



Commission Memorandum

REPORT TO: Honorable Mayor & City Commission

FROM: Brian Krueger, Development Review Manager
Martin Matsen, Director of Community Development

SUBJECT: Yellowstone Theological Institute Minor Subdivision Preliminary Plat Findings of Fact and Order, Application 15574

MEETING DATE: January 9, 2017

AGENDA ITEM TYPE: Consent

RECOMMENDATION: Authorize the Mayor to sign the Findings of Fact and Order for the Yellowstone Theological Institute Minor Subdivision Preliminary Plat Application 15574.

BACKGROUND: On December 12, 2016, the City Commission reviewed the application for preliminary plat approval for the Yellowstone Theological Institute Minor Subdivision. The Commission voted unanimously to approve the proposed subdivision subject to conditions and code provisions to ensure the final plat would comply with all applicable regulations and all required criteria. State law provides that the governing body shall “provide a written statement to the applicant detailing the circumstances of the condition imposition.” The statement must include: 1) the reason for the condition imposition; 2) the evidence that justifies the condition imposition; and 3) information regarding the appeal process for the condition imposition. To proceed with submitting a final plat application for the initial phase(s) of the subdivision, the applicant must have a dated and signed Findings of Fact and Order.

UNRESOLVED ISSUES: None at this time.

ALTERNATIVES:

- 1) Approval of the Findings of Fact and Order as drafted.
- 2) Approval of the Findings of Fact and Order with modifications.
- 3) As determined by the City Commission.

FISCAL EFFECTS: Fiscal impacts are undetermined at this time, but will include increased property tax revenues from new development, along with increased costs to deliver municipal services to the property. Impact fees will be collected at the time of issuance of building permits for individual lots along with City sewer and water connection fees.

Attachment: Findings of Fact and Order
Report compiled on: December 28, 2016

Return to:
City of Bozeman
City Clerk
PO Box 1230
Bozeman MT 59771-1230

Bozeman City Commission Findings of Fact and Order for the Yellowstone Theological Institute Minor Subdivision Preliminary Plat Application 15574

Public Hearing Date: City Commission meeting was held on December 12, 2016 at 6:00 p.m.

Project Description: A preliminary plat application requesting a first minor subdivision of a tract of record consisting of 78 acres to create five lots.

Project Location: The property is addressed as 3000 South 19th Avenue and is legally described as the SW ¼ NE ¼, NW ¼ SW ¼ less right of way Mandeville Creek Annexation, Section 24, T2S, R5E, P.M.M., City of Bozeman, Gallatin County, Montana. The property is zoned R-1, residential single household low density and R-2, residential two-household medium density district.

Recommendation: Approval with conditions.

Recommended Motion: “Having reviewed and considered the application materials, public comment, and all the information presented, I hereby adopt the findings presented in the staff report for Application 15574 and move to approve the preliminary plat application requesting a first minor subdivision of a tract of record, 78 acres to create five lots with conditions and subject to all applicable code provisions.”

Findings of Fact and Order Date: January 9, 2017

Staff Contact: Brian Krueger, Development Review Manager

Agenda Item Type: Action (Quasi-judicial)

EXECUTIVE SUMMARY

Unresolved Issues

There are no known unresolved issues at this time.

Project Summary

A Preliminary Plat Application requesting a first minor subdivision of a tract of record of 78 acres to create five lots. Three lots are proposed for further development to accommodate the Yellowstone Theological Institute campus. Two lots are proposed for restricted development. This subdivision is a first minor subdivision from a tract of record and does not require Planning Board review. A public meeting is required before a Commission decision.

At its October 19, 2016 meeting, the Development Review Committee (DRC) voted unanimously to recommend approval of the application with the conditions and code provisions identified in this report.

No parkland dedication is required for this subdivision. No subdivision or zoning variances are requested with this application. No public comment has been received.

The final decision for a First Minor Subdivision Preliminary Plat must be made within 35 working days of the date it was deemed adequate; or in this case by December 12, 2016.

Alternatives

1. Approve the application with the recommended conditions;
2. Approve the application with modifications to the recommended conditions;
3. Deny the application based on the Commission's findings of non-compliance with the applicable criteria contained within the staff report; or
4. Continue the public hearing on the application, with specific direction to staff or the applicant to supply additional information or to address specific items.

Commission Action

The Bozeman City Commission held a public meeting on Monday, December 12, 2016 to review the application and hear public testimony. No public comment was received. The City Commission discussed the proposed preliminary plat application in regards to the character of the area and the intent of the subdivision and zoning district; and reviewed the application against the requirements of the Montana Subdivision and Platting Act and found that, with conditions, the Minor Subdivision Preliminary Plat Application would comply with those requirements; and adopted the findings presented in the staff report for application 15574 and voted to approved the preliminary plat application, with the conditions as outlined in the staff report, 4:0. Commissioner Andrus was absent.

