

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

**OCTOBER 15, 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**

September 17, 2024

**D. PUBLIC HEARINGS**

1. Bullinger Variance from Setback Requirements

**E. REGULAR BUSINESS**

1. Bullinger Variance – Discussion and Recommendation to  
County Commission

2. Fox Ridge Subdivision - Discussion and Recommendation  
to County Commission

3. Teesdale Addition Amended Subdivision - Discussion  
and Recommendation to Bridger Town Council

**F. PETITIONS & COMMUNICATION FROM AUDIENCE**

**G. WRITTEN COMMUNICATIONS**

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

**I. STAFF REPORTS**

**J. ADJOURN**



**Portable Facility Registration Notification  
Attachment A – Location Notice & Update Form**

<b>For State Use Only</b>
Date received: <u>4/10/2024</u>
Date published or N/A: _____

1. The owner/operator must submit notice of estimated dates of operation and proposed location(s) for each source category at least 15 calendar days before commencing operation at the location.
2. DEQ will publish location after receiving a complete notification at <https://deq.mt.gov/Air/Resources> under Public Notification – Emission Source Location.
3. The owner/operator must contact DEQ to confirm that the location is active within 10 days of commencing operation at the new location.
4. The owner/operator must notify DEQ within 10 days after removing all equipment of a single source category from a location, DEQ will then remove the source category from the above website.

**\*Note: This form will be submitted to DEQ 3 times per source category: estimated date, confirmed operation date, and removal date.**

*(Administrative Rules of Montana Title 17, chapter 8, subchapter 18.)*

**Owner/Operator Certification.**

I hereby certify that, to the best of my knowledge, information, and belief, formed after reasonable inquiry, the information provided in the notification is true, accurate and complete.

Company: Croell, Inc Phone: 307-283-2221  
 Name (Print): Bill Baxendale Title: EHS Coordinator Email: bill.baxendale@croell.com  
 Signature: *Bill Baxendale* Date: 4-10-24

**Notice of Operating Locations**

<b>Location Name:</b> Cemco Concrete Batch Plant			
<b>Location Type:</b> <input checked="" type="checkbox"/> Temporary <input type="checkbox"/> Permanent			
<b>County:</b> Yellowstone		<b>Lat/Long:</b> 45.66597, -108.77992	
<b>Montana Sage Grouse Conservation Program Applicability</b>			
Visit <a href="https://sagegrouse.mt.gov">https://sagegrouse.mt.gov</a> to determine if the location is located within sage grouse habitat as recognized by the Montana Sage Grouse Habitat Conservation Program.			
<ul style="list-style-type: none"> <li>• This location is within sage grouse habitat: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</li> <li>• If yes, date they were consulted: _____</li> </ul>			
Source Category to be operated at location (complete for all that apply)	Estimated Dates of Operation (At least 15 day prior to commencement)	Type of Notification:	
		Confirmed Operation (within 10 days)	Removal (within 10 days)
<b>Crushing/Screening</b>	From: _____ To: _____	Date: _____	Date: _____
<b>Concrete Batch Plant</b>	From: _____ To: _____	Date: _____	Date: _____
<b>Asphalt Plant (Drum)</b>	From: _____ To: _____	Date: _____	Date: <u>4/10/24</u>
<b>Asphalt Plant (Batch)</b>	From: _____ To: _____	Date: _____	Date: _____

Submit to [DEQ-ARMB-Admin@mt.gov](mailto:DEQ-ARMB-Admin@mt.gov)



<b>Location Name:</b> Cemco Concrete Batch Plant			
<b>Location Type:</b> <input checked="" type="checkbox"/> Temporary <input type="checkbox"/> Permanent			
<b>County:</b> Carbon		<b>Lat/Long:</b> 45.216223, -109.265615	
<b>Montana Sage Grouse Conservation Program Applicability</b>			
Visit <a href="https://sagegrouse.mt.gov">https://sagegrouse.mt.gov</a> to determine if the location is located within sage grouse habitat as recognized by the Montana Sage Grouse Habitat Conservation Program.			
<ul style="list-style-type: none"> <li>This location is within sage grouse habitat: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</li> <li>If yes, date they were consulted: _____</li> </ul>			
Source Category to be operated at location (complete for all that apply)	Estimated Dates of Operation (At least 15 day prior to commencement)	Type of Notification:	
		Confirmed Operation (within 10 days)	Removal (within 10 days)
Crushing/Screening	From:                      To:	Date:	Date:
Concrete Batch Plant	From:                      To: 4/11/24                      4/09/25	Date:	Date:
Asphalt Plant (Drum)	From:                      To:	Date:	Date:
Asphalt Plant (Batch)	From:                      To:	Date:	Date:

<b>Location Name:</b>			
<b>Location Type:</b> <input type="checkbox"/> Temporary <input type="checkbox"/> Permanent			
<b>County:</b>		<b>Lat/Long:</b>	
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Asphalt Plant (Drum)	From:                      To:	Date:	Date:
Asphalt Plant (Batch)	From:                      To:	Date:	Date:

Carbon County Planning Board  
September Meeting  
9-17-24

- A. Call Meeting to Order, 7:00 pm, Gordy Hill – Chairperson
- B. Roll Call
  - Present: Dean Webb, Besty Scanlin (via phone), Skip Bratton, Marni Echols-Bell, Angela Kallevig, Clinton Giesick, Gordy Hill, Forrest Mandeville, Susan Bawden – DEQ (via video)
  - Audience: see attached sign-in sheet
- C. Approval of 8-20-24 Minutes
  - Dean moved to approve. Angela second.
    - Motion passed unanimously
- D. Public Hearings
  - *None*
- E. Regular Business
  - *Croell Inc. - Group 2 Development Permit for Concrete Batch Plant*
    - Located in 7D Subdivision – West of Red Lodge on Highway 78
    - Application received on 5-23-24 lacked a site plan
    - New, accurate site plan will be submitted
    - Portable concrete batch plant is currently on site
    - New facility will have a dust collection system in place
    - Mixer trucks will be parked indoors
    - Well & septic system/drainfield are proposed
    - Temporary operation is not currently in compliance with DEQ regulations
    - The Spires at Red Lodge residential subdivision is located 1,125 ft to the east of proposed site
    - Surrounding property owners within 500 ft of the site were notified on 8-27-24
    - Proper DEQ permitting will be obtained and adhered to
    - Betsy Scanlin
      - Concern that other government agencies have not intervened
    - Skip Bratton
      - Important to note that concrete manufacturing is vastly different than cement manufacturing. Cement is an ingredient used in the making of concrete
      - Noise, dust, and light pollution have been addressed in the application
      - Would it be possible to build a berm and plant trees around the proposed site?
      - Environmental issues are handled by DEQ, not the Planning Board
    - Besty moved to deny the permit
      - Motion failed due to lack of a second
    - Angela moved to approve the permit. Dean second.
      - Motion passed. 6 yes. 1 no.
  - *Shreffler Group 2 Development Permit for Cabins*
    - 45.42 acre site proposed for rental cabins
    - Current site plan shows four cabins
    - Located on Willow Creek Road

- Home & outbuildings are currently on site to the west
  - New well & septic system are proposed
  - Development area not located in floodplain
  - All cabins are located in excess of 160 ft from property lines
  - Marni moved to approve the permit. Skip second.
    - Motion passed unanimously
  - *Lazy AO Conservation Easement*
    - Just over 200 acres east of Cooney Dam
    - Easement complies with County Development Regulations
- F. Audience Communication
- *Croell Inc. - Group 2 Development Permit for Concrete Batch Plant*
    - Susan Bawden - DEQ
      - Subdivision Enforcement Specialist
      - Primarily deals with handling of drinking water, waste water, and storm water
      - DEQ is reactive as opposed to proactive, meaning they only intervene when a violation occurs
      - Potential violation at current site for well location and no storm water retention pond. Letter has been issued.
      - Air quality application is currently pending
      - Croell has until Nov. 4<sup>th</sup> to submit an updated application with issues addressed
      - Current temporary batch plan has been operating with no water in place. Using portable toilets, hauling water, etc.
    - Brian Marchant – Croell, Inc.
      - Issued an apology for not having the correct permits in place
      - Currently operating a similar batch plant in Yellowstone County without water permanently in place
      - Wants to be a good neighbor and employ local people
    - Phil Burke
      - Neighboring property owner
      - Concern about significant amount of dust being generated
      - Concern about respiratory health issues
    - Bill Tucker
      - Neighboring property owner
      - Provided handout regarding adverse health effects related to **cement** manufacturing
      - Concern about temporary facility being operated without proper permitting
      - Stated that **cement** manufacturing is the 3<sup>rd</sup> most dangerous industry in the US
      - Stated cattle in the area are also toxic
    - Steve Dean
      - Neighboring property owner
      - Concern about groundwater contamination

- Would like to see a sound buffer, lights directed downward, and wastewater retention ponds lined
- Lee St. Clair
  - Formerly operated a batch plant for several years at a nearby location
  - Everyone wants concrete, but no one wants to see it manufactured near them
  - Dust will be nearly non-existent
  - Using 250 gal/min never affected nearby wells when he operated a batch plant
- Cathy Dutton
  - Please look and at all information provided and weigh all options
- Grace Kim
  - Can approval wait until all issues have been addressed?
  - Will the amount of water used each day affect nearby groundwater?
- Karen Walmsley
  - Will bonding be required?
  - How will environmental impacts be continually monitored?
  - Who will pay for increased road maintenance due to increased truck traffic?
  - What is the fire response time?
  - Would like to see air & water baseline testing
  - What is the mechanism to control wastewater?
  - What will happen to surrounding property values?
- Becky Tucker
  - Neighboring property owner
  - Formerly from Jackson, WY
  - In 2014, an AmeriGas Propane facility exploded next to a gym she owned
  - This industry does not fit the area
  - Who will monitor groundwater quality?
- Becky Gray
  - Concern about air quality and respiratory health
- Chris Benton
  - Neighboring property owner
  - Home density has increased since a nearby batch plant was previously operated
  - Discussion of light industrial vs heavy industrial zoning
- Ed Draper
  - 7D Subdivision owner
  - Changed 7D to light industrial zoning
  - Was previously going to develop a 40 acre gravel pit at this location
  - Croell is an upstanding, nationwide company
  - Wells will not be affected
  - Water used in the manufacturing process leaves the batch plant location
- Bev Draper

- Sold the nearby MDT shop location over 40 years ago
    - The Spires was well aware of industrial development long before its creation
    - Think of all the people in the area that need concrete
  - Eleanor Guerrero
    - Roughly how much water will be used daily at the proposed facility?
  - Wes Wegman – Croell, Inc.
    - Difficult to determine the amount of water used each day, due to varying size of projects and their concrete requirement
    - Concrete manufacturing takes 25-30 gallons of water per yard
    - 3,000 – 5,000 gallons per day is a fair estimate
    - Concrete bunkers will retain runoff water
    - Truck traffic will be kept to a minimum
    - Croell wants to be a good neighbor
  - *Shreffler Group 2 Development Permit for Cabins*
    - Rafe Shreffler
      - Landowner
      - Planning on a small development
      - Looking into septic system designs
- G. Written Communication
- Kiely letter opposing Croell Batch Plant
  - Clark letter opposing Croell Batch Plant
  - De Leon letter opposing Croell Batch Plant
  - Stayner letter opposing Croell Batch Plant
  - Benton letter opposing Croell Batch Plant
  - Brien & Hall letter opposing Shreffler Cabins
- H. Committee Reports
- *Carbon County Conservation District*
    - Regular amount of 310 permit activity in the Rock Creek drainage. Irrigation water is holding up well in the Clarksfork Valley.
- B. Staff Reports
- *See Regular Business*
- C. Adjourn Meeting
- 9:00 pm



## Variance Application - Carbon County, Montana

Applicant Name: Todd & Tiffany Bullinger (property owners)  
Applicant Mailing Address: 7608 Ridgeview Way, Chanhassen, MN 55317  
Applicant Cell Phone: 612.910.0029  
Property Address: 4 Foster Circle, Red Lodge, MT 59068

- The owners of the property listed above respectfully request a variance adjustment from standard requirement of a 30 foot setback from the front property line. The building site is measured to be 13 feet from the front property line border and 30 feet from the road (Foster Circle). Upon excavation during the building process, it was discovered that a vein of granite rock exists that interfered with the normal digging and excavation work. Due to this rock vein and the intensity of the slope of the terrain, the building structure needed to be raised 3 feet higher and rotated which caused the southwest corner to move closer to the property line. Additionally, the surveyed marking pins are set back about 17 feet from the road. These factors are why a variance adjustment is needed.
- In no way did the owner or builders of this property intentionally attempt to circumvent any regulations.
- Due to the special circumstances explained above, these regulations would deprive the applicants of reasonable use of the property.
- Granting this variance is necessary to allow reasonable use of the property.
- The minimum variance requested is necessary to allow reasonable use of the property. Note that this proposed variance places the building structure as far away from the front property line as reasonably possible.
- Granting this variance will not be injurious to the neighborhood or detrimental to the public welfare.
- Granting this variance is consistent with the purposes and intent of these regulations.

