

STAFF REPORT

HORSE CREEK HILLS MAJOR SUBDIVISION

Preliminary Plat Dated 3/29/2020

To: Broadwater County Planning Board
From: Nichole Brown, Broadwater County Community Development Director
Subject: A proposed subdivision to be known as **Horse Creek Hills Major Subdivision**

GENERAL INFORMATION

Date of Application: August 12, 2020
Date of Sufficiency: August 17, 2021
Public Hearing Date: September 29, 2021
Review Period Ends: November 12, 2021

APPLICANT: 71 Ranch, LP
40 71 Ranch Lane
Martinsdale, MT 59053

APPLICANTS' REPRESENTATIVE: Allied Engineering Services, Inc
32 Discovery Drive
Bozeman, MT 59718

LEGAL DESCRIPTION: Situated in Section 31, Township 9 North, Range 2 East,
Broadwater County, Montana

GENERAL LOCATION: The proposed subdivision is located off of Lower Confederate
Road, approximately eighteen and one half (18.5) miles northeast
of the city of Townsend, Montana.

DESCRIPTION

PROPOSAL:

The developer intends to create forty-one (41) lots from an existing 319.82-acre parcel. Lots range in size from 5.35 to 31.77 acres. Parkland is proposed and shown on the preliminary plat as consisting of 14.18 acres. Thirty-nine (39) lots are being submitted for review as residential lots and two (2) lots are proposed for commercial or industrial use. The required preliminary review fee of \$8,560.00 has been paid.

DISCUSSION:

Forty (40) of the lots proposed are subject to DEQ review. The one parcel greater than twenty (20) acres, Lot 41, will be reviewed by the Environmental Health Office for water and sanitation systems. Draft proposed covenants are included in the preliminary plat application.

Review is performed pursuant to the Montana Subdivision and Platting Act, Section 76-3-101 through 76-3-614, Montana Codes Annotated and the Broadwater County Subdivision Regulations. The proposed preliminary plat, Horse Creek Hills Major Subdivision, as submitted by the applicant, together with the required supplementary plans and information, appear to satisfy the requirements of these regulations and comply with the Broadwater County Growth Policy Plan dated February, 2020.

PHYSICAL CONDITIONS:

A vicinity map, as well as a preliminary plat, is provided in the preliminary plat application. No rock outcroppings or the presence of bedrock have been identified on the property. The nearest open water body is the Canyon Ferry Lake Reservoir which is approximately 260 yards to the west, at the nearest location. The proposed development is not in an area subject to flood hazard.

WATER SUPPLY:

Each lot will be served by an individual well. DEQ will review forty (40) of the lots for septic and well locations. The Broadwater County Sanitarian will review one (1) lot for septic and well location. Well log data for ten (10) wells in the vicinity are located in the preliminary plat application. Average depth of the wells is one-hundred seventy-four (174) feet deep and static water level averages ninety-two (92) feet. Yield average is ninety-three (93) gallons per minute.

WASTEWATER TREATMENT:

Individual wastewater treatment systems are proposed for all forty-one (41) lots. Forty (40) of these lots will be reviewed by the Montana Department of Environmental Quality (DEQ) for the adequacy and impact of the wastewater systems on groundwater quality. One (1) lot will be reviewed by the Broadwater County Sanitarian. DEQ will issue a determination of non-significant impacts in a Certificate of Subdivision Approval, which must be presented to the County for recordation of the final plat. The Broadwater County Sanitarian will issue an approval for one (1) lot.

SOLID WASTE:

Lot owners will be responsible for disposal of their own solid waste. Subdivision residents will have the option of hiring an independent contractor to pick up their solid waste or transport it themselves to the Broadwater County Transfer Station or the Dry Gulch Canister Site.

