

STAFF REPORT

VISTAS AT HEADWATERS SUBSEQUENT MINOR SUBDIVISION

To: Broadwater County Planning Board
From: Nichole Brown, Broadwater County Community Development Director
Subject: A proposed subdivision to be known as **Vistas at Headwaters Subsequent Minor Subdivision**

GENERAL INFORMATION

Date of Application: November 2, 2022
Date of Sufficiency: March 9, 2023
Review Period Ends: June 2, 2023

APPLICANT: Headwaters Investments, LLC
347 S Ferguson Ave
Bozeman, MT 59718

APPLICANTS' REPRESENTATIVE: Alpine Surveying and Engineering
714 Stoneridge Drive, Suite 3
Bozeman, MT 59718

LEGAL DESCRIPTION: Situated in the Section 16, Township 2 North, Range 1 East, Broadwater County, Montana

GENERAL LOCATION: The proposed subdivision is situated off of US Highway 287, approximately thirty (30) miles south of the city of Townsend, Montana and approximately .85 miles north of the US Highway 287/I-90 Interchange.

I. EXECUTIVE SUMMARY:

The developers intend to create five (5) lots from an existing 25.175 acre parcel. The minimum lot size proposed is 1.0 acre and the maximum lot size proposed is 11.628 acres. Water and wastewater services will be provided via connection to the Headwaters Utility District. The property has already been annexed into the district. The future system will be required to undergo review and approval through DEQ and the Broadwater County Environmental Health Department. Fire protection will be provided by the Three Forks Fire District. The Headwaters Utility District is proposing fire hydrants throughout the district, which includes these proposed five (5) lots. Access will be provided onto US Highway 287 via the proposed internal road network consisting of three internal subdivision roads.

II. REQUEST:

Approval of a 5-lot Subsequent Minor Subdivision for Commercial or Industrial purposes.

III. STAFF RECOMMENDATION:

Staff recommends APPROVAL of the proposed Vistas at Headwaters Subsequent Minor Subdivision Preliminary Plat subject to the conditions of approval based on the recommended findings of fact included in the Staff Report.

IV. LOCATION:

The proposed subdivision is located west of US Highway 287 in the Section 6, T2N, R1E, P.M.M., Broadwater County, Montana.

V. EXISTING DEVELOPMENT AND USES:

The property is generally flat unirrigated land and has previously been unused and vacant. However, most recently the Headwaters Utility District has been actively installing water and sewer lines to serve the future development within the district.

VI. ADJACENT LAND USES:

North: Commercial and Residential Subdivision
South: Commercial
East: Commercial
West: Agricultural

VII. PUBLIC COMMENT:

Insert public comment received at the May 9, 2023 public hearing.

VIII. PROJECT BACKGROUND

Water is proposed to be provided via individual wells. The plans for are subject to review and approval by the Montana Department of Environmental Quality (DEQ), and the Broadwater County Environmental Health Office.

Wastewater treatment for the proposed development is proposed to be provided via connection to the Headwaters Utility District. The plans for the Headwaters Utility District are subject to review and approval by the Montana Department of Environmental Quality (DEQ), and the Broadwater County Environmental Health Office.

The Applicant is proposing to use the fire hydrants to be installed as part of the Headwaters Utility District plan. The Three Forks Rural Fire District will provide fire protection services to this development.

Access will be off of US Highway 287 connecting to the proposed internal loop road system consisting of three (3) internal subdivision roads. All internal roads will be built to Broadwater County Subdivision Road Standards.

IX. STAFF ANALYSIS

Compliance:

The proposed subdivision is located within the Wheatland Targeted Economic Development District (TEDD). Montana statutes require that a TEDD be zoned in accordance with the County Growth Policy Plan. Broadwater County simultaneously created a zoning district with the same

boundary as the TEDD. This subdivision will not violate any zoning regulations. The only use not allowable is dwellings.

X. CRITERIA FOR REVIEW

In accordance with 76-3-608(3), MCA a subdivision proposal must undergo review for impacts on the following primary criteria; 1. Agriculture; 2. Agricultural water user facilities; 3. Local services (water, wastewater, solid waste, utilities, roads, traffic, schools, emergency services and parkland); 4. The natural environment; 5. Wildlife; 6. Wildlife habitat; 7. Public health and safety; 8. Compliance with the County's Subdivision Regulations; 9. Compliance with survey requirements; 10. The provision of easements within and to the proposed subdivision for the location and installation of any planned utilities; and 11. The provision of legal and physical access to each parcel within the proposed subdivision. Listed below are the Findings of Fact and Conclusions regarding each primary criterion.

