting Act)
13. Prior to filing the final plat, the plat shall be submitted to the County Examining Land Surveyor and any comments sufficiently addressed. (Section III-C-3.b.vi; Compliance with Survey Requirements)
14. The final plat shall be in substantial compliance with the plans and documents submitted as part of the preliminary plat application. (Section III-C-5.b; Compliance with the Subdivision Regulations)

15. 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 III-B-12; Compliance with the Subdivision Regulations)
16. The final plat shall be prepared and reviewed in accordance with Section III-C of the Carbon County Subdivision Regulations. (Compliance with the Subdivision Regulations)

COUNTY TREASURER'S CERTIFICATION OF TAX PAYMENT

I hereby certify that all real property taxes and special assessments assessed and levied on the land above described are paid pursuant to 76-3-611(1)(b)M.C.A. and 76-3-207(3), M.C.A.

Date_____

Carbon County Treasurer

By:_____

ACCESS

Legal and physical access is provided per 76-3-608(3)(d), MCA.

LINE	BEARING	DISTANCE
L1	N 60°37'48" W	176.68'
L2	N 29°22'12" E	20.00'
L3	S 60°37'48" E	165.45'
L4	S 00°02'33" W	22.94'

PRELIMINARY PLAT OF
PURGATORY SUBDIVISION

LOCATED IN A PORTION OF THE SOUTHWEST 1/4 SOUTHWEST
1/4 OF SECTION 23, TOWNSHIP 6 SOUTH, RANGE 19 EAST,
P.M.M. CARBON COUNTY, MONTANA

SURVEYED FOR: CHARLES P BRAUN

SURVEYED BY: ESSEX SURVEYING, LLC
39 LIGHTNING LANE
RED LODGE, MT 59068
(406) 860-6043

OWNER'S CERTIFICATION AND PROPERTY DESCRIPTION

State of Montana)
County of Carbon)

I, the undersigned property owner, certify that I have caused to be surveyed, subdivided and platted into lots and blocks as shown by the plat hereunto annexed, the following described land, to-wit:

Being the East 1/2 Southwest 1/4 Southwest 1/4 of Certificate of Survey No. 1742, Located in a Portion of the Southwest 1/4 of the Southwest 1/4 Section 23, Township 6 South, Range 19 East, P.M.M., Carbon County, State of Montana. Containing 20.057 acres, more or less, and all according to the attached Subdivision Plat. Subject to all easements and/or rights-of-way of record, apparent on the ground or reserved per this survey.

No parkland is being dedicated to the public pursuant to Section 76-3-621(3)(b), MCA. The herein described tract of land is to be known and designated as:

PURGATORY SUBDIVISION

The undersigned hereby grants unto all utility companies, as such are defined and established by Montana Law, and cable television companies, an easement for the location, maintenance, repair and removal of their lines over, under, and across the areas designated on the plat as "UTILITY EASEMENT" to have and hold forever.

Charles P. Braun

State of Montana)
County of _____)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Charles P. Braun known to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that said individual executed the same.

Notary Public for the State of Montana

CERTIFICATE OF SURVEYOR

State of Montana)
County of Carbon)

