

**STAFF
REPORT**

Preliminary Plat
Dated 7/27/2022

**THE QUIET LOT 8 SUBSEQUENT MINOR
SUBDIVISION Preliminary Plat**

To: Broadwater County Planning Board
From: Nichole Brown, Broadwater County Community Development Director
Subject: A proposed subdivision to be known as **The Quiet Lot 8 Subsequent Minor Subdivision**

GENERAL INFORMATION

Date of Application: July 27, 2022
Element Complete: September 22, 2022
Date of Sufficiency: December 19, 2022
Planning Board Hearing: February 7, 2023
Review Period Ends: March 17, 2023

SUBDIVIDER: Gary and Flora Bay
P.O. Box 11858
Bozeman, MT 59719

LEGAL DESCRIPTION: Situated in Section 13, Township 2 North, Range 1 East, Broadwater County, Montana

GENERAL LOCATION: The proposed subdivision is located off Eustis Road, approximately five and one quarter (5.25) miles northeast of Hwy 287/I-90 interchange.

I. EXECUTIVE SUMMARY

The Subdivider intends to create two (2) lots from an existing 9.63-acre parcel. Lots range in size from 4.64 to 4.99 acres. Both lots are being submitted for review as residential lots. There is an existing house on Lot 8A. Wastewater will be provided via individual on-site wastewater treatment systems for both lots. Water will be provided to each lot via individual on-site wells. Lot 8A has an existing approved on-site wastewater treatment system and well. Access will be provided from Eustis Road, which is a county road. The required preliminary review fee of \$1700.00 has been paid.

II. REQUEST

Approval of the 2-lot Subsequent Minor Subdivision for 2 single-family homes.

III. STAFF RECOMMENDATION

Staff recommends APPROVAL of the proposed Quiet Lot 8 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 Eustis Road approximately 5.25 miles northeast of the US Highway 287/I-90 interchange.

V. EXISTING DEVELOPMENT AND USES

The property is currently an occupied subdivision lot. This proposed subdivision is a subsequent division of Lot 8 of the Quiet Major Subdivision.

VI. ADJACENT LAND USES

Lands to the north and south are subdivision lots. Lands to the east and west are agricultural lands.

VII. PUBLIC COMMENT

Public Comment will be taken at the February 7, 2023 public hearing and subsequent Planning Board Regular Business Meeting and Commissioner Meeting(s).

VIII. PROJECT BACKGROUND

This project is considered a subsequent minor subdivision according to the Broadwater County Subdivision Regulations Section III-B. The parcel was originally created as Lot 8 of the previously approved Quiet Major Subdivision. That subdivision received final approval for twenty-four (24) lots.

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, Quiet Lot 8 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, none of this property is considered prime farmland even if irrigated. Currently the property is part of an existing subdivision and the use will remain the same.
3. **FINDING:** This proposed subdivision will not have an effect on agricultural productivity since none of the land is being removed from agriculture. Moreover, the subdivision should not have impacts on any neighboring agricultural properties due to the proximity to adjacent subdivided lands.

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 7, 9-c, 9-g, 9-h and 10 are required to mitigate impacts on agriculture. (A full list of the Conditions of Approval is found starting on page number 10)

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 one additional residential lot.
3. FINDINGS: The proposed subdivision property does not have any irrigation ditches, canals or other agricultural water user facilities on the parcel. (*Source: Environment Assessment*)

Conditions of Approval Numbers 9-c, 9-g, 9-h and 10 are required to mitigate impacts on agricultural water user facilities. (A full list of the Conditions of Approval is found starting on page number 10)

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 an existing county road, Eustis Road. It is within the jurisdiction of the Broadwater County Sheriff's Office and the Three Forks School District. Fire protection will be offered by the Three Forks Fire District.
3. FINDINGS:
 - a. SOLID WASTE:
Individual lot owners will haul their solid waste to the Logan Landfill or they will have the option of hiring an independent contractor to pick up their solid waste. (*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 Three Forks Post Office. (Source: *Environmental Assessment*)

c. UTILITIES:

It is anticipated that NorthWestern Energy will 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. There are no roads being constructed within the proposed subdivision. The proposed development is not anticipated to cause a significant impact to the roadways.

