

Findings of Fact and Order REPORT

HEADWATERS SUBSEQUENT MINOR SUBDIVISION

Preliminary Plat Dated 2/22/22

To: Broadwater County Commissioners
From: Broadwater County Planning Board
Subject: A proposed subdivision to be known as **Headwaters Subsequent Minor Subdivision**

GENERAL INFORMATION

Date of Application: March 23, 2022
Date of Sufficiency: July 1, 2022
Review Period Ends: September 28, 2022*Subsequent Public Hearing required
*November 28, 2022

APPLICANT: NMC, Inc.
Jerry Olsen
25 Wheatland Road
Three Forks, MT 59752

APPLICANT'S REPRESENTATIVE: Tom Henesh
5530 Burnt Road
Belgrade, MT 59714

LEGAL DESCRIPTION: Situated in a portion of the NE ¼ of Section 16, Township 2 North, Range 1 East, Broadwater County, Montana

GENERAL LOCATION: The proposed subdivision is situated off of Stockyard Loop, approximately one and one-quarter (1.25) miles north of the I-90/Highway 287 interchange.

I. EXECUTIVE SUMMARY:

The developer intends to create five (5) lots from an existing 54-acre parcel. The minimum lot size proposed is 2.79 acres and the maximum lot size proposed is 39 acres. Water and wastewater services will be provided via individual septic and well. The four (4) lots less than twenty (20) acres in size will be required to undergo review and approval through DEQ and the one (1) parcel greater than twenty (20) acres in size will undergo review by the Broadwater County Environmental Health Department. Fire protection will be provided by the Three Forks Fire District. Access will be provided onto Wheatland Road via the internal subdivision road Stockyard Loop.

II. REQUEST:

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

III. STAFF RECOMMENDATION:

Staff recommends APPROVAL of the proposed 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 off of Stockyard Loop in the NE ¼ of Section 16, T2N, R1E, P.M.M., Broadwater County, Montana.

V. EXISTING DEVELOPMENT AND USES:

The property is generally flat unirrigated land and has previously been used as vacant land owned by the Headwaters Livestock.

VI. ADJACENT LAND USES:

North: Commercial

South: Agricultural

East: Commercial

West: Agricultural

VII. PUBLIC COMMENT:

As of August 23, 2022, the Community Development and Planning Department has not received any public comment. The Public Hearing is scheduled with the Broadwater County Planning Board on August 24, 2022.

VIII. PROJECT BACKGROUND

Water is proposed to be provided via individual wells. Lots C-1-A, C-1-B, C-1-C and C-1-D are subject to review and approval by the Montana Department of Environmental Quality (DEQ), and the Lot C-1-E is subject to review by the Broadwater County Environmental Health Office.

Wastewater treatment for the proposed development is proposed to be provided via individual septic systems. Lots C-1-A, C-1-B, C-1-C and C-1-D are subject to review and approval by the Montana Department of Environmental Quality (DEQ), and the Lot C-1-E is subject to review by the Broadwater County Environmental Health Office.

The Applicant is proposing to use the fire fill pond, located on the proposed development property, for fire protection. The Three Forks Rural Fire District will provide fire protection services to this development.

Access will be off of Stockyard Loop connecting to Wheatland Road, which is a county road.

IX. STAFF ANALYSIS

Compliance:

The proposed subdivision is in compliance with the Broadwater County Subdivision

Regulations.

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 associated 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 8-b, and 9-g 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 individual septic systems and wells. Lots C-1-A, C-1-B, C-1-C and C-1-D are subject to review and approval by MT Department of Environmental Quality and Lot C-1-E is subject to review by 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 constructions 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 there are no known water quality issues in the surrounding groundwater wells.

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 domestic well locations will be reviewed and approved by the appropriate agencies prior to installation.

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 individual septic systems, will be approved by the DEQ and the Broadwater County Environmental Health Office prior to installation.

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, or the homeowners can choose to haul their own solid waste to the Logan Landfill.

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 Numbers 7 and 8-c are 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.

Utilities will be made available and abutting to each lot prior to final plat approval.