### List of Owners within 500 feet of the Property:

George Stickler  
PO Box 8  
Red Lodge, MT 59068

George & Dodie Grover  
5651 Lazy Lane  
Billings, MT 59106

Anita Philipsborn  
Box 1958  
Red Lodge, MT 59068

Dustin & Kara Eaton  
902 N 32nd Street  
Billings, MT 59101

Michael & Susan Baker  
2804 Orchard Dr  
Billings, MT 59102

Scott & Julie Hancock  
Box 883  
Red Lodge, MT

Gum Whitney  
5 Logan Circle  
Red Lodge, MT 59068

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

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**VARIANCE REQUEST – STAFF REPORT**

Date: October 4, 2024

To: Carbon County Planning Board/Board of Adjustment Members

From: Forrest J. Mandeville, AICP – Contract Planner

**RE: Bullinger - Variance Request from Setback Requirements**

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**Recommendation: Approval**

**Recommended Motion:** *Having reviewed and considered the variance request, staff report, public comment, and all of the information presented, I hereby move to recommend approval of the variance request from Todd and Tiffany Bullinger for a relaxation of setback requirements.*

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**Project/Application Summary:**

Todd and Tiffany Bullinger have submitted a variance request for relaxation of setback requirements on their property west of Red Lodge on Foster Circle. The request will allow for a building site 13-feet from the front property line instead of the required 30 feet. The property is addressed as 4 Foster Circle, Red Lodge, MT 58068. The legal description is Lot 5 Am, Mountain Meadows Subdivision, Plat 1504 RB 2, Section 32, T 7 S, R 20 E, Carbon County, MT.

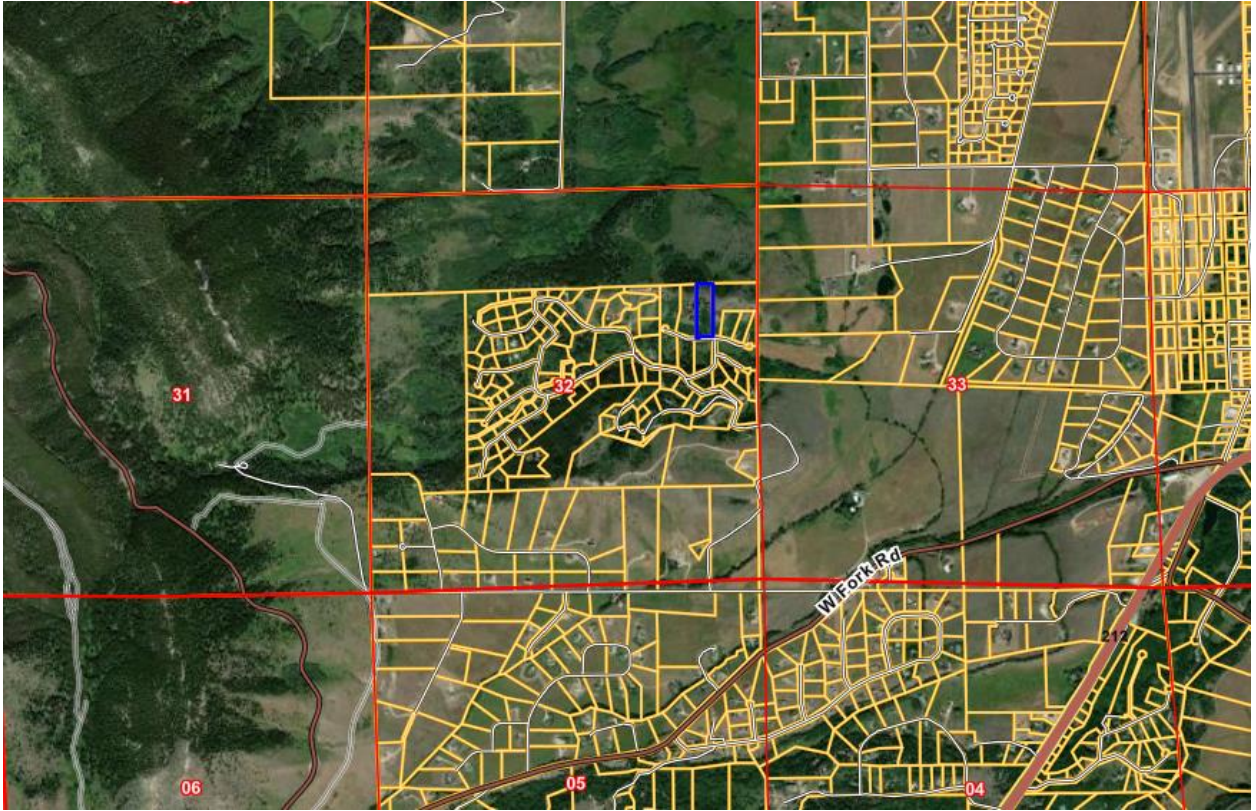
Construction has begun on the property. A Group 1 (residential) Development Permit was applied for in 2023 and the permit was approved on June 1, 2023. The site plan submitted with the Group 1 Development Permit indicated the structure would be set back 33-feet from the front property line. However, according to the applicant, excavation indicated the presence of a granite rock vein that necessitated raising and rotating the planned structure. These adjustments pushed the building into the setback area.

A land use complaint was received in July 2024. After an investigation, staff reached out to the landowner requesting evidence that the setbacks were met or that a variance be applied for. After staff discussion with the landowner, a variance application was submitted.

The Carbon County Development Regulations allow an applicant to request a variance to allow for deviation from the literal interpretation of the requirements of the regulations. Variances may be granted if the request is determined to be not contrary to the public interest, and where, owing to special conditions, literal enforcement based on these regulations results in an unnecessary hardship, excluding financial hardships.



**Subject Property (Blue)**



**Subject Property (Blue) and Vicinity**

**Required Board Action:**

Under the Development Regulations, the Planning Board, in its role as the Board of Adjustment, is tasked with holding a public hearing, evaluating the staff report, considering the requirements necessary to grant a variance, and recommending approval, approval with conditions, or denial of the variance request to the County Commissioners. The Board may recommend conditions related to the variance request. Any recommendation must be based on findings.

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

Pursuant to Section V-C.3.c, the Board of Adjustment shall not recommend that a variance be granted unless:

1. Special conditions: There are special circumstances or conditions that are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in County.

*The presence of the granite vein is a special condition not generally applicable elsewhere in the County.*

2. Not a result of the applicant: The special circumstances or conditions have not resulted from an act of the applicant or been established to circumvent these Regulations.

*The presence of the rock vein is not a result of the applicant. The applicant indicates the building site was adjusted as a result of the rock vein being discovered upon excavation.*

*The lots were originally created in 1982 (Mountain Meadows Subdivision, Plat 1504) and put in their current arrangement by boundary relocation in 2004 (Plat 1504 RB2), which made the lots larger. Neither of these surveys were commissioned by the applicant, and both surveys pre-date the setback requirements in the Carbon County Development Regulations. The circumstances of a restrictive site are therefore not a result of the applicant.*

3. Strict application unreasonable: Due to the special circumstances or conditions, the strict application of these Regulations would deprive the applicant of reasonable use of the land or building or create an undue hardship on the landowner.

*Applying the 30-foot front setback would make it difficult to build a reasonable residential structure on the property.*

4. Necessary to provide reasonable use: Granting the variance is necessary to provide a reasonable use of the land or the building.

*The property can be utilized without the granting of the variance, but without a variance the buildable area would be greatly reduced without significant work to remove or reduce the granite vein. This may not be feasible and may necessitate blasting or other action that could impact stability of the hillside.*

5. Minimum variance: the variance is the minimum variance necessary to allow a reasonable use of the land or building.

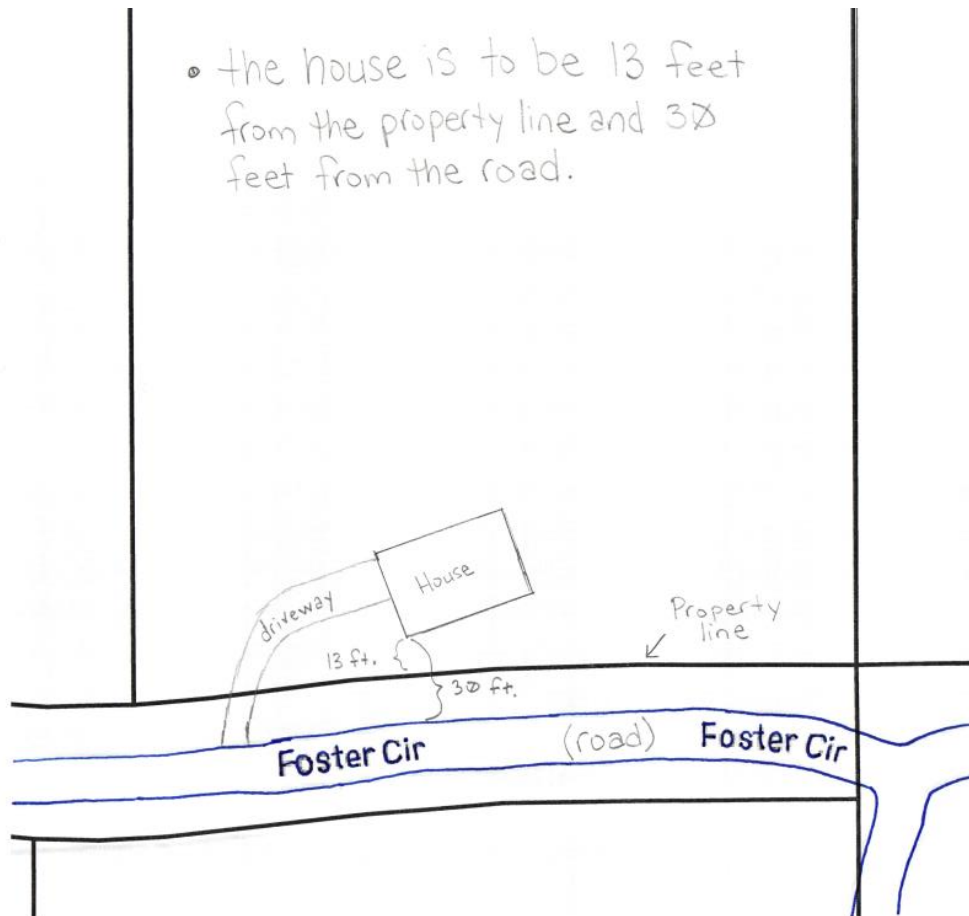
*Granting the requested variance is the minimum necessary to place the home on the property as designed. The home would still be 30-feet from Foster Circle as built.*

6. Not injurious: Granting the variance will not be injurious to the neighborhood or detrimental to the public welfare.

*Granting of the variance should not be injurious to the neighborhood. Side and rear setbacks are met and there is no crowding of adjacent properties. The County approved a similar setback for property immediately to the west in December 2021.*

7. Consistent with regulations: Granting the variance is consistent with the purposes and intent of these Regulations.

*The purpose of requirements relating to setbacks is typically to prevent crowding and/or to maintain views. The granting of this variance will not unreasonably impede views or result in crowding of other properties, and as mentioned above, a similar variance request in the neighborhood has been approved.*

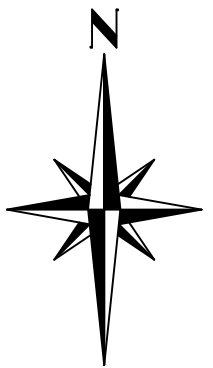


**Proposed Site Plan**

**Planning Staff Recommendation:**

Planning Staff recommends approval of the Bullinger variance request, pursuant to the following conditions (Section references are to the Carbon County Development Regulations):

1. The variance approval shall be interpreted as the minimum needed – i.e. to allow 13-foot front setback as shown on the site plan. Any other encroachment into the setback will be in violation of the Development Regulations.
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. All other necessary permits must be obtained. (Section V-A.4.d.vii)



SCALE 1"= 50'

### PRELIMINARY PLAT OF FOX RIDGE SUBDIVISION

A FIRST MINOR SUBDIVISION OF TRACT 3 OF CERTIFICATE OF SURVEY NO.  
1901 AG 2 LOCATED IN THE SE1/4 OF SECTION 26, T.6S., R.20E., P.M.M.,  
CARBON COUNTY, MONTANA

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

SURVEYED DURING: MAY AND JULY 2024

LANDOWNER: FOX RUN LLC

#### 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:  
That part of the SE1/4 of Section 26, T.6S., R.20E., P.M.M., Carbon County, Montana, described as Tract 3 of Certificate of Survey No. 1901 AG 2, on file in the office of the Clerk and Recorder of Carbon County under Document No. 399323. Containing 6.10 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 "FOX RIDGE 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.