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SECTION 1 - MAP SERIES

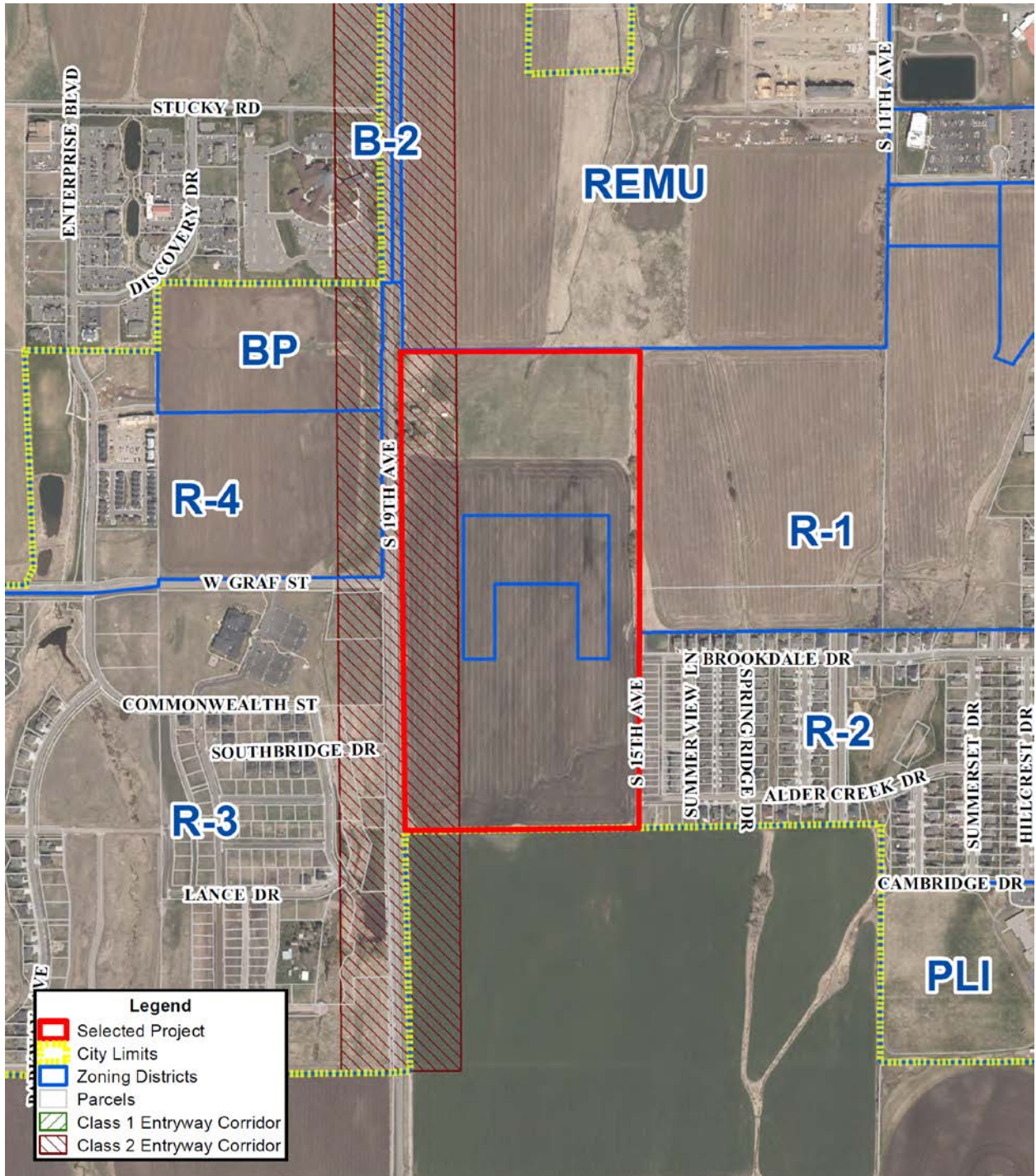


Figure 1: Zoning Map

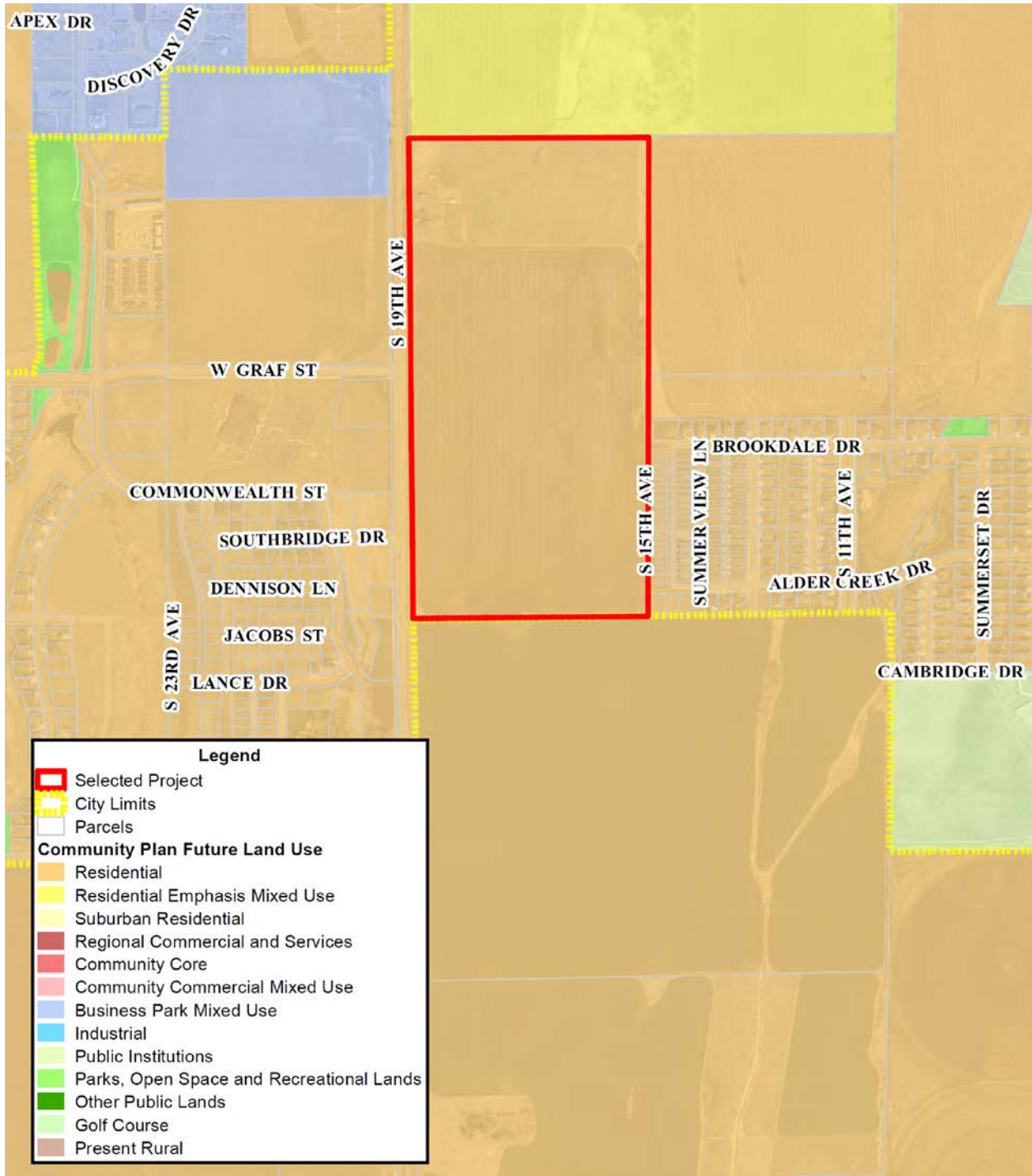


Figure 2: Future Land Use Designation Map

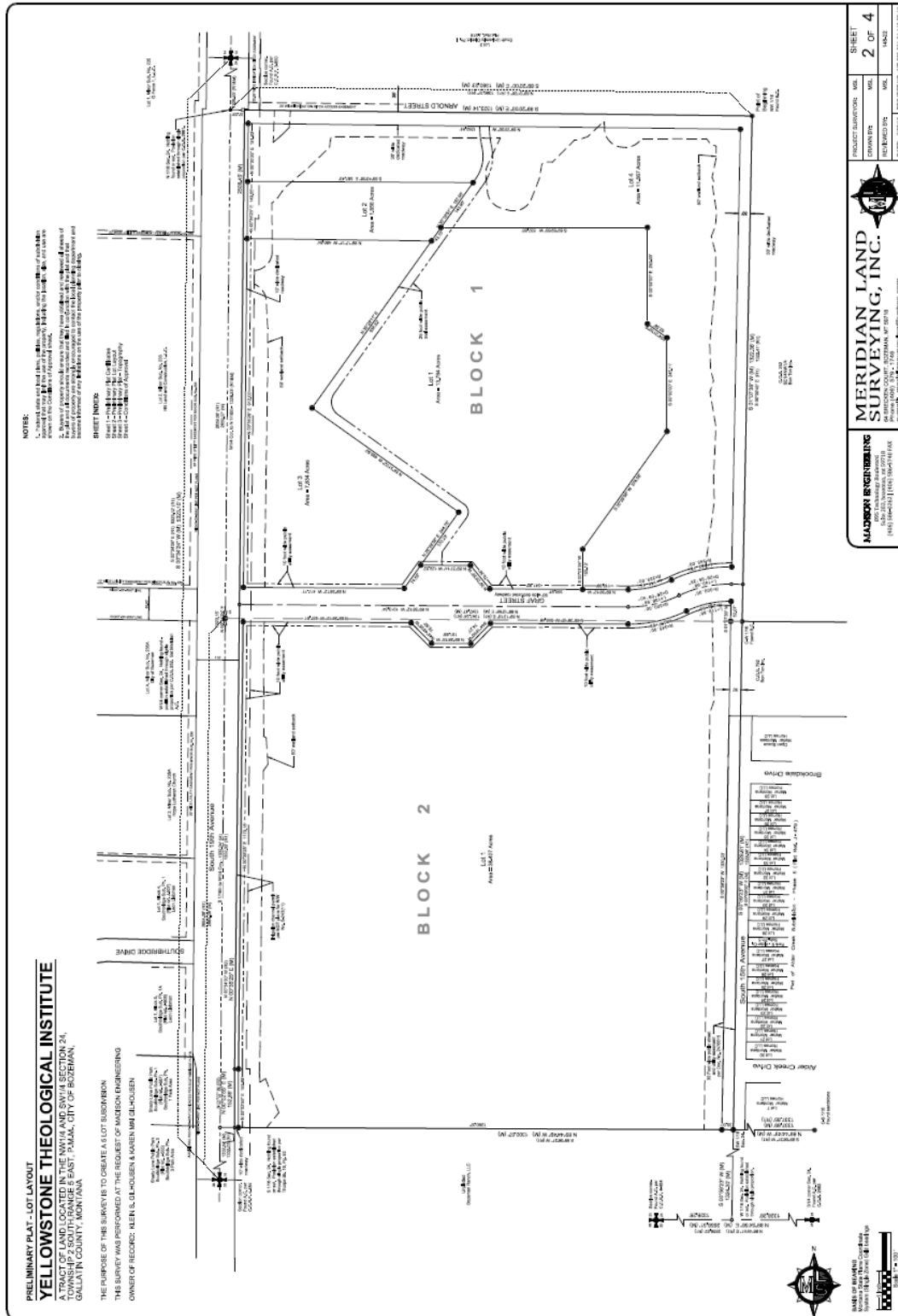


Figure 3: Proposed Preliminary Plat

SECTION 2 - REQUESTED VARIANCES OR DEVIATIONS

No subdivision or zoning variances are requested with this preliminary plat application.

SECTION 3 - RECOMMENDED CONDITIONS OF APPROVAL

Please note that these conditions are in addition to any required code provisions identified in this report. These conditions are specific to this project.

Recommended Conditions of Approval:

1. The applicant is advised that unmet code provisions, or code provisions that are not specifically listed as conditions of approval, does not, in any way, create a waiver or other relaxation of the lawful requirements of the Bozeman Municipal Code or state law.
2. The plat must conform to all requirements of the Bozeman Municipal Code and the Uniform Standards for Subdivision Plats (Uniform Standards for Certificates of Survey and Subdivision Plats (24.183.1104 ARM, 24.183.1107 ARM) and must be accompanied by all required documents, including certification from the City Engineer that as-built drawings for public improvements were received, a platting certificate, and all required and corrected certificates. The Final Plat application must include three (3) signed reproducible copies on a 3 mil or heavier stable base polyester film (or equivalent); two (2) digital copies; one (1) PDF copy; and five (5) paper prints. The Gallatin County Clerk & Recorder's office has elected to continue the existing medium requirements of 2 mylars with a 1½" binding margin on one side for both plats and COS's. The Clerk and Recorder will file the new Conditions of Approval sheet as the last same sized mylar sheet in the plat set.