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, CenturyLink and Spectrum.

Condition of Approval Number 8-a 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.

The internal subdivision road was previously constructed to a #1 Local Road Standard. Based on the Headwaters Subdivision Traffic Review Addendum, this development is anticipated to produce an additional 280 vehicle trips per day which may require paving to the internal subdivision access road per the Broadwater County Subdivision Road Standard indicated necessary by the developer's Traffic Impact Analysis. According to the August 24, 2022 Headwaters Subdivision Traffic Review Addendum there will be an anticipated 560 daily overall trips on the subject property subdivision roads.

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 Wheatland Road. According to the Headwaters Subdivision Traffic Review Addendum, the current traffic counts average 827 vehicle trips per day on Wheatland Road. With the addition of an anticipated 280 vehicle trips per day, the current level of construction of Wheatland Road as a #2 Local Road is satisfactory.

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; or the developer shall have the option of establishing a Property Owners' Association or Road Users Agreement per the Broadwater County Subdivision Regulations.

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 loop road style system is already created for this development. The roads will still need to be certified as meeting County Subdivision Road Standards by a professional engineer. The August 24, 2022 Headwaters Traffic Review Addendum performed by Abelin Traffic Services, states that the anticipated ADT for the Headwaters Subsequent Minor Subdivision will be approximately 280 vehicle trips per day.

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 this subdivision have already been approved by the filing of the previous subdivision, Headwaters Minor Subdivision.

Conditions of Approval Numbers 4, 6, 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. However, since this a commercial subdivision no school age children will be added to the school district.

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 Fire Pond located on the Headwaters Livestock property, which is lot C-1-E of this proposed development.

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. The Three Forks Rural Fire District responded on February 22, 2022 stating that the TFFD acknowledges that there is an existing fire fill station located in the vicinity of this development.

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.

According to 76-3-621, MCA a park dedication may not be required for (a) subdivision into parcels that are all nonresidential.

No Conditions of Approval are required to mitigate any impacts to parkland 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 part of an existing subdivision, impacts to wildlife should be minimal.

Conditions of Approval Number 9-h is 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 part of an existing subdivision, the impacts to wildlife habitat should be minimal.

Conditions of Approval Number 9-h is 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 voltage lines or high pressure gas lines are approximate to this proposed development. There is no threat of severe toxic waste exposure or high potential for wildfire. A fire plan has been created in collaboration with the Three Forks Fire District.

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. However, Item #37 of the Subdivision Application and Preliminary Plat Submittal checklist was not included in the preliminary plat application. Item #37 states, '*If proposing a first minor subdivision, or a subsequent minor subdivision, a copy of each instrument of transfer for the parcel or tract pertaining to the subject parcel filed or recorded since July 1, 1973. The instruments of transfer include but not limited to deed(s), certificate of survey(s) or subdivision plat(s)*'. Therefore, this item must be provided prior to final plat approval.

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-a is 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. Prior to final plat approval the developer shall provide written confirmation from all landowners along the subdivision road Stockyard Loop, that they approve of the use of this road for the subsequent subdivision.

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 meet current 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, 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.

HEADWATERS SUBSEQUENT MINOR SUBDIVISION

CONDITIONS OF APPROVAL

OCTOBER 20, 2022

On October 20, 2022, the Broadwater County Planning Board held a public meeting regarding the proposed Headwaters Subsequent Minor Subdivision located in a portion of the NE ¼ of 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. Prior to final plat approval, the subdivider shall demonstrate that each lot within the proposed subdivision abuts a public road or has obtained adequate and appropriate easements across all necessary properties, from a public road to each lot in the subdivision, whether a road has been constructed on that property and has dedicated the easement or private road for public use or for the use of the subdivision. **(Mitigates Findings of Fact under “The provision of legal and physical access to each parcel within the proposed subdivision”)** (Chapter V-H and Definitions – 1, Broadwater County Subdivision Regulations)
5. A copy of each instrument of transfer for the parcel filed or recorded since July 1, 1973. The instruments of transfer include deed(s), certificates of survey(s) and subdivision plat(s). **(Mitigates Findings of Fact under “Compliance with Subdivision Regulations”)** (Chapter II-A, Broadwater County Subdivision Regulations)
6. The applicant shall complete the following for 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. 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)
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. All existing and proposed utility easements on the subject property;
 - b. Any existing ditch/irrigation easements;
 - c. Mailbox locations and easements, if on-site;
 - d. Easements for fire protection facilities, if on-site;
 - e. 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 **(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 or establish a Property Owners’ Association or a Road User Agreement which provides for the maintenance of the internal subdivision road network. **(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”)**