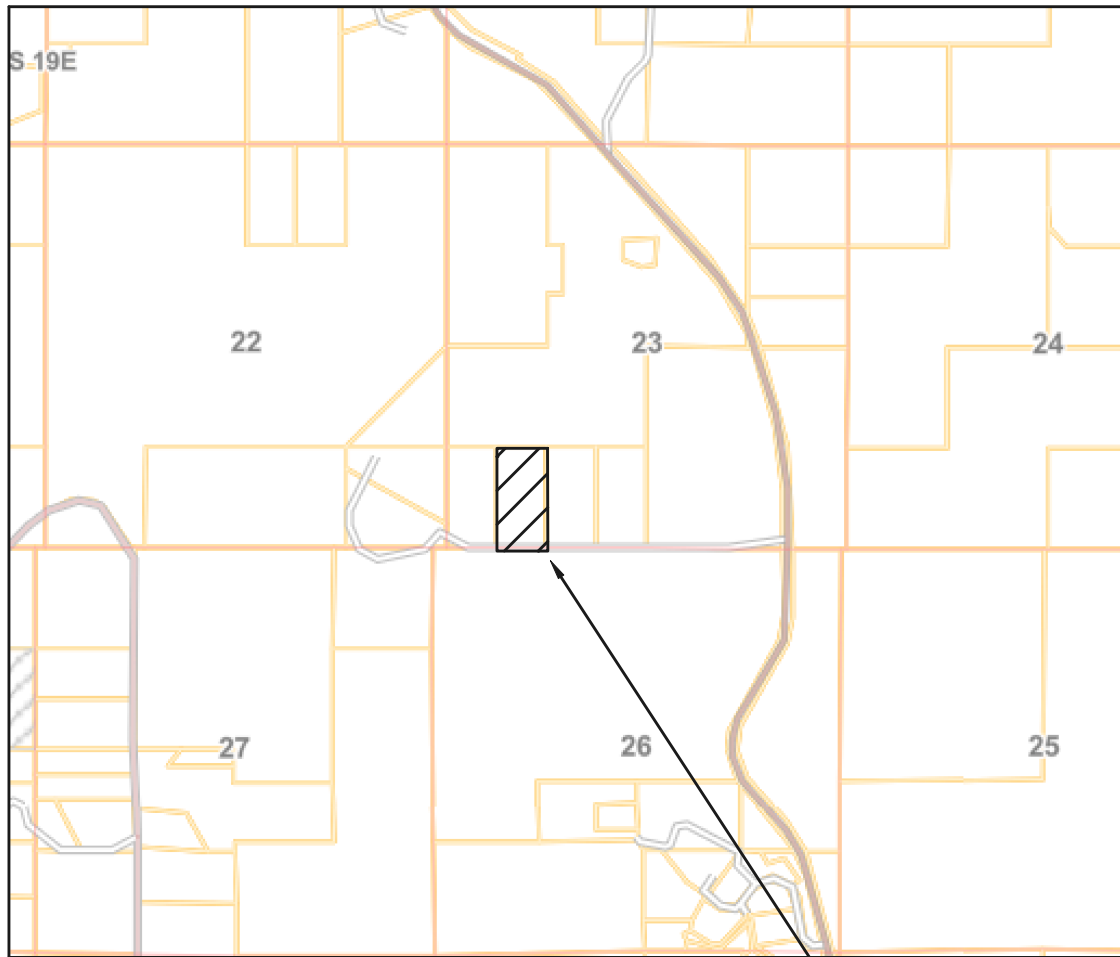
I, Zamian Z. Essex, a Licensed Land Surveyor, Montana License No. 40989LS, do hereby certify that the survey shown on the attached Plat of Purgatory Subdivision was performed by me during April 2024, in accordance with the Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA; and that said survey is true and complete as shown and that the monuments found and set are of the character described and occupy the positions shown thereon.

Zamian Z. Essex, Licensed Land Surveyor
Montana License No. 40989LS

Dated _____

CERTIFICATE OF CLERK AND RECORDER

VICINITY MAP



BASIS OF BEARING

GEODETIC NORTH OBSERVED AT
THE NORTHEAST CORNER OF THE
EAST 1/2 SOUTHWEST 1/4
SOUTHWEST 1/4, SHOWN HEREIN

LEGEND

- QUARTER CORNER FOUND - MDT ALUMINUM CAP
- 16TH CORNER FOUND - 1.5" ALUMINUM CAP MARKED "BRATTON"
- PROPERTY CORNER FOUND - 1.5" ALUMINUM CAP MARKED "BRATTON"
- PROPERTY CORNER SET - 5/8" X 24" REBAR WITH YELLOW PLASTIC CAP MARKED "ESSEX - 40989LS"

CERTIFICATE OF FINAL PLAT APPROVAL:

The County Commission of Carbon County, Montana does hereby certify that it has examined this Subdivision Plat having found the same to conform to law, approves it, and hereby accepts the dedication to the public use of any and all lands shown on this plat as being dedicated to such use

Dated this _____ day of _____, 20____.