3. All notes, restrictions and conditions of approval must be relocated from the plat and transferred to the final plat conditions of approval sheet.
4. Lot 2, Block 1 must be labeled as a Lot 2, Common open space.
5. Lot 4, Block 1 and Lot 1, Block 2 must be platted as an undevelopable lot in accordance with Section 38.39.080.B.6 BMC, with the following language placed on each undevelopable lot of the final plat "Lot development subject to further subdivision review." No public improvements shall be required for the undevelopable lot until it is subdivided as a lot which is not subject to this restriction. This language shall be placed on the face of the plat or in a separate executed document to be recorded with the final plat: "NOTICE IS HEREBY GIVEN to all potential purchasers of Lot 4, Block 1 and Lot 1, Block 2, of the Yellowstone Theological Institute Minor Subdivision, City of Bozeman, Gallatin County, Montana, that the final plat of the subdivision was approved by the Bozeman City Commission without completion of on and off site improvements required under the Bozeman Municipal Code, as is allowed in Chapter 38.39 of the Bozeman Municipal Code. As such, this Restriction is filed with the final plat that stipulates that any use of these lot is subject to further subdivision, and no development of this lot shall occur until all on and off site improvements are completed as required under the Bozeman Municipal Code. THREERFORE, BE ADVISED, that Building Permits will not be issued for Lot 4, Block 1 and Lot 1, Block 2, of the Yellowstone Theological Institute Minor Subdivision, City of Bozeman, Gallatin County, Montana

until all required on and off site improvements are completed and accepted by the City of Bozeman. No building or structures are permitted to be constructed on this lot until this restriction is lifted. This restriction runs with the land and is revocable only by further subdivision and the written consent of the City of Bozeman.

