

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

AUGUST 20, 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

July 16, 2024

D. PUBLIC HEARINGS

None

E. REGULAR BUSINESS

1. Roly's Construction Group 2 Development Permit for
Gravel Mine Site

2. Elliott Group 2 Development Permit for Cabins

3. Boyd Ranch Subdivision – Discussion and
Recommendation to County Commissioners

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
July Meeting
7-16-24

- A. Call Meeting to Order, 7:00 pm, Gordy Hill – Chairperson

- B. Roll Call
 - Present: Dean Webb, Besty Scanlin, Skip Bratton, Marni Echols-Bell, Mike Hayes, Clint Peterson, Angela Kallevig, Clinton Giesick, Gordy Hill, Forrest Mandeville
 - Audience: see attached sign-in sheet

- C. Approval of 6-18-24 Minutes
 - Clint moved to approve with amendments. Angela second.
 - Motion passed unanimously

- D. Public Hearings
 - *See Regular Business*

- E. Regular Business
 - *RnR Elk Resort Amended Plat – Lot 9*
 - Two lot subdivision
 - 3.73 and 4.58 acres
 - Lot 9 of previously subdivided lot
 - Existing well on property
 - Existing water right will be shared
 - Well will fill 4,000 gallon cisterns
 - RL Fire has stated response time of less than 20 minutes
 - Covenants are in place for existing subdivision lot
 - Besty Scanlin
 - Question about water well depth
 - Skip Bratton
 - Discussion of shared water right
 - Clint Peterson
 - By sharing the water right, priority date will be lost
 - Clint moved to recommend Commissioner’s approval. Betsy second.
 - Motion passed unanimously

 - *Montana Sky Minor Subdivision*

- 5 lot minor subdivision
 - Located East of Fromberg on Two Bear North Road
 - Subdivision area is 158.38 acres
 - Lots range from 20.03 acres to 55.46 acres in size
 - Cisterns will be utilized for potable water
 - Covenants are proposed
 - \$6,000 weed bond will be required due to leafy spurge infestation
 - Existing well on Lot 3 currently used for livestock water will stay with Lot 3
 - Issue exists with neighboring property owner and prescriptive easement
 - No irrigation water rights will be included with proposed lots
 - Fromberg Fire Department has not responded regarding response time
 - Marni Echols-Bell
 - How could the prescriptive easement issue be remedied?
 - Could the stock water well be used for potable water?
 - Betsy Scanlin
 - Condition of county road that accesses proposed lots needs to be addressed
 - Discussion of aquifer and water availability
 - Skip Bratton
 - County road needs to be in adequate condition to provide emergency services
 - Dean Webb
 - Concern about prescriptive easement issue
 - Forrest Mandeville
 - Drilling wells would violate the subdivision's septic permit
 - Easement could be granted by a judge regarding the access issue with neighboring property owner
 - Clint moved to recommend Commissioner's approval. Clinton second.
 - Motion failed. 5 no. 4 yes.
 - After further discussion, Betsy moved to recommend Commissioner's approval. Clinton second.
 - Motion passed. 6 yes. 3 no.
- *City Service Valcon Group 2 Development Permit*
 - Bulk propane storage, reload, and delivery facility
 - 18,000 gallons of propane proposed to be stored
 - Leased location less than 1 acre in size
 - Located 40 feet from a private irrigation ditch
 - New access approach will be installed
 - Betsy Scanlin
 - Would like to see proposed acreage included in the site plan
 - Betsy moved to recommend Commissioner's approval with amendments. Clint second.
 - Motion passed unanimously

F. Audience Communication

- *Montana Sky Minor Subdivision*
 - Sean Birky
 - Neighboring land owner
 - Question whether county maintenance of Two Bear North Road exists
 - Spring runs across Two Bear North and will need addressed
 - Prefers Two Bear North to be unmaintained. Less traffic that way.
 - Stated he should have bought the parcel if he didn't want it developed
 - Robin George
 - Neighboring land owner
 - Uses a prescriptive easement through proposed subdivision to access her stock water well
 - Has been using the same access for 4 generations
 - Stated emergency services response time will be slow in the vicinity
 - John Combs
 - Neighboring property owner
 - Concern about potential wells affecting local aquifer in the future
 - Concern about increased traffic on Two Bear North Road
 - Concern about increased fire risk with property being developed
 - Subdivision access cuts through an open range parcel
 - Douglas Wadkins
 - Neighboring property owner
 - Concern about increased fire risk and difficult access to proposed lots
 - Two Bear North gets inaccessible when wet
 - Bird and deer populations will be affected
 - Traffic through open range parcel will be dangerous at night
 - Paul Anderson
 - Proposed subdivision owner
 - County has been contacted regarding spring running across Two Bear North
 - Only intends to sell Lots 2, 4, and 5
 - Strong covenants will be in place. Does not want undesirable properties.
 - Aaron Redland – WWC Engineering
 - Cisterns will be utilized for potable water, alleviating burden on local aquifer
 - Following subdivision regulations in regard to county road maintenance
 - Drilling wells for potable water will not be permitted in the subdivision

G. Written Communication

- Letter from Meghan Combs opposing Montana Sky Subdivision
- Letter from Daniel Mydland opposing City Service Valcon propane storage facility
- Letter from Brad Sullivan addressing Daniel Mydland's issues with the City Service Valcon facility

H. Committee Reports

- *Carbon County Conservation District*
 - Recent 310 permit applications for irrigation canal maintenance in the Clarksfork Valley

B. Staff Reports

- *See Regular Business*

C. Adjourn Meeting

- 9:40 pm

PRELIMINARY PLAT OF BOYD RANCH SUBDIVISION

A FIRST MINOR SUBDIVISION LYING IN THE SW1/4NE1/4,
SE1/4NE1/4 AND NW1/4SE1/4 OF
SECTION 23, T.4S., R.21E., P.M.M.,
CARBON COUNTY, MT

SURVEYED BY: RED LODGE SURVEYING LLC.
PO BOX 986 | 606 S GRANT AVE
RED LODGE, MT 59068

SURVEYED IN: APRIL OF 2024

LANDOWNERS: TREY E. ADAMSON AND LUKE HOLESTINE

CERTIFICATE OF DEDICATION AND LEGAL DESCRIPTION:

We, the undersigned landowners, do hereby certify that we have caused to be surveyed, subdivided and platted into lots, as shown by the plat hereunto included, the perimeter boundary of which is described as follows:
Beginning at the CN1/16 of said Section 23; Thence along the North Sixteenth line N 89°47'32"E., for 2632.77 feet to the North Sixteenth corner; Thence S 88°30'00"W., for 350.07 feet; Thence S 00°05'19"W., for 173.54 feet; Thence S 57°12'50"E., for 231.61 feet to the centerline of Lone Tree Road; Thence along said centerline the following 7 courses: 1) S 26°48'41"W., for 472.08 feet to the beginning of a curve tangent to said line; 2) southwesterly a distance of 359.60 feet along the curve concave to the right, having a radius of 666.73 feet and a central angle of 30° 54' 07"; 3) S 57°42'48"W. tangent to said curve, for 757.71 feet to the beginning of a curve tangent to said line; 4) southwesterly a distance of 179.40 feet along the curve concave to the left, having a radius of 180.00 feet and a central angle of 57° 06' 18"; 5) S 00°36'30"W. tangent to said curve, for 932.91 feet to the beginning of a curve tangent to said line; 6) southerly a distance of 208.25 feet along the curve concave to the left, having a radius of 170.00 feet and a central angle of 70° 11' 12"; 7) S 69°34'42"E. tangent to said curve, for 42.35 feet to the Southeast Sixteenth corner; Thence along the South Sixteenth line S 89°43'32"W., for 1457.47 feet to the Center South Sixteenth corner; Thence along the midsection line N 00°04'04"E., for 1312.65 feet to the center quarter corner; Thence along the midsection line N 00°04'04"E., for 1340.79 feet to the true Point of Beginning, said tract being 105.93 Acres more or less, and all according to the attached plat. Subject to easements and/or rights-of-way of record, apparent on the ground, and/or reserved per this survey.