FINDINGS OF FACT AND CONCLUSIONS:

IMPACTS ON AGRICULTURE

FINDINGS OF FACT REGARDING IMPACTS ON AGRICULTURE:

1. Per Chapter V-A of the Broadwater County Subdivision Regulations, all subdivisions must be designed and developed to provide satisfactory building sites that properly relate to topography, and must, to the extent possible, preserve the natural environment.

The proposed subdivision property is generally level and thus provides good building sites that will minimize the flow of stormwater and therefore minimize soil erosion that might occur due to the construction of buildings and associate infrastructure, which could negatively affect agriculture.

2. Per Chapter V-N-d of the Broadwater County Subdivision Regulations, the subdivider shall show on the preliminary plat ditch easements for the unobstructed use and maintenance of existing water delivery ditches and facilities as necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundary that are consistent with historic and legal rights.

The subject property is not located near any irrigation ditches or canals.

Conditions of approval for the proposed subdivision will require a Noxious Weed Management Plan be on file and recorded with the final plat; Restrictive covenants providing notice of agricultural operations in the vicinity; That the property shall be maintained in a weed-free manner; and restraining domestic pets on the property. Other conditions of approval will provide the opportunity to financially guarantee any improvements required by the Weed Management Plan.

Conditions of Approval Numbers 2, 9-c, 9-g, and 9-h are required to mitigate impacts on agriculture. (A full list of the Conditions of Approval is found starting on page number 13)

CONCLUSION: The impacts to agriculture, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

IMPACTS ON AGRICULTURAL WATER USERS

FINDINGS OF FACT REGARDING AGRICULTURAL WATER USERS:

1. Per Chapter V-N-d of the Broadwater County Subdivision Regulations, the subdivider shall show on the preliminary plat ditch easements for the unobstructed use and maintenance of existing water delivery ditches and facilities as necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundary that are consistent with historic and legal rights.

The subject property is not located near any irrigation ditches or canals.

Conditions of Approval Numbers 9-c, 9-g and 9-h are required to mitigate impacts on agriculture. (A full list of the Conditions of Approval is found starting on page number 13)

CONCLUSION: The impacts to agricultural water user facilities, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

IMPACTS ON LOCAL SERVICES

FINDINGS OF FACT REGARDING WATER & WASTEWATER:

1. Per Chapter I-C-7, 8, 9, 10, 11 and 13 of the Broadwater County Subdivision Regulations, the purposes of these regulations are to promote the public health, safety, and general welfare by regulating the subdivision of land; the provision of adequate transportation, water, drainage and sanitary facilities; the avoidance of subdivisions which would involve unnecessary environmental degradation; the avoidance of danger or injury by reason of natural hazard or the lack of water and drainage; and the avoidance of excessive expenditure of public funds for the supply of public improvements and services.

The proposed lots will be served by the Headwaters Utility District. The plans for the district are subject to review and approval by MT Department of Environmental Quality and the Broadwater County Environmental Health Department.

2. Per Chapter V-C of the Broadwater County Subdivision Regulations, the governing body may find land to unsuitable for subdivision because of potential hazards identified during the subdivision review process. These lands must not be subdivided unless the hazards are eliminated or will be mitigated by approved design and construction plans. Examples of hazards that could render property unsuitable for subdivision or require mitigation include (but are not limited to) the following: polluted or non-potable water supply.

According to the preliminary plat application all lots in this development will be served by individual wells. A letter from the Department of Natural Resources and Conservation (DNRC) evaluating the amount of water proposed to be utilized by these 5 commercial lots is included in the preliminary plat application as Appendix 29. DNRC and MDEQ will need to approve the use of exempt wells for commercial purposes on each of the proposed 5 parcels.

3. Per Chapter V-K of the Broadwater County Subdivision Regulations, all water systems may be subject to approval by the governing body. Water systems required by the governing body shall meet the minimum requirements of the local reviewing authority, MDEQ and the MT Department of Natural Resources and Conservation. Where the subdivision is within the service area of a public water supply system the subdivider must install complete water system facilities in accordance with the requirements of the jurisdiction involved and to the MDEQ and must obtain their approvals prior to undertaking any construction.

The location of all individual wells will be approved by DEQ prior to final plat approval of the subdivision.

4. Per Chapter V-L of the Broadwater County Subdivision Regulations, all wastewater systems may be subject to the approval of the governing body. Where the subdivision is within the service area of a municipal or public sanitary sewer system, the subdivider must install complete sanitary sewer system facilities in accordance with the requirements of the jurisdiction involved and the DEQ. The subdivider must submit plans and specifications for the proposed facilities to the jurisdiction involved and to the DEQ and must obtain their approvals prior to undertaking any construction.