REFERRAL AGENCY COMMENTS:

Requests for comments were sent by the applicant to the following agencies:

- Three Forks Post Office
- Broadwater County Weed Control District
- Spectrum
- Broadwater County Sheriff’s Department
- Three Forks High School
- Broadwater County Road & Bridge Department
- Republic Services

Broadwater County Planning Department
Northwest Energy
State Historic Preservation Office
Montana Opticom
MT Department of Fish, Wildlife & Parks
L&L Site Services
Broadwater County Environmental Health Department
Three Forks Volunteer Fire Department
Department of Natural Resources & Conservation
CenturyLink
American Medical Response
Three Forks Ambulance
MT Department of Environmental Quality

GENERAL INFORMATION:

Statutory Timeframes:

Date Application Submitted: March 23, 2022
Date Application Deemed Complete: April 27, 2022
Date Application Deemed Sufficient: July 1, 2022
Date Review Period Ends: September 28, 2022
*Subsequent Public Hearing: October 20, 2022
*Revised Review Period Ends: November 28, 2022

DATED this _____ day of _____, 2022

BROADWATER COUNTY COMMISSION

ATTEST:

Darrel Folkvord, Chairperson

Angie Paulsen, Clerk & Recorder

Michael Delger

Debi Randolph

Findings of Fact
and Order Report
Preliminary Plat
Dated 5/19/2022

THE MEADOWS 3 SUBSEQUENT MINOR
SUBDIVISION Preliminary Plat

To: Broadwater County Commissioners
From: Broadwater County Planning Board
Subject: A proposed subdivision to be known as **The Meadows III Subsequent Minor Subdivision**

GENERAL INFORMATION

Date of Application: May 19, 2022
Element Complete: May 26, 2022
Date of Sufficiency: September 7, 2022
Planning Board Hearing: November 1, 2022
Review Period Ends: December 6, 2022

SUBDIVIDER: MT 4D Properties, LLC
1515 Skinner Rd
Belgrade, MT 59714

SUBDIVIDER'S REPRESENTATIVE: Bernadette Swenson
218 Broadway
Townsend, MT 59644

LEGAL DESCRIPTION: Situated in Section 22, Township 7 North, Range 2
East, Broadwater County, Montana

GENERAL LOCATION: The proposed subdivision is located off MT Highway 284,
approximately three and one half (3.5) miles northeast of
Townsend, Montana.

I. EXECUTIVE SUMMARY

The Subdivider intends to create three (3) lots from an existing 65.32-acre parcel. Lots range in size from 21.03 to 23.06 acres. All lots are being submitted for review as residential lots. Wastewater will be provided via individual on-site wastewater treatment systems for each lot. Water will be provided to each lot via individual on-site wells. Access will be provided from MT Highway 284 via a proposed internal road cul de sac. The required preliminary review fee of \$2,100.00 has been paid.

II. REQUEST

Approval of the 3-lot Subsequent Minor Subdivision for 3 single-family homes.

III. STAFF RECOMMENDATION

Staff recommends APPROVAL of the proposed Meadows III 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 off MT Highway 284 approximately 3.5 miles northeast of the City of Townsend.

V. EXISTING DEVELOPMENT AND USES

The property is currently a vacant subdivision lot. Historically, the property has been irrigated and farmed.

VI. ADJACENT LAND USES

North: Agricultural
South: Residential subdivision
East: Agricultural
West: Agricultural

VII. PUBLIC COMMENT

Public Comment will be taken at the November 1, 2022 public hearing and subsequent Planning Board Regular Business Meeting and Commissioner Meeting(s).