The estimated Average Daily Trips (ADT) for two (2) residential lots is sixteen (16) ADT. A Traffic Impact Study (TIS) has been prepared for this proposed subdivision and is included in the preliminary plat application as Item #25. According to the TIS it is not anticipated that this proposed development will cause any roadway capacity problems. No roadway improvements are recommended. However, it may desirable for a 'Stop Ahead' sign to be placed on Eustis Road for southbound traffic as there have been previous vehicle crashes at the Eustis Road and Old Town Road intersection.

e. SCHOOLS:

The proposed subdivision is served by the Three Forks School District and the subdivision could potentially produce 3 students. The potential for new students from this development should not have an impact on existing bus routes which may need to be altered once the subdivision is at full build-out. (Source: *Environmental Assessment; Application for Preliminary Plat*)

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*)

g. FIRE SERVICES

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

Conditions of Approval Numbers 3, 4, 5, 6, 9-b and 11 are required to mitigate impacts on local services. (A full list of the Conditions of Approval is found starting on page number 10)

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 each lot will have buildable areas with slopes less than 15%. No rock outcroppings were identified by the Subdivider's representative. 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. A sixty (60) foot wide ravine and drainage easement is shown on the preliminary plat crossing Lot 8B and following the south boundary of Lot 8A. The one additional homesite will be located well away from the drainage easement.
3. **FINDINGS:** Future lot owners will need to adhere to the sixty (60) foot No Build Zone requirements and install appropriate size culverts if necessary.

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 MT Department of Environmental Quality.

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 April 8, 2022, 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: *Application for Preliminary Plat: Item - 31, Letter from Damon Murdo dated April 5, 2022*)

Conditions of Approval Numbers 7, 9-c and 11 are required to mitigate impacts on the natural environment. (A full list of the Conditions of Approval is found starting on page number 10)

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 deer, rabbits, other rodents and birds occasionally utilize the proposed subdivision. However, there should be no displacement of wildlife since the surrounding area is residential and only one new residence is being added. (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 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 10)

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. A sixty (60) foot wide ravine and drainage easement travels northwest to southeast along the western portion of Lot 8B and along the southern boundary of Lot 8A.

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. Lot 8A has an existing domestic well that serves the homesite. 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*)

 - b. **WASTEWATER**

Wastewater for the proposed subdivision will be provided by the use of individual on-site wastewater treatment systems (septic drain fields). The MT Department of Environmental Quality 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. There is an existing drainfield on Lot 8A serving the existing homesite. (*Source: Application for Preliminary Plat: Item – 30, Sanitation Requirements*)

 - c. **STORMWATER**

A stormwater retention plan will be created with concurrence by the MT Department of Environmental Quality prior to final plat approval.

Conditions of Approval Numbers 3, 8, 9-c, 9-d, 9-e, 9-f and 11 are required to mitigate impacts on public health and safety. (A full list of the Conditions of Approval is found starting on page

number 10)

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 10)

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 number 2 and 8 are required to address compliance with survey requirements. (A full list of the Conditions of Approval is found starting on page number 10)

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.

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.

Conditions of Approval number 8 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 10)

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.

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

1. FINDINGS: Legal and physical access to both lots will be via a thirty (30) foot wide shared driveway easement along the north boundary of the proposed subdivision. Although Lot 8B does have county road frontage the sixty (60) foot wide ravine and drainage easement ‘No Build Zone’ separates the road from any potential building sites. Therefore, both lots will need to access the homesites from the newly created shared driveway easement.

Conditions of Approval Numbers 4 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 staring on page number 10)

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 Quiet Lot 8 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. 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*)
3. 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) for review and approval. The applicant shall submit documentation to the Broadwater County Community Development Department from DEQ 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)

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. 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.*)
6. 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)
7. 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)
8. 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. All drainage easements.

9. 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.

(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)

10. 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.)

11. Prior to submitting the final plat, 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.

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)

The Applicant is financially responsible for actual outside engineering, consulting, professional and/or contracted service fees, etc. at the sole discretion of the County for additional review and/or final plat approval of the proposed subdivision.

This preliminary approval shall be in force for not more than three (3) calendar years. At the end of this period the governing body may, at the written request of the subdivider, extend its approval for a mutually agreed-upon period of time. (*Section 76-3-610, MCA*)

A party, as defined by 76-3-625, MCA who is aggrieved by a decision of the governing body may, within thirty (30) days after this decision, appeal to the Broadwater County district court.

DATED this _____ day of _____, 2023

BROADWATER COUNTY COMMISSION

ATTEST:

Debi Randolph, Chairperson

Angie Paulsen, Clerk & Recorder

Darrel Folkvord

Lindsey Richtmyer