The public utility system, Headwaters Utility District, will be approved and installed prior to final plat approval of the subdivision

Condition of Approval Number 1 is required to mitigate impacts to water and wastewater under local services. (A full list of the Conditions of Approval is found starting on page number 13)

FINDINGS OF FACT REGARDING SOLID WASTE:

1. Requirements for solid waste collection and disposal must be in compliance with Chapter I-G of the Broadwater County Subdivision Regulations.

Contract collection and disposal of solid waste is available and contracting with a solid waste provider will be the responsibility of the property owners.

No conditions of approval are required to mitigate impacts to solid waste under local services.

FINDINGS OF FACT REGARDING MAIL DELIVERY:

1. Mail collection and delivery shall be in compliance with Chapter V-I of the Broadwater County Subdivision Regulations.

The applicant will be required to work with the Three Forks Post Office for mail delivery.

Condition of Approval Number 7 is required to mitigate impacts on mail delivery under local services. (A full list of the Conditions of Approval is found starting page number 13)

FINDINGS OF FACT REGARDING UTILITIES:

1. Per Chapter V-H-c-iii of the Broadwater County Subdivision Regulations, developing subdivisions shall provide access and utility easements to adjoining lands when access to those land must pass through the subdivision.

The preliminary plat indicates utility easements are within the subdivision roadway easement system.

2. The installation of utilities shall be in compliance with Chapter V-M of the Broadwater County Subdivision Regulations

According to the preliminary plat application, utility services will be provided by Northwestern Energy, Vigilante Electric, Spectrum and Qwest. All utilities will be placed underground within the rights-of-way. The preliminary plat has been submitted to the utility companies for their review. The development is proposed in an established commercial corridor.

Condition of Approval Number 8 is required to mitigate impacts on utilities under local services. (A full list of the Conditions of Approval is found starting on page number 13)

FINDINGS OF FACT REGARDING ROADS AND TRAFFIC:

1. Per Chapter V-H of the Broadwater County Subdivision Regulations, roads located within a subdivision shall meet the appropriate road design standards of the regulations.

Internal subdivision roads will meet Broadwater County Road Standards for the Road Standard indicated necessary by the developer's Traffic Impact Analysis.

2. The proposed subdivision shall be in compliance with Chapter V-H-a-ii of the Broadwater County Subdivision Regulations to address impacts to adjacent offsite roads.

Access to the subdivision internal roads will be via US Highway 287. All state and county road encroachment permits will be finalized prior to any road construction. Modifications to US Highway may be required based on MT Department of Transportation approach permit requirements.

3. Per Chapter V-H-b of the Broadwater County Subdivision Regulations, the subdivider shall establish a new Rural Improvement District (RID) prior to final plat approval to provide funds for ongoing maintenance for all new public improvements associated with the

subdivision.

An RID will need to be created that includes all lots within the proposed subdivision that will address the maintenance, preservation and repair of the internal access roads.

4. Per Chapter V-H-c of the Broadwater County Subdivision Regulations, the arrangement, type, extent, width, grade, materials and location of all roadways shall be considered in their relationship to existing and planned streets and roads, to topographical conditions, maintenance considerations, the delivery of emergency services, to public convenience and safety, in their relation to the proposed uses of the land to be served by them, and to impacted lands outside the subdivision.

An internal road system is proposed for this development. The roads will need to be certified as meeting County Subdivision Road Standards by a professional engineer.

5. Per Chapter V-H-c-xi of the Broadwater County Subdivision Regulations, all road names shall be reviewed and approved by the County Planner. All road name signs and traffic control signs shall be installed by the subdivider.

Road names for the new roads must be submitted to the Community Development Director for review and approval, and road names shall be shown on the final plat and all other documents of the proposed subdivision. All traffic control signs shall be installed in accordance with the approved plans and specifications.

Conditions of Approval Numbers 4, 5, 8, 9-b, 10 and 11 are required to mitigate impacts on roads and traffic under local services. (A full list of the Conditions of Approval is found starting on page number 13)

FINDINGS OF FACT REGARDING SCHOOLS:

1. The proposed subdivision is located in the Three Forks School District. Since this is proposed as a commercial/industrial development it will not generate any school aged children. According to the preliminary plat application, the impact on the schools will be nonexistent. Also, bussing turnarounds are not required.

No Conditions of Approval are required to mitigate any impacts to schools under local services.

FINDINGS OF FACT REGARDING EMERGENCY SERVICES:

1. Per Chapter V-C of the Broadwater County Subdivision Regulations, the governing body may find land to be unsuitable for subdivision because of potential hazards. These lands must not be subdivided unless the hazards are eliminated or will be mitigated by approved design and construction plans. Examples of hazards that could render property unsuitable for subdivision or require mitigation include (but are not limited to) the following: high potential for wildfire or vehicular traffic hazards.

