

CASCADE COUNTY PLANNING BOARD

PLANNING STAFF: Staff Report and Recommendations

REGARDING: Planning Board Public Hearing on May 21, 2018

SUBJECT: Major Subdivision Preliminary Plat, The Ranches at Belt Creek Phase 3, located in Sections 18 & 19, T. 18 N., R. 7 E., P.M. Cascade County, Montana

PRESENTED BY: Sandor Hopkins, Planner

GENERAL INFORMATION

Applicants/Owners: Trophy Property Developers, Inc

Property Location: This proposed subdivision is The Ranches at Belt Creek Phase 3, Major Subdivision, Parcel #0005606400, Geo Code 02-2781-18-3-03-01-0000 in the S ½ S ½, Section 18, Township 18 N, Range 7 E, and Parcel #0005217600, Geo Code 02-2781-19-1-02-01-0000 in the NE ¼ NW ¼ and NW ¼ NE ¼ Section 19, Township 18 N, Range 7E P.M. Cascade County, Montana

Existing Zoning: Agricultural (Proposed Rural Residential 5)

Requested Action: Approval of Preliminary Plat Application

Purpose: To create nineteen (19) residential lots

Existing Land Use: The existing lot is undeveloped grassland

Surrounding Land Uses: Undeveloped grassland, Belt Creek valley, rural residential development

SPECIAL INFORMATION

1. The Planning Board is in receipt of an application from Trophy Property Developers, Inc, to recommend approval of The Ranches at Belt Creek Phase 3 major subdivision preliminary plat to the Cascade County Commissioners. This proposed subdivision, is located in Sections 18 and 19, Township 18 N., Range 7 E., P.M. Cascade County, Montana
2. Attached is a copy of the major plat, which will subdivide 143.98 acres into nineteen (19) lots. The new residential lots will be sized from 5.00 acres to 30.245 acres.
3. Pursuant to 76-3-605, MCA a public hearing is required for this major subdivision.
4. There are no delinquent taxes on this property.
5. An Environmental Assessment is required pursuant to 76-3-603(1)(a), MCA (2017).

6. Legal notice of this proposed subdivision was sent to surrounding property owners on May 3, 2019 and appeared in the Great Falls Tribune on May 5, 2019 & May 12, 2019.
7. Interested Agencies were provided with notification letters and a request for comments on May 3, 2019. The applicant reached out to the Belt School District and received a response indicating that the Belt School District would be able to accommodate the extra students, however may need to adjust or add bus routes to accommodate this development. As of writing this report, no other agencies have provided comment.
8. The Ranches at Belt Creek Major Subdivision was approved on September 11, 2007, which included three phases of development. Phase 1 was filed March 2008, Phase 2A was filed October 27, 2010, and Phase 2B was filed December 20, 2012. Phase 3 was not filed before expiration of Preliminary Plat Approval or Final Plat Approval was granted and requires re-review for compliance with Cascade County Subdivision Regulations and the Montana Subdivision and Platting Act.
9. Access to the proposed subdivision will be by a private road known as Little Belt Way. Major subdivisions require two points of ingress/egress, however the road plan was approved as part of the initial full phased development masterplan for The Ranches at Belt Creek, which included roadways for the currently proposed subdivision. The overall phased development utilizes two ingress/egress from Peacemaker Ridge Road and a secondary emergency/recreational route known as Clubhouse Drive that both connect to Old Armington Road. The applicant has asked for a variance from subdivision road regulations to bring this application into compliance with current regulations.
10. The applicant's Traffic Impact Analysis estimates that when fully developed, this subdivision will generate at most 181.8 trips per day but is more likely to be closer to 60.04 trips per day during peak times, generally between May and August. This lower estimate is based on the predominant use of the residences in this subdivision as Recreational/Vacation homes. The applicant does not anticipate that this will create an adverse impact on Old Armington Road or Peacemaker Ridge Road.
11. Parkland dedication is not a requirement of this subdivision, pursuant to 76-3-621 (3)(a) which states, "A park dedication may not be required for: land proposed for subdivision into parcels larger than 5 acres."
12. The proposed subdivision will receive law enforcement services from the Cascade County Sheriff's Department and fire protection services from the Belt Rural Volunteer Fire Department. Response time will be dictated by weather and road conditions.
13. According to the Wild Land Fire Risk and Hazard Severity Assessment Form, the property is designated as Moderate Hazard area. The proposed subdivision will utilize an existing fire suppression cistern that will serve as the fire protection source. The developer installed a 44,500 gallon storage tank at the commencement of the Ranches at Belt Creek subdivision that was intended to provide services for the full masterplan buildout of the subdivision. The system has previously been tested and approved for use by the Belt Rural Volunteer Fire Department.

14. This subdivision application is running concurrently along with a Petition for a Map Amendment to rezone these parcels from Agricultural (A) to Rural Residential 5 (RR5). The Cascade County Planning Board recommended approval of the rezone request on April 16, 2019 on a vote of 6-0. The Preliminary Plat application and the Rezone petition are anticipated to be presented to the Cascade County Board of Commissioners on June 14, 2019.

VARIANCE

When considering a subdivision variance pursuant to Section 11 of the Cascade County Subdivision Regulations, the Planning Division must first determine if a strict application of the regulations would result in an undue hardship on the property. To do this staff analyzes two criteria:

- 1. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not generally applicable to other properties.**

Applicant: The unique aspect of this phase of the subdivision is simply that it was previously approved under 2004 subdivision regulations as the 2007 subdivision regulations had not been adopted at the time the original subdivision application was submitted. The 2004 subdivision regulations did not specifically state that two means of ingress and egress constructed to regulation standards were required to connect to a roadway beyond the subdivision. A substandard secondary access may have been permissible on a per case basis.

