FINDINGS OF FACT AND ORDER REPORT

Preliminary Plat Dated 11/20/2022

ALBE MINOR SUBDIVISION Preliminary Plat

**To:** Broadwater County Commissioners

**From:** Nichole Brown, Broadwater County Community Development Director

**Subject:** A proposed subdivision to be known as **Albe Minor Subdivision**

GENERAL INFORMATION

Date of Application: November 10, 2022

Element Complete: November 21, 2022

Date of Sufficiency: November 21, 2023

Review Period Ends: January 12, 2024

SUBDIVIDER: Steve Upton

Townsend, MT 59644

SUBDIVIDER’S REPRESENTATIVE: Bernadette Swenson

64 Jack Farm Road

Townsend, MT 59644

LEGAL DESCRIPTION: Situated in Section 3, Township 7 North, Range 1 East, Broadwater County, Montana

GENERAL LOCATION: The proposed subdivision is located off Foster Drive, approximately six (6) miles northwest of Townsend, Montana.

1. **EXECUTIVE SUMMARY**

The Subdivider intends to create four (4) lots from an existing 15.54-acre parcel. Lots range in size from 2.73 to 5.51 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 Foster Drive. The required preliminary review fee of $1,900.00 has been paid.

1. **REQUEST**

Approval of the 4-lot Minor Subdivision for 4 single-family homes.

1. **STAFF RECOMMENDATION**

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

1. **LOCATION**

The proposed subdivision is located off of Foster Drive approximately 6 miles northwest of the City of Townsend.

1. **EXISTING DEVELOPMENT AND USES**

The property is currently vacant land.

1. **ADJACENT LAND USES**

North: Vacant residential

South: Residential

East: Residential

West: Residential

**VII. PUBLIC COMMENT**

Public Comment will be taken at the December 27, 2023 Planning Board Regular Business Meeting and subsequent Commissioner Meeting(s).

**VIII**. **PROJECT BACKGROUND**

Water is proposed to be provided via individual wells. The well sites will be reviewed and approved by the Department of Environmental Quality (DEQ).

Wastewater is proposed to be managed utilizing individual wastewater treatment systems. DEQ will review the newly created parcels for the location of wastewater treatment systems.

Access will be off of Foster Drive with an individual driveway approach proposed for Lot 1 and Lot 4. Lot 2 and Lot 3 will have a shared driveway with an approach off of Foster Drive.

**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, Albe 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:**

1. **IMPACTS ON AGRICULTURE:**
2. 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.*
3. NARRATIVE: According to the preliminary plat application, none of this property is considered prime farmland if irrigated.
4. FINDING: This proposed subdivision should not have an effect on agricultural productivity since no land is being removed from agriculture.

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.

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 8, 10-c, 10-g, 10-h and 11 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.

1. **IMPACTS ON AGRICULTURAL WATER USER FACILITIES**:
2. 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.*
3. NARRATIVE: The proposed subdivision will create four residential lots between 2.73 and 5.51 acres.
4. FINDINGS: The proposed subdivision property should not have an impact any agricultural water user facilities since none are located on the property.

Conditions of Approval Numbers 10-c, 10-g, 10-h and 11 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.

1. **IMPACTS ON LOCAL SERVICES**:
2. 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.*
3. NARRATIVE: The proposed subdivision will be accessed from individual driveway approaches on to Foster Drive. 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.
4. FINDINGS:
5. SOLID WASTE:

Individual lot owners will haul their solid waste to Broadwater Solid Waste Canister site in Townsend. Subdivision residents will have the option of hiring an independent contractor to pick up their solid waste or transport it themselves.

1. 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.

1. UTILITIES:

It is anticipated that Northwestern Energy provide electrical service to the proposed subdivision. Future dry utilities are anticipated to be installed underground.

1. ROADS AND TRAFFIC:

No transportation plan has been officially adopted for this area. The proposed development could cause an impact to ‘Foster Drive’ Therefore, a Preliminary Engineering Report (PER) should be performed prior to final plat approval to determine whether or not the applicant would be responsible for any improvements to the subdivision road, ‘Foster Drive’.

The estimated Average Daily Trips (ADT) for four (4) residential lots is thirty-two (32) ADT.

1. SCHOOLS:

The proposed subdivision is served by the Townsend Schools and the subdivision could potentially produce 6 students. The potential for new students from this development should not have an impact on existing bus routes.

1. 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.

1. 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.

Conditions of Approval Numbers 2, 4, 5, 6, 7, 9 and 10-b 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.