VIII. PROJECT BACKGROUND

This project is a subsequent minor subdivision. The parcel was originally created as Lot 22 of the previously approved Meadows Major Subdivision. It became Amended Lot 22 because of a Boundary Relocation with Lot 20 and Lot 21.

IX. STAFF ANALYSIS

Review is performed pursuant to the Montana Subdivision and Platting Act, Title 76, Chapter 3, Montana Codes Annotated, the 2021 Broadwater County Subdivision Regulations and the 2020 Broadwater County Growth Policy. The proposed preliminary plat, Meadows 3 Subsequent Minor Subdivision, as submitted by the Subdivider, together with the required supplementary plans and information, appear to satisfy the requirements of these regulations and comply with the Broadwater County Growth Policy, with the suggested mitigating conditions.

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; 4. Natural Environment; 5. Wildlife and Wildlife Habitat; 6. Public Health and Safety; 7. Compliance with the County's Subdivision Regulations; 8. Compliance with Survey Requirements; 9. The provision of easements within and to the proposed subdivision for the location and installation of any planned utilities; and 10. A provision for providing legal and physical access to each parcel within the proposed subdivision.

FINDINGS OF FACT AND CONCLUSIONS:

A. IMPACTS ON AGRICULTURE:

1. **DEFINITION OF AGRICULTURE:** Farming or ranching include the cultivation or tilling of the soil, the production, cultivation growing, harvesting of agricultural or horticultural commodities that are on site, such as food, feed, and fiber, the raising of livestock and poultry, bees, biological control insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops, and including timberlands and forest lands. *Broadwater County Subdivision Regulations, Definition 3.*
2. **NARRATIVE:** According to the preliminary plat application, 90% of this property is considered prime farmland if irrigated. However, no irrigation water rights are being conveyed with these subdivision lots. The water right currently used to irrigate this property is being retained by the subdivider.
3. **FINDING:** This proposed subdivision could have an effect on agricultural productivity since the land is being removed from agriculture. However, the subdivision should not have impacts on neighboring agricultural properties due to the proximity to adjacent subdivided lands and the relatively large size of the parcels being proposed.

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 associated infrastructure, which could negatively affect agriculture.

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 9, 11-c, 11-g, 11-h and 12 are required to mitigate impacts on agriculture. (A full list of the Conditions of Approval is found starting on page number 11)

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.

B. IMPACTS ON AGRICULTURAL WATER USER FACILITIES:

1. DEFINITION OF AGRICULTURAL WATER USER FACILITIES: Those facilities which provide water for irrigation or stock watering to agricultural lands to produce agricultural products. Any part of an irrigation system historically used to produce an agricultural product on property used for agricultural purposes. These facilities include, but are not limited to, ditches, head gates, pipes and other water conveying facilities. *Broadwater County Subdivision Regulations, Definition 5.*
2. NARRATIVE: The proposed subdivision will create three residential lots between 21.03 and 23.06 acres.
3. FINDINGS: The proposed subdivision property does have a forty (40) foot wide existing waterline easement along the southern boundary of the parcel. The Broadwater-Missouri Canal is adjacent to the east boundary, but is not a part of this subdivision (*Source: Environment Assessment*)

Conditions of Approval Numbers 11-c, 11-g, 11-h and 12 are required to mitigate impacts on agricultural water user facilities. (A full list of the Conditions of Approval is found starting on page number 11)

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.

C. IMPACTS ON LOCAL SERVICES:

1. DEFINITION OF LOCAL SERVICES: All services or facilities local government is authorized to provide that benefit their citizens, such as water supply, sewage disposal, law enforcement, fire protection, emergency services, transportation system, educational system, noxious weed control, as well as services that local government does not provide such as power, telephone, state highways, etc. *Broadwater County Subdivision Regulations, Definition 34.*
2. NARRATIVE: The proposed subdivision will be accessed from a newly constructed subdivision access road via the existing MT Highway 284. It is within the jurisdiction of the Broadwater County Sheriff's Office as well as the Townsend School System. Fire protection will be offered by the Broadwater County Rural Fire District.
3. FINDINGS:
 - a. SOLID WASTE:
Individual lot owners will haul their solid waste to Broadwater Solid Waste Canister either in Townsend or at Dry Gulch. Subdivision residents will have the option of hiring an independent contractor to pick up their solid waste or transport it themselves.