6. The following landscape improvements must be installed with Phase I:
 - a. South 19th Avenue street frontage and the watercourse setback planting plan landscape requirements;
 - b. Common Open Space, Lot 2, Block 1 including the detention facility;
 - c. North/south trail corridor; and
 - d. Graf Street, street frontage.
7. The final plat must provide all necessary utility easements and must be described, dimensioned and shown on the final plat in their true and correct location. Any rear or side yard utility easements not provided will require written confirmation from utility companies providing service indicating that rear or side yard easements are not needed.
8. A ten foot front yard utility easement must be provided on the east side of the sidewalk installed along the South 19th Avenue frontage in lieu of the standard easement location.
9. The final plat application must contain the following notation on the conditions of approval sheet in the final plat: “No parkland dedicated with this subdivision. Development on land initially exempted from park dedication is required to provide park dedication if further development of the site does not continue to meet the criteria for exemption.”
10. Unless already filed and prior to final plat approval, an executed waiver of right to protest the creation of special improvement districts (SIDs) for a park maintenance district must be filed and recorded with the Gallatin County Clerk and Recorder.
11. The applicant must submit with the application for Final Plat review and approval, a written narrative stating how each of the conditions of preliminary plat approval and noted code provisions have been satisfactorily addressed, and must include a digital copy (pdf) of the entire Final Plat submittal. This narrative must be in sufficient detail to direct the reviewer to the appropriate plat, plan, sheet, note, covenant, etc. in the submittal.
12. The proposed project falls within the Payback Districts known as the Meadow Creek Paybacks, which requires reimbursement to the Meadow Creek Subdivision developer for the following infrastructure improvements:
 - a. Intersection of Stucky Road and N. 19th Avenue = \$62,845.41
 - b. Intersection of Graf Street and N. 19th Avenue = \$136,659.23
 - c. Water Improvements, 24-inch pipe = \$84,999.49
 - d. Water Improvements, 16-inch pipe = \$56,455.01
 - e. Sanitary Sewer Improvements = \$116,628.57

The applicant must pay the Meadow Creek Paybacks to the City Engineering Department prior to final plat approval.

13. The applicant must add a note to the Conditions sheet of the plat to the effect that maintenance of stormwater infrastructure is the responsibility of the property owners' association.
14. The applicant must add a note to the Conditions sheet of the plat to the effect that maintenance of private streets within the development is the responsibility of the property owners' association.
15. If not already filed, the applicant shall provide and file with the County Clerk and Recorder's office executed Waivers of Right to Protest Creation of Special Improvement Districts (SID's) for the following:
 - a. Street improvements to Graf Street including paving, curb/gutter, sidewalk, and storm drainage
 - b. Street improvements to S. 19th Avenue including paving, curb/gutter, sidewalk, and storm drainage
 - c. Street improvements to S. 15th Avenue including paving, curb/gutter, sidewalk, and storm drainage
 - d. Street improvements to Arnold Street including paving, curb/gutter, sidewalk, and storm drainage
 - e. Intersection improvements to S. 19th Avenue and Graf Street
 - f. Intersection improvements to Graf Street and S. 11th Avenue
 - g. Intersection improvements to S. 19th Avenue and Stucky Road
 - h. Intersection improvements to S. 19th Avenue and Kagy Boulevard

The document filed shall specify that in the event an SID is not utilized for the completion of these improvements, the developer agrees to participate in an alternate financing method for the completion of said improvements on a fair share, proportionate basis as determined by square footage of property, taxable valuation of the property, traffic contribution from the development, or a combination thereof. This is a condition of final plat approval.

SECTION 4 - CODE REQUIREMENTS REQUIRING PLAT CORRECTIONS

1. Section 38.23.100.A.2.f water course setback planting plan requirements. ***Landscape plan does not meet the requirements as required for zone 1 and zone 2 of the watercourse setback.***
2. Section 38.26.050.E Street frontage landscaping required. ***The street frontage landscaping proposed along the street frontages do not meet the standard for regular spacing along the street frontages at 1 per 50'. The trees are shown clustered on the submitted landscape plan.***
3. Section 38.23.040 Blocks *Rights-of-way for pedestrians*. Rights-of-way for pedestrian walks, not less than ten feet wide, shall be required where deemed necessary to provide circulation or access to parks, open space, schools, playgrounds, shopping centers, transportation, and other community facilities. In addition, no continuous length of block shall exceed 600 feet without intersecting a street or pedestrian walk. Pedestrian walks shall also be installed at the end of culs-de-sac where deemed appropriate.

1. Yards adjacent to pedestrian rights-of-way less than 30 feet wide shall be treated as corner side yards. Yards adjacent to pedestrian rights-of-way 30 feet wide or greater shall be treated as side yards;
2. The pedestrian walks shall be maintained by the adjacent property owner or by the property owners association. The party responsible for maintenance of pedestrian walks shall be identified in the preliminary plat application; and
3. Pedestrian walks shall be constructed as a city standard sidewalk, and the provisions of [section 38.24.080](#) shall apply. ***The proposed public trail easement must be further described on the conditions of approval sheet and noted clearly that this easement is specifically for public access. Staff recommends that the applicant consider the dedication include a 30' wide easement in order to allow a five foot side yard to apply adjacent to the easement. A construction detail of the sidewalk must be provided with the final plat application. The requirement in Section 38.24.080 is for a concrete City standard 5' minimum sidewalk.***
4. Section 38.23.080.H Grading and Drainage. ***The final landscape plan for the drainage facility on Lot 2 must include a cross section.***
5. Section 38.26.070 Landscaping of public lands. ***The right of way for pedestrians noted in 38.23.040, Blocks, must be landscaped as a public land. The final plan application must include a landscape plan for the entirety of the trail corridor.***
6. Section 38.23.180 states: the transfer of water rights or the payment of cash-in-lieu (CIL) of water rights shall be provided. ***The applicant must contact the City Engineering Division for an analysis of CIL of water rights and pay any CIL of water rights due prior to final plat approval.***
7. 38.24.010.A states: All streets shall be provided in accordance with the adopted growth policy and/or transportation plan. The arrangement, type, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed uses of the land to be served by such streets.

Construction of streets adjacent to the proposed project borders is required. This includes extension of S. 15th Avenue along the eastern border of the property and construction of Arnold Street on the northern border of the property. However, timing of these improvements will be triggered by adjacent development. With the proposed plat application and initial site plan application for this project, S. 15th Avenue and Arnold Street will not be required. The City and the applicant have agreed to delay these local street improvements until such time as the improvements are needed and in conjunction with completion of Graf Street from 19th Avenue to Ritter Drive with the current plat application. The applicant must execute and file a waiver of right to protest creation of a special improvement district for S. 15th Avenue and Arnold Street to ensure that the City can obtain financial participation in these street improvements when required. The applicant must execute the waiver on the City's standard form and provide the filed copy to the City Engineering Division prior to final plat approval.