The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, electric power, gas, internet, cable television or other similar utility or service, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "utility easement" to have and to hold forever.

TRACT 1  
C.O.S. 1857

COLLEEN K. KILBANE LIVING TRUST  
PO BOX 2283  
RED LODGE, MT 59068

HOUSE

SHOP

LOT 1  
3.81 ACRES

HOUSE

TRACT A  
C.O.S. 1281  
EUGENE LAWRENCE DAVEY JR.  
AND CHERI DAVEY  
PO BOX 1367  
RED LODGE, MT 59068

TRACT 2 AMENDED  
C.O.S. 1901 AG 2  
FOX RUN LLC  
PO BOX 2223  
RED LODGE, MT 59068

#### LEGEND

- SET NO 5 REBAR WITH 1-1/4" YELLOW PLASTIC CAP VIA RED LODGE SURVEYING LLC AND UNDERSIGNED PLS
- FOUND YPC VIA SCHAUBER 5430S
- ▣ FOUND YPC VIA BRATTON 9519LS
- NO MONUMENT SET OR FOUND
- ⊕ SECTION AND QUARTER CORNERS AS NOTED
- OVERHEAD POWER
- ⦿ POWER POLE
- EDGE OF GRAVEL
- - - FENCE
- ~ TREE LINE
- CONTOUR INTERVAL = 5'
- VERTICAL DATUM ASSUMED

TRACT 2  
C.O.S. 2368 RB  
9G LAND AND CATTLE COMPANY  
C/O STEFAN FILKIN  
16 LIGHTNING LANE  
RED LODGE, MT 59068

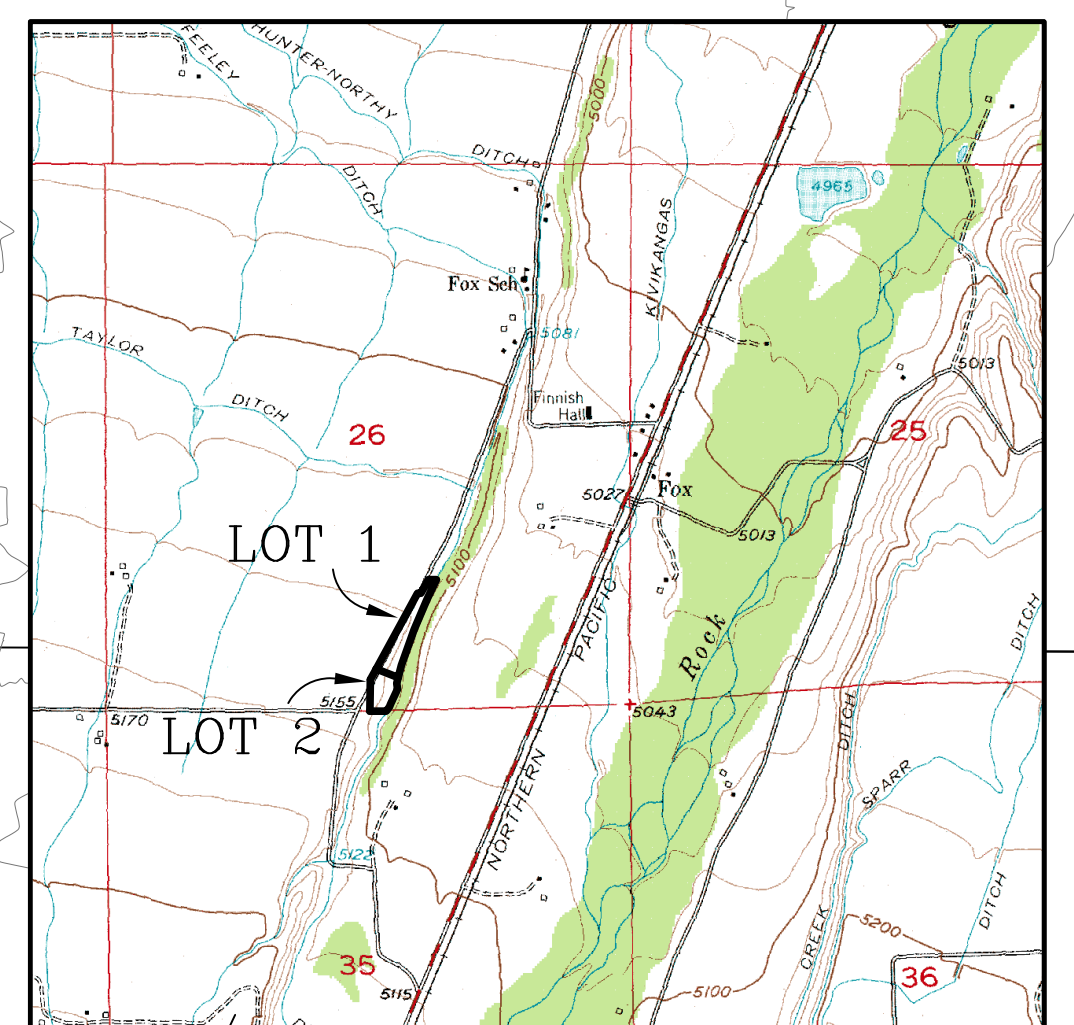
HAY BARN

LOT 2  
2.29 ACRES

QUARTER CORNER OF  
SECTIONS 26 & 35  
FOUND ALUMINUM CAP  
VIA MUELLER ENGINEERING

TRACT 3  
C.O.S. 1998 FT #2

#### VICINITY MAP



SCALE: 1"=2000'

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

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**PROJECT MEMORANDUM**

TO: Members of the Carbon County Planning Board  
FROM: Forrest J. Mandeville, AICP – Contract Planner  
DATE: October 4, 2024  
RE: Fox 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 the Fox Ridge Subdivision, with the findings and conditions included in the project memorandum.*

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**Project/Application Summary:**

Engineering West, on behalf of Fox Run LLC, has submitted a preliminary plat application for a 2-lot minor subdivision. The subdivision area is approximately 6.10 acres with proposed lots of 2.29 acres and 3.81 acres in size. The lots are designed for single-family residential use. The subdivision will revoke an agricultural covenant placed on the property in May of this year to divide the property along an irrigation ditch prior to subdivision.

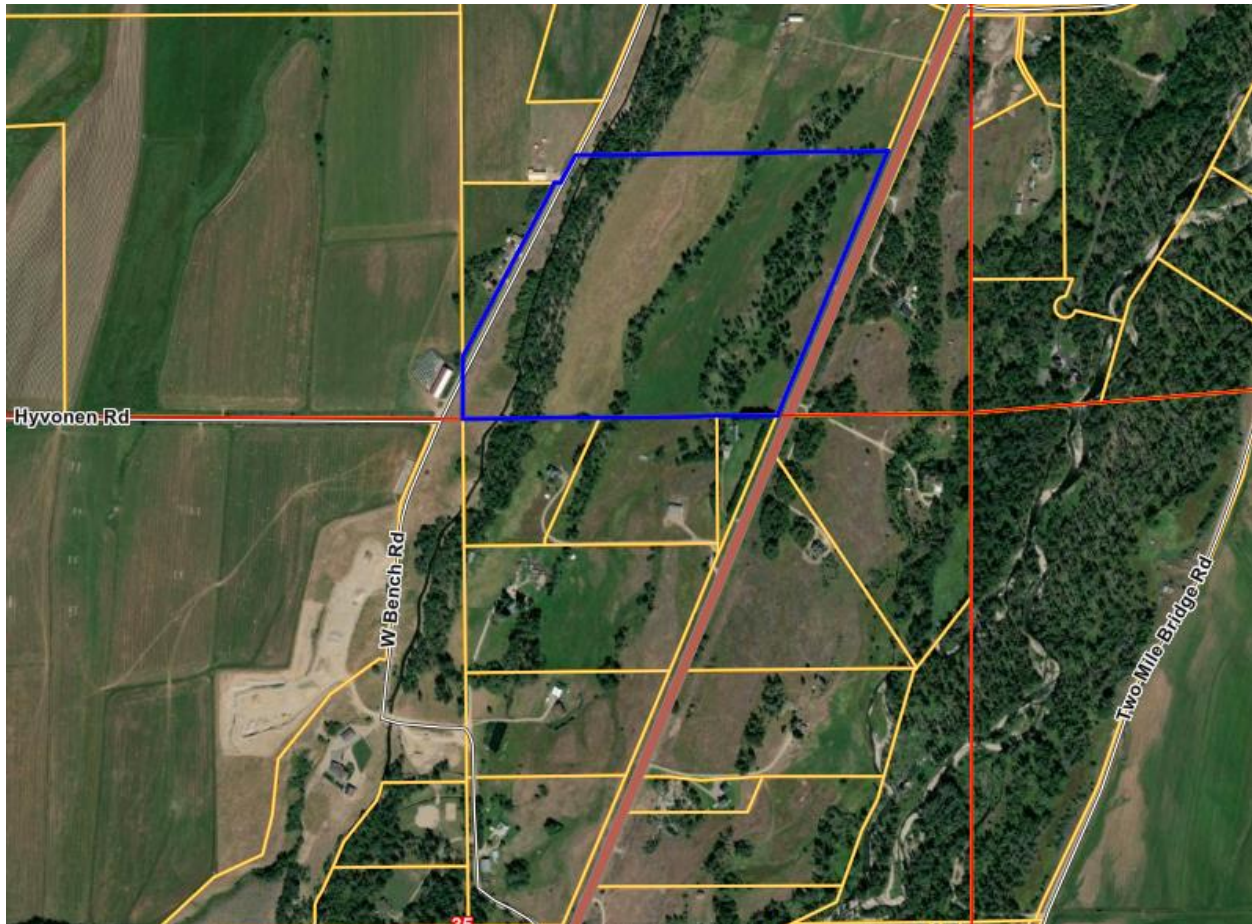
The subject property is located on West Bench Road, approximately ¾ of a mile north of the intersection with Highway 212. The property is legally described as Tract 3 of COS 1901 AG 2, in the SE ¼ of Section 26, Township 6 South, Range 20 East, P.M.M., Carbon County, Montana.

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

Access is proposed to be provided to the subdivision by new individual approaches to West Bench Road, a dirt/gravel road which is owned and maintained by the County.

*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: Most of the property, 86.4%, is classified by the USDA as farmland of state importance. While a certain amount of agricultural activity may be possible on the site, the property is segregated from larger parcels by the West Bench Road and the

Consolidated Ditch, so it is unlikely that the subdivision and development of this parcel will have a significant adverse impact on agricultural activity on the site.

The subject property was recently segregated from property to the east using an agricultural covenant, partly to facilitate possible subdivision of the site. Subdivision approval will revoke the agricultural covenant and allow the property to be developed.