The Broadwater County Sheriff's Office will provide law enforcement services, with the potential for assistance from Gallatin County Sheriff's Office. Three Forks Ambulance will provide emergency medical and ambulance services. Fire protection will come from Three Forks Rural Fire District.

The posting of valid physical addresses will benefit emergency providers responding to an event.

The proposed subdivision will utilize emergency water from the Headwaters Utility District. The water and sewer district is proposing fire hydrants throughout the district. The fire hydrants will supply fire flow for each of the proposed lots.

2. Per Chapter V-Q of the Broadwater County Subdivision Regulations, a fire plan will be created with the Fire Protection Authority (FPA) with jurisdiction for the area in which the subdivision is located.

According to the preliminary plat application, a letter requesting comments has been mailed to the Three Forks Fire Department, by the developer but to date no response has been received.

Conditions of Approval Number 3 is required to mitigate impacts on emergency services under local services. (A full list of the Conditions of Approval is found starting on page number 13)

FINDINGS OF FACT REGARDING PARKLAND:

1. The proposed subdivision shall be in compliance with the parkland requirements under Chapter V-P of the Broadwater County Subdivision Regulations.

Since all lots are to be utilized for commercial/industrial purposes no parkland dedication is required.

No Conditions of Approval are required to mitigate any impacts to schools under local services.

CONCLUSION: The impacts to local services (water, wastewater, solid waste, utilities, roads, traffic, schools, emergency services, and parkland), as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

IMPACTS ON THE NATURAL ENVIRONMENT

FINDINGS OF FACT:

1. Per Chapter V-B of the Broadwater County Subdivision Regulations, the design and development of subdivisions must provide satisfactory building sites which are properly

related to topography, and must, to the extent possible, preserve the natural environment.

The proposed subdivision property is generally level and thus provides good building sites that will minimize the flow of stormwater and therefore minimize soil erosion that might occur due to the construction of buildings.

2. All grading, drainage and erosion control shall be in compliance with Chapter V-J of the Broadwater County Subdivision Regulations.

According to the preliminary plat application post development generated stormwater will be detained within the subdivision boundaries. A stormwater pollution prevention plan will be implemented and will remain in effect during the construction phase of this project and until disturbed soils are properly stabilized. The grading and drainage plan will be provided for review to MT DEQ.

3. Per Chapter V-R of the Broadwater County Subdivision Regulations, a Weed Management Plan shall be approved by the Broadwater County Weed Board prior to the subdivision application being considered complete.

A Noxious Weed Management Plan has been completed by the developer, submitted, and approved by the Broadwater County Weed Coordinator and the Broadwater County Weed Board.

Conditions of Approval Numbers 2 and 9-c are required to mitigate impacts on the natural environment. (A full list of the Conditions of Approval is found starting on page number 13)

CONCLUSION: The impacts to the natural environment, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

IMPACTS ON WILDLIFE

FINDINGS OF FACT:

1. Per Chapter III-A-7-b-iv-E of the Broadwater County Subdivision Regulations, the governing body shall consider the proposed development's impact on wildlife when approving, conditionally approving or denying a subdivision.

Since the area of proposed development is in a high-traffic commercial area the impacts to wildlife should be minimal.

Conditions of Approval Numbers 9-c and 9-h are required to mitigate impacts on wildlife. (A full list of the Conditions of Approval is found starting on page number 13)

CONCLUSION: The impacts to wildlife, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

IMPACTS ON WILDLIFE HABITAT

FINDINGS OF FACT:

1. Per Chapter II-A-7-b-iv-F of the Broadwater County Subdivision Regulations, the governing body shall consider the proposed development's impacts on wildlife habitat when approving, conditionally approving or denying a subdivision.

Since the area of proposed development is in a high-traffic commercial area, the impacts to wildlife habitat should be minimal.

Conditions of Approval Numbers 9-c and 9-h are required to mitigate impacts on wildlife habitat. (A full list of the Conditions of Approval is found starting on page number 13)

CONCLUSION: The impacts to wildlife habitat, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

IMPACTS ON PUBLIC HEALTH AND SAFETY

FINDINGS OF FACT:

1. Per Chapter V-C of the Broadwater County Subdivision Regulations, the governing body may find land to be unsuitable for subdivision because of potential hazards. These lands must not be subdivided unless the hazards are eliminated or will be mitigated by approved design and construction plans. Examples of hazards that could render the property unsuitable for subdivision or require mitigation include (but are not limited to) the following: steep slopes in excess of 25 percent slope; polluted or non-potable water supply; high voltage lines; high pressure gas lines; severe toxic or hazardous waste exposure; aircraft or vehicular traffic hazards or congestion; and/or high potential for wildfire.