Graf Street and S. 19th Avenue and all associated improvements must be completed by the applicant and accepted by the City or financially guaranteed as allowed by BMC prior to final plat approval.

8. Section 38.23.060.A states: Where determined to be necessary, public and/or private easements shall be provided for private and public utilities, drainage, vehicular or pedestrian access, etc.

The applicant must execute and file with the County Clerk and Recorder a public access easement for the sidewalk that parallels S. 19th Avenue. The easement must be executed on the City's standard form and provided to the City Engineering Division prior to final plat approval.

The applicant must execute and file with the County Clerk and Recorder temporary stormwater easements for the temporary stormwater ponds that will accommodate runoff from Graf Street and S. 19th Avenue. The temporary stormwater ponds and associated easements must remain in place until permanent stormwater detention is provided on the subject property.

9. Section 38.23.060.D states: The developer shall establish appropriate irrigation facility easements that:

a. Are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of active open ditches or below ground pipelines. The easement shall facilitate the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right;

(1) The easements shall ensure the conveyance of irrigation water through the land to be developed to lands adjacent to or beyond the development's boundaries in quantities and in a manner that are consistent with historic and legal rights; and

(2) A minimum easement width of ten feet is required on each side of irrigation canals and ditches.

b. Are a sufficient distance from the centerline of the irrigation facility to allow for construction, repair, maintenance and inspection of the ditch or pipeline; and

c. Prohibit the placement of structures or the planting of vegetation other than grass within the irrigation facility easement without the written permission of the facility owner.

The applicant must sufficiently indicate easements for on-site agricultural water user facilities on the plat prior to final plat approval. The conditions of approval sheet must show the location of the irrigation facilities on the exhibit as described in note 5.

10. Section 38.41.060.11.b states: The plan shall include sufficient site grading and elevation information (particularly for the basin sites, drainageways and lot finished grades), typical stormwater retention/detention basin and discharge structure details, basin sizing calculations, and a stormwater maintenance plan.

The applicant must provide a stormwater maintenance plan for the temporary detention ponds on site for review and approval prior to final plat approval. The owner or future property owner's association (POA) is responsible for maintenance of the temporary stormwater detention systems until the systems are replaced with a permanent stormwater system.

SECTION 5 - RECOMMENDATION AND FUTURE ACTIONS

Project Name: Yellowstone Theological Institute Minor Subdivision Preliminary Plat, 15574

Development Review Committee (DRC)

The DRC reviewed the proposed minor subdivision preliminary plat application on December 30, 2015; January 6, 2016; and October 12, 2016. On January 6, 2015, the DRC determined the application submittal inadequate for further review. A revised application was determined to contain the detailed, supporting information that is sufficient to allow for the review of the proposed subdivision on October 19, 2016. The DRC finds that the application, with the recommended conditions of approval, is in compliance with the adopted growth policy, the Montana Subdivision and Platting Act and the Unified Development Code.

Planning Board.

This subdivision is a first minor subdivision from a tract of record and does not require Planning Board review.

City Commission

The Bozeman City Commission held a public meeting on Monday, December 12, 2016 to review the application and hear public testimony. No public comment was received. The City Commission discussed the proposed preliminary plat application in regards to the character of the area and the intent of the subdivision and zoning district; and reviewed the application against the requirements of the Montana Subdivision and Platting Act and found that, with conditions, the Minor Subdivision Preliminary Plat Application would comply with those requirements; and adopted the findings presented in the staff report for application 15574 and voted to approved the preliminary plat application, with the conditions as outlined in the staff report, 4:0. Commissioner Andrus was absent.

SECTION 6 - STAFF ANALYSIS AND FINDINGS

Analysis and resulting recommendations are based on the entirety of the application materials, municipal codes, standards, and plans, public comment, and all other materials available during the review period. Collectively this information is the record of the review. The analysis is a summary of the completed review.

Applicable Subdivision Review Criteria, Section 38.03.040, BMC

In considering applications for subdivision approval under this title, the advisory boards and City Commission shall consider the following:

1) Compliance with the survey requirements of Part 4 of the Montana Subdivision and Platting Act

The preliminary plat has been prepared in accordance with the survey requirements of the Montana Subdivision and Platting Act by a Professional Engineer registered in the State of Montana. As noted in recommended [Condition of Approval No. 2](#), the final plat must comply with State statute, Administrative Rules of Montana, and the Bozeman Municipal Code.

2) Compliance with the local subdivision regulations provided for in Part 5 of the Montana Subdivision and Platting Act

The final plat must comply with the standards identified and referenced in the Unified Development Code (UDC). The applicant is advised that unmet code provisions, or code provisions that are not specifically listed as a condition of approval, does not, in any way, create a waiver or other relaxation of the lawful requirements of the Bozeman Municipal Code or State law. Therefore, the subdivision will be in compliance with the subdivision regulations.

3) Compliance with the local subdivision review procedures provided for in Part 6 of the Montana Subdivision and Platting Act

The public meeting before the City Commission has been properly noticed as required by the Bozeman Municipal Code. Based on the recommendation of the Development Review Committee (DRC) and other applicable review agencies, as well as any public testimony received on the matter, the City Commission will make the final decision on the applicant's request.

A preliminary plat application was submitted to the Department of Community Development on December 14, 2015 and was deemed acceptable for initial review on December 21, 2015. The preliminary plat was reviewed by the DRC on December 30, 2015; January 6, 2016. On January 6, 2015, the DRC determined the application submittal inadequate for further review. A revised application was submitted on September 16, 2016. On October 12, 2016 the DRC determined the submittal contained detailed, supporting information that is sufficient and adequate to allow for the review of the proposed subdivision.

Public notice for this application was scheduled in the legal advertisements section of the *Bozeman Daily Chronicle* on November 6, 2016 and the site was posted with a public notice on November 7, 2016. Public notice was sent to physically adjacent property owners via certified mail, and to all other property owners of record within 200 feet of the subject property via first class mail, on November 4, 2016. No public comment has been received as of the writing of this report.

On December 1, 2016 this first minor subdivision preliminary plat application staff report was drafted and forwarded with a recommendation of conditional approval by the Director of Community Development for consideration by the City Commission which is scheduled to make a final decision at its December 12, 2016 public hearing. The final decision for a First Minor Subdivision Preliminary Plat must be made within 35 working days of the date it was deemed adequate; or in this case by December 12, 2016.