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.

The application indicates that there are currently approximately 25 homes located on West Bench Road, and that two additional homes are expected to increase traffic in the area by about 8%. West Bench Road is a County-owned and maintained gravel road with a width of about 24 feet, and the expected increase in traffic is not expected to create significant additional conflicts with agricultural operations, according to the application. There are several other homes and a gravel operation located to the south of the proposed subdivision.

Carbon County Weed District Coordinator Brian Ostwald inspected the site on July 1, 2024, and noted that three acres are infested with spotted knapweed and hoary alyssum, and that the property will be placed in non-compliance if the weed issue is not addressed.

Finding: The subdivision will add traffic and people in an agricultural area. However, the scale of the subdivision is fairly small and any impacts directly related to the subdivision should be minimal. There are weeds on the property which may become a bigger issue if not addressed and the Weed District is aware of the situation.

- Effect on agricultural water user facilities: The Consolidated Ditch runs along the east of the subdivision and is provided a 20-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 no known water rights associated with the property.

Finding: As long as an easement for the Consolidated 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 20-25 minutes in most circumstances.

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

The Roberts Fire Department provides fire protection in the area with an estimated response time of 20 minutes according to Fire Chief Randy DeVries. Chief DeVries did not indicate that any fire suppression measures are required.

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

West Bench 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 8% as a result of the two new homes in 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 need to seriously consider requiring RSIDs for road maintenance, the adoption of impact fees, or other mitigation measures to address these cumulative impacts. Another option would be to require the developer enter into a waiver of the right to protest the creation of an improvement district for road maintenance.

Finding: There should be minimal additional impacts on the County road system as a result of this subdivision due to the relatively small scale of the subdivision. However, the County should require a waiver of the right to protest the creation of an improvement district for road maintenance.

Beartooth Electric Cooperative provides electrical services. There is an overhead power line along the west side of West Bench Road, and overhead power can be brought to the subdivision from this line. A 20-foot wide utility easement is shown on the preliminary plat to provide power to Tract 2 Amended of COS 1902 AG 2, to the east of the subdivision.

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 Red School District. At full build out, the subdivision could generate 1-5 students in the local school district.

The current tax revenue from the property is about \$202.54 according to the subdivision application. New residences valued at \$400,000 to \$500,000 could generate \$4,000 to \$5,000 per lot, per year, assuming a 1% tax rate.

Finding: Fox Ridge 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.



### **West Bench Road**

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

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

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

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

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

The applicant submitted a Ground Water Availability Report regarding the impact on the underlying aquifer. This report indicates the area is in an alluvial sand and gravel formation consisting of heterogeneous mix of interbedded sand, gravel, silt, and clay with a typical thickness of about 30 feet. Wells located within the alluvial aquifers have depths ranging up to 72 feet with a median of 38 feet. The report concludes that:

The Fox Ridge Subdivision proposes two single-family dwelling lots with one well each. Each well is expected to produce approximately 25+ gpm and each well shall be limited to a total volume consumption of 5 acre-feet per year. Since the entire subdivision is expected to consume less than 10 acre-feet per year and less than 35 gpm per well, no DNRC water right will be required. Subdivision covenants and restriction shall limit each property owner (lot) to a maximum of 5.0 acre/feet/year of water volume consumption.

To ensure water is limited per lot, the covenants as noted in the report should be filed with the final plat.

Finding: To ensure water is limited to 10-acre feet per year per lot, covenants with said restrictions should be filed with the final plat.

The applicant submitted a Weed Inspection Report completed by Carbon County Weed District Coordinator Brian Ostwald dated July 1, 2024. The report indicates spotted knapweed and hoary alyssum we infesting three acres and the property could be placed in non-compliance if not addressed.

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



### **Sage Grouse General Habitat (Green) in Area**

- 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.

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

- Effect on wildlife habitat: The subdivision is within mapped Sage Grouse general habitat according to the Montana Sage Grouse Habitat Conservation Program. The application indicates the Program has been contacted, but comments had not yet been provided. Typically, the Program will require some type of mitigation for property in similar habitat and usually discusses the importance of making sure noxious weeds do not proliferate.

Finding: There should be no significant impact on wildlife habitat if any mitigation required by the Montana Sage Grouse Habitat Conservation Program is completed and noxious weeds are kept from proliferating on the property.

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

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

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

- i. The Montana Subdivision and Platting Act: The Plat has been prepared and processed in accordance with the Montana Subdivision and Platting Act (MSPA). The final plat should include a notation that each lot has legal and physical access (76-3-608(3)(d), MCA, and Section IV-B-10.f.v of the Carbon County Subdivision Regulations). The Subdivision Guarantee submitted with the preliminary plat application does not indicate that there are any mortgages or liens on the property.

There is an agricultural covenant on the property and approval of this subdivision will revoke the covenant (76-3-211, MCA, and Section IX-K). A document signed by the subdivider and the County Commissioners revoking the covenant should be filed with the plat.

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 existing covenants on the property, filed under document #327266, which appear to restrict development of the property to private residential purposes with an exception for certain property adjacent to Highway 212. These covenants were amended in April 2022 in document #391486. 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.

Additional covenants are proposed that would limit each lot to 5-acre feet of water per year. The proposed covenants do incorporate the existing covenants and should be filed with the final plat. The covenants should meet the requirements of Section V-A-23.

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. The covenants should be filed with the final plat and meet the requirements of the Subdivision Regulations.

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

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

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

Finding: All lots are less than 20 acres.

*d. Compliance with Growth Policy:*

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

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

- Objective 1.3: Assist farmers and ranchers who wish to continue using their lands for agricultural production.
  - 1.3.C. Continue to fund and support an active County weed control program which includes both education and regulation. Streamline the process to treat noxious weeds and recover costs when landowners do not treat their weeds. Continue to require weed inspections and bonding as necessary for any land use change and new development with fees to cover staff time for inspections.
  - 1.3.E. Balance individual property rights with the rights of other property owners and community interests for the public health, safety and welfare of all citizens.
- Objective 1.4: Encourage development in areas that are not in agricultural production
  - 1.4.A. As authorized by the state legislature in 2003, in 76-3-509 MCA, formulate and adopt regulations to encourage cluster development for those developments that meet the definitions.
- Objective 1.6: Encourage the voluntary preservation of open space and wildlife habitat in the county
  - 1.6.C. Encourage developers to mitigate impacts to wildlife, recreation areas, and agriculture, including, but not limited to, closing water storage tanks and pits, cleaning spills, and keeping major migration corridors as open as possible.
  - 1.6.D. When considering changes in land use, encourage consultation with wildlife agencies for potential impacts.
- Objective 1.7: Direct growth to existing communities, incorporated towns and cities, or platted unincorporated places.
  - 1.7.A. Explore the potential for future land use mapping in areas immediately adjacent to existing communities

*e. Planning Staff Recommendation:*

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

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

1. An easement shall be provided and shown on the final plat for the Consolidated 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 subdivider shall enter into a waiver of the right to protest the creation of an RSID for road maintenance. (Section V-A-24; Effect on Local Services)
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 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)
7. Covenants shall be filed with the final plat that include a limitation of water use to 5 acre feet per year per lot. (Sections V-A-12 and V-A-23; Effect of the Natural Environment)
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. 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)
10. A document revoking the agricultural covenant on the property shall be filed with the final plat. (Section IX-K; 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. Any new private covenants should meet the requirements of Section V-A-23 and be filed with the final plat. (Compliance with the Subdivision Regulations)
15. 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)

PRELIMINARY PLAT OF

TEESDALE ADDITION AMENDED

FIRST MINOR SUBDIVISION LYING IN TRACT B OF  
 CERTIFICATE OF SURVEY 348 LOCATED IN THE SE1/4NW1/4  
 OF SECTION 21, T.6S., R.23E., P.M.M.,  
 CARBON COUNTY, MONTANA

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

SURVEYED IN: MAY 2023

LANDOWNER: KEVIN LEWIS TEESDALE

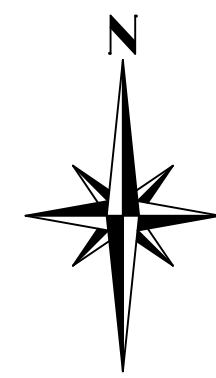
UNPLATTED LANDS OF  
 MICHEAL H. AND CODI S. PETERS  
 29 PRICE RD  
 BRIDGER, MT 59014

YELLOWSTONE AVE.

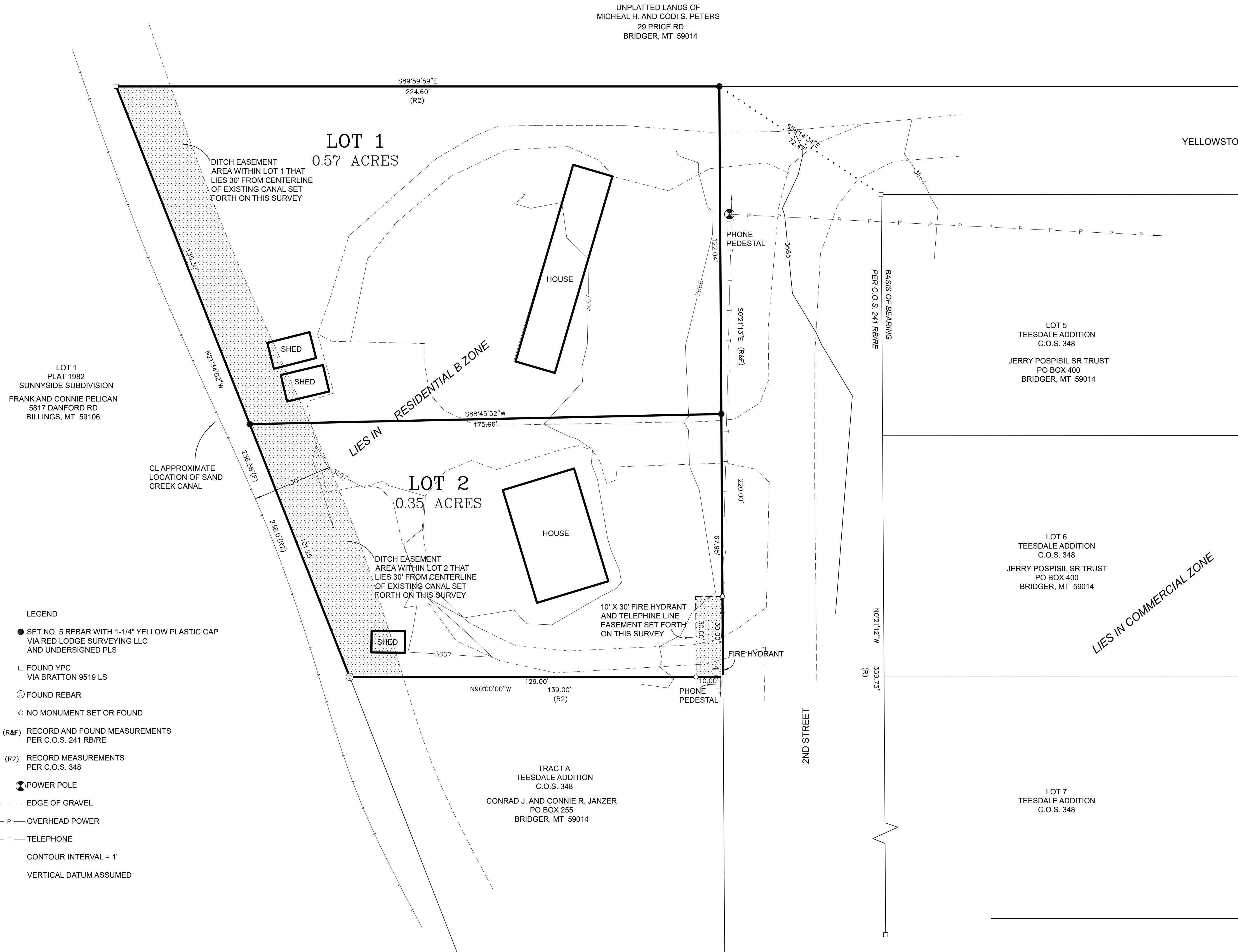
**CERTIFICATE OF DEDICATION AND LEGAL DESCRIPTION:**

I, the undersigned landowner, do hereby certify that I 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 Tract B of Certificate of Survey no. 348, on file in the office of the Clerk and Recorder of Carbon County under Document No. 167355. Containing 0.92 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 "TEESDALE ADDITION AMENDED", 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.