No steep slopes are located on this property. The potable water will be supplied by individual on-site wells. No high pressure gas lines are approximate to this proposed development. However, there are nearby high voltage power lines and industrial activity. There is no threat of severe toxic waste exposure or high potential for wildfire. A fire plan will be created in collaboration with the Three Forks Fire District.

The potential danger of vehicular traffic hazards and congestion will be mitigated through appropriate signage and traffic calming measures as required by MT Department of Transportation (MDT). According to the preliminary plat application, Highway 287 hazards will be mitigated through MDT's System Impact Review for new improvements.

According to the preliminary plat application expansive soils have been found in the surrounding area. These soil conditions can be mitigated with proper foundation and

geotechnical design.

Conditions of Approval Numbers 3, 9-c, 9-d, 9-e and 9-f are required to mitigate impacts on public health and safety. (A full list of the Conditions of Approval is found starting on page number 13)

CONCLUSION: The impacts on public health and safety, as set forth in the Findings of Fact, will be mitigated by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

COMPLIANCE WITH SUBDIVISION REGULATIONS

FINDINGS OF FACT:

1. Per Chapter V of the Broadwater County Subdivision Regulations, all subdivisions approved by the governing body must comply with the provisions of this section, except where granted a variance pursuant to Section I-1, Variances.

No variances have been requested from the Subdivision Regulations for this proposed subdivision.

All conditions of approval are required to address compliance with the Subdivision Regulations. (A full list of the Conditions of Approval is found starting on page number 13)

CONCLUSION: Compliance with subdivision regulations, as set forth in the Findings of Fact, will be addressed by the imposed Condition of Approval, based upon the record, when satisfactorily completed.

COMPLIANCE WITH SURVEY REQUIREMENTS

FINDINGS OF FACT:

1. Per Chapter V-E of the Broadwater County Subdivision Regulations, all subdivision applications must be in compliance with survey requirements of the Montana Subdivision and Platting act.

A land survey and plat completed by a registered land surveyor in the State of Montana has been prepared. A review of the plat by the Community Development Department and the Examining Land Surveyor at the time the final plat application is submitted, will ensure the plat conforms to all conditions of approval, plat rules and regulations

Condition of Approval number 8 is required to address compliance with survey requirements. (A full list of the Conditions of Approval is found starting on page number 13)

CONCLUSION: Compliance with survey requirements, as set forth in the Findings of Fact, will be addressed by the imposed Condition of Approval, based upon the record, when satisfactorily

completed.

**THE PROVISION OF EASEMENTS WITHIN AND TO THE PROPOSED SUBDIVISION
FOR THE LOCATION AND INSTALLATION OF ANY PLANNED UTILITIES**

FINDINGS OF FACT:

1. Per Chapter V-M of the Broadwater County Subdivision Regulations, the subdivider must provide adequate and appropriate easements for the construction of utilities within the subdivision.

Utility easements will be shown and described on the final plat, in accordance with the Subdivision Regulations and in consultation with the utility providers, where utilities are or will be installed, and where necessary for the future extension of services.

Conditions of Approval number 8 are required to address the provision of easements within and to the proposed subdivision for the location and installation of planned utilities. (A full list of the Conditions of Approval is found starting on page number 13)

CONCLUSION: The provision of easements within and to the proposed subdivision for the location and installation of any planned utilities, as set forth in the Findings of Fact, will be addressed by the imposed Condition of Approval, based upon the record, when satisfactorily completed.

**THE PROVISION OF LEGAL AND PHYSICAL ACCESS TO EACH PARCEL WITHIN THE
PROPOSED SUBDIVISION**

FINDINGS OF FACT:

1. Per Chapter V-F of the Broadwater County Subdivision Regulations, each subdivision lot must have access to a public or private street or road.

Access to each lot will be via the internal subdivision roads.

2. Per Chapter V-H-c-vii-C-1-a, b and c of the Broadwater County Subdivision Regulations, all roadways within a proposed subdivision shall have dedicated easements providing public access to the subdivision and shall constitute an acceptable roadway when the easement is accepted by the governing body, recorded in the Office of the Clerk and Recorder and clearly grants to the public an unrestricted right of ingress and egress.

All roads within the subdivision will have to be dedicated as public access easements and shown on the final plat, signed and approved by the governing body at time of final plat approval and recorded in the Broadwater County Clerk and Recorder's office.

