
BOARD OF COUNTY COMMISSIONERS MEETING
YELLOWSTONE COUNTY, MONTANA
June 21, 2016



SUBJECT: Falconer's Subdivision, Preliminary - Minor Plat
THROUGH: Candi Millar, AICP, Planning Director
PRESENTED BY: Dave Green, Planner II

INTRODUCTION

On May 16, 2016, Engineering West, agents for Clayton Smith, applied for preliminary minor plat approval for Falconer's Subdivision. The proposed plat creates 2 lots from a 12.44-acre parcel of land. The subject property is generally located on the northwest corner of the intersection of Iroquois Trail and Pawnee Trail on the west edge of the Indian Cliffs Subdivision. The property is zoned Residential 15000 in the County with residential uses in the immediate vicinity to the south and west, and open dry grass land to the north and east. The Board of County Commissioners will act on the proposal on June 21, 2016.

RECOMMENDATION

The Planning Division recommends that the Yellowstone County Board of County Commissioners conditionally approve the preliminary plat of Falconer's Subdivision, the Variance request, and adopt the Findings of Fact as presented in the staff report.

VARIANCES REQUESTED

A variance has been requested by the applicant. They are requesting a variance from the Yellowstone County Subdivision Regulations Section 4.6.C.16. This defines driveways as serving no more than 2 lots or 5 dwelling units.

Staff is recommending approval of the variance request. Further explanation and analysis can be found in Attachment A.

PROPOSED CONDITIONS OF APPROVAL

Planning staff recommends the following conditions of approval:

1. To minimize the effects on the environment and ensure proper locating of water and sewer services, prior to final plat approval the applicant will receive approval from the MDEQ for the locations of the cisterns and septic systems.
2. To ensure no added burden is placed on the existing 32-foot-wide access easement on the northern edge of the proposed lot 2B, prior to final plat approval, the applicant will place on the plat a 1 foot no access easement along the north edge of proposed lot 2B.

3. To minimize the effects on the natural environment, prior to final plat approval, a weed management plan and property inspection shall be approved by the County Weed Department.
4. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
5. The final plat shall comply with all requirements of the County Subdivision Regulations, rules, regulations, policies, and resolutions of the Yellowstone County, and the laws and Administrative Rules of the State of Montana.

PROCEDURAL HISTORY

- A pre-application meeting was held on March 13, 2016, to discuss the proposal.
- The preliminary plat application was submitted to the Planning Division on May 16, 2016.
- The Board of County Commission will consider the preliminary plat on June 21, 2016.
- The 35 working-day preliminary plat review period ends July 6, 2016.

PLAT INFORMATION

General location:	Northwest corner of the intersection of Iroquois Trail and Pawnee Trail
Legal Description:	Certificate of Survey 3607, Tract 2
Subdivider/Owner:	Clayton and Vicki Smith
Engineer and Surveyor:	Engineering West
Existing Zoning:	Residential 15000
Existing land use:	Residential
Proposed land use:	Residential
Gross/Net area:	12.44 acres / 12.17 acres
Proposed number of lots:	2
Lot size:	Max: 11.77 acres Min.: 0.67 acre
Parkland requirements:	No parkland dedication is required for this minor subdivision

YELLOWSTONE BOARD OF COUNTY COMMISSIONERS
FINDINGS OF FACT

The Findings of Fact for the preliminary plat of Falconer’s Subdivision have been prepared by the Planning Division staff on behalf of the Yellowstone County Board of Planning for the Yellowstone County Board of County Commissioners. These findings are based on the preliminary plat application and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Yellowstone County Subdivision Regulations (YCSR).

A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health and safety (76-3-608(3)(a), MCA) (Section 3.2(H)(2), YCSR)

1. Effect on agriculture and agricultural water users’ facilities

The subject property is not currently used for agricultural purposes and does not have water rights. The subdivision is in an area that is developed for residential use and should not affect agriculture or agricultural water users’ facilities.

2. Effect on local services

- a. **Water and Sewer** – There are no community water or sewer systems in this subdivision or surrounding subdivisions. Each lot will be served by separate cistern and septic systems. These systems will be approved by the Department of Environmental Quality (DEQ) prior to final plat approval. **(Condition #1)**

- b. **Streets and roads** – The proposed subdivision is located on the west side of Iroquois Trail on the west edge of the Indian Cliffs Subdivision. This subdivision will be providing a 30-foot-wide half road width along the eastern edge of the property for the future extension of Iroquois Trail to the north. There is an existing 32-foot-wide access easement along the southern border of what will be Lot 2A that is providing and will continue to provide access to three parcels where this is the only access to these properties. Proposed lot 2B will have a no access strip along the northern edge of the lot to disallow access to the existing access easement currently in use by others. **(Condition #2)**

Access to proposed Lot 2A will be from the existing 32-foot access easement as it has in the past. Proposed Lot 2B will have access off of Iroquois Trail.