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

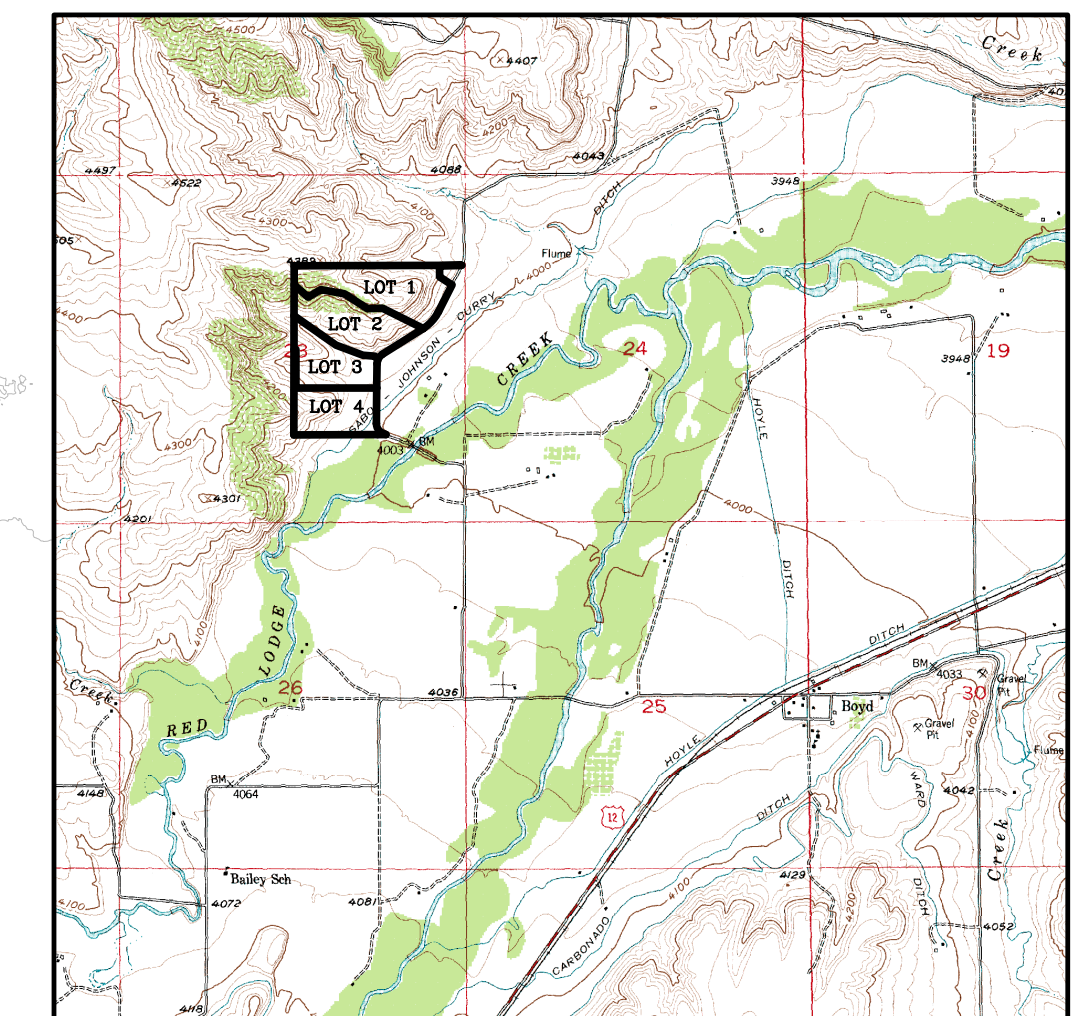
The above described tract of land is to be known and designated as "BOYD RANCH SUBDIVISION", and the lands included in all roadways are hereby granted and donated to the use of the public forever. Unless specifically listed herein, the lands included in all roadways shown dedicated to the public are accepted for public use, but the County accepts no responsibility for maintaining the same. The owners agree that the County has no obligation to maintain the lands included in all roadways shown hereby dedicated to public use.

No parkland is being dedicated to the public.

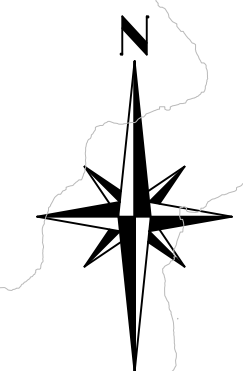
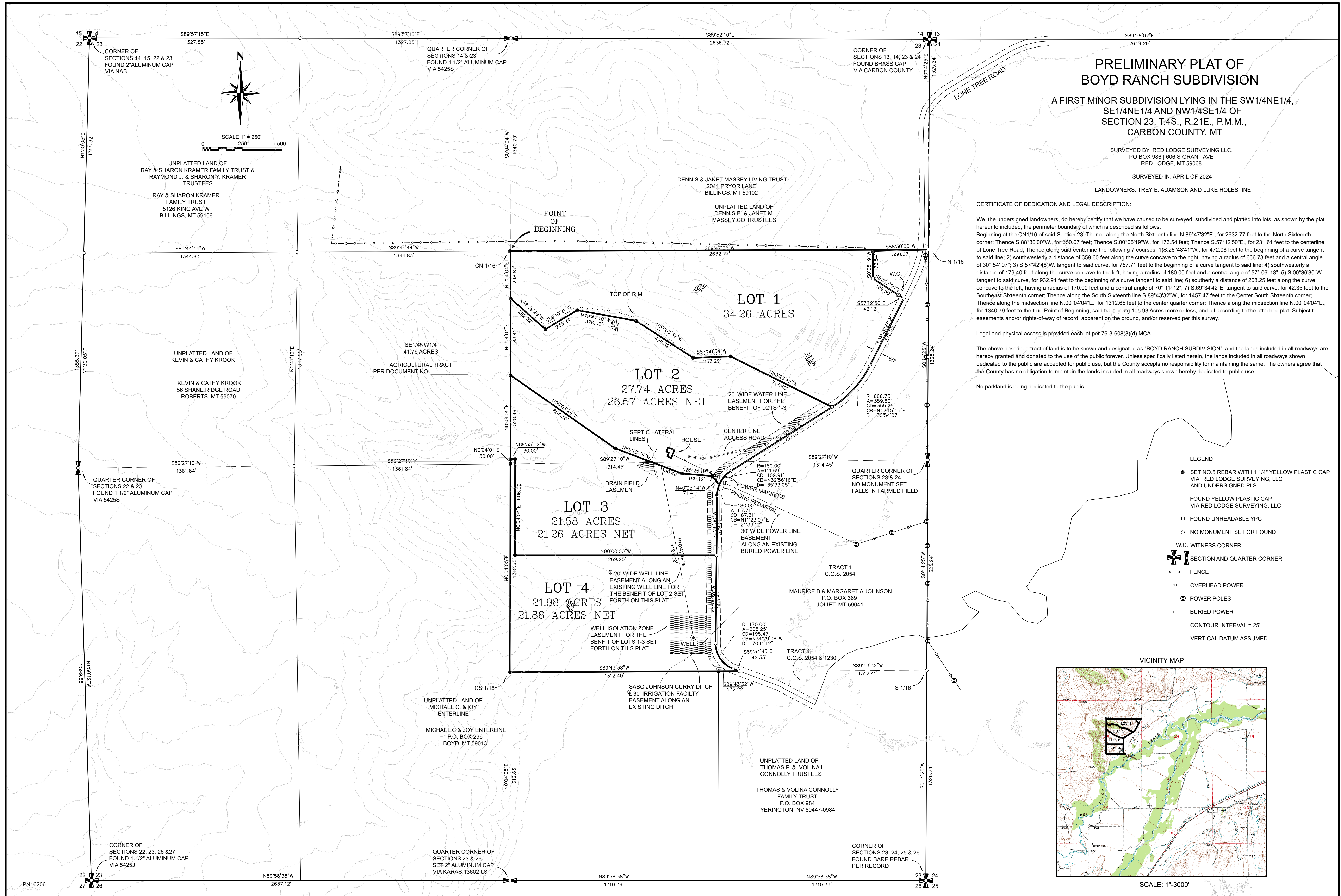
LEGEND

- SET NO.5 REBAR WITH 1 1/4" YELLOW PLASTIC CAP VIA RED LODGE SURVEYING, LLC AND UNDERSIGNED PLS
- FOUND YELLOW PLASTIC CAP VIA RED LODGE SURVEYING, LLC
- ⊠ FOUND UNREADABLE YPC
- NO MONUMENT SET OR FOUND
- W.C. WITNESS CORNER
- ⊠ SECTION AND QUARTER CORNER
- - - FENCE
- OVERHEAD POWER
- ⊙ POWER POLES
- BURIED POWER
- POWER INTERVAL = 25'
- VERTICAL DATUM ASSUMED

VICINITY MAP



SCALE: 1"=3000'



SCALE 1" = 250'

UNPLATTED LAND OF
RAY & SHARON KRAMER FAMILY TRUST &
RAYMOND J. & SHARON Y. KRAMER
TRUSTEES

RAY & SHARON KRAMER
FAMILY TRUST
5126 KING AVE W
BILLINGS, MT 59106

UNPLATTED LAND OF
KEVIN & CATHY KROOK

KEVIN & CATHY KROOK
56 SHANE RIDGE ROAD
ROBERTS, MT 59070

UNPLATTED LAND OF
MICHAEL C. & JOY
ENTERLINE

MICHAEL C & JOY ENTERLINE
P.O. BOX 296
BOYD, MT 59013

UNPLATTED LAND OF
THOMAS P. & VOLINA L.
CONNOLLY TRUSTEES

THOMAS & VOLINA CONNOLLY
FAMILY TRUST
P.O. BOX 984
YERINGTON, NV 89447-0984

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

GROUP 2 DEVELOPMENT PERMIT – STAFF REPORT

Date: August 9, 2024
To: Carbon County Planning Board/Zoning Commission
From: Forrest J. Mandeville, AICP – Contract Planner
RE: **Roly's Construction – Gravel Mine Site**

Recommendation: Approval

Recommended Motion: *Having reviewed and considered the staff report, public comment, and all of the information presented, I hereby move to approve the Group 2 Development Permit from Roly's Construction for the development of a gravel mine site, subject to the conditions included in this memorandum.*

Project/Application Summary:

Mark Carlstrom has submitted a Group 2 Development Permit application on behalf of Roly's Construction to develop a gravel mine site on 58.8 acres. Approval, bonding, and reclamation are requirements through the Montana Department of Environmental Quality (DEQ), and the applicant has been in contact with DEQ.

The proposed development is located on property owned by Robert and Christine DeVries, located on Clear Creek Road about 1.5 miles northeast of Roberts. The property is legally described as the E2NE4, SW4NE4, NE4SE4, and Relocation Parcel B, COS 2178 RB #2, Section 28, T 5S, R 21E, Carbon County, MT.

Required Board Action:

Under the Development Regulations, the Planning Board, in its role as the Zoning Commission, is tasked with considering the criteria for approval, and approving or conditionally approving an application for a Group 2 Development Permit. The Zoning Commission may deny an application if the

approval criteria cannot be met, or it is determined that the development will create a significant adverse impact on surrounding properties or current uses.

The Zoning Commission shall approve, deny, or conditionally approve a Group 2 Development Permit within 60 days of receiving a complete application. The application was received on June 27, 2024, so a decision must be made by August 26, 2024. Surrounding property owners were notified of the pending application by planning via mail on July 23, 2024.