3. Per Chapter V-H-c-vii-C-1-d of the Broadwater County Subdivision Regulations, all

roadways within a proposed subdivision shall have dedicated easements providing public access to the subdivision and shall constitute an acceptable roadway when a signed statement from a professional engineer documenting that roads are built according to engineering plans and county standards.

A condition of approval for the proposed subdivision will require a signed and stamped road plan from the project engineer, and upon time of final plat approval request shall provide a certification letter from the project engineer that all subdivision roadways have been constructed to said plans and Broadwater County subdivision road standards.

4. Per Chapter V-H-c-vii-C-1-a through e of the Broadwater County Subdivision Regulations, all roadways within a proposed subdivision shall have dedicated easements providing public access to the subdivision and shall constitute an acceptable roadway when a Property Owners'/Road Users' Agreement for maintenance of the roadway is provided to the governing body.

A condition of approval for proposed subdivision will require a Road Users' Agreement for maintenance of the subdivision roadways

Conditions of Approval Numbers 4, 5, 6 and 8 are required to address the provision of legal and physical access to each parcel within the proposed subdivision. (A full list of the Conditions of Approval is found starting on page number 13)

CONCLUSION: The provision of legal and physical access to each parcel within the proposed subdivision as set forth in the Findings of Fact, will be addressed by the imposed Conditions of Approval, based upon the record, when satisfactorily completed.

Based on these finding of fact and conclusions for each criterion, the Community Development Director concludes that the proposed subdivision is supported under the criteria and standards of the Broadwater County Subdivision Regulations.

BRIDGER BREWING EAST MINOR SUBDIVISION

CONDITIONS OF APPROVAL

MAY 9, 2023

On May 9, 2023, the Broadwater County Planning Board held a public meeting regarding the proposed Vistas at Headwaters Subsequent Minor Subdivision located in Section 16, T2N, R1E, P.M.M., Broadwater County, Montana

The preliminary approval is for five (5) commercial/industrial lots. To mitigate identified adverse impacts, this approval is subject to the following conditions:

1. Prior to submission of a final plat application, the applicant shall submit plans for wastewater

treatment and water supply systems to the Montana Department of Environmental Quality (DEQ) and the Broadwater County Environmental Health Department for review and approval. The applicant shall submit documentation to the Broadwater County Community Development Department from DEQ and the Broadwater County Environmental Health Department verifying their review and approval. All specifications and requirements of the approved plans that are required to be completed prior to final plat approval, shall be met at the cost of the applicant. **(Mitigates Findings of Fact under “Impacts on Water and Wastewater under Local Services”)** (Sections 76-4-101, et.seq., MCA; Sections 17.36.101, et.seq., ARM; Sections 76-3-102(4), 504(1)(g)(iii), and 608(3)(a), MCA; Chapters I.C.7, 8, 9, 10, 11 and V-C, V-K and V-L, Broadwater County Subdivision Regulations)

2. Prior to any development and/or soil disturbance, the applicant shall submit a Subdivision Noxious Weed Management and Revegetation Plan for the proposed subdivision to the Broadwater County Weed District for review and approval. All specifications and requirements of the approved plan shall be met at the cost of the applicant. The applicant shall submit documentation to the Broadwater County Community Development Department from the Weed District verifying their review and approval. **(Mitigates Findings of Fact under “Impacts on Agriculture and Impacts on Natural Environment”)** (Sections 76-3-102(5 and 6), and 608(3)(a), MCA; Chapters I-C-9 and V-R, Broadwater County Subdivision Regulations)
3. Prior to submitting the final subdivision plat application, the applicant shall complete a Fire Protection Plan for the purpose of furthering fire protection. The Fire Protection Plan shall be created with concurrence by the Three Forks Fire District. **(Mitigates Findings of Fact under “Impacts on Emergency Services under Local Services and Impacts on Public Health and Safety”)** (Sections 76-3-102, 501, 504 and 608(3), MCA; Chapter V-Q, Broadwater County Subdivision Regulations)
4. The applicant shall complete the following to construct the internal access roads **(Mitigates Findings of Fact under “Impacts on Utilities and Impacts on Roads and Traffic under Local Services and the Provision of Legal and Physical Access to each parcel within the proposed subdivision”)**:
 - a. Prior to submitting the final subdivision plat application, the applicant shall improve all subdivision roads providing legal and physical access to all lots to the specifications required by the County Subdivision Regulations
 - b. All roads are to be built in accordance with the reviewed and approved plans. An engineer registered in the State of Montana shall certify all road improvements as meeting County Subdivision Road Standards. The applicant shall be responsible for all costs associated with meeting this condition of approval. (Sections 76-3-102, 501, 504(1)(g)(i), and 608(3), MCA; Chapters I-C, V-E and V-H, Broadwater County Subdivision Regulations)
5. Prior to any construction, the applicant shall request an approach permit from Montana Department of Transportation for any proposed access point(s) onto US Highway 287 for the subdivision approach road(s). Installation of the approach shall be completed in accordance

with the approved permit. **(Mitigates Findings of Fact under “Impacts on Roads and Traffic under Local Services and the Provision of Legal and Physical Access to each Parcel within the proposed subdivision”)** (Sections 76-3-102(3 and 4), 501(1), 504(1)(g)(i), and 608(3)(a), MCA; Chapters I-C-2, 5, 10 & 11, V-H, Broadwater County Subdivision Regulations)