(Source: Environmental Assessment)

b. MAIL DELIVERY:

It is anticipated that mail will be delivered by the United States Postal Service and plans for any mail receptacles on-site are subject to review and approval by the Townsend Post Office. *(Source: Environmental Assessment)*

c. UTILITIES:

It is anticipated that Vigilante Electric provide electrical service to the proposed subdivision. Future dry utilities are anticipated to be installed underground. *(Source: Environment Assessment)*

d. ROADS AND TRAFFIC:

No transportation plan has been officially adopted for this area. One road within the proposed subdivision intersects with MT Highway 284, a state highway. The proposed development is not anticipated to cause a significant impact to the highway.

The estimated Average Daily Trips (ADT) for three (3) residential lots is twenty-four (24) ADT. The internal subdivision road will be required to be built to a #1 Local Road Standard. This standard requires a minimum road width of twenty-four (24) feet and the road must consist of 6” of base material covered with 3” of crushed top surface. The internal road should be dedicated to public use and must be maintained by a property owners’ association or a road maintenance agreement, binding on each lot owner in perpetuity.

Road name for the internal subdivision road must be submitted to the County Address Coordinator for review and approval, and the road name shall be shown on the final plat and all other documents of the proposed subdivision. A signing plan for traffic control and street identification signs must be submitted to the County Public Works Department for review and approval and all signs installed in accordance with the approved plans.

A Rural Improvement District or Special District or Property Owners Association or a Road User Agreement should be set up to assist in funding on-going road maintenance within the proposed subdivision.

e. SCHOOLS:

The proposed subdivision is served by the Townsend Schools and the subdivision could potentially produce 5 students. The potential for new students from this development could have an impact on existing bus routes which may need to be altered once the subdivision is at full build-out. A letter was sent to Townsend Schools, but to date a response has not been received.. *(Source: Environmental Assessment; Application for Preliminary Plat, Affected Agencies Correspondence)*

f. EMERGENCY SERVICES:

The proposed subdivision is within the Broadwater Sheriff Department's jurisdiction. Due the rural nature of this subdivision, response times for emergency services could be longer than expected. (*Source: Environmental Assessment; Application for Preliminary Plat, Agencies Correspondence, Email from Wynn Meehan Dated March 1, 2022*)

g. FIRE SERVICES

The proposed subdivision is located within the Broadwater Rural Fire District. The nearest firehouse is Townsend Fire Hall, an unmanned, volunteer fire house. The Subdivider will need to propose a fire protection plan for review and approval by the Broadwater Rural Fire District. (*Source: Environmental Assessment; Application for Preliminary Plat, Affected Agencies Correspondence*)

Conditions of Approval Numbers 2, 4, 5, 7, 8, 10, 11-b and 14 are required to mitigate impacts on local services. (A full list of the Conditions of Approval is found starting on page number 11)

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

D. IMPACTS ON THE NATURAL ENVIRONMENT

1. DEFINITION OF NATURAL ENVIRONMENT: The natural environment is defined as the physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, sound, light, and objects of historic and aesthetic significance. *Broadwater County Subdivision Regulations, Definition 47.*
2. NARRATIVE: According to the preliminary plat application none of the property consists of slopes in excess of 15% grade. Each lot will have buildable areas with slopes less than 15%. No rock outcroppings were identified by the Subdivider's representative. The property is currently planted for hay production. There are no marsh, shrub or forestlands located on the property. There are sparse trees and vegetation cover. The proposed subdivision is outside of the FEMA mapped 100-year floodplain.
3. FINDINGS: The property is located within the Intermountain Seismic Belt that extends through western Montana and frequently produces small earthquakes and has previously developed some major earthquakes. Property damage and risk can be minimized with construction techniques and earthquake planning.

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.