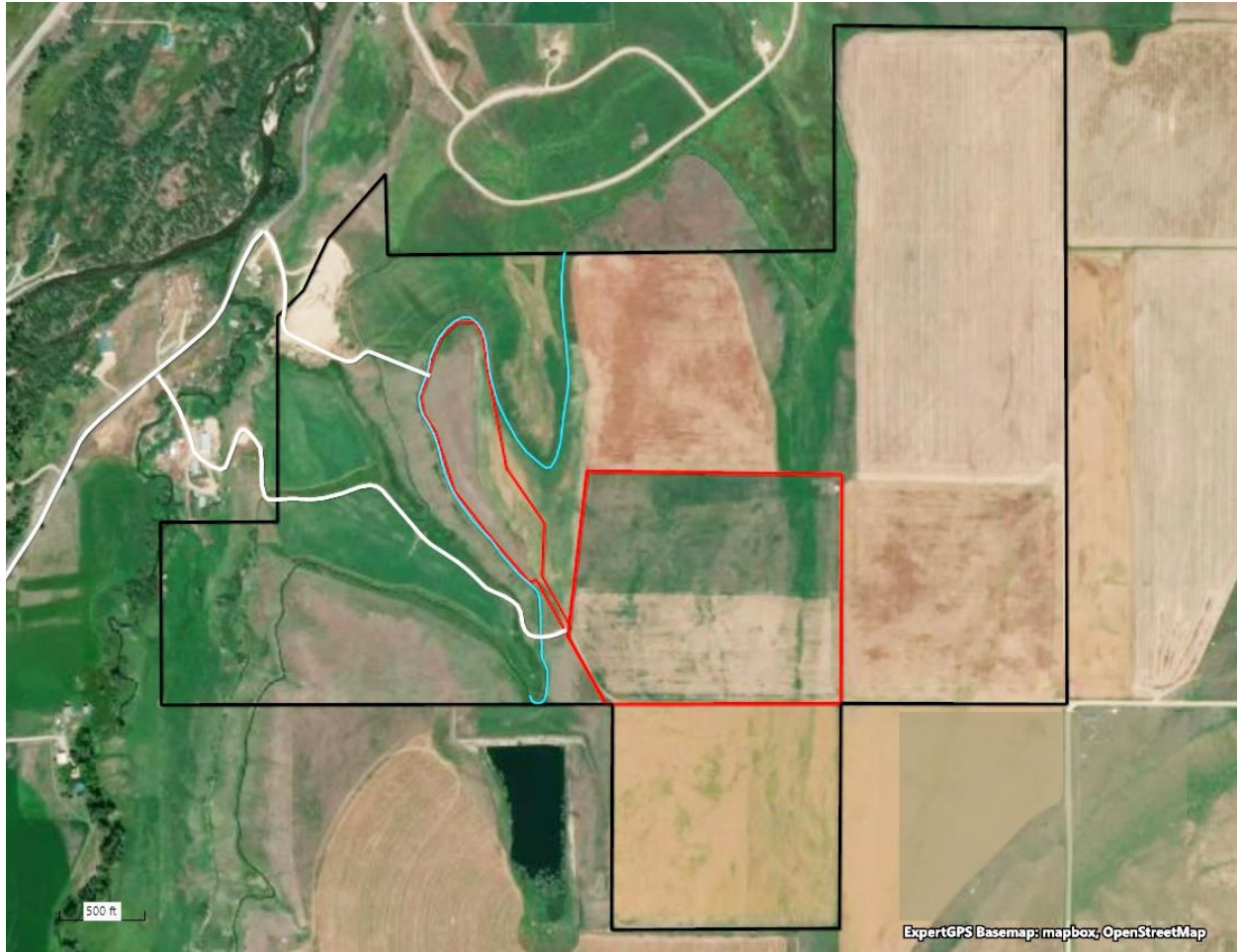
Proposed Gravel Mine Location

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

Pursuant to Section V-B.3.c, the Zoning Commission shall consider the following approval criteria for any Group 2 Development Permit:

1. Water Supply: The development shall provide adequate water supply and adequate means of waste water disposal, and adequate disposal of solid and hazardous waste. **No water or wastewater provisions are proposed as part of the application.**

2. Floodplain: The development shall conform to the Carbon County Floodplain regulations. There shall be no development in the floodway. **There is no mapped floodplain on the property.**
3. Site Design: The development shall be properly graded and appropriate culverts, ditches, settling ponds, and other necessary facilities shall be provided to remove surface runoff in a manner that will not adversely affect adjacent streams, lakes, reservoirs, or public roads. **Clear Creek runs to the west of the property and there is a small reservoir to the south of the site. The application indicates the site will be graded and reclaimed per DEQ regulations. The site plan indicates an existing approaches and access roads will be utilized from Clear Creek Road, so any necessary culverts should be existing. Adherence to the submitted site plan is recommended as a condition of approval, as is adherence to DEQ rules and regulations.**
4. Setbacks: Proposed buildings or structures may not be erected on property lines or within right-of-ways or easements. All buildings and structures shall be set back 10 feet from any side lot line, 20 feet from a rear lot line and 30 feet from the front lot line or street right of way or easement. **No new buildings are proposed as part of the application. The development will occur within the 58.8-acre permit area. The application indicates that it is anticipated the operation will be begin in the northwest of the permit area, progressing to the southeast and then into the east area, as shown on the site plan.**
5. Access: legal and physical access shall be provided to the tract of land where the development is proposed. Any new proposed access on a County Road will require an approach permit. Approaches on state highways shall be approved by the Montana Department of Transportation. **The site is accessed from Clear Creek Road using existing approaches, one of which accessed an old gravel pit. No concerns regarding traffic have been expressed. The County GIS and Rural Addressing Department will require an address be obtained.**
6. Agricultural Interference: Development shall not interfere with agricultural operations through the contamination of livestock or irrigation water supplies or obstruct, impair or impede irrigation canals, headgates, ditches, culverts or other irrigation facilities. **There is an irrigation ditch that runs through the property and will be crossed for access to the site. The applicant indicates that Randy DeVries has contacted the ditch company, which did not express concerns.**
7. Current Uses: Development shall not create significant unmitigated adverse impacts on surrounding properties or current uses. **The site has had gravel extraction in the past, and this new gravel mine will be a continuation of that use, though larger in scale. There are agricultural uses surrounding the site, and there is a residential subdivision (Dot Calm Ranches Subdivision) to the north.**

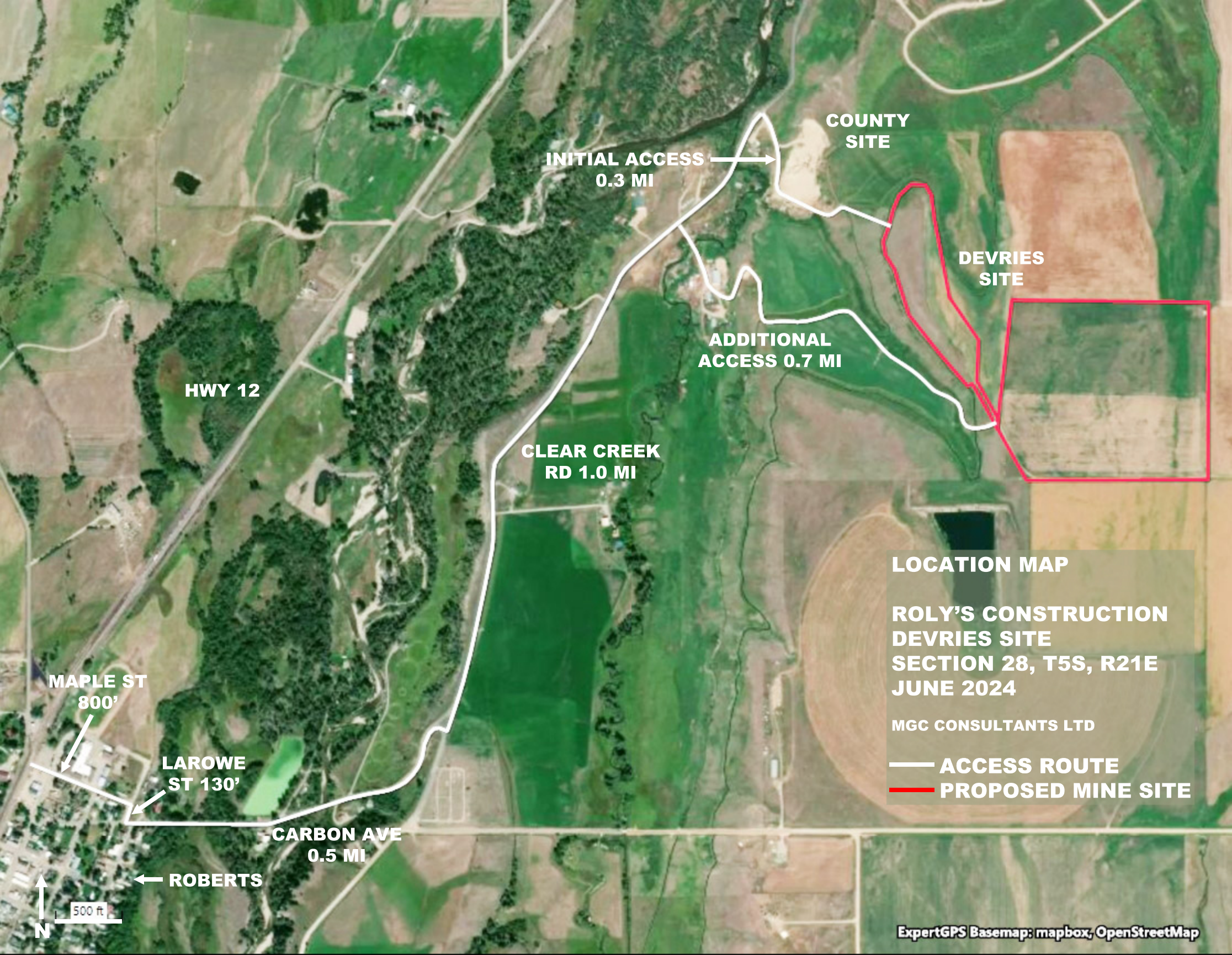


Site Plan

Planning Staff Recommendation:

Planning Staff recommends approval of the Roly's Construction Group 2 Development Permit pursuant to the following conditions (Section references are to the Carbon County Development Regulations):

1. Obtain all other necessary permits as required by other state or government agencies and adhere to any conditions required. This includes Montana Department of Environmental Quality (DEQ) permitting.
2. An address shall be obtained from the County GIS and Rural Addressing Department.
3. Any deviation from the site plan must be made known to the Planning Office to determine whether or not the deviation is in compliance with the approved development permit or if a new permit is needed.
4. If approved activity on site is inactive for two years this permit is deemed abandoned and a new permit must be obtained prior to activity resuming.
5. Any intensification of use shall be made known to the Carbon County Planning Department to determine whether an amended permit is required.