DRAINAGE:

There is a natural drainage traversing the western portion of the property. The lot lines of proposed parcels fall along these drainages to minimize potential negative impacts and to maximize buildable property on each parcel. There are no known natural water systems, such as rivers or intermittent streams located on the subject property. There are remnants of an old irrigation ditch traversing the south portion of the property, but according to the developer they are no longer used for irrigation purposes. All roadway drainage structures will be designed in accordance with regulations as required by Broadwater County and DEQ.

EVALUATION CRITERIA

PRESENT LAND USE:

The current use of this parcel is vacant land.

EFFECTS ON AGRICULTURE:

According to the preliminary plat application, 88% of this property would not be considered prime farmland even if it were irrigated. The proposed subdivision property is not part of an economically viable farm unit nor has it been irrigated in the recent past. This subdivision should not have an effect on agricultural productivity since it is not currently utilized for any agricultural purposes. However, adjacent property to the east is utilized for agricultural purposes. The responsibility to maintain boundary fences will be the individual landowners. The developer will be required to control any noxious weeds until the property is turned over to the subsequent landowners.

ENVIRONMENTAL ASSESSMENT CRITERIA

An Environmental Assessment (EA) is included in the preliminary plat application and addresses Surface Water, Groundwater, Topography, Geology, Soils, Vegetation, Wildlife and Wildlife Habitat.

GEOLOGY:

According to the preliminary plat application approximately 80% of the property consists of slopes less than 15%. The majority of the development will not consist of excessive slopes. Each lot will have buildable areas with slopes less than 15%. No rock outcroppings were identified by the developer's representative. Weathered bedrock was discovered, and removed with a backhoe. 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. To mitigate any potential negative impacts with future home site locations, the developer's representative recommends specific geotechnical investigations be performed by future lot owners, in order to review soil conditions on each property and provide appropriate recommendations.

VEGETATION:

The property consists mainly of native grasses with sporadic conifer trees that are generally located within the drainages located near the western portion of the proposed subdivision. There are no marsh, shrub or forestlands located on the property. There are sparse trees and vegetation cover. 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 is in the process of being developed with assistance by the Broadwater County Weed Coordinator to control and prevent the growth of noxious weeds. The developer 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.

EFFECTS ON WILDLIFE AND HABITAT:

Wildlife such as antelope, mule deer, white-tailed deer, elk, upland game birds, other small birds, snakes, rabbits, fox and coyote occasionally utilize the proposed subdivision. It is the recommendation of MT FWP Wildlife Biologist that covenants should include requirements for future homeowners to fence gardens and bear-proof any bear attractants such as garbage, outdoor pet feeding, bird feeders, fruit trees and outdoor barbeque grills. It was also recommended that a

trail easement be provided to the State of MT lands to the north. The property is not known to be part of any big game wintering range or calving areas, migration route, riparian habitat or habitat for rare or endangered species or wetlands.

EFFECTS ON HISTORICAL FEATURES:

A letter was received from the Montana Historical Society (MHS) on November 5, 2019 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 been three (3) previously recorded sites within the designated area. Those sites are identified as the Confederate Gulch Wildlife Improvement Project, the Archaeology of the Canyon Ferry Region, and a cultural resource inventory for a shoreline stabilization project for Beaver Creek and Confederate Bays. It is presumed that these previously recorded sites should not be negatively impacted by future homesites on this property.

EFFECTS ON ROADS:

Access to the subdivision will be via the existing county roads, Lower Confederate Road and Lower Duck Creek Road. Lots will not have direct access on to the county road, but rather via the internal subdivision roads. The internal subdivision roads will consist of one-hundred one (101) acres of the subject property. Current proposed internal subdivision road names are 'Strawberry Roan Trail', 'Buckskin Trail' and 'Appaloosa Trail'. 'Strawberry Roan Trail' is a loop road which intersects with Lower Confederate Road at two (2) points. The approximate length of 'Strawberry Roan Trail' is 1.77 miles. 'Appaloosa Trail' is a cul-de-sac road which is approximately .28 miles in length and 'Buckskin Trail' is also a cul-de-sac road which is approximately .28 miles in length as well. The estimated Average Daily Trips (ADT) for thirty-nine (39) residential lots and two (2) commercial lots is three-hundred fifty-two (352) ADT. The internal subdivision roads 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 developer will also be required to make the proportionate share of improvements to the county roads leading to this development. According to a Traffic Impact Study (TIS) performed by Abelin Traffic Services, Inc. and included in the preliminary plat application, it is estimated that 84% of traffic from this proposed development will use Lower Confederate Road and 16% will use Lower Duck Creek Road. The total length of county road surface to be improved is approximately 9.29 miles. Of that, Lower Confederate Road is 3.96 miles in length from the point of beginning at Highway 284 to the furthest south entrance to the proposed development.