1. **IMPACTS ON THE NATURAL ENVIRONMENT**
2. 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.*
3. NARRATIVE: According to the preliminary plat application the property is relatively flat with no waterways or wetlands. The proposed subdivision is outside of the FEMA mapped 100-year floodplain.
4. 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.

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

All 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: Application for Preliminary Plat: Item 28—Weed Management Plan).*

A letter was received from the Montana Historical Society (MHS) on October 4, 2022 for the Albe Minor 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 had been one previously recorded sites within the designated area; the historic Northern Pacific Railroad, which is outside of the proposed project area. (*Source: Application for Preliminary Plat: Item - 31, Letter from Damon Murdo dated October 4, 2022*)

Conditions of Approval Numbers 8, 10-c and 12 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

1. **IMPACT ON WILDLIFE AND WILDLIFE HABITAT**
2. 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*.
3. NARRATIVE: Wildlife such as antelope, mule deer, white-tailed deer, upland game birds, other small birds, rabbits and other rodents likely utilize the proposed subdivision. However, there should be no displacement of wildlife since the surrounding area is residential and expansive agricultural property.
4. 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.

Conditions of Approval Number 10-c and 10-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.

1. **IMPACT ON PUBLIC HEALTH AND SAFETY**:
2. 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*.
3. NARRATIVE: The proposed subdivision will be served by on-site wells. Each lot will have its own wastewater system as well as stormwater retention basin.
4. FINDINGS:
   1. 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. The use of these exempt wells is subject to review and approval by the DNRC.

* 1. WASTEWATER

Wastewater for the proposed subdivision will be provided by the use of individual on-site wastewater treatment systems (septic drain fields). DEQ 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.

* 1. STORMWATER

A stormwater retention plan will be created with concurrence by DEQ prior to final plat approval.

Conditions of Approval Numbers 7, 10-c, 10-d, 10-e, 10-f and 12 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.

1. **COMPLIANCE WITH SUBDIVISION REGULATIONS**
2. 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 staring 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.

1. **COMPLIANCE WITH SURVEY REQUIREMENTS**
2. 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 3 and 9 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.

1. **PROVISION OF EASEMENTS WITHIN AND TO THE PROPOSED SUBDIVISION FOR THE LOCATION AND INSTALLATION OF ANY PLANNED UTILITIES**
2. 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 9 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.

1. **PROVISION OF LEGAL AND PHYSICAL ACCESS TO EACH PARCEL WITHIN SUBDIVISION**
2. FINDINGS: Legal and physical access to the subdivision is provided via Foster Drive, which is a privately maintained public road. Therefore, no approach permits are required. The three new approaches to be installed on ‘Foster Drive’ will not be reviewed nor approved by any agency or entity.

Conditions of Approval Numbers 4, 5, 9 and 13 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 Albe 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 Department of Environmental Quality (DEQ) 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. A Preliminary Engineering Report (PER) must be prepared and certified by an engineer licensed in the State of Montana to provide an estimated cost of improvements necessary to make ‘Foster Drive’ meet or exceed Broadwater County Road Standards from the southwest corner of the proposed subdivision north to the intersection with ‘Antelope Road’. **(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 V-H-c-iv, Broadwater County Subdivision Regulations)*
5. Utilizing the formula in the Broadwater County Subdivision Regulations Section V-H-iv, the applicant shall complete the following for the subdivision access road: **(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”):**
   1. The applicant shall be responsible for their proportionate share of improvements to ‘Foster Drive’; or (*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*)
   2. The proportionate share of funds derived from the estimated cost to improve ‘Foster Drive’ shall be placed in a reserve account held and used by the County for the upgrade of ‘Foster Drive’ only.
6. 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.)*
7. 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)
8. 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)

1. 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)*
   1. All existing and proposed utility easements on the subject property; and
   2. All existing access and utility easements adjacent to the subject property.
2. 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, the forgoing 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 and IV, County Subdivision Regulations)*

* 1. 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);
  2. 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)
  3. 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)
  4. 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)
  5. 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)
  6. 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)
     1. Exposure to radon;
     2. Earthquake fault zone and any seismic activity; and
     3. Water availability
  7. 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)
  8. 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)

1. 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.*)

1. 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.

1. A ‘No Access Restriction’ shall be shown on the final plat from Lot 4 on to the 30’ foot wide Driveway Access and Utility Easement along the southern boundary of the property. **(Mitigates Findings of Fact under “Provision of Legal and Physical Access to Each Parcel Within the Subdivision”)**
2. Prior to final plat approval the applicant shall:
   1. 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)
   2. 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”)**

DATED this day of January, 2024

BROADWATER COUNTY COMMISSION ATTEST:

Angie Paulsen, Clerk & Recorder