4) Compliance with Chapter 38, BMC and other relevant regulations

Community Development, the Development Review Committee, Recreation and Parks Advisory Board and the Wetland Review Board reviewed the preliminary plat against all applicable regulations and compliance with all regulations appears to be met. Recommended conditions of approval and code provisions requiring plat corrections are included to complete the application processing for final plat approval. Site specific conditions and plat corrections are included in this report for consideration by the City Commission.

5) The provision of easements to and within the subdivision for the location and installation of any necessary utilities

As detailed above under Criteria 2, required by Section 38.23.060.A and recommended as [Condition of Approval No. 7](#), all easements, existing and proposed, must be accurately depicted and addressed on the final plat and in the final plat application. All necessary utilities and required utility easements will be provided and depicted accordingly on the final plat.

6) The provision of legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel

All of the proposed lots have frontage to public streets constructed to City standards with lot frontage that meets minimum standards as shown on the preliminary plat. The access is noted on the plat.

Primary Subdivision Review Criteria, Section 76-3-608 Mont. Code Ann.

Primary subdivision review criteria are not required for first minor subdivisions from a tract of record therefore, are not included in this report.

Preliminary Plat Supplements

A subdivision pre-application plan review was completed by the DRC on August 12, 2015. With the pre-application plan review application, waivers were requested by the applicant from Section 38.41.060 , Additional Subdivision Preliminary Plat Supplements. The following supplement waivers were granted: geology, slopes, and soils, vegetation, wildlife, historical features, educational facilities, parks and recreation facilities, neighborhood center, miscellaneous, and affordable housing. Staff offers the following summary comments on the supplemental information required with Article 38.41, BMC.

38.41.060.A.1 Surface Water

No significant impacts are identified. The only impacts to surface water are from the crossing of the surface features by Graf Street. Review and mitigation are provided via a 404 permit issued the Army Corps of Engineers. There are three surface water features on site, Mandeville Creek, the Woward-Esgar Ditch and an un-named Irrigation Ditch. Mandeville Cree parallels the western property boundary and is a stream that was relocated historically to parallel South 19th Avenue. Much of the Mandeville Creek flow is diverted east to an irrigation ditch that parallels the north property boundary. Adjacent wetlands exist along Mandeville Creek and will be retained. The Woward-Esgar Ditch parallels the east boundary of the parcel from south to north. The channel is dry and the historic water sources were removed during the construction of an adjacent subdivision. The only impacts to these features will be to place culverts for the crossing and construction of Graf Street. Army Corps. Of Engineers 404 permitting has been obtained for those impacts. The watercourse setback areas of Mandeville Creek will be planted according to code standards. A code correction is identified relating to this issue in [Section 4](#).

The Wetland Review Board reviewed the subdivision on January 7, 2015 and supported the proposed wetland buffers and watercourse setback along Mandeville Creek. They reviewed the proposed stormwater facility layout and the proposal for a sidewalk along South 19th Avenue. The Board recommended approval. The Woward-Esgar Ditch and the unnamed ditch along the north property boundary will be reviewed in greater detail with the further subdivision of the restricted development lots.

38.41.060.A.2 Floodplains

No significant impacts are identified. A floodplain study was provided for Mandeville Creek and identified no impacts from this subdivision.

38.41.060.A.3 Groundwater

No significant impacts are identified. Monitoring of ground water was completed and found that groundwater depths vary from three to five feet. The site is affected within six feet of the ground surface. Groundwater and soils will be further analyzed with further development to determined appropriate foundations for construction. Connections to City sewer and water infrastructure will minimize the potential for groundwater degradation. City stormwater requirements for Graf Street and the lots platted for development will reduce sediments and contaminants in the runoff

prior to reintroduction into the groundwater. Stormwater flow discharge will be limited to the predevelopment rate.

38.41.060.A.4 Geology, Soils and Slopes

No significant impacts are identified. Supplemental information waived by the DRC. There are no known geologic hazards associated with the site. The site topography slopes at a slight grade in a northern direction. Proposed road and lot grades will not exceed 3-percent and slope work will not exceed a 4:1 horizontal: vertical ratio. The soils will be verified at further development review for any development.

38.41.060.A.5 Vegetation

No significant impacts are identified. Supplemental information waived by the DRC. No significant or critical vegetation exists on the subject property. Noxious weeds are being controlled by the required Noxious Weed Management Plan. Mandeville Creek is vegetated and will not be significantly impacted by the subdivision. Additional watercourse setback plantings will augment the existing vegetation to shade and slow water in the creek along the west boundary of the subdivision.

38.41.060.A.6 Wildlife

No significant impacts are identified. Supplemental information waived by the DRC. This is a developing urban area. The subject property is designated as a residential area according to the City of Bozeman Community Plan. The area is zoned for residential development has been used for agricultural purposes. Although there are incidental small animals residing on this and adjacent property no significant impacts to wildlife is identified in this developing area.

38.41.060.A.7 Historical Features

No significant impacts are identified. Supplemental information waived by the DRC. No historical features are anticipated on site. The property has been substantially disturbed and graded over time which would remove historical features. Mandeville Creek was relocated in the past eliminating any archeological sites that might have been associated with it. Agricultural buildings on site were reviewed and approved via a certificate of appropriateness and demolition permit for removal prior to subdivision application.

38.41.060.A.8 Agriculture

No significant impacts are identified. The site is currently used for agricultural uses. Fence lines exist to separate this parcel from adjacent agricultural uses. This area is a planned residential development area of the City that is not planned for agricultural uses.

38.41.060.A.9 Agricultural Water User Facilities

No significant impacts are identified. Agricultural water user facilities exist on the property. This plat will dedicate land for future streets including South 15th Avenue and Arnold Street. These dedications will provide access to the existing ditches. An existing twenty foot wide easement to access agricultural water user facilities exists on the entire south boundary of the adjacent

property to the north. Mandeville Creek can be accessed from South 19th Avenue. No changes to the configurations or to the flows are proposed with this subdivision.

38.41.060.A.10 Water and Sewer

No significant impacts are identified. Adequate service capacity exists to serve the development. New water and sewer infrastructure will be installed to serve the development. The water main extended in Graf Street will connect to existing city water main at the Graf Street/South 19th Avenue intersection. Sewer service is being extended from the existing main on Stucky Road south into Graf Street. Per a code requirement, prior to final plat approval, the transfer of water rights or the payment of cash-in-lieu (CIL) of water rights must be provided in accordance to Bozeman Municipal Code (BMC) section 38.23.180. Follow up infrastructure design and permitting is required and listed under the code provisions in [Section 4](#). This site is located in a payback district for water and sewer improvements installed by the Meadow Creek Subdivision. [Condition of Approval No. 12](#) would require those payments to be made by the property owner prior to final plan.