Commissioner Commissioner
Commissioner Attest: Clerk and Recorder
Carbon County, Montana

W1/2SW1/4SW1/4
C.O.S. 1742

W1/2SE1/4SW1/4
C.O.S. 1742

0' 20' 80' 160'
SCALE: 1" = 80'
SURVEYED: APRIL, 2024

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: May 9, 2025

RE: Purgatory 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 Purgatory Subdivision, with the findings and conditions included in the project memorandum.*

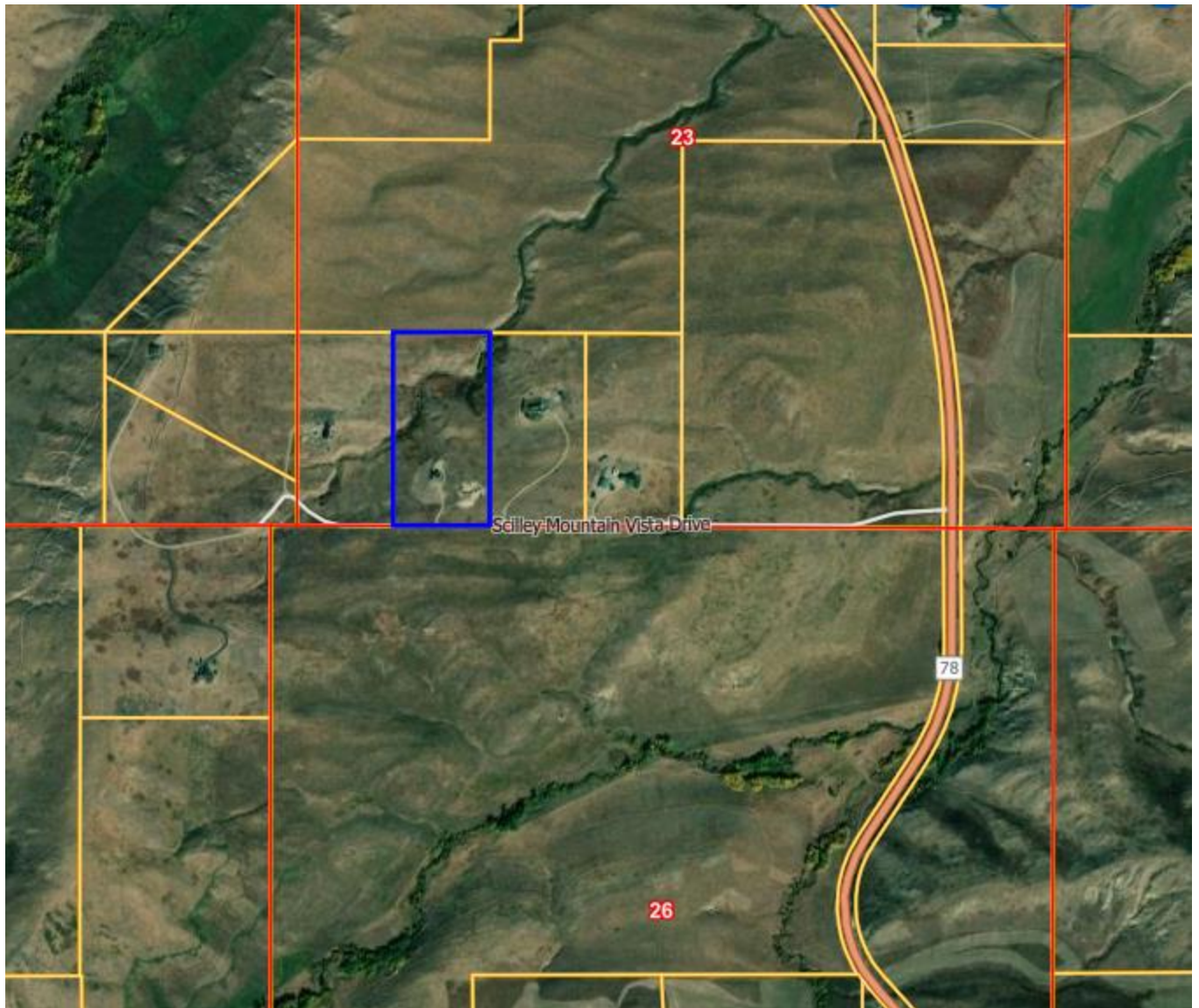
Project/Application Summary:

Essex Surveying, on behalf of Charles Braun, has submitted a preliminary plat application for a 2-lot minor subdivision. The subdivision area is approximately 20 acres with proposed lots of about 10 acres apiece. The lots are designed for single-family residential use.