Since it is estimated that 84% of the traffic generated from this proposed subdivision will travel north along Lower Confederate Road to Highway 284, and given that the entire development would consist of 352/400ths of the cost to upgrade the road to a #1 Local Road (maximum of 400 ADT), the developer should be required to pay 74% of the cost to upgrade Lower Confederate Road. The developer has included a preliminary cost estimate in the Traffic Impact Study included in the preliminary plat application. The developer's cost to upgrade Lower Confederate Road is estimated to be \$222,059.20.

Since it is estimated that 16% of the traffic generated from this proposed subdivision will travel south along Lower Duck Creek Road to Highway 284, and given that the entire development

would consist of 352/400ths of the cost to upgrade the road to a #1 Local Road (maximum of 400 ADT), the developer should be required to pay 14% of the cost to upgrade Lower Duck Creek Road. According to the preliminary cost estimate in the Traffic Impact Study included in the preliminary plat application, the developer's estimated cost to upgrade Lower Duck Creek Road is \$75,796.00. The total estimated contribution, by the developer, to the county road improvements to Lower Confederate Road and Lower Duck Creek Road total \$297,855.20.

UTILITIES:

Utility service will be provided by Vigilante Electric. Natural gas service is not currently available.

EFFECTS ON EMERGENCY SERVICES:

The proposed subdivision is in the Broadwater County Rural Fire District jurisdiction. The distance from the nearest fire station, the Duck Creek Fire Hall, to the subdivision is approximately six (6) miles. A letter was mailed to Ed Shindoll, Broadwater County Rural Fire Department Chief on November 5, 2019. As part of the Summary of Probable Impacts narrative, the developer is requesting to pay the per lot cash-in-lieu of water supply fee of \$1,000.00 per lot. To date, a final fire plan has not been received.

The Broadwater County Sheriff's Department will provide law enforcement services. A letter from Broadwater County Sheriff Wynn Meehan is included in the preliminary plat application Appendix H. Sheriff Meehan stated although he is not against the proposed subdivision, he has some concerns. Since the Sheriff's Department is located approximately twenty-five (25) miles from the proposed subdivision, response times could be significantly delayed. Also, lands to the north are controlled by the State of Montana and are frequently utilized for UTV/ATV use as well as hunting of big game and game birds alike. This could be an impetus for landowner/hunter conflicts. Sheriff Meehan also stated his concerns with the snowy and icy conditions of Highway 284 during the winter months. Traffic accidents are more likely with the increased traffic volume on this highway as it is typically not plowed until after Highway 287 and Highway 12 East have been cleared of snow.

The Broadwater Health Center also located in Townsend, will provide both ambulance and emergency medical services to the subdivision residents.

EFFECTS ON SCHOOLS:

The proposed subdivision is served by the Townsend Schools. This subdivision could potentially produce 60 students according to figures obtained from the Broadwater County Growth Policy Plan. 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 from Townsend Schools Superintendent Erik Wilkerson was received on December 6, 2019. According to Mr. Wilkerson the Townsend School District has ample educational services available to accommodate these new students.

EFFECTS ON LAND USE:

Lands to the north are State of Montana lands. Lands to the east are agricultural. Lands to the south and west are Federal lands controlled by the United States Bureau of Reclamation.