38.41.060.A.11 Stormwater Management

No significant impacts to the stormwater system are identified. A stormwater management plan was included and reviewed with this application. Storm water for the public streets will be located on common open space, Lot 2, Block 1 in the northwest corner of the subdivision which is to be owned and maintained by the property owners' association. Storm water collection will be via a surface gutter flow and piped collection system. Combined on site detention is proposed for the street and subsequent development. All storm water facility outlet structures will be properly landscaped and maintained according to city standards. Code corrections related to these items are included in [Section 4](#).

38.41.060.A.12 Streets, Roads and Alleys

Impacts are identified. Conditions of approval and code requirements mitigate the impacts identified. The project requires all perimeter street adjacent to platted lots to be developed to City standard. Access to the subdivision is provided by an extension of Graf Street east from the intersection of South 19th Avenue. Graf Street is classified as a collector street and South 19th Avenue is a principal arterial. South 19th Avenue requires widening to City arterial standard from the intersection of Graf Street to the north property boundary. The access to the lots is proposed from Graf Street only. A roundabout is proposed at the primary access location along Graf Street. Graf Street is proposed at a collector standard with two lanes of travel, a center turn lane and bike lanes. A shared use pathway is proposed along the north side of Graf Street.

A traffic study submitted with the application and determined that the development will have minimal impacts to traffic operations on South 19th Avenue and Stucky Road. Graf Street is anticipated to be extended beyond the boundary of this subdivision east to the existing Graf Street section near South 3rd Avenue. This will provide the first continuous east/west connection between South 3rd Avenue and South 19th Avenue south of Kagy Boulevard and north of Goldenstein Lane. A signal exists at the South 19th Avenue and Graf Street and will be improved with this project to accept westbound traffic. Code corrections are provided related to this issue.

Follow up infrastructure design and permitting is required and listed under the code provisions in [Section 4](#).

Lot 4, Block 1 and Lot 1, Block 2 are proposed as restricted development lots, which require further subdivision review as they will not install all the required infrastructure to support the development of the lots. The application proposes to dedicate rights of ways for Arnold Street and South 15th Avenue with this plat. During development review the application agreed to file waivers of protest for an SID for these and other streets in the event that adjacent development proceeds prior to the further subdivision of the two lots. The applicant understands that an SID may be used by the City to install Arnold Street and South 15th Avenue improvements. [Code provision No. 7](#) and [Condition of Approval No. 15](#) are related to this issue.

This site is located in a payback district for intersection improvements installed by the Meadow Creek Subdivision. [Condition of Approval No. 12](#) would require those payments to be made by the property owner prior to final plan.

38.41.060.A.13 Utilities

No significant impacts are identified. Electric and gas capacity exists to serve the subdivision, confirmed by a letter submitted by NorthWestern Energy. Electrical, gas and communications lines are installed within the South 19th Avenue right of way. A 10'-0" wide utility easement is proposed along all street frontages. As required with [Condition of Approval No. 7](#), all easements, existing and proposed, must be accurately depicted and addressed on the final plat and in the final plat application. In order to reduce conflicts between the utilities and the Mandeville Creek watercourse, staff recommends [Condition of Approval No. 8](#) to require that the ten foot front yard utility easement along South 19th Avenue be located on the east side of the existing sidewalk along the corridor. All necessary utilities and required utility easements will be provided and depicted accordingly on the final plat.

38.41.060.A.14 Educational Facilities

No significant impacts are identified. Supplemental information waived by the DRC. No residential development is proposed.

38.41.060.A.15 Land Use

No significant impacts are identified. The proposed five lot subdivision is within R-1, residential single household and R-2, residential two household zoning districts and is designated as residential in the Bozeman Community Plan. The anticipated use of the lots is for the Yellowstone Theological Institute, which is classified as a community center. A concept review has been processed by the Planning Division in anticipation of a master plan, site plan, and conditional use permit for the further development of the campus.

38.41.060.A.16 Parks and Recreation Facilities

No significant impacts are identified. Supplemental information waived by the DRC. No residential development is proposed; therefore no parkland dedication is required. Staff recommends [Condition of Approval No. 9](#) to note clearly that no parkland was dedicated with this subdivision.

A north/south trail corridor is proposed to meet block length standards. This is proposed as a public access area and is planned to include a ten foot wide concrete shared use pathway. This pathway will connect to the north to the Mandeville Creek city park corridor planned along the watercourse that was approved with the South University District Master Plan. This north/south pedestrian corridor and pathway satisfy the PROST Plan pathway requirement as shown on the parks plan map. A ten foot shared use pathway is proposed consistent with the PROST plan on the north side of Graf Street and will extend continuously from South 19th Avenue to the existing Graf Street location near South 3rd Avenue. This shared use pathway will be located within the right of way and have public access. [Condition of Approval No. 10](#) is recommended which requires the applicant to file a waiver of right to protest an SID for a parks maintenance district.

The Subdivision Subcommittee of the Parks and Recreation Advisory Board (RPAB) met to review the project twice, first on January 7, 2015 and again in November, 2016. The board recommended approval of the subdivision with recommendation to include a ten foot side shared use pathway along South 19th Avenue. The Engineering Division subsequently approved a six foot sidewalk along South 19th Avenue, which meets the arterial street standard in the City of Bozeman Transportation Plan. That sidewalk along with the widening of South 19th Avenue has been completed. The north/south trail corridor proposed to meet block length standards will be a continuous 10 foot wide concrete shared use pathway between Arnold Street and Graf Street. This connection will provide a shared use pathway corridor that will connect to the main park planned within the South University District along Mandeville Creek.

38.41.060.A.17 Neighborhood Center Plan

Supplemental information waived by the DRC. No residential development is proposed.

38.41.060.A.18 Lighting Plan

No significant impacts are identified. A lighting plan was included in the subdivision application. LED street lights are proposed along South 19th Avenue and Graf Street according to Engineering Standards. Follow up infrastructure design and permitting is required and listed under the code provisions in Section 4.

38.41.060.A.19 Miscellaneous

No significant impacts are identified. Supplemental information waived by the DRC. The subdivision will not impact access to any public lands and there are no identified hazards in proximity to the subject property.

38.41.060.A.20 Affordable Housing

No impacts are identified. Supplemental information waived by the DRC. No residential development is proposed; no affordable housing is proposed.