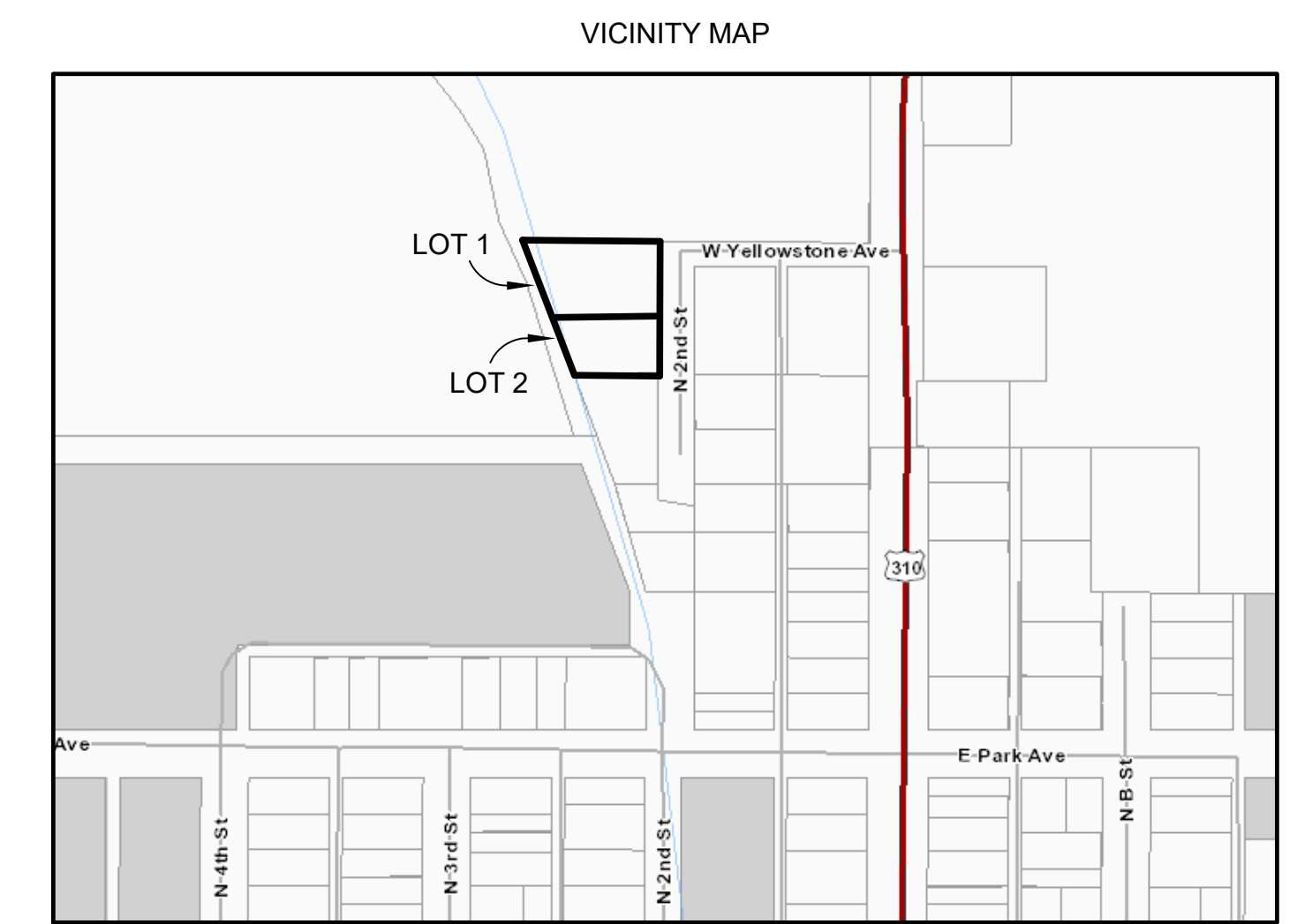
The undersigned hereby grants unto each and every person, firm or corporation, whether public or private, providing or offering to provide telephone, electric power, gas, internet, cable television or other similar utility or service, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as "utility easement" to have and to hold forever.



SCALE 1" = 20'  
 0 20 40



- LEGEND**
- SET NO. 5 REBAR WITH 1-1/4" YELLOW PLASTIC CAP VIA RED LODGE SURVEYING LLC AND UNDERSIGNED PLS
  - FOUND YPC VIA BRATTON 9519 LS
  - FOUND REBAR
  - NO MONUMENT SET OR FOUND
  - (R&F) RECORD AND FOUND MEASUREMENTS PER C.O.S. 241 RB/RE
  - (R2) RECORD MEASUREMENTS PER C.O.S. 348
  - ⦿ POWER POLE
  - EDGE OF GRAVEL
  - P- OVERHEAD POWER
  - T- TELEPHONE
  - CONTOUR INTERVAL = 1'
  - VERTICAL DATUM ASSUMED



NOT TO SCALE

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

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**PROJECT MEMORANDUM**

TO: Members of the Carbon County Planning Board

FROM: Forrest J. Mandeville, AICP – Contract Planner

DATE: October 4, 2024

RE: Teesdale Addition Amended 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 Teesdale Addition Amended, with the findings and conditions included in the project memorandum.*

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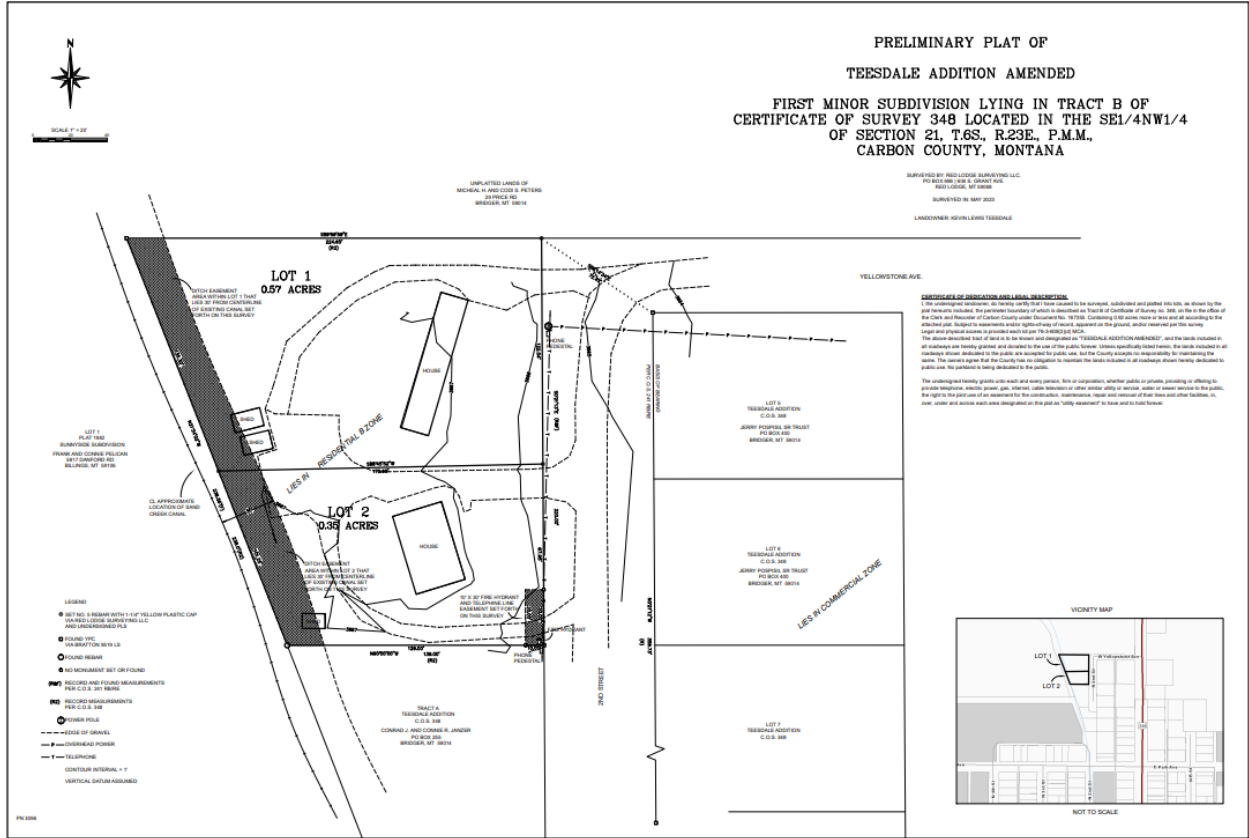
**Project/Application Summary:**

Red Lodge Surveying, on behalf of Kevin Lewis Teesdale, has submitted a preliminary plat application for a 2-lot minor subdivision in the Town of Bridger, MT. The subdivision area is approximately .92 acres with proposed lots of .57 acres (Lot 1) and .35 (Lot 2) acres in size. There are currently two homes on the site; this subdivision will allow the homes to be owned and sold separately.

The subject property is located on N 2<sup>nd</sup> Street, on the west side of W Yellowstone Ave, on the north side of the Town of Bridger. The property is legally described as Tract B of COS 348, in the SE ¼ NW ¼ of Section 21, Township 6 South, Range 23 East, P.M.M., Carbon County, Montana.

**Required Planning Board Action:**

During a public meeting, the Planning Board shall make a recommendation to the Bridger Town Council 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*

Both lots are served by Bridger water and sewer. The Montana Department of Environmental Quality (DEQ) has reviewed and approved (E.Q. # 24-2495) a stormwater plan.

Access is provided to the property by W Yellowstone Ave and N 2<sup>nd</sup> Street, both of which are Town of Bridger owned and maintained dirt/gravel roads.

The property is zoned B Residential and the subdivision appears to be in conformance with adopted zoning. There is a home on each proposed lot and the use is not expected to change as a result of the subdivision.

*b. Summary of Probable Impacts*

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

- Effect on agriculture: The property is not in agricultural production and available aerial imagery indicates the property has been in residential use since at least 2004.

The property is adjacent to agricultural uses to the north and to the west across the Sand Creek Canal. Since the property has been developed for some time and there is no expected change in use, it is unlikely the subdivision will create additional adverse impacts that have not yet occurred. Montana has right to farm laws that protect agricultural practices from complaints due to common agricultural practices.

Carbon County Weed District Coordinator Brian Ostwald inspected the site on February 26, 2024, and noted the property was already developed and there were no weeds present at the time.

Finding: Because the property is already developed, any impacts to agriculture other than what may have already occurred is expected to be minimal.

Effect on agricultural water user facilities: The Sand Creek Canal runs along the west side of the subdivision and is provided a 30-foot-wide easement either side of the centerline of the ditch. The applicant indicated that in communication with Mark Geisik, the ditch representative, a 30-foot-wide easement from the centerline was requested. There are three existing sheds on the property that would encroach into the easement. Residential uses of the property appear to have coexisted with the canal for at least 20 years.

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 existing water rights associated with the property.

Finding: As long as an easement for Sand Creek Canal 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.



**Looking West Along W Yellowstone Ave Towards Existing Home on Subject Property**

- Effect on local services: The Bridger Police Department has jurisdiction to provide law enforcement services to the subdivision. The subdivision application included an email from Chief Buechler indicating that there would be no issues with law enforcement coverage.

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

The Bridger Fire Department provides fire protection. The applicant has indicated that in a phone call Chief Fendler indicated the Department did not see any issues with providing fire protection to the subdivision.

There is a fire hydrant located in the southeast corner of Lot 2 and an easement is provided. The application included a draft Fire Control and Prevention Plan requiring properly installed address signs, installation of utilities, proper roof materials, and 16-foot-wide driveways. The Plan should be filed with the final plat.

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.

W Yellowstone Ave and N 2<sup>nd</sup> St are dirt/gravel roads owned by the Town of Bridger. Because the area is already developed, there should be minimal additional traffic generated and minimal adverse impacts on the road system.