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 the Environmental Health Officer.

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. No critical plant species have been identified. Existing vegetation will only be disturbed for necessary construction of roads, driveways, utilities and structures. Any construction disturbance will be reseeded with an approved grass seed mix. A Weed Management Plan has been approved by the Broadwater County Noxious Weed District to control and prevent the growth of noxious weeds. The Subdivider will be responsible for adhering to the Weed Management Plan until all lots are sold or the responsibility is turned over to a homeowners' association. (*Source: Environmental Assessment; Application for Preliminary Plat: Item 28—Weed Management Plan*).

A letter was received from the Montana Historical Society (MHS) on February 10, 2006 for The Meadows Major Subdivision, to determine if there are any known historical, cultural or archaeological sites which may be affected by the proposed development. According to Damon Murdo, MHS Cultural Records Manager, there have not been any previously recorded sites within the designated area. (*Source: Environmental Assessment, June 2021; Application for Preliminary Plat: Item - 32, Letter from Damon Murdo dated February 10, 2006*)

Conditions of Approval Numbers 9, 11-c and 13 are required to mitigate impacts on the natural environment. (A full list of the Conditions of Approval is found starting on page number 11)

CONCLUSION: The impacts on 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

E. IMPACT ON WILDLIFE AND WILDLIFE HABITAT

1. DEFINITION OF WILDLIFE AND WILDLIFE HABITAT: Those animals that are not domesticated or tamed, or as may be defined in a Growth Policy; and The place or area where wildlife naturally lives or travels through. *Broadwater County Subdivision Regulations, Definitions 84 and 85.*
2. NARRATIVE: Wildlife such as antelope, mule deer, white-tailed deer, upland game birds, other small birds, rabbits and other rodents occasionally utilize the proposed subdivision. However, there should be no displacement of wildlife since the surrounding area is residential and plowed fields, not conducive to permanent wildlife habitat (*Source: Environmental Assessment*)
3. FINDINGS: The impacts on wildlife habitat will be negligible based upon the surrounding uses. Landowners are encouraged to install wildlife friendly fencing, contain domestic animals, and secure solid waste to reduce wildlife incidents whenever possible. (*Source: Environmental Assessment*)

Conditions of Approval Number 11-c and 11-h are required to mitigate impacts on wildlife habitat. (A full list of the Conditions of Approval is found starting on page number 11)

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.

F. IMPACT ON PUBLIC HEALTH AND SAFETY:

1. DEFINITION OF PUBLIC HEALTH AND SAFETY: The prevailing healthful, sanitary condition of well-being for the community at large. Conditions that relate to public health and safety include but are not limited to disease control and prevention; emergency services; environmental health; flooding, fire or wildfire hazards, rock falls or landslides, unstable soils, steep slopes, and other natural hazards; high voltage lines or high pressure gas lines; and air or vehicular traffic safety hazards. *Broadwater County Subdivision Regulations, Definition 59.*
2. NARRATIVE: The proposed subdivision will be served by on-site wells. Each lot will have its own wastewater system and well as stormwater pond. The Broadwater-Missouri Canal traverses this subdivision along the exterior of the eastern boundary.
3. FINDINGS:
 - a. WATER SUPPLY:
The proposed subdivision is not within the service area of a public water system. The proposed lots will be served by individual on-site water wells, drilled into each lot,

according to the Preliminary Plat Application. Each lot will have an estimated total domestic volume of use of 10-acre feet/year. The use of these exempt wells is subject to review and approval by the DNRC and DEQ. (*Source: Application for Preliminary Plat: Item – 30, Sanitation Requirements*)

Well Log data in the vicinity of the subdivision was provided in the preliminary plat application. Average depth of the wells is one-hundred twenty-one (121) feet deep and static water level averages sixty-two (62) feet. Yield average is twenty-eight (28) gallons per minute. (*Source: Application for Preliminary Plat: Item – 30, Sanitation Requirements, Well Logs*)

b. WASTEWATER

Wastewater for the proposed subdivision will be provided by the use of individual on-site wastewater treatment systems (septic/drain fields). The Environmental Health Office will review and issue approval for the lots for adequacy and impact of the wastewater systems on groundwater quality and will issue a determination of non-significant impacts in a Certificate of Subdivision Approval. (*Source: Application for Preliminary Plat: Item – 30, Sanitation Requirements*)

c. STORMWATER

A stormwater retention plan will be created with concurrence by the Environmental Health Office prior to final plat approval.