EFFECTS ON PUBLIC HEALTH AND SAFETY:

The property is bordered on the west by Canyon Ferry Reservoir which allows for lake shore camping and ATV/UTV usage. This proposed development was designed with only two access points to minimize traffic conflicts between subdivision resident vehicles and ATV/UTV recreational traffic. Additionally, there will not be any direct access from this subdivision to Canyon Ferry Reservoir. Also, hunter/huntress and homeowner conflicts could arise due to hunting taking place on State of Montana lands directly adjacent to the north boundary of this proposed subdivision.

PARKS AND RECREATION FACILITIES:

Parkland or Open Space is proposed for this subdivision. It is shown on the preliminary plat as a 14.18-acre parcel near the eastern portion of this property.

RECOMMENDATIONS

The Horse Creek Hills Major Subdivision is recommended for approval with the following conditions:

1. Plans for sewage treatment and water supply shall be submitted to the Montana Department of Environmental Quality and 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. *(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; Sections VI-J. and VI-K., County Subdivision Regulations)*
2. A stormwater drainage plan shall be submitted to DEQ for review and recommendation. All specifications and requirements of the approved plan shall be met. *(Sections 76-3-102(4), 501(1), 504(1)(f)(ii) and 76-3-608(3)(a), MCA; Section VI-I, County Subdivision Regulations)*
3. The applicant 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.
4. Plans for the location and installation of individual mailboxes shall be reviewed and approved by the United States Postal Service prior to installation.
5. Prior to filing the final plat, the Applicant shall adequately fund or improve a proportionate share of Lower Confederate Road from its intersection with Highway 284 to the furthest point where Lower Confederate Road intersects with the southernmost subdivision entrance into the property. The road improvements would have to be constructed to a minimum of the County road design standards and must be certified as meeting County Road Standards by a registered engineer. All specifications and requirements of the approved plan shall be met. Final plans for the improvements will be submitted to the County Planning Department for approval prior to construction. *(County Subdivision Regulations)*.
6. Prior to filing the final plat, the Applicant shall adequately fund or improve a proportionate share of Lower Duck Creek Road from its intersection with Highway

- 284 to a point where Lower Duck Creek Road meets Lower Confederate Road. The road improvements would have to be constructed to a minimum of the County road design standards and must be certified as meeting County Road Standards by a registered engineer. All specifications and requirements of the approved plan shall be met. Final plans for the improvements will be submitted to the County Planning Department for approval prior to construction. (*County Subdivision Regulations*).
7. All internal subdivision roads 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 he/she has completed an inspection of the road and any improvements.
 8. Prior to any development, an Approach Permit shall be requested from the County Road Department for the access point off of Lower Confederate Road. All requirements of the approved permit shall be met. (*Sections 76-3-102(3 and 4), 501(1), 504(1)(f)(i), and 608(3)(a), MCA; County Regulations*)
 9. The internal access roads shall be given unique road name that is reviewed and approved by the County Planning Department. The name of the internal access roads shall be shown on the face of the final plat and reflected in all documents of the subdivision (covenants, road easements, etc.). (*Sections 76-3-102, 402, 501, 504, and 608(3), MCA; Section 8.94.3003, ARM; County Subdivision Regulations*)
 10. The applicant and the Fire Protection Authority having Jurisdiction (FPAHJ) shall use their best efforts to draft a fire protection plan (the "Plan"), specifically for this Subdivision, in accordance with the Broadwater County Subdivision Regulations. The Plan shall be equally acceptable to the FPAHJ, the applicant and the County governing authority. The Plan shall adequately address the Fire Risk Analysis, all Findings of Fact and appropriate Mitigation Measures. In the event the parties are unable to come to agreement by the final plat submittal, the applicant shall become eligible to provide the per lot cash in lieu fee for water supply as may be defined in the Broadwater County Subdivision regulations, in effect at the time of submittal. (*Section 76-3-608(3)(a), MCA; Section IV-A-16., County Subdivision Regulations*)
 11. Prior to any development and/or soil disturbance, a Weed Management Plan for the proposed development shall be submitted to the County Weed District for review and approval. All specifications and requirements of the approved plan shall be met (*Sections 76-3-102(5 and 6), 501(1), and 608(3)(a), MCA; Section VI-S., County Subdivision Regulations*)
 12. 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. (*Section 76-3-102, 402, 501, 504, and 608(3), MCA; Section 8.94.3003, ARM; County Regulations*)
 13. 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. 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 (*Section 76-3-608(3)(a), MCA; County Subdivision Regulations*)