INITIAL ACCESS
0.3 MI

COUNTY SITE

DEVRIES SITE

ADDITIONAL ACCESS
0.7 MI

HWY 12

CLEAR CREEK RD
1.0 MI

LOCATION MAP

ROLY'S CONSTRUCTION
DEVRIES SITE
SECTION 28, T5S, R21E
JUNE 2024

MGC CONSULTANTS LTD

— ACCESS ROUTE
— PROPOSED MINE SITE

MAPLE ST
800'

LAROWE ST
130'

CARBON AVE
0.5 MI

← ROBERTS

500 ft





Development Permit Package

Carbon County Montana

Submitted On:

Jun 26, 2024, 08:52PM EDT

What permits are you applying for today?	Group 2 Development
PROPERTY OWNER	First Name: Robert & Christine Last Name: DeVries
Business Name (If Applicable)	Roly's Construction
Property Owner Mailing Address	Street Address: 734 Clear Creek Road City: Roberts State: MT Zip: 59070
Property Owner Email	rldevries48@gmail.com
Property Owner Primary Phone Number	406-425-3700
Type of Primary Phone	Cellular
Cellular provider for Primary Phone	AT&T
Property Owner Secondary Phone Number	406-690-2269
Type of Secondary Phone	Cellular
Cellular provider for Secondary Phone	AT&T
Preferred Contact Method	Email
How would you like to receive your permits?	Digital copy (email)
Do you own, rent, or lease the property?	Own
Are you applying on behalf of a client?	No
Assessment Code from Montana Cadastral	0002426900
Certificate of Survey or Plat Number (INCLUDE LT OR TR, if applicable) from Montana Cadastral website	COS 2178 RB #2
Legal Description of property from Montana Cadastral website (Ex: S27, T07S, R20E)	28 05S 21E

Has a physical address been assigned to the property?	No
Access to Property	Existing
Current Property Use	Pasture, cropland, hayland, county gravel site
Property Acreage	373.75
Proposed Use / Development to Property	58.8-acre gravel mine site
Check Type of Development	General Commercial or Multi-Family Use (including recreational use)
Describe the type of proposed building construction or planned development.	Gravel mine site, 58.8 acres, strip soil and overburden, save them for reclamation, excavate gravel, process and stockpile gravel or take it as pit run off site, grade disturbed areas no longer needed for operation, replace overburden and soil, seed according to the postmining land use. Proper operation and reclamation, and a bond to cover site reclamation, is required by a DEQ Opencut Mining Section permit, which must be obtained before operations may begin. Final reclamation, the date by which all of the permit area is reclaimed and ready for final bond release, is 12/2043. Mining will start in the north end or the NW area, progress to the south, then go to the larger east area, which, tentatively, will be mined from west to east.
What type of business activities will be on the property?	None, this will be a mining and processing operation, business activities will take place off site.
Is there surface water on the property?	Yes
What type of surface water exists on property?	Wetland River / Creek Irrigation ditch or canal
Is the property located in a floodplain?	No
Is the proposed development located in Sage Grouse habitat?	No
Are there covenants and/or restrictions on the property that may prohibit the proposed development?	No
Are there any road, ditch, utility or other easements that exist on the property?	Yes
Please describe the easements that exist on the property.	50' ditch easement, see ditch location on Property Site Plan, Randy DeVries talked to ditch company and they are okay with gravel mine site being adjacent to the ditch..
Describe existing and proposed water, sewer and wastewater facilities:	None

Describe existing access to the property and how traffic related to the commercial and industrial activity will be directed through the site.	See Property Site Plan. Initial north access is 0.3-mile-long, about 370' needs to be constructed from existing road to mine site boundary. Additional access will be by the south 0.7-mile-long existing road. Haul trucks will use access roads, and run inside the mine permit boundary to where the product they intend to haul is being loaded.
For construction of new buildings or facilities related to this permit, please state how far they will be set back from each property line:	Facilities will be located within the proposed 58.8-acre permit area. See Property Site Plan for distance from NW permit boundary to parcel border. Also, the permit boundary corners at the SW and SE corners of the east square portion of the proposed mine site. Initially, processing facilities will be located in the NW portion of the proposed site. As the operation progresses, processing facilities will be moved to the east area near where the south access road enters that area. If processing facilities are moved again, it will most likely be to the middle of the east square area.
Will the proposed activity interfere with agricultural operations by contaminating water sources or interfering with irrigation facilities?	No
Are State or Federal Permits needed to conduct this activity on the proposed property?	No, I have not yet applied for additional permits
What are the current uses adjacent to the proposed property?	Adjacent to the 58.8-acre proposed permit area: pasture, hayland, cropland. Other uses within 373.75 subject property: county gravel site. Adjacent to subject property: some residences, agricultural land, reservoir.
Neighboring Property Owner 1	First Name: Scanner down, will mail list.
Neighboring Property Owner 1 Full Address	
Neighboring Property Owner 2	
Neighboring Property Owner 2 Full Address	
More Owners?	Yes
Neighboring Property Owner 3	
Neighboring Property Owner 3 Full Address	
Neighboring Property Owner 4	
Neighboring Property Owner 4 Full Address	
Neighboring Property Owner 5	

Neighboring Property Owner 5 Full Address	
Group 2 Property Site Plan submission	Upload Now
Property Site Plan Upload	2024-06 County Dev Permit Map.pdf
Amount to be Paid (convenience fees are in addition to this total)	150
Signature Data	First Name: Mark Last Name: Carlstrom Email Address: mgcbiz10@hotmail.com  Signed at: June 26, 2024 8:50pm America/New_York
Receipt	DPP-0000770

Group 2 development permit

Dennis Eymann <dennis.eymann@gmail.com>

Wed 8/7/2024 11:00 AM

To:Forrest Mandeville <Forrest@forrestmandevilleconsulting.com>

I'm writing in regards to the application of the gravel mine near Roberts.

I just bought my property, lot 87, in the Dot Calm Ranches subdivision, and am in the process of building a home. I bought here because of the piece and quite of the area. I am admittedly against a gravel mine right next to me. The last thing I want to listen to when I'm sitting on my porch, is a crusher running all day long, conveyors running, and truck traffic. And, I'm sure, a lot of dust.

This operation does not belong next to an already established community that is here for the piece and quite.

Regards,
Dennis Eymann
101 Laptop Loop
Roberts MT 59070
406-426-4256

Please let me know you received this, and if this email will work as my response.



Development Permit Package

Submitted On:

Aug 5, 2024, 12:23PM EDT

Carbon County Montana

What permits are you applying for today?	Group 2 Development On-Site Wastewater Treatment System
PROPERTY OWNER	First Name: Joan & Charles Last Name: Elliott
Business Name (If Applicable)	
Property Owner Mailing Address	Street Address: PO Box 27 City: Bridger State: MT Zip: 59014
Property Owner Email	joanflemingelliott@gmail.com
Property Owner Primary Phone Number	931-310-7071
Type of Primary Phone	Cellular
Cellular provider for Primary Phone	Verizon
Property Owner Secondary Phone Number	
Preferred Contact Method	Phone
How would you like to receive your permits?	Physical copy (mail) Digital copy (email)
Do you own, rent, or lease the property?	Own
Are you applying on behalf of a client?	Yes
Builder / Contractor Name	Stahllion LLC
Builder / Contractor Email	stahllion21@outlook.com
Builder / Contractor Phone Number	406-861-8005
Assessment Code from Montana Cadastral	0001508301
Certificate of Survey or Plat Number (INCLUDE LT OR TR, if applicable) from Montana Cadastral website	NA
Legal Description of property from Montana Cadastral	23 07S

website (Ex: S27, T07S, R20E)	25E
Has a physical address been assigned to the property?	Yes
Physical address of property	150 Awwakkula Way, Bridger, MT 59014
Access to Property	Existing
Current Property Use	grazing/pasture
Property Acreage	80.00
Proposed Use / Development to Property	Commercial business
Check Type of Development	General Commercial or Multi-Family Use (including recreational use)
Describe the type of proposed building construction or planned development.	Wash House and Common Area with 5 single bedroom dry cabins maximum planned. Will be used for family purposes but potential to rent a cabin out for profit.
What type of business activities will be on the property?	None currently, potential rental space in future.
Is there surface water on the property?	No
Is the property located in a floodplain?	No
Is the proposed development located in Sage Grouse habitat?	No
Are there covenants and/or restrictions on the property that may prohibit the proposed development?	No
Are there any road, ditch, utility or other easements that exist on the property?	No
Describe existing and proposed water, sewer and wastewater facilities:	Potable water available as a well is currently on site and functional. Wastewater plans are attached per Circular DEQ-4 and county requirements.
Describe existing access to the property and how traffic related to the commercial and industrial activity will be directed through the site.	Existing road to the property off of Rail Bed Rd is existing. Road ends on property and same road can be used to exit. Turnaround space near proposed cabins will be available.
For construction of new buildings or facilities related to this permit, please state how far they will be set back from each property line:	All cabins and wash house are well over 100' from property lines and easily meet setback requirements.