- c. **Fire and Police Services** – The property is within the Billings Urban Fire Service Area (BUFSA) and they will provide fire service to this subdivision. The nearest fire station to this proposed subdivision is Fire Station Number 3 and it is approximately 7.62 road miles away. Because this is a 2 lot minor subdivision there is no trigger to require a dry hydrant system.

The Yellowstone County Sheriff’s Department will provide law enforcement services.

- d. **Solid Waste disposal** – The Billings Landfill has capacity for solid waste disposal. Solid waste will be collected and disposed of by a private garbage collection company. Each lot owner will be responsible for arranging for collection.
- e. **Storm water drainage** – The proposed subdivision at this time has no storm drain facilities. At the time of lot development, all storm water drainage shall satisfy storm water management requirements and specifications of Montana Department of Environmental Quality (MDEQ).
- f. **School facilities** – The proposed subdivision is located in the Billings School District #2 area. The Elementary School is Alkali Creek, Middle School is Castle Rock and High School is Skyview. Skyview High School responded to staff stating they currently have capacity for more students and there is a bus route in the area. Staff did not receive any comments from the other schools that may be affected by the subdivision. Because this is a two lot subdivision, impact to schools should be minimal.
- g. **Parks and recreation** – This proposed two-lot minor subdivision is not required to provide parkland dedication, YCSR Section 10.8 (A) and (76-3-621, MCA).
- h. **Historic features** – No known historical or cultural assets exist on the site.

3. Effects on the natural environment

The development will use noxious weed control measures to prevent the spread of noxious weeds to adjacent developed or agricultural land. A weed management plan will be completed and a property inspection done prior to final plat approval. **(Condition #3)**

There are no apparent or known natural hazards on the property.

4. Effects on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. Montana Fish, Wildlife, and Parks (FWP) responded to a request for review and comment on the proposed subdivision. It is suggested that future land owners should be made aware that unless they take steps to deter wild animals they may experience damage problems. A note to this effect is found within the SIA to help inform future landowners.

5. Effects on public health and safety

Plans and designs for cisterns and septic systems will be reviewed and approved by the Department of Environmental Quality prior to final plat approval. Storm water management will be reviewed and approved by MDEQ before constructions on the site. Fire and emergency services are provided for this proposed subdivision. There should be minimal effects on public health and safety as a result of this subdivision.

B. Was an environmental assessment required? If yes, what, if any, significant adverse impacts were identified? (76-3-616, MCA) (Chapter 9, YCSR)

An environmental assessment was not required for this subdivision.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2008 Growth Policy Update, the 2014 Billings Urban Area Long Range Transportation Plan, and the Billings Area Bikeway and Trail Master Plan? (Section 3.2 (H)(4), YCSR)

1. Yellowstone County – City of Billings 2008 Growth Policy Update

- **Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns. (p. 6)**

This subdivision will create 2 lots for residential development, consistent with the immediately surrounding neighborhood.

- **Goal: New developments that are sensitive and compatible with the character of adjacent County townsites. (p. 6)**

There are similarly sized lots directly adjacent to the subject property.

- **Goal: Contiguous development focused in and around existing population centers separated by open space. (p. 6)**

The proposed subdivision will increase the development density on the subject property therefore concentrating development.

- **Goal: More housing and business choices within each neighborhood. (p. 6)**

The proposed subdivision will create 2 developable lots in this area for residential development.

2. 2014 Billings Urban Area Long Range Transportation Plan

The subject property is on the western edge of the study area of the Transportation Plan. The subject property accesses Iroquois Trail which is a residential street within an existing subdivision. This street does not appear in the 2014 Billings Urban Area Long Range Transportation Plan.

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

The subject property is in the study area of the BABTMP. Indian Cliffs Subdivision has frontage on to Highway 3 by way of Apache Trail. There are no identified trails within this subdivision.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [76-3-608(3)(b), MCA and Section 3.2(3)(a), YCSR]

The proposed subdivision meets the requirements of the MSPA and the YCSR. The subdivider and the local government have complied with the subdivision review and approval procedures that are set forth by local and state subdivision regulations.

E. Does the subdivision conform to sanitary requirements? [Section 4.8(C) and 4.9 (C), YCSR]

The subdivider will need to receive approval from MDEQ for any proposed development and how they will be handling the storm water. The proposed subdivision will have cistern and septic systems and will be required to obtain MDEQ approval before final plat for these proposed systems. (**Condition #1**)

F. Does the proposed subdivision meet any applicable Zoning Requirements? [Section 3.2(H)(3)(e), YCSR]

The subdivision is in the County's zoning jurisdiction and is zoned R-150. The proposed lots sizes are in compliance with zoning and County Subdivision Regulations. In the SIA it is noted that future property owners and developers are required to obtain a Zoning Compliance Permit prior to any construction on the lots.