Finding: There should be minimal additional impacts on the road system as a result of this subdivision since the property is already developed.

Utilities are in place to each home on the proposed lots. There is a telephone line along the east side of the subdivision and an easement is shown where necessary.

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

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

The subdivision is located within the Bridger School District.

Finding: The Teesdale Addition Amended 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.



### Looking South along Subdivision

- Effect on the natural environment: Both homes are connected to Bridger water and sewer. The application indicates that Bridger Public Works Director Randy Novakovich did not indicate concerns with water and sewer hookups.

DEQ has reviewed and approved the stormwater drainage plan (E.Q. # 24-2495). The DEQ approval should be filed with the final plat. (See Sections IV-B-8.b, V-A-11 through 14, and MCA 76-3-622).

Finding: There should be no adverse impact on the natural environment since the property is compliant with Public Works requirements and has a design for stormwater approved by DEQ, as long as the property is developed in compliance with approvals. The DEQ approval should be 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.

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

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

The applicant submitted a Weed Inspection Report completed by Carbon County Weed District Coordinator Brian Ostwald dated February 26, 2024. The report indicates were no weeds present and 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 observe weeds present or 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, the subject property is currently developed with homes. Therefore, no significant adverse impacts on wildlife are anticipated other than what may have already occurred.

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

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

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

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

The property is served by Bridger water and sewer. DEQ has approved the subdivision.

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).

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 Town of Bridger 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 and Town requirements, even if not specifically discussed in this memorandum.

Finding: To ensure compliance with the Subdivision Regulations, conditions should be required to ensure the final 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 property is within the Town of Bridger zoning jurisdiction and is in the "B" Residential zoning district. The subdivision appears compliant with the zoning ordinance, which is administered by the Town.

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: DEQ approval has been obtained (E.Q. # 24-2495), and the approval should be filed with the final plat.

Finding: DEQ approval has been obtained and should be filed with the subdivision.

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

Finding: There are not lots over 20 acres.



**Existing Fire Hydrant on Lot 2**

*d. Compliance with Growth Policy:*

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

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

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

*e. Planning Staff Recommendation:*

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

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

1. An easement shall be provided and shown on the final plat for the Sand Creek Ditch to allow for the use, maintenance, and inspection of the facilities. The easement shall be a minimum of 30-feet from the centerline of the ditch (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 shall be 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 Montana Department of Environmental Quality (DEQ), as appropriate, for water, wastewater, solid waste, and stormwater drainage provisions, as applicable. DEQ approval shall be filed with the final plat. (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. 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)
8. 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)
9. 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)
10. 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)
11. 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)





September 4, 2024

Kurt Croell  
Croell Inc.  
PO Box 1352  
Sundance, WY 82729

**RE: Violation of the Subdivision in Sanitation Act [CVID 26099]**

Dear Mr. Croell,

The Enforcement Program of the Department of Environmental Quality (DEQ) has received a complaint from the Carbon County Environmental Health Office (County) that you have deviated from the Certificate of Subdivision Approval EQ #23-1309 (COSA)(enclosed), for your property located at 26 West Weaver Lane, Red Lodge, Montana (Property), prior to review and approval of those deviations. Several County staff members have been to the site, and provided photographs and firsthand accounts of the onsite conditions. The complaint alleges that you have not installed the approved stormwater facilities, and you have drilled a well in an unapproved location.

The COSA states the following:

- “THAT the stormwater design requires installation of a minimum of 4,790 square feet (0.11 acre) of lawn and landscaped area around the structure on each lot to absorb a portion of the additional run-off...”
- “THAT the water supply systems, sewage treatment systems and storm drainage systems will be located as shown on the approved plans and lot layout,”

The approved plans indicate a stormwater retention basin should be located on the northeast sides of both lots 7 & 8. Proposed well locations are on the east side of each parcel adjacent to the shared boundary line. Photographs provided by County staff show a well has been drilled in the northeast corner of Lot 7 where the stormwater retention basin should be located, and there is no indication that any type of stormwater controls have been installed.

Croell Inc. is in violation of the Sanitation in Subdivisions Act for deviating from the COSA, by drilling a well in an unapproved location, and failing to install stormwater controls, prior to review and approval of those deviations.

In order to comply with the Sanitation in Subdivisions Act you must complete the following corrective actions by the deadline indicated:

**No later than October 4, 2024**, contact Shawn Rowland, R.S., DEQ Subdivision Review Section Supervisor to determine if a pre-application meeting needs to be scheduled.

**No later than November 4, 2024**, submit a complete application, including associated fees, for a COSA rewrite to DEQ for review and approval.

Kurt Croell  
Croell, Inc.  
September 4, 2024  
Page 2

You must reference **ENF CVID 26099** on your transmittal sheet, and the first page of your submittal. Failure to do so may result in not receiving credit for meeting the deadlines above.

Additionally, the photographs provided, show that you have scraped topsoil off the site and are using it as a berm around the facility; presumably for stormwater diversion. Berms must be constructed in accordance with good engineering practices; you can find the standards in the Montana Department of Transportation Publication "Erosion and Sediment Control Best Management Practices Manual" which can be found at this link:

<https://www.mdt.mt.gov/publications/docs/manuals/env/bmp-manual-dec16.PDF>

The following information is being provided to ensure your awareness of the Statute that applies to this complaint:

§76-4-130 Montana Code Annotated states: "...a person may not construct or use a facility that deviates from the certificate of subdivision approval until the reviewing authority has approved the deviation."

If you have any questions, please call me at the phone number listed below.

Sincerely,



Susan Bawden  
Environmental Enforcement Specialist  
Enforcement Program  
406.444.3390  
[sbawden@mt.gov](mailto:sbawden@mt.gov)

Enclosure

cc via email: Shawn Rowland, R.S., Subdivision Review Section Supervisor  
Carbon County Environmental Health  
Carbon County Planning

cc: Croell, Inc., PO Box 430, New Hampton, IA 50659-0430



October 1, 2024

SENT VIA EMAIL. NO HARD COPY TO FOLLOW.

Forrest Mandeville  
Carbon County Planning  
P.O. Box 466  
Red Lodge, MT 59068

**RE: State Environmental Oversight of Concrete Batch Plant**

Dear Senator Mandeville and Planning Board:

The Department of Environmental Quality (DEQ) was recently made aware of the Carbon County Planning Board's consideration of a development permit for a concrete batch plant operated by Croell, Inc. We appreciate the complexity of state and local permitting and are providing this letter to share information about DEQ's regulatory oversight of this facility.

Montana has robust environmental laws that ensure industrial activities are conducted in a way that is protective of human health and the environment. DEQ implements these laws by administering and enforcing the requirements therein, often through issuance of a permit or other type of regulatory document. Environmental permitting is a proactive way to ensure owners and operators are aware of and agree to comply with applicable laws and regulations *before* they begin operating.

This facility and site are currently regulated under several substantive environmental laws implemented by DEQ, including the Clean Air Act of Montana (75-2-101, *et seq.*, MCA), the Montana Water Quality Act (75-5-101, *et seq.*, MCA), and the Sanitation in Subdivisions Act (76-4-101, *et seq.*, MCA). To legally operate, the owner/operator had to notify DEQ of its intent to operate in compliance with applicable laws. In this case, the activity is required to comply with the following provisions:

- Operation of a concrete batch plant requires an air quality authorization, typically through compliance with **the Air Quality Standards and Requirements for Sand and Gravel, Concrete, and Asphalt**. This is a permit by rule program through which operators of concrete batch plants are required to comply with the provisions in rule to protect air quality. The [rules are available for review online](#). Permit by rule means that the impacts from these types of operations are so similar that DEQ put the requirements into law rather than writing them into individual permits. DEQ received a registration for this site from Croell, Inc. on April 10, 2024. A copy of the registration is attached.
  - DEQ has no known violations of the air quality registration at this site.
- Authorization under the **Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity** is required for a wide range of industrial facilities based upon the standard industrial classification code of the facility. Operation of a concrete batch plant must comply with the requirements in the General Permit to ensure water quality is protected. [The General Permit is available for review online](#). The General Permit was issued on Oct. 4, 2022,

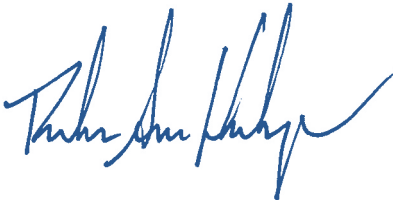
and Croell, Inc. received authorization from DEQ for this site on July 17, 2024. A copy of the authorization letter is attached.

- DEQ has no known violations of the water quality general permit at this site.
- The subdivision was required to obtain a **Certificate of Subdivision Approval (COSA)** from DEQ. The COSA includes requirements and design standards for wastewater, stormwater, and drinking water infrastructure. The wastewater treatment system was designed to meet Montana’s nondegradation requirements, meaning it was designed to not degrade water quality. Each lot in the subdivision was approved for one commercial unit, which is defined in administrative rule as, “the area under one roof that is occupied by a business or other nonresidential use.” (ARM 17.36.101(8)) The COSA was issued on April 20, 2023. A copy of the approval is attached.
  - DEQ identified potential violations of the COSA and sent a violation letter on Sep. 4, 2024, outlining corrective actions. A copy of the violation letter is attached.

At DEQ, our mission is to champion a healthy environment for a thriving Montana, and we take our role very seriously. Our desire is that no person or business violates the law, and we have mechanisms in place to work with owners and operators to prevent violations and address them if they do occur. For example, permits often require monitoring, reporting, and regular site inspections. DEQ’s compliance staff are trained to identify and address potential issues that may lead to violations. Should a violation occur, or if an alleged violation is reported to DEQ, we investigate and require corrective action(s) if we confirm there is a violation. If necessary, DEQ’s Enforcement Program will step in to ensure that violations are corrected in a timely manner for the continued protection of Montana’s communities and environment.

I hope this information is helpful in your decision-making process. Should you have further questions about DEQ’s role, please do not hesitate to contact me at [rhabbage@mt.gov](mailto:rhabbage@mt.gov) or 406-444-2813.

Sincerely,



Rebecca Harbage  
Public Policy Director  
Montana Department of Environmental Quality

Enclosures: DEQ Portable Facility Registration Notification  
DEQ Authorization MTR000870 under the Montana Pollutant Discharge Elimination System (MPDES) Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity (MSGP)  
DEQ Certificate of Subdivision Approval (COSA)  
DEQ Violation of the Subdivision in Sanitation Act (CVID 26099)



April 20, 2023

Jeremy Eaton PE  
Engineering West  
P O Box 194  
Columbus MT 59019

RE: 7D Subdivision  
Carbon County  
E.Q. #23-1309

Dear Mr Eaton:

The plans and supplemental information relating to the water supply, sewage, solid waste disposal, and storm drainage (if any) for the above referenced division of land have been reviewed as required by ARM Title 17 Chapter 36(101-805) and have been found to be in compliance with those rules.

Two copies of the Certificate of Subdivision Plat Approval are enclosed. The original is to be filed at the office of the county clerk and recorder. The duplicate is for your personal records.

Development of the approved subdivision may require coverage under the Department's General Permit for Storm Water Discharges Associated with Construction Activity, if your development has construction-related disturbance of one or more acre. If so, please contact the Storm Water Program at (406) 444-3080 for more information or visit the Department's storm water construction website at <http://www.deq.state.mt.us/wqinfo/MPDES/StormwaterConstruction.asp>. Failure to obtain this permit (if required) prior to development can result in significant penalties.

In addition, your project may be subject to Federal regulations relating to Class V injection wells. Please contact the United States Environmental Protection Agency regarding specific rules that may apply.

Your copy is to inform you of the conditions of the approval. Please note that you have specific responsibilities according to the plat approval statement primarily with regard to informing any new owner as to any conditions that have been imposed.

If you have any questions, please contact this office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shawn Rowland", is written over a horizontal line.

Shawn Rowland M.S. R.S.  
Subdivision Section Supervisor  
Engineering Bureau  
Water Quality Division

SR/JL

cc: County Sanitarian  
County Planning Board (e-mail)  
Owner

STATE OF MONTANA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
CERTIFICATE OF SUBDIVISION PLAT APPROVAL  
(Section 76-4-101 et seq.)