Will the proposed activity interfere with agricultural operations by contaminating water sources or interfering with irrigation facilities?	No
Are State or Federal Permits needed to conduct this activity on the proposed property?	No additional permits are required
What are the current uses adjacent to the proposed property?	Vacant ground, state owned ground (BLM), or National Forest Service. Grazing leases are only known uses.
Neighboring Property Owner 1	First Name: Patti & Harry Last Name: Davis
Neighboring Property Owner 1 Full Address	Street Address: 4101 W 109th Ave City: Crown Point State: IN Zip: 46307
Neighboring Property Owner 2	First Name: Bureau of Land Managment
Neighboring Property Owner 2 Full Address	Street Address: 5001 Southgate Dr, City: Billings State: MT Zip: 59101
More Owners?	Yes
Neighboring Property Owner 3	First Name: USDA Forest Service
Neighboring Property Owner 3 Full Address	Street Address: 26 Fort Missoula Road City: Missoula State: MT Zip: 59804
Neighboring Property Owner 4	
Neighboring Property Owner 4 Full Address	
Neighboring Property Owner 5	
Neighboring Property Owner 5 Full Address	
Group 2 Property Site Plan submission	Email / Mail my site plan at a later date
System Type	New Construction
Number of bedrooms (Per Montana DEQ-4, 1.2.9. Bedroom means ANY ROOM THAT MAY BE USED FOR SLEEPING by present or future owner. An unfinished basement is considered an additional bedroom.) You may	

<p>also wish to factor in potential remodeling of home to accommodate future bedrooms in proper drainfield sizing. Undersized systems may inhibit future transactions (selling of home or property boundary re-configuration).</p>	5
<p>Carbon County Licensed Installer of wastewater treatment system (if known). Property owners who wish to Self-Install will be required to become Licensed (application, fee, and written test on DEQ-4)</p>	Randy Pfeifle - Pfeifle Construction
<p>Is your property</p>	Greater than 20 acres (not counting county road frontage)
<p>Has a septic application been put together by a qualified consultant?</p>	Yes
<p>Anticipated Date of Septic Installation (Month/Year)</p>	09/2024
<p>Septic Application Submission</p>	Mail
<p>Acknowledgement.</p>	<p>By checking this box, I acknowledge that the system will be installed in accordance with Carbon County Regulations for On-site Wastewater Treatment Systems and the terms of the permit. I acknowledge that Carbon County has not designed my system and that these requirements do not bind or obligate Carbon County to guarantee this system's operation. I further agree to have the system inspected before backfilling.</p>
<p>Amount to be Paid (convenience fees are in addition to this total)</p>	350
<p>Signature Data</p>	<p>First Name: Eric Last Name: Stahl Email Address: stahlion21@outlook.com</p>

Eric R. Stahl

Signed at: August 5, 2024 12:19pm America/New_York

Receipt

DPP-0000802

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

GROUP 2 DEVELOPMENT PERMIT – STAFF REPORT

Date: August 9, 2024
To: Carbon County Planning Board/Zoning Commission
From: Forrest J. Mandeville, AICP – Contract Planner
RE: Elliott Cabins

Recommendation: Approval

Recommended Motion: *Having reviewed and considered the staff report, public comment, and all of the information presented, I hereby move to approve the Group 2 Development Permit from Joan and Charles Elliott for the development of commercial cabins, subject to the conditions included in this memorandum.*

Project/Application Summary:

Eric Stahl, Stahllion LLC, has submitted a Group 2 Development Permit application on behalf of Joan and Charles Elliott to develop a commercial cabin business on 80 acres located about 1.5 miles east of Railbed Road in southeastern Carbon County. The address of the property is 150 Awwakkula Way, Bridger, MT 59014. The property is legally described as the W ½ SW ¼, Section 23, T 7S, R 25E, Carbon County, MT.

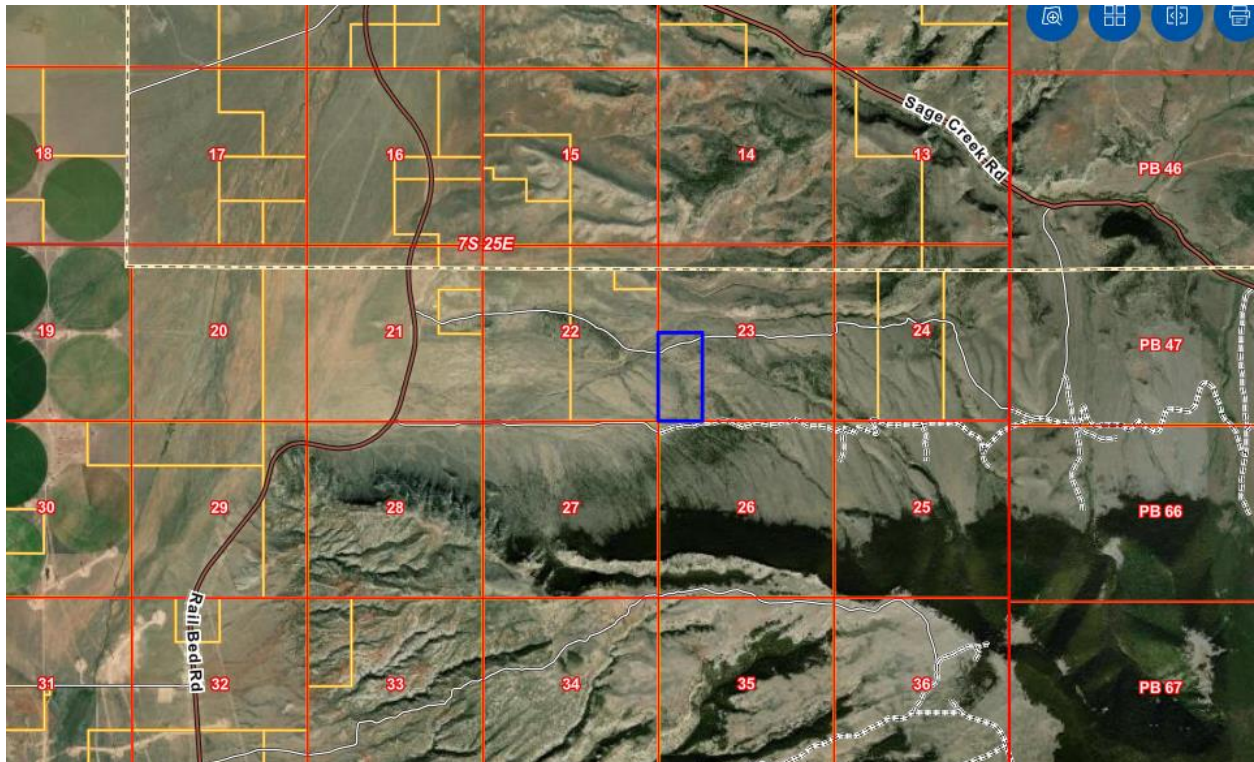
The application indicates the development will consist of 5 single-bedroom cabins and wash house/common area. The property will primarily be used for family purposes, but there is potential for the cabins to be rented out.

Required Board Action:

Under the Development Regulations, the Planning Board, in its role as the Zoning Commission, is tasked with considering the criteria for approval, and approving or conditionally approving an application for a Group 2 Development Permit. The Zoning Commission may deny an application if the

approval criteria cannot be met, or it is determined that the development will create a significant adverse impact on surrounding properties or current uses.

The Zoning Commission shall approve, deny, or conditionally approve a Group 2 Development Permit within 60 days of receiving a complete application. The application was received on August 6, 2024, so a decision must be made by October 5, 2024. Surrounding property owners were notified of the pending application by planning via mail on August 8, 2024.