G. Does the subdivision provide for necessary planned utilities? [76-3-608(3)(c), MCA and Section 3.2 (H)(3)(b), YCSR]

Utility easements shall appear on the face of the final plat as requested by utility companies providing service to the proposed subdivision.

H. Does the proposed subdivision provide for legal and physical access to all lots? [76-3-608 (3)(d), MCA and Section 3.2 (H)(3)(c)(d), YCSR]

Legal and physical access will be provided for the proposed lots from Iroquois Trail and the existing access easement that is in place.

CONCLUSIONS OF FINDINGS OF FACT

- The Falconer's Subdivision does not create adverse impacts that warrant denial of the subdivision.
- Impacts to agriculture, agriculture water user facilities, local services, public health and safety, the natural environment, and wildlife should be minimal. Impacts identified can be mitigated by reasonable conditions of final plat approval.
- The subdivision conforms to some of the goals of the 2008 Growth Policy.
- The applicant has complied with the MSPA and YCSR processes and the subdivision conforms to the law requirements.

ATTACHMENTS

A: Variance Request
B: Proposed Plat

Attachment A

Staff Analysis and Recommendation

County Planning, County Public Works, and County Legal staffs have reviewed the request for a variance from Section 4.6 (C) (16) of the Yellowstone County Subdivision Regulations and are recommending approval.

The property currently has an existing 32-foot access easement that is along the southern edge of existing Tract 2. This easement now serves three lots as the only way to get to these properties, Tract 2 of Certificate of Survey (COS) 3607, Tract 1 of COS 3607, and Tract 1 of COS 1180 (See attached map). The proposed subdivision of Tract 2, COS 3607 will not add another lot taking access off of the existing 32-foot access easement, the proposed new Lot 2B will take access off of Iroquois Trail. This will not add a burden to the 32-foot access easement. In this way, the number of users of the 32-foot-wide easement will not change with this subdivision.

Staff believes since the access is currently only serving 3 lots and the new lot will not be taking access off of this easement but from Iroquois Trail, there is no reason to require the applicant to construct a road from the existing access easement.

Therefore, staff is recommending approval of the proposed variance and recommends approval to the Board of County Commissioners.

Yellowstone County Subdivision Regulations:

Section 4.6 (C) (16) Access Driveways are defined as an access serving one or two lots and not more than five dwellings. Accesses serving more than two lots of five dwellings shall be considered a road, and shall be built to the road standards outlined in these regulations.

Tract 1
COS
1180

Tract 1
COS
3607

Tract 2
COS
3607



Existing Access Easement

Proposed Lot 2B



April 8, 2016

Yellowstone County City/County Planning Department
Attn: Dave Green
2825 3rd Avenue North
Billings, MT 59101

Re: Falconer's Subdivision
Road Design Variance

Dear Mr. Green:

Engineering West, LLC, has been hired to represent Mr. Clayton Smith (the developer), of the proposed subdivision known as Falconer's Subdivision. The developer is requesting a variance from Section 4.6.C.16. of the Yellowstone County Subdivision Regulations.

Section 4.6.C.16 defines driveways as accessing one or two lots and not more than five dwellings. Falconer's Subdivision is a two-lot minor subdivision. There is an existing driveway accessing a current residence on the property (Lot 2A) which also provides access to two additional existing properties (Tract 1 of COS 3607 and Parcel 1 of COS 1180). The second lot (Lot 2B) in this subdivision will have access from Iroquois Trail and will not use the existing driveway for access.

The granting of this variance will allow the three residential properties currently utilizing the driveway to continue their present use. If this variance were to be denied, the existing driveway would need to be classified as a road within an appropriate easement and named, resulting in disruption and address changes to the properties in question. The existing driveway easement will not allow for further development of properties using this driveway, so only three residences will utilize this driveway now and in the future. It is our understanding from the pre-application meeting on this subdivision that County staff is supportive of this request.

This variance is requested based upon the following reasons:

1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties. In fact, granting this variance will benefit adjoin properties by allowing them to continue to use the access they have been using in its existing condition and by not necessitating address changes.
2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced. If this regulation is strictly enforced an undue hardship would be

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created by forcing a larger easement and address changes on properties that are already using a driveway that will not see an increase in use beyond the three properties currently using it.

3. The variance will not result in an increase in taxpayer burden. There will be no change to the existing condition of the properties in question if this variance is granted.

4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations. The property is and will continue to be in conformance with zoning regulations.

5. The proposed design keeps existing conditions the same for properties utilizing the existing driveway and will continue to be adequately effective at providing access to the subject properties.

Thank you for your consideration of this request.

Sincerely,

Forrest J. Mandeville