Conditions of Approval Numbers 8, 11-c, 10-d, 10-e and 10-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 11)

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.

G. COMPLIANCE WITH SUBDIVISION REGULATIONS

1. **FINDINGS:** The proposed subdivision meets all Subdivision Regulations, and it will remain in compliance with these regulations if all conditions of approval are satisfied. No variances have been requested.

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 11)

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.

H. COMPLIANCE WITH SURVEY REQUIREMENTS

1. FINDINGS: A land survey and plat completed by a registered land surveyor in the state of Montana will need to be prepared. A review of the plat by the Community Development Department and the Examining Land Surveyor at the time of final plat application will ensure that the plat conforms to all conditions of approval, plat rules and regulations.

Condition of Approval numbers 3 and 10 are required to address compliance with survey requirements. (A full list of the Conditions of Approval is found starting on page number 11)

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

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

1. FINDINGS: Utility easements will have to be shown and described on the 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.

Condition of Approval number 10 is 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 11)

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 Conditions of Approval, based upon the record, when satisfactorily completed.

J. PROVISION OF LEGAL AND PHYSICAL ACCESS TO EACH PARCEL WITHIN SUBDIVISION

1. FINDINGS: Legal and physical access to the subdivision is provided via MT Highway 284. The road within the subdivision will have to be dedicated to the public and shown on the final plat as a public access easement.

A condition of approval will require the Subdivider to apply for an approach permit for the road accessing onto the existing State Highway.

Conditions of Approval Numbers 5, 6 and 10 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 11)

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.

IX. RECOMMENDED CONDITIONS

The Meadows III Subsequent Minor Subdivision is recommended for approval with the following conditions:

1. Any and all adopted State and County requirements and standards which apply to this proposed subdivision must be met unless otherwise waived for cause by the governing body. (**Mitigates Findings of Fact under “Compliance with Subdivision Regulations”**) (*Section 76-3-608, MCA; Chapter I, County Subdivision Regulations.*)
2. Plans for sewage treatment and water supply shall be submitted to the Broadwater County Environmental Health Department for review and approval. The Certificate of Subdivision Approval shall be filed with the final plat. All specifications in the approved plans shall be met. (**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), 501(1)(f)(iii), and 608(3)(a), MCA; Chapters IV-A. 9 and IV-A. 10., County Subdivision Regulations*)
3. The Subdivider will be required to submit the preliminary and final plat drawings in electronic format to Broadwater County in ARCGIS, AutoCAD or Microstation format. Additional materials may be requested by the County in electronic format to facilitate review of application materials. (**Mitigates Findings of Fact under “Compliance with Survey Requirements”**) (*Chapter II and Appendix Q, County Subdivision Regulations*)
4. Plans for the location and installation of individual mailboxes shall be reviewed and approved by the United States Postal Service prior to installation. The Subdivider shall submit documentation from the United States Postal Service verifying their review and approval. When required, Subdivider shall provide an off-street area for mail delivery. The Subdivider, its successors and assigns 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), 76-3-501(1), and 76-3-608(3)(a)-(b); Chapter IV-A-7 b. 8, County Subdivision Regulations.*)
5. The internal subdivision road must be designed in accordance with the Broadwater County Subdivision Road Standards, stamped by a Professional Engineer, and submitted to the County Planning Department for review and approval. A letter from the P.E. shall be provided to the County stating that the road and any improvements have been constructed in accordance with the approved plans and specifications and that they have completed an inspection of the road and any

improvements. **(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”)** (*Chapter IV-A-7 and Appendix N, County Subdivision Regulations.*)