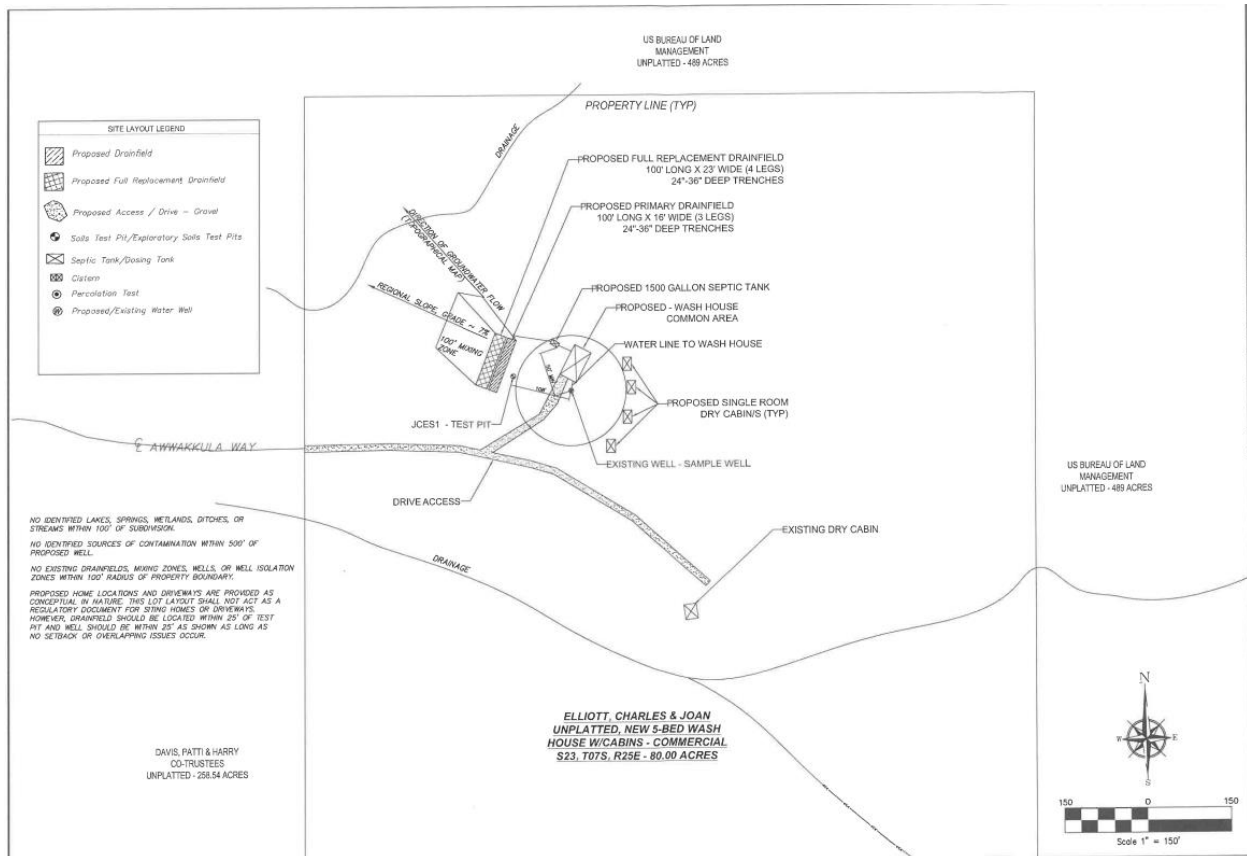
Location of Proposed Development

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

Pursuant to Section V-B.3.c, the Zoning Commission shall consider the following approval criteria for any Group 2 Development Permit:

1. **Water Supply:** The development shall provide adequate water supply and adequate means of waste water disposal, and adequate disposal of solid and hazardous waste. **Water is proposed to be provided by an existing well. A septic system is proposed for wastewater disposal. An application has also been submitted to the Carbon County Sanitarian and will need to be approved by the Sanitarian prior to development.**

2. Floodplain: The development shall conform to the Carbon County Floodplain regulations. There shall be no development in the floodway. **There is no mapped floodplain on the property.**
3. Site Design: The development shall be properly graded and appropriate culverts, ditches, settling ponds, and other necessary facilities shall be provided to remove surface runoff in a manner that will not adversely affect adjacent streams, lakes, reservoirs, or public roads. **There is a drainage to the north and south of the proposed development. There is no mapped floodplain associated with these drainages and the property is large enough that it does not appear the drainages will be adversely impacted by additional runoff caused by the development.**
4. Setbacks: Proposed buildings or structures may not be erected on property lines or within right-of-ways or easements. All buildings and structures shall be set back 10 feet from any side lot line, 20 feet from a rear lot line and 30 feet from the front lot line or street right of way or easement. **All setbacks appear to be met. All buildings are proposed to be in excess of 100 feet from any property lines.**
5. Access: legal and physical access shall be provided to the tract of land where the development is proposed. Any new proposed access on a County Road will require an approach permit. Approaches on state highways shall be approved by the Montana Department of Transportation. **The site is accessed by Awwakkula way, a private road which accesses Railbed Road. Railbed Road is noted as having minimal maintenance and snowplowing according to the County Road and Bridge website. The County GIS and Rural Addressing Department notes that the property has a valid address.**
6. Agricultural Interference: Development shall not interfere with agricultural operations through the contamination of livestock or irrigation water supplies or obstruct, impair or impede irrigation canals, headgates, ditches, culverts or other irrigation facilities. **The area is primarily agriculture and recreational. There is adjacent BLM and Forest Service land. There are no irrigation ditches on the property. This development is not expected to create significant conflicts with agriculture.**
7. Current Uses: Development shall not create significant unmitigated adverse impacts on surrounding properties or current uses. **There is an existing cabin on the site. The property borders public land to the north and east (BLM) and to the south (Forest Service).**



Site Plan









Planning Staff Recommendation:

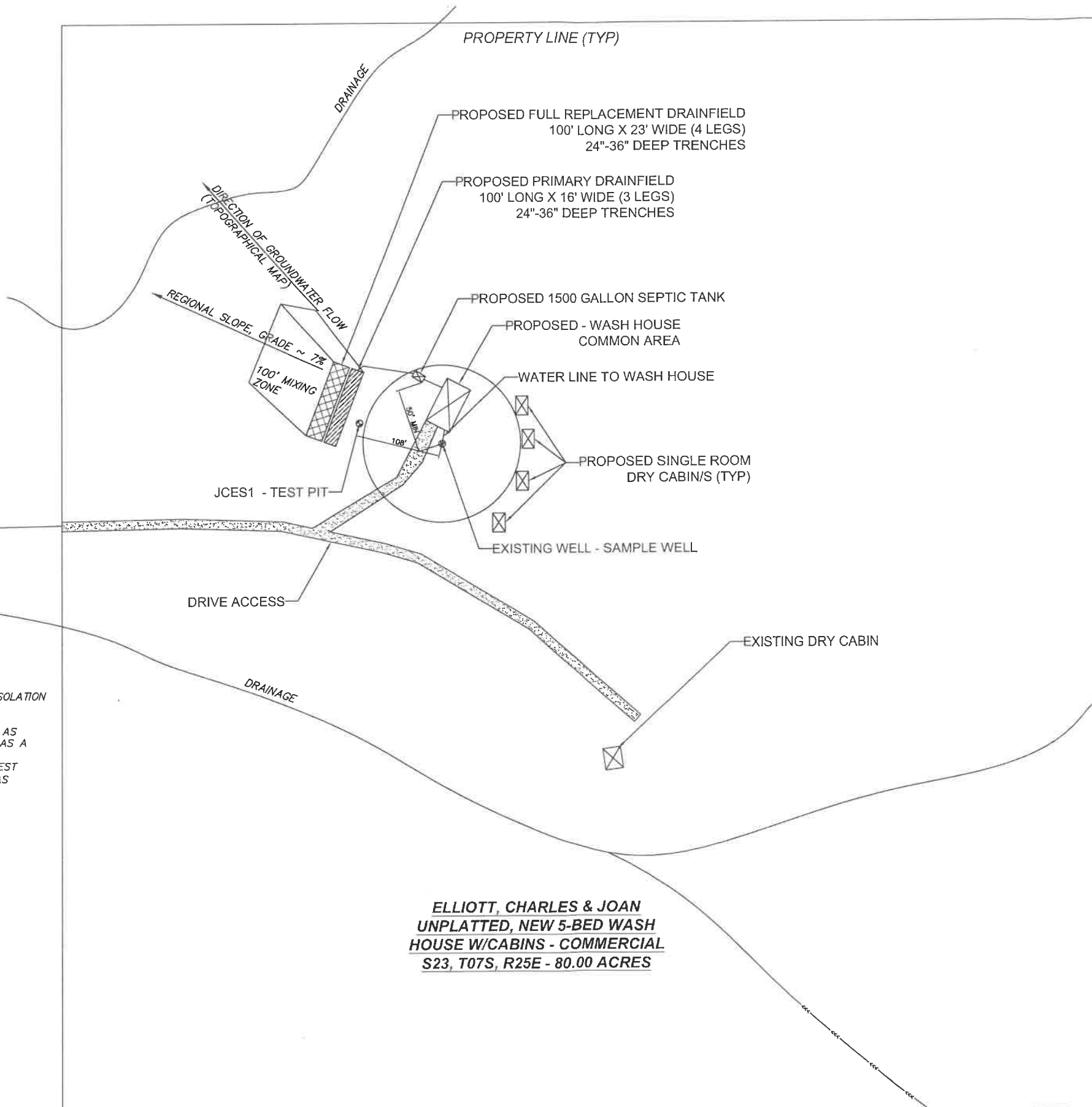
Planning Staff recommends approval of the Elliott Group 2 Development Permit pursuant to the following conditions (Section references are to the Carbon County Development Regulations):

1. Obtain all other necessary permits as required by other state or government agencies and adhere to any conditions required. This includes a septic permit from the County Environmental Health Department.
2. Any deviation from the site plan must be made known to the Planning Office to determine whether or not the deviation is in compliance with the approved development permit or if a new permit is needed.
3. If approved activity on site is inactive for two years this permit is deemed abandoned and a new permit must be obtained prior to activity resuming.
4. Any intensification of use shall be made known to the Carbon County Planning Department to determine whether an amended permit is required.

US BUREAU OF LAND
MANAGEMENT
UNPLATTED - 489 ACRES

SITE LAYOUT LEGEND

-  Proposed Drainfield
-  Proposed Full Replacement Drainfield
-  Proposed Access / Drive - Gravel
-  Soils Test Pit/Exploratory Soils Test Pits
-  Septic Tank/Dosing Tank
-  Cistern
-  Percolation Test
-  Proposed/Existing Water Well

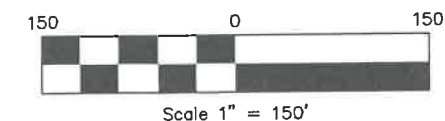


US BUREAU OF LAND
MANAGEMENT
UNPLATTED - 489 ACRES

NO IDENTIFIED LAKES, SPRINGS, WETLANDS, DITCHES, OR STREAMS WITHIN 100' OF SUBDIVISION.
NO IDENTIFIED SOURCES OF CONTAMINATION WITHIN 500' OF PROPOSED WELL.
NO EXISTING DRAINFIELDS, MIXING ZONES, WELLS, OR WELL ISOLATION ZONES WITHIN 100' RADIUS OF PROPERTY BOUNDARY.
PROPOSED HOME LOCATIONS AND DRIVEWAYS ARE PROVIDED AS CONCEPTUAL IN NATURE. THIS LOT LAYOUT SHALL NOT ACT AS A REGULATORY DOCUMENT FOR SITING HOMES OR DRIVEWAYS. HOWEVER, DRAINFIELD SHOULD BE LOCATED WITHIN 25' OF TEST PIT AND WELL SHOULD BE WITHIN 25' AS SHOWN AS LONG AS NO SETBACK OR OVERLAPPING ISSUES OCCUR.