- a. Per the subdivision application, thirty-nine (39) lots shall be used for residential purposes and two (2) lots shall be used for commercial purposes only;
- b. Notification 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; (*Section 76-3-608(3)(a), MCA*)
- c. A notification that all dwelling units 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); (*Section 76-3-608(3)(a), MCA*)
- d. Notification of the potential degradation of existing emergency services due to the potential for growth in a rural area.
- e. Any additional, replacement, or relocated utility lines shall be installed underground, in accordance with the County Subdivision Regulations, unless otherwise determined by the utility provided; (*Section 76-3-608(3)(a), MCA; Section VI-M, County Subdivision Regulations*)
- f. A “no access” restriction along Lower Confederate Road, with the exception of the two (2) approaches onto Lower Confederate Road for the internal access roads; (*Section 76-3-608(3)(a), MCA*)
- g. Any exterior lighting shall be directed downward to minimize visibility beyond the property lines; (*Section 76-3-608(3)(a), MCA*)
- h. Notification of the presence of agricultural operations in the vicinity; (*Section 76-3-608(3)(a), MCA*)
- i. A waiver of the right to protest to join a special district for the purpose of providing community water and/or wastewater treatment system improvements and/or maintenance; (*Section 76-3-608(3)(a), MCA*)
- j. 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:
 - i. Earthquake fault zone and any seismic activity;
 - ii. Water availability;
- k. Each lot shall be maintained in a clean, attractive, and weed-free manner; Noxious weeds must be pulled, sprayed or cut prior to seed maturity; (*Sections 76-3-102(5 and 6), 501(1), and 608(3)(a), MCA; Section VI-S, County Subdivision Regulations*)
- l. A prohibition of the storage of foods, garbage, or continuous feeding of domestic pets outdoors or other activities that creates an attractive nuisance for wildlife species (hay or alfalfa storage and feeding are not prohibited where livestock are permitted) (*Section 76-3-608(3)(a), MCA*)
- m. Lots shall only allow for livestock if a small acreage livestock management plan is reviewed and approved by the County Extension Agent and submitted to the county. Each lot owner shall be required to create and adhere to their own livestock management plan.

- n. All cats and dogs must be restrained, penned, or otherwise under the control of their owner at all times (*Section 76-3-608(3)(a), MCA*)
- 14. Prior to filing the final plat, the following improvements shall be installed or otherwise guaranteed:
 - a. Roads
 - b. Any necessary improvements required by the stormwater drainage plan, weed management plan, fire protection plan, or approach permits;
 - c. Utilities abutting and available to each lot (electrical and telephone shall be underground);

If said improvements are not installed prior to final plat, then the Applicant shall enter into a written subdivision improvements agreement with Broadwater County, guaranteeing the construction and installation of such improvements and shall provide an acceptable financial security guarantee, in accordance with County Subdivision Regulations (Appendix E)

- 15. Prior to filing the final plat, the Applicant shall:
 - a. Provide proof that all taxes and special assessments assessed and levied on the property are paid for the current tax year; including any past delinquencies. (*Section 76-3-611(1)(b), MCA*)
 - b. Provide documentation (abstract of title or platting certificate) showing that the Applicant is the lawful owner of the property with the apparent authority to subdivide the same, showing the names of lien holders or claimants of record and the written consent to the subdivision by the owners of the land, if other than the applicant, and any lien holders of claimants of record against the land. (*Section 76-3-612, MCA*)