The subject property is located on Scilley Mountain Vista Drive, approximately $\frac{3}{4}$ of a mile west of the intersection with Highway 78. The property is legally described as the E2SW4SW4 of Section 23, 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

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 will utilize an individual drainfield system for wastewater disposal. There is an existing system on Lot 1; Lot 2 will utilize a new system which has been approved by DEQ (E.Q. #25-1247). The lots will utilize a shared well located on Lot 1 for potabale water.

Access is proposed to be provided to the subdivision by individual approaches to Scilley Mountain Vista Drive, a dirt/gravel road which is privately owned and maintained in the area. The road appears to be in excess of 24-feet wide at the east end, which is a County road, but tapers narrower as you go farther west onto the private portion of the road. There are existing covenants for area parcels (document 276336) that require owners to maintain the road.

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 currently in agricultural production and is in an area of large-lot residential development. The property is not classified as prime farmland by the USDA. There is grazing land to the north and south.

Scilley Mountain Vista Drive provides access to several area homes, and an additional home on the property is unlikely to create significant conflicts with surrounding agricultural operations.

Carbon County Weed District Coordinator Brian Ostwald inspected the site on May 20, 2024, and, while no weeds were identified at the time, it was noted that the area has a history of sulfur cinquefoil. A subdivision improvements agreement could help mitigate any adverse impacts on noxious weeds.

Finding: Due to the small scale of the subdivision and access onto a private road that mainly provides for residential access, any adverse impacts on agriculture related to the subdivision should be minimal. A subdivision improvements agreement that addresses weed control would help mitigate the possibility of weed infestations.



Looking North across the Subdivision

- Effect on agricultural water user facilities: There is a ditch on the northern part of the subdivision, which is shown on the preliminary plat. 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.

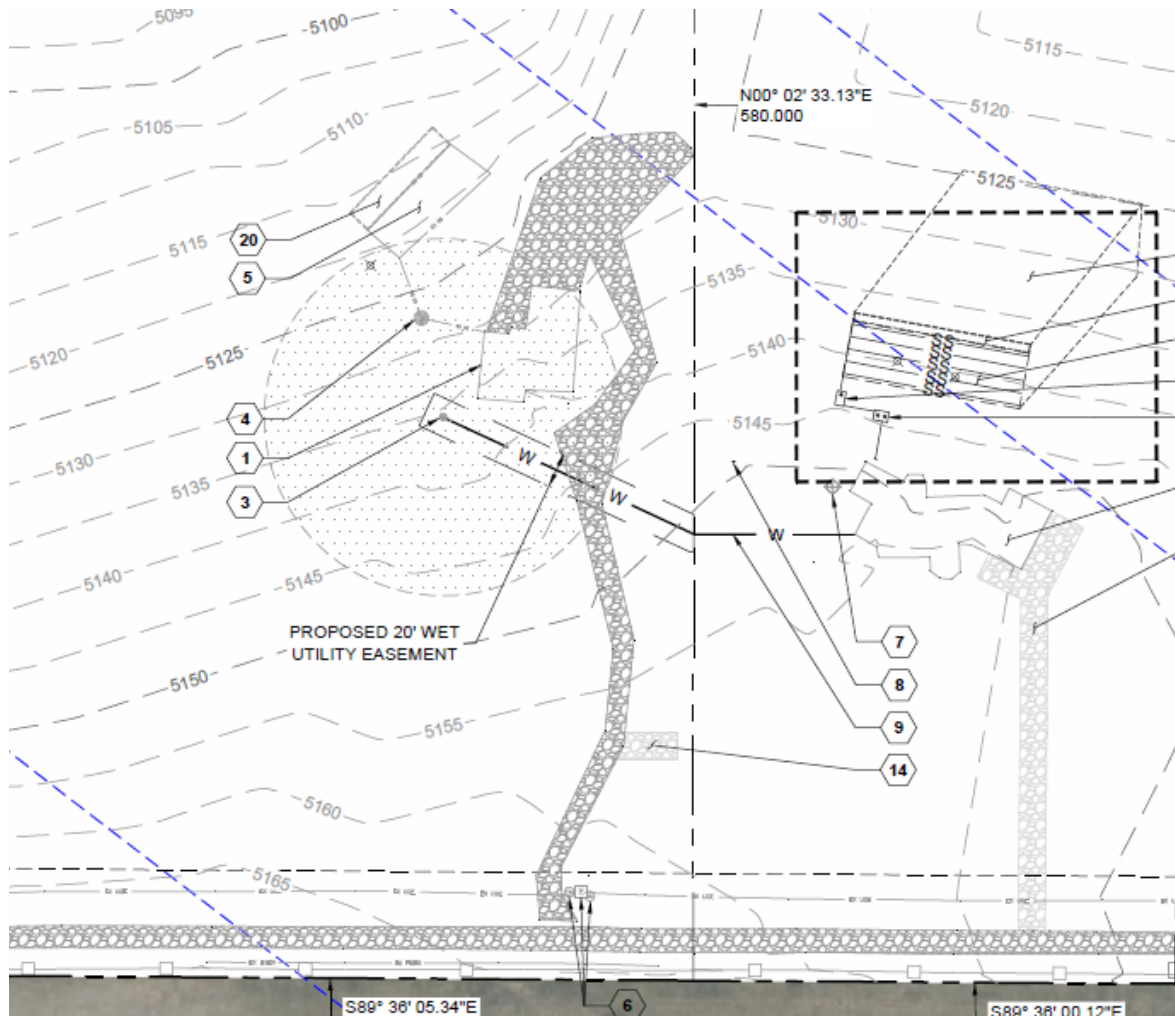
Finding: As long as an easement for the ditch is provided on the plat, and the required language appears on the plat, and senior water rights are respected, there should be minimal adverse impacts on agricultural water user facilities as a result of this subdivision.