DAVIS, PATTI & HARRY
CO-TRUSTEES
UNPLATTED - 258.54 ACRES

**ELLIOTT, CHARLES & JOAN
UNPLATTED, NEW 5-BED WASH
HOUSE W/CABINS - COMMERCIAL
S23, T07S, R25E - 80.00 ACRES**



STAHLION LLC
9 ASPEN WAY
PARK CITY, MT 59063
PHONE: (406) 861-8005
EMAIL: STAHLION21@OUTLOOK.COM

REVISIONS	
NO.	DATE
JOB:	896
DATE:	7/31/24
DRAWN BY:	ERS
CHECKED BY:	ERS
SCALE:	1" = 150'
DRAWING:	LAYOUT 2

CHARLES & JOAN ELLIOTT - PROPOSED WASH
HOUSE - 5 DRY CABINS - COMMERCIAL
UNPLATTED - S23, T07S, R25E - 80.00 ACRES
150 AWWAKKULA WAY - CARBON COUNTY
SITE LAYOUT 2

~SHEET~

2
6

HWY
12

ROCK
CREEK

INITIAL ACCESS
0.3 MI

ABOUT
395'

DITCH FLOWING
GENERALLY NORTH
50' EASEMENT

CLEAR
CREEK
ROAD

COUNTY
MINE
SITE

PROPOSED
MINE SITE
58.8 ACRES
TOTAL

ADDITIONAL
ACCESS 0.7 MI

TO
ROBERTS

APPROX BOUNDARY
DEVRIES 373.75-ACRE
PARCEL

COUNTY DEVELOPMENT
PERMIT MAP

ROLY'S CONSTRUCTION
DEVRIES SITE
SECTION 28, T5S, R21E
JUNE 2024



500 ft

MGC CONSULTANTS LTD
ExpertGPS Basemap: mapbox, OpenStreetMap

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: August 9, 2024

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

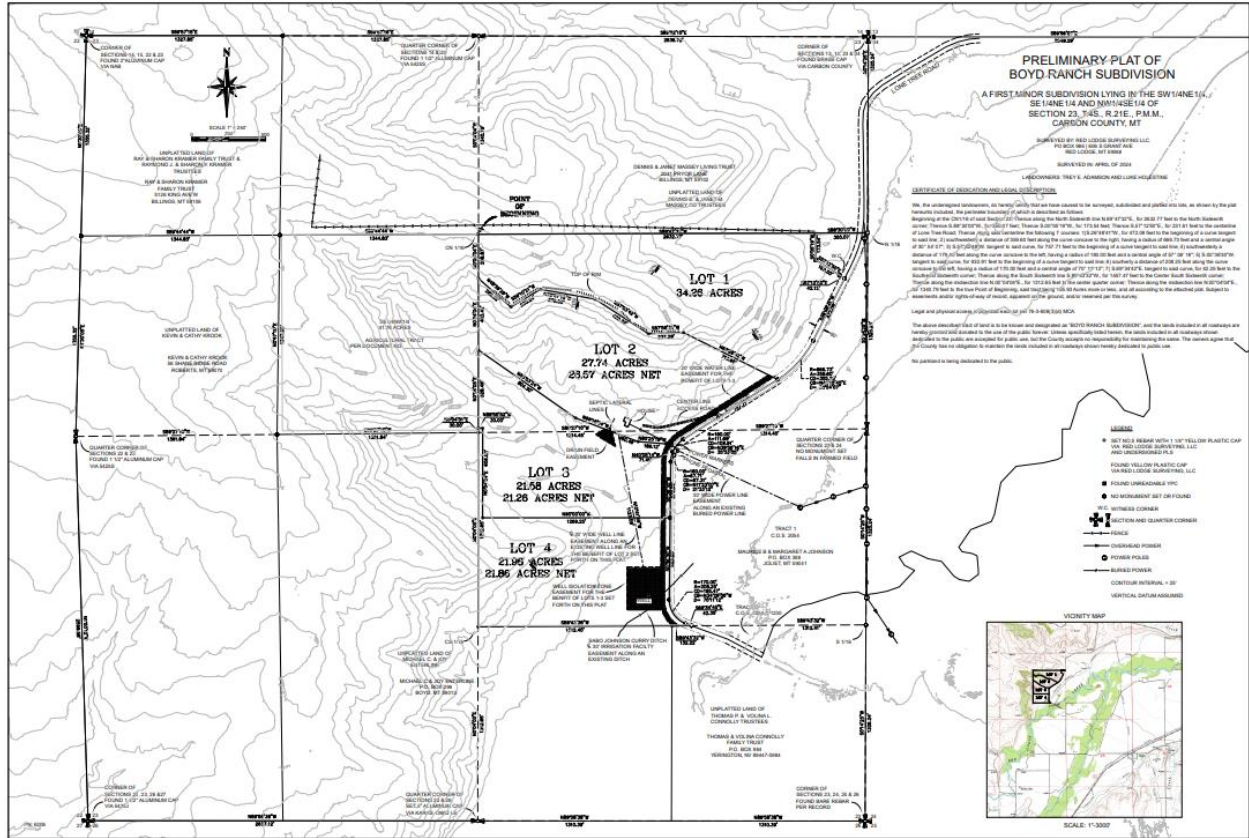
Project/Application Summary:

Red Lodge Surveying, on behalf of Trey E. Adamson and Luke Holestine, has submitted a preliminary plat application for a 4-lot minor subdivision. The subdivision area is approximately 105 acres with proposed lots ranging from 21.98 acres to 34.26 acres in size.

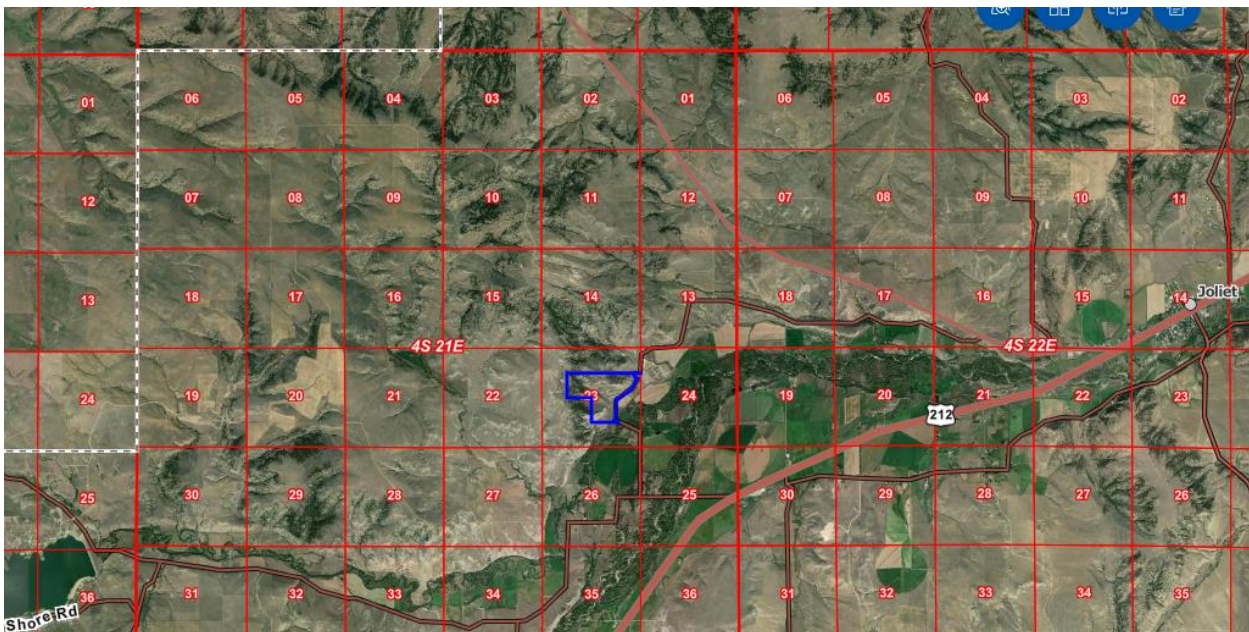
The subject property is located on Lone Tree Road, approximately 1 mile north of the intersection with the Boyd Cooney Dam Road. The property is legally described as being in the SW1/4NE1/14, SE1/4NE1/4, and the NW1/4SE1/4 of Section 23, Township 4 South, Range 21 East, P.M.M., Carbon County, Montana.

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.



Preliminary Plat



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 is proposed to utilize individual drainfields located on the lot it serves, except for Lot 2 which will be provided an easement for a drainfield mostly located on Lot 3. Water will be provided by wells located on Lot 4 with a water line easement provided for supply to each lot. Being over 20 acres, the lots are not subject to review through the Montana Department of Environmental Quality (DEQ) but will be reviewed by the Carbon County Environmental Health Department.

Access is proposed to be provided to the subdivision by Lone Tree Road, a dirt/gravel road which is owned and maintained by the County. There is an existing approach serving the home on Lot 2; new driveway approaches will be utilized for the other lots.

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.