6. Prior to any construction, the applicant shall provide an approved Broadwater County Road Approach Permit for the subdivision approach road(s). Installation of the approach shall be completed in accordance with the approved permit. **(Mitigates Findings of Fact under “Impacts on Roads and Traffic under Local Services and the Provision of Legal and Physical Access to each Parcel within the proposed subdivision”)** (Sections 76-3-102(3 and 4), 501(1), 504(1)(g)(i), and 608(3)(a), MCA; Chapters I-C-2, 5, 10 & 11, V-H, Broadwater County Subdivision Regulations)
7. Prior to final plat approval, the applicant shall have plans for the location and installation of mailbox units reviewed and approved by the United States Postal Service prior to installation. The applicant shall submit documentation from the United States Postal Service verifying their approval. The applicant shall be responsible for all costs associated with meeting this condition of approval. **(Mitigates Findings of Fact under “Impacts on Mail Delivery under Local Services”)** (Sections 76-3-102(4), 501(1), and 608(3) (a and b), MCA; Chapters I-C-10 and V-I, Broadwater County Subdivision Regulations)
8. The applicant shall, at the applicant’s expense, have a final subdivision plat prepared in accordance with the applicable state survey requirements and the Broadwater County Subdivision Regulations; in addition, the final plat shall show and describe the following: **(Mitigates Findings of Fact under “Impacts on mail Delivery, Utilities, Roads and Traffic under Local Services”, “Compliance with Survey Requirements, the provision of Easements within and to the Proposed Subdivision for the Location and Installation of any Planned Utilities and Provision of Legal and Physical Access to each Parcel within the Proposed Subdivision”)** (Sections 76-3-102, 402, 501, 504 and 608 (3), MCA; Chapters I-C and V-E, Broadwater County Subdivision Regulations)
 - a. A “no access” restriction along the eastern subdivision boundary adjacent to US Highway 287 except for those approved by MDT;
 - b. All existing and proposed utility easements on the subject property;
 - c. Any existing ditch/irrigation easements;
 - d. Mailbox locations and easements, if on-site;
 - e. Easements for fire protection facilities, if on-site;
 - f. Easements for stormwater conveyance and detention/retention ponds, if on-site;
9. The Book and Page reference to the restrictive covenants (filed with the Clerk and Recorder’s Office) shall be indicated on the face of the plat. In addition, restrictive covenants shall be placed upon the property and shall provide for the following: **(Mitigates Findings of Fact under all Review Criteria listed in the Staff Report)** (Section 76-3-608(3)(a), MCA; Chapters I-C and V, Broadwater County Subdivision Regulations)