SECTION 7 - FINDINGS OF FACT, ORDER AND APPEAL PROVISIONS

- A. PURSUANT to Chapter 38, Article 3, BMC, and other applicable sections of Chapter 38, BMC, public notice was given, opportunity to submit comment was provided to affected parties, and a review of the preliminary plat described in these findings of fact was conducted. The applicant presented to the City a proposed preliminary plat for a minor subdivision to allow the subdivision of one tract of approximately 78 acres into five lots and dedicated rights-of-way.
- B. The purposes of the preliminary plat review were to consider all relevant evidence relating to public health, safety, welfare, and the other purposes of Chapter 38, BMC; to evaluate the proposal against the criteria and standards of Chapter 38 BMC, BMC; and to determine whether the plat should be approved, conditionally approved, or denied.
- C. The matter of the preliminary plat application for Yellowstone Theological Minor Subdivision was considered by the City Commission at a public meeting on December 12, 2016 at which time the Department of Community Development Staff reviewed the project and stated that no public comment had been received prior to the meeting in response to the noticing on the matter of this preliminary plat application.
- D. Chris Budeski from Madison Engineering, representing the applicant/property owner, discussed the design of the subdivision and indicated agreement with the recommended conditions of approval.
- E. The Commission requested public comment and none was presented.
- F. It appeared to the City Commission that all parties and the public wishing to examine the proposed preliminary plat and offer comment were given the opportunity to do so. After receiving the recommendation of the relevant advisory bodies established by Section Chapter 38, Article 33, BMC, and considering all matters of record presented with the application and during the public comment period defined by Chapter 38, BMC, the City Commission has found that the proposed preliminary plat would comply with the requirements of the Bozeman Municipal Code if certain conditions were imposed. Therefore, being fully advised of all matters having come before her regarding this application, the City Commission makes the following decision.
- G. The preliminary plat has been found to meet the criteria of Chapter 38, BMC, and is therefore approved, subject to the conditions listed in Section 2 of this report and the correction of any elements not in conformance with the standards of the Chapter including those identified in Section 3 of this report. The evidence contained in the submittal materials, advisory body review, public testimony, and this report, justify the conditions imposed on this development to ensure that the final site plan and subsequent construction complies with all applicable regulations, and all applicable criteria of Chapter 38, BMC.

H. This City Commission order may be appealed by bringing an action in the Eighteenth District Court of Gallatin County, within 30 days after the adoption of this document by the City Commission, by following the procedures of Section 76-3-625, MCA. The preliminary approval of this subdivision shall be effective for one (1) year from the date of the signed Findings of Fact and Order approval. At the end of this period the City may, at the request of the subdivider, grant an extension to its approval by the Community Development Director for a period of mutually agreed upon time.

DATED this _____day of _____, 2017.

BOZEMAN CITY COMMISSION

CARSON TAYLOR
Mayor

ATTEST:

ROBIN CROUGH
City Clerk

APPROVED AS TO FORM:

GREG SULLIVAN
City Attorney

APPENDIX A - PROJECT SITE ZONING AND GROWTH POLICY

Zoning Designation and Land Uses:

The subject property is zoned R-1, Residential Single Household and R-2, Residential Two-Household. The intent of the R-1 residential single-household low density district is to provide for primarily single-household residential development and related uses within the city at urban densities, and to provide for such community facilities and services as will serve the area's residents while respecting the residential character and quality of the area.

The intent of the R-2 residential two-household medium density district is to provide for one- and two-household residential development at urban densities within the city in areas that present few or no development constraints, and for community facilities to serve such development while respecting the residential quality and nature of the area.

Adopted Growth Policy Designation:

The property is designated as “Residential” in the Bozeman Community Plan. The Plan indicates that “This category designates places where the primary activity is urban density dwellings. Other uses which complement residences are also acceptable such as parks, low intensity home based occupations, fire stations, churches, and schools. High density residential areas should be established in close proximity to commercial centers to facilitate the provision of services and employment opportunities to persons without requiring the use of an automobile. Implementation of this category by residential zoning should provide for and coordinate intensive residential uses in proximity to commercial centers. The residential designation indicates that it is expected that development will occur within municipal boundaries, which may require annexation prior to development.”

APPENDIX B - NOTICING AND PUBLIC COMMENT

The public meeting before the City Commission has been properly noticed as required by the Bozeman Municipal Code. Based on the recommendation of the Development Review Committee (DRC) and other applicable review agencies, as well as any public testimony received on the matter, the City Commission will make the final decision on the applicant's request.

A preliminary plat application was submitted to the Department of Community Development on December 14, 2015 and was deemed acceptable for initial review on December 21, 2015. The preliminary plat was reviewed by the DRC on December 30, 2015; January 6, 2016. On January 6, 2015, the DRC determined the application submittal inadequate for further review. A revised application was submitted on September 16, 2016. On October 19, 2016 the DRC determined the submittal contained detailed, supporting information that is sufficient and adequate to allow for the review of the proposed subdivision.

Public notice for this application was scheduled in the legal advertisements section of the *Bozeman Daily Chronicle* on November 6, 2016 and the site was posted with a public notice on November 7, 2016. Public notice was sent to physically adjacent property owners via certified mail, and to all other property owners of record within 200 feet of the subject property via first class mail, on November 4, 2016. No public comment has been received as of the writing of this report.

On December 1, 2016 this first minor subdivision preliminary plat application staff report was drafted and forwarded with a recommendation of conditional approval by the Director of Community Development for consideration by the City Commission which is scheduled to make a final decision at its December 12, 2016 public hearing. The final decision for a First Minor Subdivision Preliminary Plat must be made within 35 working days of the date it was deemed adequate; or in this case by December 12, 2016.

The Bozeman City Commission held a public meeting on Monday, December 12, 2016 to review the application and hear public testimony. No public comment was received. The City Commission discussed the proposed preliminary plat application in regards to the character of the area and the intent of the subdivision and zoning district; and reviewed the application against the requirements of the Montana Subdivision and Platting Act and found that, with conditions, the Minor Subdivision Preliminary Plat Application would comply with those requirements; and adopted the findings presented in the staff report for application 15574 and voted to approved the preliminary plat application, with the conditions as outlined in the staff report, 4:0. Commissioner Andrus was absent.

APPENDIX C - OWNER INFORMATION AND REVIEWING STAFF

Owner/Applicant: Karen Gilhousen 601 South Pine Butte Road Bozeman, MT 59718

Representative: Madison Engineering, LLC, 895 Technology Blvd, Suite 203, Bozeman, MT 59718

Report By: Brian Krueger, Development Review Manager

FISCAL EFFECTS

No unusual fiscal effects have been identified. No presently budgeted funds will be changed by this zone map amendment.

ATTACHMENTS

The full application and file of record can be viewed at the Community Development Department at 20 E. Olive Street, Bozeman, MT 59715.