6. Prior to any development, an Approach Permit shall be requested from the MT Department of Transportation for the access point off State Highway 284. All requirements of the approved permit shall be met. **(Mitigates Findings of Fact under “The Provision of Legal and Physical Access to each parcel within the proposed subdivision”)** (*Sections 76-3-102(3)-(4), 76-3-501(1) and 76-3-608(3)(d), MCA; Appendix O County Subdivision Regulations*)

7. The internal access road shall be given unique road name that is reviewed and approved by the County Community Development Department. The name of the internal access road shall be shown on the face of the final plat and reflected in all documents of the subdivision (covenants, road easements, etc.). **(Mitigates Findings of Fact under “Impacts on Roads and Traffic under Local Services”)** (*Sections 76-3-102, 402, 501, 504, and 608(3), MCA; Rule 24.183.1107, ARM; Chapter II-F County Subdivision Regulations*)

8. 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 Broadwater County Rural 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*)

9. 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*)

10. The final plat shall be prepared in accordance with the applicable State survey requirements, Montana Subdivision and Platting Act survey requirements and the County Subdivision Regulations. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. The final plat shall provide for 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”) (Section 76-3-102, 76-3-402, 76-3-501, 76-3-504, and 76-3-608(3), MCA; Rule 24.183.1107, ARM; Chapter II-F, County Subdivision Regulations)

- a. All existing and proposed utility easements on the subject property,;
- b. All existing access and utility easements adjacent to the subject property; and
- c. Adjacent and proposed County Road and utility easements.

11. The Book and Page reference to the restrictive covenants (filed with the County Clerk and Recorder) shall be indicated on the face of the final plat for each phase. In addition, restrictive covenants, revocable or alterable only with the consent of the Board of County Commissioners, 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 and IV, County Subdivision Regulations)

- a. Notice is hereby given that all lots shall be used for Residential purposes only per the subdivision application **(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)
- i. Notice is hereby given that lots shall only allow for livestock if a small acreage livestock management plan is reviewed and approved by the County Extension Agent. Each lot owner shall be required to create and adhere to their own livestock management plan. (Section 76-3-608(3)(a) and Broadwater County Subdivision Regulations)

12. The Subdivider shall include a notarized "Right to Farm" declaration with final plat affirming that "No agricultural or farming operation, place, establishment or facility or any of its appurtenances or the operation thereof is or becomes a public or private nuisance because of the normal operations thereof as a result of changed residential or commercial conditions in or around it locality of the agricultural or farming operation, place, establishment or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation." **(Mitigates Findings of Fact under "Impacts on Agriculture, Impacts on Agricultural Water User Facilities)** (Section 27-30-101, MCA and Chapter IV-A 20, County Subdivision Regulations.)

13. Prior to submitting the final plat for each phase, the following improvements shall be installed or otherwise guaranteed. **(Mitigates Findings of Fact under “Impacts on Utilities, Roads and Traffic, Mail Delivery, the Natural Environment and Public Health and Safety)** (Sections 76-3-507 and 76-3-608(3)(a), MCA and Chapter IV-A, County Subdivision Regulations)

- a. Any necessary improvements required by the stormwater drainage plan, weed management plan, fire protection plan, or approach permits;
- b. Installation of mail delivery facilities; and
- c. Utilities abutting and available to each lot.

14. The applicant shall submit a signage plan for traffic control and street identification signs for the internal access road 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)

15. 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 road or establish a Property Owners’ Association or a Road User Agreement which provides for the maintenance of the internal subdivision road network. **(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)

16. 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)

REFERRAL AGENCY COMMENTS:

Requests for comments were sent by the applicant to the following agencies:

- Townsend Post Office
- Broadwater County Weed Control District
- Broadwater County Sheriff's Department
- Townsend Schools
- Vigilante Electric Cooperative
- State Historic Preservation Office
- Broadwater County Environmental Health Department
- Broadwater County Rural Fire Department
- Billings Clinic Broadwater Ambulance Service

DATED this _____ day of _____, 2022

BROADWATER COUNTY COMMISSION

ATTEST:

Darrel Folkvord, Chairperson

Angie Paulsen, Clerk & Recorder

Michael Delger

Debi Randolph