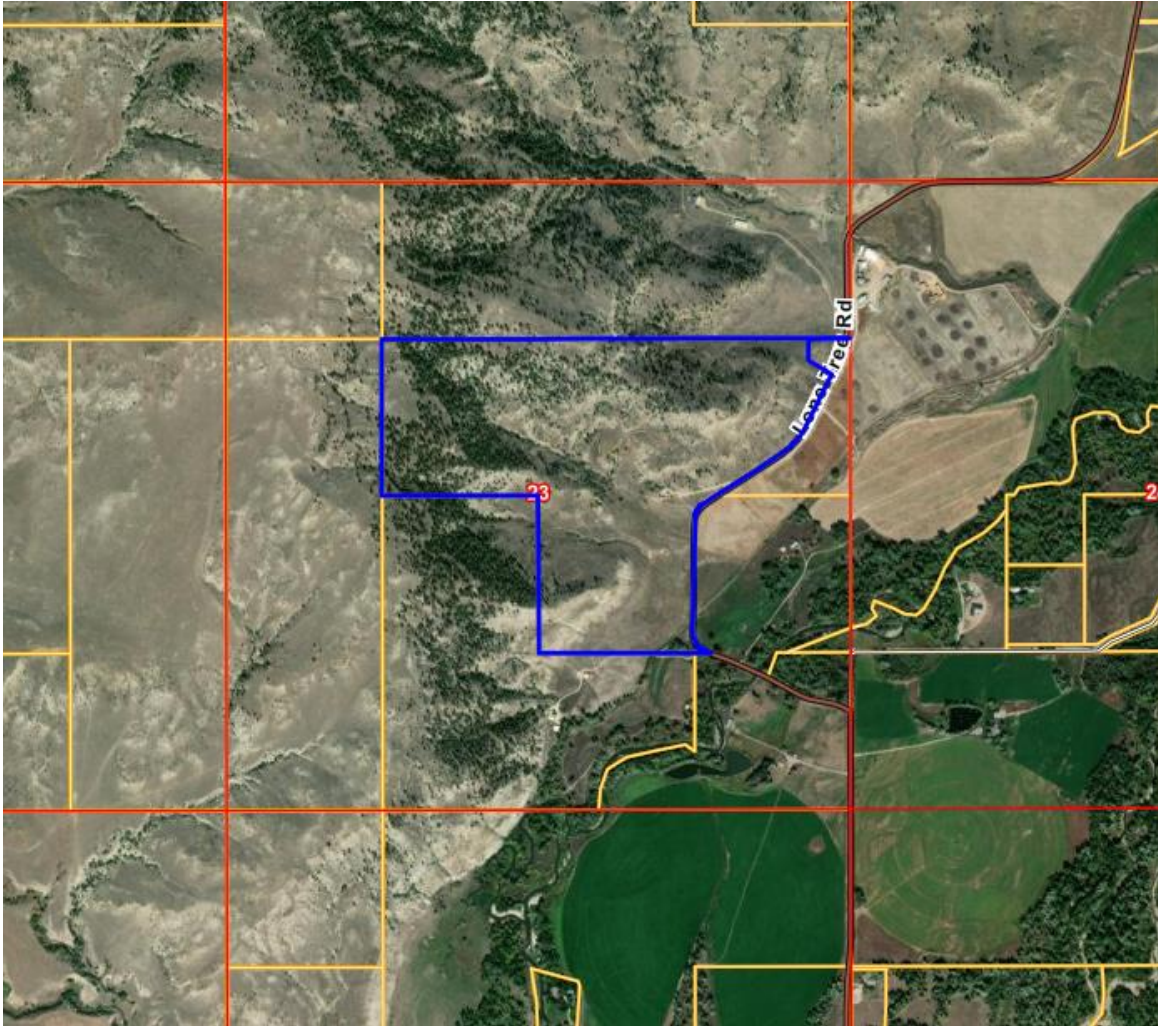
- Effect on agriculture: The property does not appear to be in agricultural production and is classified as non-qualified ag land according to the Montana Cadastral program. There are some areas closer to the road that may be suitable for farming, as well as areas that may be suitable for grazing. There may be small-scale agricultural uses possible after the subdivision.

Forty acres on the west side of the subdivision were recently segregated through an agricultural covenant which restricts development for the duration of the covenant. The covenants can only be revoked by the County as part of a subsequent subdivision review, re-aggregation of the covenanted land into the property as it existed prior to the covenant, or as part of a “public purpose”. This land was likely unsuitable for subdivision given the distance from Lone Tree Road, excessive slopes, and vegetation.

The property is in an agricultural area and 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. There is a large existing agricultural operation directly east of the subject property.

Carbon County Weed District Coordinator Brian Ostwald inspected the site on July 11, 2023, and noted the presence of bindweed and Canada thistle, and that more weeds will be present after the ground is disturbed. No bond was required.

Finding: The subdivision will remove some property from possible agricultural production and 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.



Subdivision (Blue) and Vicinity

- Effect on agricultural water user facilities: The Sabo Johnson Curry Ditch runs through the southeast corner of Lot 4 and is provided a 30-foot wide easement. 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 water rights associated with an existing well located on proposed Lot 4 and serving an existing home on proposed Lot 2 for domestic and stock water.

Finding: As long as an easement for Sabo Johnson Curry Ditch is provided on the plat, and the required language appears on the plat, and 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 Sherriff's office has jurisdiction to provide law enforcement services to the subdivision. The subdivision application included information from Sheriff McQuillan indicating the anticipated response, under normal conditions, would be 15-20 minutes. Sheriff McQuillan also indicated services could be provided with existing personnel and resources.

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

The Joliet Volunteer Fire Department provides fire protection in the area with an estimated response time of eight minutes. Written comments had not yet been received from the fire department, but the applicant notes they have reached out to the Chief. There are some areas of steep slopes in the west of the property, but most of the development will occur closer to the road. The landowners recently segregated the westmost 40 acres and placed an agricultural covenant on that property. The application included a draft Fire Control and Prevention Plan requiring defensible space and referencing best practices for developing in areas with similar fire risk.

Finding: This subdivision will have minimal adverse impacts on fire protection in the area since fire protection is nearby and the fire department has not expressed concerns. The Fire Control and Prevention Plan should be filed with the final plat.

Lone Tree 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 32 vehicle trips per day as a result of the subdivision.

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 eventually 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 may want to require a waiver of the right to protest the creation of an improvement district for road maintenance.



Looking North along Lone Tree Road at Subdivision

Beartooth Electric Cooperative provides electrical services. There is an underground powerline to the property through the Johnson property to the east. There does not appear to be a recorded easement for the powerline, however. An easement should be obtained and referenced on the final plat. The applicant has indicated that the owner has reached out to the owner of the property through which the powerline runs.

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 Joliet School District. At full build out, the subdivision could generate 6-15 students in the local school district. The subdivision is reportedly on an existing bus route.

The 2023 tax bill for the property appears to have been about \$2,400. 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.

Finding: Boyd Ranch 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. Well will be used for potable water supply. An existing drainfield for proposed Lot 2 is located on proposed Lot 3 and will be afforded an easement. Wells are proposed to be located on Lot 4, with a water line easements to Lots 1-3.

Review and approval of new septic, potable water, solid waste, and stormwater drainage is required by the Carbon County Sanitarian as all lots are over 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 County Sanitarian review and approval is required to be obtained prior to 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.

The applicant submitted a memo from Blueline Consulting regarding the impact on the underlying aquifer. This memo indicates that there is low well density and minimal water use in the region, that relatively few wells are proposed for the subdivision, that removing agricultural uses will lessen the use of water for stock, that a majority of area wells have high production, and that there is a high hydraulic conductivity for area well. There are domestic and stock water rights associated with an existing well which will serve Lot 2. There are no other known water rights associated with the property.

To ensure adequate water is available and the subdivision will have the right to use this water, water rights may need to be obtained to accommodate the number of new wells proposed to serve the subdivision.

Finding: There may be adverse impacts on the underlying aquifer unless proper water rights are obtained or evidence is presented showing new water rights are not necessary.

The applicant submitted a Weed Inspection Report completed by Carbon County Weed District Coordinator Brian Ostwald dated July 11, 2023. The report indicates bindweed and Canada thistle was present, but no bond was required.

Finding: There should be minimal impacts on the natural environment due to the proliferation of noxious weeds since the Weed District has inspected the site and did not require additional mitigation. The District has enforcement ability should the property fall into noncompliance at a future date.

- Effect on wildlife: Wildlife does frequent the area. There is a degree of human occupation on the site, with a home site on the property. 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 not within mapped Sage Grouse habitat according to the Montana Sage Grouse Habitat Conservation Program. 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 Carbon County Sheriff's office provides law enforcement service in the area; the Joliet Volunteer Fire Department provides fire protection in the area. See discussion and findings under Effect on Local Services.

County Sanitarian 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 submitted Subdivision Guarantee indicates there are three mortgages on the property and

that the Bank of Baker is the mortgagee for both. A Consent to Platting from the Bank of Baker was included with the preliminary plat application.

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. 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 in effect for the area with which the subdivision would conflict.

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: All lots are over 20 acres in size.

Finding: There are no lots of less than 20 acres, so DEQ review/approval is not required.

- 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 subject to review and approval by the Carbon County Sanitarian. (Sections IV-B-8.b.i and V-A-11, 12,13, and 14 of the Carbon County Subdivision Regulations)

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

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

1. Easements shall be provided and shown on the final plat for the Sabo Curry Johnson Ditch to allow for the use, maintenance, and inspection of the facilities. (Section V-A-18; Effect on Agricultural Water Users Facilities)
2. 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)
3. The Fire Control and Prevention Plan shall be filed with the final plat. (Section V-A-21; Effect of Local Services; Effect on Public Health and Safety)
4. 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)
5. 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)

6. Filing of the final plat shall be subject to the review and approval by the Carbon County Sanitarian, as appropriate, 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)
7. Prior to filing the final plat, evidence shall be submitted showing that proper water rights have been obtained or that new water rights are not needed for the subdivision. (Section IV-A-12; Effect of the Natural Environment)
8. 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)
9. 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)
10. 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)
11. 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)
12. 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)