- a. Notice is hereby given that all lots shall be used for Commercial/Industrial purposes only per the subdivision application. No residential dwelling unit for residential use shall be allowed. **(Mitigates Findings of Fact under “Compliance with Subdivision Regulations”)** (Chapter I-C and III-A, Broadwater County Subdivision Regulations);
- b. Notice is hereby given that each owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, waives the right to protest joining or the amendment of a Rural Improvements District for the installation, maintenance, preservation, and repair of the following: roads that provide access to the subdivision, stormwater improvements for the subdivision; fire protection improvements for the subdivision. **(Mitigates Findings of Fact under “Impacts on Roads and Traffic under Local Services”)** (Section 76-3-102(4), MCA; Chapter V-H-b, Broadwater County Subdivision Regulations)
- c. Notice is hereby given that each lot shall be maintained in a weed-free manner and a Noxious Weed and Revegetation Plan has been prepared for the subdivision and is on file with the Broadwater County Clerk & Recorder’s Office. **(Mitigates Findings of Fact under “Impacts on Agriculture, Impacts on Agricultural Water Users, Impacts on the Natural Environment, Impacts on Wildlife and Wildlife Habitat and Impacts on the Public Health and Safety”)** (Sections 76-3-102 and 608(3), MCA; Chapters I-C-9 and V-R, Broadwater County Subdivision Regulations)
- d. Notice is hereby given of the potential health risk from radon concentrations and that such risk can be evaluated through soil tests and mitigated through radon abatement techniques incorporated into structures. **(Mitigates Findings of Fact under “Impacts on Public Health and Safety”)** (Section 76-3-608(3)(a), MCA; Chapter I-C-10 and V-C, Broadwater County Subdivision Regulations)
- e. Notice is hereby given that all structures within the subdivision should be constructed to specifications which meet or exceed equivalent provisions in the applicable State building code for this seismic zone (Zone 3). **(Mitigates Findings of Fact under “Impacts on Public Health and Safety”)** (Section 76-3-608(3)(a), MCA; Chapters I-C-10 and V-B, Broadwater County Subdivision Regulations)
- f. Notice is hereby given of a restrictive covenant, binding the landowner, any heirs, successors and assigns, and all future owners of property within the subdivision, agreeing therein to hold Broadwater County harmless and indemnify Broadwater County from all claims, demands, obligations, suits, causes of action, damages, and liability, including the County’s costs and attorney’s fees, arising in any manner whatsoever out of, or relating to, the existence, use, operation, repair and/or maintenance of the following: **(Mitigates Findings of Fact under “Impacts on Public Health and Safety”)**(76-3-608(1) and (4), MCA; Chapter I-C-10, Broadwater County Subdivision Regulations)
 - i. Exposure to radon;
 - ii. Earthquake fault zone and any seismic activity; and
 - iii. Water availability
- g. Notice is hereby given of the presence of agricultural operations in the vicinity and such operations may occur at varying times and seasons and include, but are

not limited to, the noises and odors due to the operation of machinery, the pasturing and feeding of livestock, irrigation, and the application of fertilizers, herbicides, and pesticides to fields. **(Mitigates Findings of Fact under “Impacts on Agriculture and Impacts on Agricultural Water User Facilities”)** (section 76-3-608-(3)(a), MCA; Chapter III-A-7-b, Broadwater County Subdivision Regulations)

- h. Notice is hereby given that domestic pets should be restrained on the property at all times **(Mitigates Findings of Fact under “Impacts on Agriculture, Impacts on Agricultural Water User Facilities, Impacts on Wildlife and Wildlife Habitat”)** (Section 76-3-608(3)(a), MCA; Chapter I-C and III-A-7, Broadwater County Subdivision Regulations)
10. In cooperation with Broadwater County, the applicant shall create, or expand an existing, Rural Improvement District for the maintenance, preservation and repair of the internal subdivision roads. **(Mitigates Findings of Fact under “Impacts on Road and Traffic under Local Services”)** (Sections 7-11-1003, 76-3-102, 501, 504 and 608(3), MCA; Chapter V-H-b, Broadwater County Subdivision Regulations)
11. The applicant shall submit a signage plan for traffic control and street identification signs for the internal access roads to the Community Development Department for review and approval. All specifications and requirements of the approved plan shall be met at the cost of the applicant. **(Mitigates Findings of Fact under “Impacts on Roads and Traffic under Local Services”)** (Section 76-3-608, MCA; Chapters I-C and V-H-c-xi, Broadwater County Subdivision Regulations)
12. Prior to final plat approval the applicant shall:
- a. Provide proof that all real property taxes and special assessments assessed and levied on the property are paid for the current tax year; including any past delinquencies **(Mitigates Findings of Fact under “Compliance with the Subdivision Regulations”)** (Section 76-3-611(1)(b), MCA; Chapter III, Broadwater County Subdivision Regulations)
 - b. Provide documentation showing that the applicant is the lawful owner of the property with the apparent authority to subdivide the same and showing the names of lien holders or claimants of record **(Mitigates Findings of Fact under “Compliance with the Subdivision Regulations”)** (Section 76-3-612, MCA; Chapter III, Broadwater County Subdivision Regulations)

This preliminary approval shall be in force for three (3) calendar years. At the end of this approval period, the Board of County Commissioners may, at the written request of the applicant, extend its approval if that approval period is included as a specific condition of a written agreement between the Board of County Commissioners and the applicant. **(Mitigates Findings of Fact under “Compliance with the Subdivision Regulations”)**

GENERAL INFORMATION:

Statutory Timeframes:

Date Application Submitted: November 2, 2022

Date Application Deemed Complete: February 15, 2023

Date Application Deemed Sufficient: March 9, 2023

Date Review Period Ends: June 2, 2023

DATED this _____ day of May, 2023

BROADWATER COUNTY COMMISSION

ATTEST:

Debi Randolph, Chairperson

Angie Paulsen, Clerk & Recorder

Darrel Folkvord

Lindsey Richtmyer