TO: County Clerk and Recorder  
Carbon County  
Red Lodge, Montana

E.Q. # 23-1309

THIS IS TO CERTIFY THAT the plans and supplemental information relating to the subdivision known as **7D Subdivision**

A major subdivision located in the Southeast 1/4 of Section 16, Township 7 South, Range 20 East, P.M.M., Carbon County, Montana,

consisting of 10 lots have been reviewed by personnel of the Water Quality Division, and,

THAT the documents and data required by ARM Chapter 17 Section 36 have been submitted and found to be in compliance therewith, and,

THAT the approval of the Plat is made with the understanding that the following conditions shall be met:

THAT the lots as indicated on the Plat to be filed with the county clerk and recorder will not be further altered without approval, and,

THAT each lot shall be used for one commercial unit, and,

THAT each individual water system will consist of a well drilled to a minimum depth of 25 feet constructed in accordance with the criteria established in Title 17, Chapter 36, Sub-Chapters 1, 3, and 6 ARM and the most current standards of the Department of Environmental Quality, and,

THAT each water system may not serve more than 24 people per day for 60 or more days per year without first obtaining public water supply approval from the Department, and,

THAT data provided indicates an acceptable water source at a depth of approximately 120-200 feet, and,

THAT each individual sewage treatment system will consist of a septic tank, effluent filter, and gravity distribution subsurface drainfield of such size and description as will comply with Title 17, Chapter 36, Sub-Chapters 1, 3, and 6 ARM, the most current standards of the Department of Environmental Quality, and,

THAT the individual subsurface drainfields serving Lots 1, 3 and 4 shall have an absorption area of sufficient size to provide for an application rate of 0.8 gpd/square foot and,

THAT the individual subsurface drainfields serving Lots 2, 5, 6, 7, 8, 9, and 10 shall have an absorption

area of sufficient size to provide for an application rate of 0.6 gpd/square foot and,

THAT the bottom of the drainfields shall be at least four feet above the water table, and,

THAT the replacement drainfields area shall be sized without reduction, and,

THAT no sewage treatment system shall be constructed within 100 feet of the maximum highwater level of a 100-year flood of any stream, lake, watercourse, or irrigation ditch, nor within 100 feet of any domestic water supply source, and,

THAT the stormwater design was reviewed and approved under EQ#23-1847, dated April 20, 2023, and,

THAT the stormwater design requires the installation of a minimum of 4,790 square feet (0.11 acre) of lawn and landscaped area around the structure on each lot to absorb a portion the additional run-off from each living unit, and,

THAT the operation and maintenance of the sewage treatment systems and stormwater facilities shall be the responsibility of each lot owner, and,

THAT water supply systems, sewage treatment systems and storm drainage systems will be located as shown on the approved plans and lot layout, and,

THAT the developer and/or owner of record shall provide each purchaser of property with a copy of the Plat, approved location of water supply, sewage treatment system and storm drainage structures as shown on the attached lot layout, and a copy of this document, and,

THAT instruments of transfer for this property shall contain reference to these conditions, and,

THAT plans and specifications for any proposed sewage treatment systems will be reviewed and approved by the county health department and will comply with local regulations and ARM, Title 17, Chapter 36, Subchapters 3 and 9, before construction is started.

THAT departure from any criteria set forth in the approved plans and specifications and Title 17, Chapter 36, Sub-Chapters 1, 3, and 6 ARM when erecting a structure and appurtenant facilities in said subdivision without Department approval, is grounds for injunction by the Department of Environmental Quality.

Pursuant to Section 76-4-122 (2)(a), MCA, a person must obtain the approval of both the State under Title 76, Chapter 4, MCA, and local board of health under section 50-2-116(1)(i), before filing a subdivision plat with the county clerk and recorder.

YOU ARE REQUESTED to record this certificate by attaching it to the Plat filed in your office as required by law.

DATED this 20 day of April, 2023.

CHRIS DORRINGTON  
DIRECTOR

By:

A handwritten signature in black ink, appearing to read "Shawn Rowland", is written over a horizontal line. To the right of the signature, the letters "for" are written in a cursive style.

Shawn Rowland, R.S., M.S.  
Subdivision Section Supervisor  
Engineering Bureau- Water Quality Division  
Department of Environmental Quality

Owner's Name: Draper Ranch Company





SLOPE NEAR DRAINFIELD	
LOT	
1	1.6
2	1.8
3	1.8
4	1.9
5	1.7
6	1.7
7	1.8
8	1.9
9	1.7
10	1.7

**APPROVED**  
 Montana Department of  
 Environmental Quality  
 Reviewer: *[Signature]* Date: 4/10/2023

- NOTES:**
- 1) ELEVATIONS SHOWN ARE NOT IN RESPECT TO A PARTICULAR DATUM.
  - 2) THE WELL SHALL BE DRILLED USING THE WATER WELL DRILLER'S STANDARDS AS SET FORTH IN ARM 36.21, SUBCHAPTER 6.
  - 3) ALL NEIGHBORING WATER AND SEWER FACILITIES WITHIN 100 LINEAR FEET OF PROPOSED SUBDIVISION ARE SHOWN.
  - 4) NO DESIGNATED FLOODPLAIN IN AREA OF PROPOSED SUBDIVISION.

HYDRAULIC GRADIENT DIRECTION

- LEGEND:**
- PRIMARY DRAINFIELD
  - REPLACEMENT DRAINFIELD
  - SOIL TEST PIT
  - SEPTIC TANK
  - WELL
  - GRAVEL ROAD
  - PROPOSED CULVERT

**7D SUBDIVISION**  
 LOT LAYOUT

**SHEET**  
 1 / 2

DRAWN BY: JE    CHECKED BY: JE    SCALE: 1" = 150'  
 DATE: 4/28/2022    REV. DATE: 2/6/2023    REVISION: 2  
 CARBON COUNTY  
 TOWNSHIP: 7S    RANGE: 20E    SECTION: 16

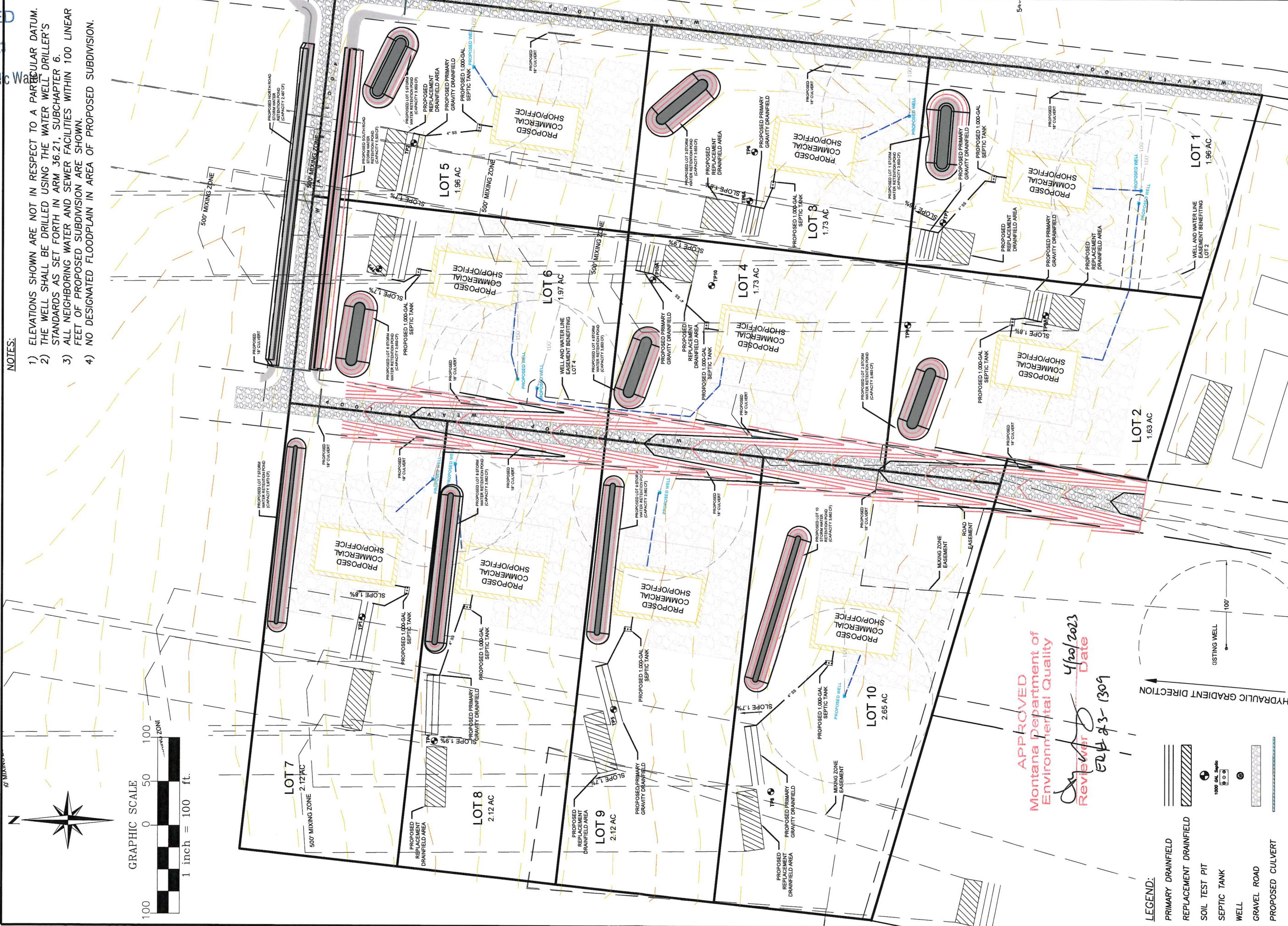
P. O. BOX 194  
 COLUMBUS, MT 59019  
 PHONE 322-1116  
 WWW.ENGINEERING-WEST.COM

**ENGINEERING WEST**  
 LAND • WATER • SEWER

RECEIVED

APR 13 2023

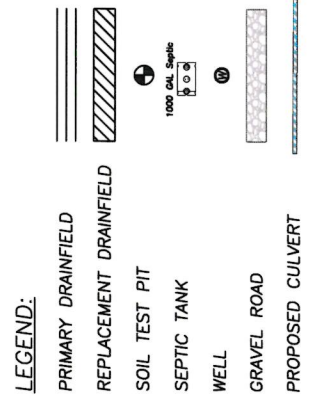
Subdivisions & Public Works



NOTES:

- 1) ELEVATIONS SHOWN ARE NOT IN RESPECT TO A PARTICULAR DATUM.
- 2) THE WELL SHALL BE DRILLED USING THE WATER WELL DRILLER'S STANDARDS AS SET FORTH IN ARM 36.21, SUBCHAPTER 6.
- 3) ALL NEIGHBORING WATER AND SEWER FACILITIES WITHIN 100 LINEAR FEET OF PROPOSED SUBDIVISION ARE SHOWN.
- 4) NO DESIGNATED FLOODPLAIN IN AREA OF PROPOSED SUBDIVISION.

APPROVED  
 Montana Department of  
 Environmental Quality  
 Reviewer Date  
 ERD 23-1309



DRAWN BY: JE	CHECKED BY: JE	SCALE: 1" = 100'
DATE: 4/28/2022	REV. DATE: 2/6/2023	REVISION: 2
CARBON COUNTY		
TOWNSHIP: 7S	RANGE: 20E	SECTION: 16

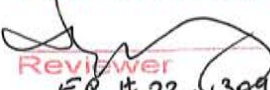
7D SUBDIVISION

LOT LAYOUT

SHEET 2/2



P. O. BOX 194  
 COLUMBUS, MT 59019  
 PHONE 322-1116  
 WWW.ENGINEERING-WEST.COM

  
Reviewer Date  
EQ # 23-1309  
EQ # 23-1847 Stormwater

## Introduction

### Responsibility

The purpose of the Stormwater Operations and Maintenance Manual is to ensure the inspection of the system, removal of accumulated sediments, oils and debris, and implementation of corrective action and record keeping activities. The ongoing responsibility is the lot owners and/or Home Owner's Association, its successors and assigns. Adequate maintenance is defined in this document as good working condition.