- Effect on local services: The Carbon County Sheriff’s office has jurisdiction to provide law enforcement services to the subdivision. The subdivision application indicated the Sheriff’s Department anticipates a response time of 15-20 minutes.

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

The Red Lodge Fire Department provides fire protection in the area and has an estimated response time of 15-20 minutes. Deputy Chief Tim Ryan had noted that the subdivision is in a low fire risk area and had requested turnarounds and defensible space. Pullouts have been added to the site plan and defensible space can be addressed in an SIA. After the concerns were addressed, Red Lodge Fire noted approval of the subdivision.

Finding: This subdivision will have minimal adverse impacts on fire protection in the area since fire protection can be provided.



Site Plan Showing Turnarounds

Scilley Mountain Vista Drive is a gravel road in a 60-foot wide easement which provides access for several residences in the area to Highway 78 to the east. Maintenance is accomplished through private covenants under document #276336. The County does not enforce or interpret private covenants, but evidence of their existence should be indicated on the final plat.

The County does not and will not, maintain private roads. The eastern part of the road is a minimally maintained County road.

Finding: There should be minimal additional impacts on the County road system since there is an existing maintenance agreement to privately maintain the access road.



County Road and Bridge Maintenance Priority Map

Beartooth Electric Cooperative provides electrical services. There are utilities to the area serving existing homes in the area, including the current residence on the subject property.

There is a 20-foot wide waterline easement on the survey for the shared well to provide service to Lot 2.

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 obtained, referenced and shown on the plat, and the standard utility easement language is provided.

The subdivision is located within the Luther School District.

The current tax revenue from the property is about \$2,000/year. A new residence could double the tax revenue generated from the property.

Finding: Purgatory 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.

- Effect on the natural environment: New septic/drainfield systems are proposed for each lot. A shared 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). Approval from DEQ appears to have been obtained (E.Q. #25-1247) and should be filed with the plat.

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 obtained and filed with the final plat.

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.

As part of the DEQ application documents, the applicant submitted a Declaration for Operation, Maintenance and Cost Distribution for a Shared Well. Typical water right requirements will continue to apply to the well.

Finding: Because there are no new wells, there are no significant adverse impacts on the aquifer anticipated.