Contact information is provided below:

### Responsibility for Operation and Maintenance

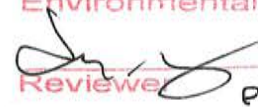
Name: **D7 Subdivision Home Owner's Association**  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
Contact: **6 Draper Lane**  
Telephone: **406-425-3437**  
Email: **bddraper6@yahoo.com**

### Documentation

An Inspection and Maintenance Record Log and Schedule shall be kept by the lot owner and/or Home Owner's Association summarizing inspections, maintenance, repairs and any corrective actions taken. The log will included the date on which each inspection or maintenance task was performed, a description of the inspection findings or maintenance completed, and the name of the inspector or maintenance personnel performing the task. If a maintenance task requires the clean-out of any sediments or debris, the location where the sediment and debris was disposed after removal will be indicated. Inspection and Maintenance Logs shall be kept on file with the Home Owner's Association.

### Maintenance Program

The lot owner and/or Home Owner's Association shall conduct the Operation and Maintenance program set forth in this document. The lot owner and/or Home Owner's Association will ensure that inspections and record keeping are timely and accurate and that cleaning and maintenance are performed in accordance with the recommended frequency for each stormwater component. Inspection and Maintenance Log Forms (provided herein) shall include the date and amount of the last significant storm event in excess of on (1) inch of rain in a 24-hour period, physical conditions of structures, depth of sediment in structures, evidence of overtopping or debris blockage and maintenance required of each structure.

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### Inspection and Maintenance Frequency and Corrective Measures

The following areas, facilities and measures will be inspected by the Owner or Property Manager and maintained as specified below. Identified deficiencies will be corrected. Accumulated sediments and debris will be properly handled and disposed of off-site, in accordance with local, state and federal guidelines and regulations. Refer to the attached Stormwater Management O&M Plan for the location of the components of the stormwater management system.

### Routine Maintenance Tasks

- Routine maintenance of lawns, gardens, and other landscaped areas shall occur as necessary to maintain the property in a neat and orderly fashion. Clippings and/or mulch shall not be washed into the drainage infrastructure.
- Maintenance of the Stormwater Management System shall be in accordance with the Operations and Maintenance Checklist below.
- Snow shall be removed from the site as it accumulates. The storm water retention pond shall be used as a snow storage area during the winter months.
- Good housekeeping – all areas should be kept free of trash and debris. Any storage of materials and waste products shall be inside or under cover. Fertilizers, herbicides and pesticides, if stored on site, shall be stored properly contained and under over. Storage of salt or deicing chemicals, if any, shall be on impervious area, covered and protected from runoff.

### Road Ditches, Storm Water Drainage Swales, Storm Water Retention Ponds

Maintenance of storm water drainage structures such as road ditches, culverts, storm water drainage swales and retention ponds shall be completed to remove any debris and sediments that would block the flow of storm water. Side slopes of the swales and ponds shall be maintained to prevent erosion and ensure proper drainage functions.

### Winter Maintenance Program

Ensure structures are not blocked by ice, snow, debris or trash during winter months. This project proposes using the storm water retention pond area for snow storage. Snow is to be removed from the site as it accumulates.

### Fertilizer Selection and Use

The goal of fertilizer use should be to enhance the ground cover of the facility, yet not result in adverse water quality impacts. The following guidelines are recommended.

## Fertilizer Selection

The selection of fertilizer should be based upon site-specific requirements. Recommendations for the fertilizer will be made upon completion of the project and actual tests of the soil mix. The benefit of the use of a soil mix is the ability of the soil to absorb and store nutrients for subsequent plant growth better than a sandy loam. It is recommended that the soil be resampled every three (3) years and the plan adjusted accordingly.

The project location is in a sensitive natural area; therefore, only slow release organic low phosphorus fertilizers shall be used in any landscaped areas to limit the amount of nutrients that could enter the stormwater management system.

## Fertilizer Storage

Fertilizer should be stored in a weatherproof area with containers protected from damage. Fertilizer from any damaged containers should be placed in appropriate weatherproof containers.

## Fertilizer Application

Fertilizer should be applied with appropriate mechanical equipment properly calibrated to meet the recommended application rates of the soil tests and manufacturer. The Owner or his agents should instruct personnel on the use of equipment and the proper measurement of the fertilizer.

Personnel assigned to application should be instructed that overapplication of fertilizer is adverse to the landscaped areas and environment. Fertilizer should not be applied to steep slopes, saturated ground, during periods of precipitation, or immediately prior to major rain events.

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Montana Department of  
Environmental Quality

  
Reviewer \_\_\_\_\_ Date 4/20/2023

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## Post Construction BMP Inspection Checklist

### POST CONSTRUCTION BMP INSPECTION CHECKLIST

Activity	Schedule/Frequency
Inspect pond area for oil sheens or trash	Monthly
Inspect exterior of catch basins	Monthly and after storm events
Inspect pond area, sidewalls, and shoreline for erosion, settlement, and rodent damage	Quarterly
Inspect fences, gates and locks	Quarterly
Inspect bioswales for vegetation cover and bare areas	Quarterly
Inspect ditches, check dams, and all visible pipes and culverts for trash, obstructions and other problems	Quarterly and after storm events
Inspect inlets and outlets for trash, obstructions, and vegetation	Quarterly, and after storm events
Inspect trash racks, debris barriers, and energy dissipaters	Quarterly and after storm events
Inspect water levels in the pond	After storm events
Inspect pond area for undesirable or poisonous vegetation and noxious weeds	Semi-annually, during growing season
Pond area sediment accumulation (pond bottom)	Annually
Inspect interior of catch basins for debris and sediment	Annually
Inspect spillway for vegetation overgrowth and ease of heavy equipment access	Annually
Inspect inside catch basins, including flow restrictor/orifice plate	Annually
Inspect access ramps for ease of heavy equipment access	Annually

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 Reviewer \_\_\_\_\_ Date 4/20/2023  
 EQ # 23-1309  
 EQ # 23-1847

# STORM WATER MANAGEMENT SYSTEM OPERATIONS AND MAINTENANCE MANUAL

## Retention Ponds


D7 Trail Subdivision

Name of Inspector: \_\_\_\_\_ Title of Inspector: \_\_\_\_\_

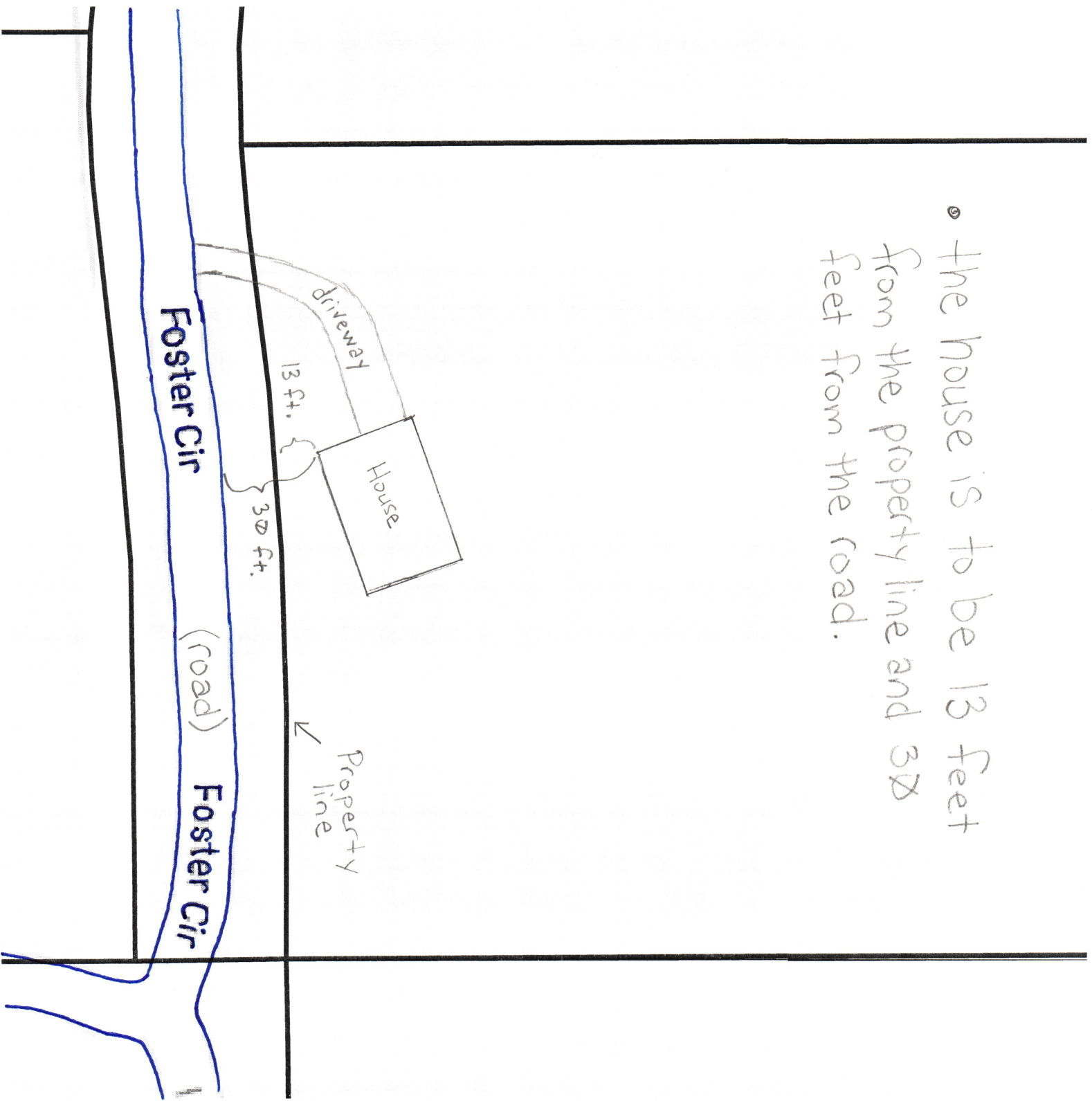
Inspector's Signature: \_\_\_\_\_

Inspection Date	Satisfactory			Location	Maintenance Needed and Description	Implementation Date of Maintenance
	Yes	No	N/A			

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 Reviewer \_\_\_\_\_ Date 4/20/2023  
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- the house is to be 13 feet from the property line and 30 feet from the road.







July 17, 2024

Brian Marchant  
CROELL INCORPORATED  
PO BOX 1352  
Sundance, WY 82729

RE: Authorization MTR000870 under the Montana Pollutant Discharge Elimination System (MPDES)  
Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity (MSGP)

Dear Brian Marchant:

CROELL INCORPORATED is authorized at Red Lodge Batch Plant, MTR000870, by the Montana Department of Environmental Quality (DEQ) to discharge under the Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity at the discharge location (Outfalls) listed below.

Outfall	Location Latitude, Longitude	State Water Body	Facility Subsector	Benchmark Monitoring Required	Indicator Monitoring Required
001	45.2159361,- 109.266166	SPRING CREEK	E2	Yes	No

Please read the MSGP to ensure you understand how to comply with the conditions. Keep a copy of this authorization letter, the facility’s Storm Water Pollution Prevention Plan (SWPPP), and a copy of the 2022-issued MSGP on site at all times. Coverage under the MSGP remains in effect until the expiration on **January 31, 2028**, or the owner/operator submits a Notice of Termination (NOT). Annual fees continue to accrue until DEQ receives a NOT and annual fees are invoiced to the owner/operator in arrears. Permittees must submit DMRs electronically via NetDMR at [https://usepa.servicenowservices.com/oeca\\_icis?id=netdmr\\_homepage](https://usepa.servicenowservices.com/oeca_icis?id=netdmr_homepage) please contact Gina Self at (406) 444-5388 if you need assistance.

Thank you for your efforts in protecting Montana state waters. If you have any questions or concerns, please contact the Water Protection Bureau at (406) 444-5546 as soon as possible.

Sincerely,

Tatiana Davila, Bureau Chief  
Water Protection Bureau