Scilley Mountain Vista Drive East of Subdivision

The applicant submitted a Weed Inspection Report completed by Carbon County Weed District Coordinator Brian Ostwald dated May 20, 2024. The report did not indicate the presence of any noxious weeds, but did note that the area has a history of sulfur cinquefoil. An SIA noting the need of property owners to manage weeds would help ensure noxious weeds don't proliferate on the property.

Finding: If an SIA is entered into, there should be minimal impacts on the environment due to the proliferation of noxious weeds.

- Effect on wildlife: Wildlife does frequent the area, but there is a certain amount of human activity in the area, and any wildlife are likely used to a degree of human activity. Therefore, no significant adverse impacts on wildlife are anticipated other than what may have already occurred. The County has experienced several bear-related conflicts in similar subdivision locations in which bears get into garbage containers. Requiring bear-resistant containers in the SIA would help reduce possible conflicts. The application notes that the Montana Fish, Wildlife and Parks indicated they had no comments on the subdivision.

Finding: No significant adverse impacts to wildlife are anticipated due to the existing human activity in the area if bear-resistance garbage containers are used in the subdivision.

- Effect on wildlife habitat: The subdivision is not within mapped Sage Grouse general habitat according to the Montana Sage Grouse Habitat Conservation Program. No other impacts as a result of habitat reduction are known.

Finding: There should be no significant impact on wildlife habitat since none was identified on the property.

- Effect on public health and safety: The Carbon County Sheriff's office provides law enforcement service in the area; the Red Lodge Fire Department 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.

Scilley Mountain Vista Drive provides access to the subdivision and is maintained in the area through private covenants. This status will not change with approval of the subdivision. The road is a County-owned road until the subdivision and is developed within a 60-foot-wide easement. The Subdivision Regulations require that roads providing access to 2-5 lots provide a 22-foot driving width. The road appears to meet this standard where it leaves Highway 78, the County-owned portion, but gets narrower towards the subdivision, especially where it crosses a stream and is likely not more than 15 feet wide. The road should be improved to the required width.

Finding: There should be minimal impacts on public health and safety if recommended conditions are imposed, including road width improvements.



Scilley Mountain Vista Drive at Subdivision

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 that there is a deed of trust on the property through the bank of Red Lodge. A consent to the subdivision from the lender was provided.

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: 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. There is a foundation poured on Lot 2, though it appears to have been there for some time and does not appear to be an instance of the landowner evading the process. 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 existing covenants on the property, filed under document #276336, which appear to provide for several restrictions on the use and development of the property. The subdivision appears compliant with the existing covenants, but it should be noted that the County is not party to these covenants and does not interpret or enforce the provisions thereof.

The application indicates that the subdivider intends to comply with the existing covenants.

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. A notation of the existence of the covenants should be noted on the plat.

- 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 no 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 Purgatory Subdivision, pursuant to the following conditions (Section references are to the Carbon County Subdivision Regulations unless otherwise noted):

1. The subdivider shall enter into a Subdivision Improvements Agreement (SIA) with the County which shall discuss the need for land owners to control weeds on their property, note requirements for defensible space around buildings, and requirements for bear-resistant garbage containers. (Section IV-C-4; Effect on Agriculture; Effect on Local Service; Effect on the Natural Environment; Effect on Wildlife)
2. An easement shall be provided and shown on the final plat for the ditch to allow for the use, maintenance, and inspection of the facilities. (Section V-A-18; Effect on Agricultural Water Users Facilities)
3. 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)
4. The final plat shall contain a statement noting that the subdivision is subject to the Declaration of Covenants created under Document Number 276336 and any subsequent amendments thereto. (Section V-A-23; Effect on Local Services)

5. 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)
6. 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)
7. 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)
8. Prior to filing the final plat, evidence should be submitted showing any required mitigation through the Montana Sage Grouse Habitat Conservation Program has been completed. (Section V-A-5; Effect on Wildlife Habitat)
9. The developer shall improve the road width through the subdivision to meet subdivision standards before filing the plat, and the final plat shall be accompanied by an engineering certification that the road meets Subdivision standards. (Section V-A-10-c.iii; Effect on Public Health and Safety)
10. 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)
11. 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)
12. 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)
13. 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)
14. 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)