The subdivision was reviewed and approved by the planning board and the County Commission. At the time, although not in the regulations, the developer made a commitment to the County Commission to improve the emergency route as much as feasibly possible to improve slope, width, and surfacing. The developer followed through, as much as practical, with that commitment.

Staff: Staff concurs with the applicant's assessment. The original masterplan, including roadways, for The Ranches at Belt Creek subdivision was approved by the Planning Board and Commission during a time when the county Subdivision Regulations were being rewritten. The record shows that the developer acted in good faith to mitigate concerns of the Planning Board and Commission by installing a secondary access route that was not strictly required under the regulations at that time. The roads were approved and built with the assumption that all three phases of development would be filed before approvals expired and have functioned adequately since their installation.

- 2. Physical conditions, such as parcel shape or topography, prevent the applicant from meeting the strict letter of these regulations.**

Applicant: The topography of the development is such that there is a steep valley on the western edge of the property which makes the construction of a roadway extremely difficult and economically impractical. During the original development of the property, optional alternatives to access the property were explored. An easement from Dave Anderson was obtained to access the property through, now the existing easement for the primary access. The property owners to the northeast were contacted and were unwilling to provide an easement. Due to the topography and ownership, there was no reasonable route to the east of the property identified.

South of the property is vast farm/ranch land that includes multiple property owners and several miles to reach a connecting roadway. The physical condition do inhibit the developer from meeting the strict letter of the regulations without obtaining easements from unwilling property owners resulting in costly easements, if attainable, and costly road construction due to topography and overall lengths.

Staff: Staff concurs with the applicant's assessment. The location of the development on top of the Belt Creek valley precludes easily buildable routes for ingress and egress. The developer has already been granted an easement from a northern property owner to provide access to this development as well as established a secondary emergency/recreation access to provide additional access to this development. Additional roads would require obtaining additional easements, disturbing largely unaltered landscapes, and disrupting the natural environment. While possible, staff finds that the additional burden to the developer and the environment is unnecessary given that a previously adequate ingress/egress has already been approved and developed.

Once it has been established that strict compliance would result in undue hardship, the Planning Division then analyzes three criteria to determine if strict compliance is essential to the public welfare or if granting the variance is not detrimental to public welfare.

1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.

Applicant: The granting of the variance will not have any negative ramification on adjoining properties and will not have adverse impacts to public health, safety, or general welfare. No change is requested on what currently exists and what has been functioning adequately for nine years. Currently the internal road network and subdivision ingress/egress routes function as intended and adequately serve the subdivision.

Staff: Staff finds it unlikely that adjoining properties will be detrimentally impacted by this proposed variance request. However, the likelihood of the property owners serviced by Little Belt Way to be impacted in the event of an emergency such as a fire is increased by reducing the number of ingress/egress points, however there are no restrictions on the length of roads from the ingress/egress points or on looped roadways under current subdivision regulations. The masterplan for The Ranches at Belt Creek subdivision could theoretically be approved under current regulations, provided that the secondary emergency/recreation access could be brought to County Standards. Additionally, the use of the houses in that subdivision as vacation homes somewhat mitigates the risk presented by hazards.

2. The variance will not cause a substantial increase in public costs;

Applicant: If a variance is granted, no increase to public costs is anticipated. The entire road network is privately owned and maintained by the home owners association. Recently, the developer acquired a portion of abandoned Old Armington Road right-of-way. By absorbing the road right-of-way, the development has acquired the old roadway, thereby eliminating any need for the County to maintain that portion of roadway. If anything, the overall development has decreased public costs.

Staff: Staff concurs with the applicant's assessment. The roads are already in place and have been constructed at the developer's expense without public funds. The risk of a hazard, such as

a wildfire, could potentially incur costs should public resources be dedicated to rescue or other mitigation operations, however this is a risk inherent in any rural residential development and not exclusive to this subdivision.

3. The variance will not place the subdivision in nonconformance with any adopted zoning regulations.

Applicant: Currently the land within Phase III is zoned Ag. Concurrent with this subdivision application will be a zone change request to change zoning from Ag. To Rural Residential 5, consistent with Phase I and II zoning. The variance, if granted, will not place the subdivision in nonconformance with adopted zoning regulations.

Staff: This is a variance from road standards and has no impact on the zoning regulations.

Staff finds that substantial justice would be done by granting this variance and recommends approval of this request.

CONCLUSION

This proposed subdivision will meet the requirements of the Cascade County Subdivision Regulations, as well as Montana’s Subdivision and Surveying Laws and Regulations, provided that the variance request from road standards is granted and the rezone petition is approved by the Commission.

RECOMMENDATIONS

The following motions are provided for the Board’s consideration:

“I move to recommend to the Cascade County Commission after consideration of the Staff Report and Findings of Fact, **deny**, a major subdivision, a Preliminary Plat of The Ranches at Belt Creek Phase 3 and associated variance request from Cascade County Subdivision Access, Ingress, Egress & Evacuation regulations (10-15(F));

or

“I move to recommend to the Cascade County Commission after consideration of the Staff Report and Findings of Fact, adopt said Staff Report and Findings of Fact and **approve**, a major subdivision, a Preliminary Plat of The Ranches at Belt Creek and associated variance from Cascade County Subdivision Access, Ingress, Egress & Evacuation regulations (10-15(F)), subject to the following conditions:

1. Having the developer’s surveyor correct any errors or omissions on the preliminary plat;
2. Causing to be prepared certificates of title of the land in the subdivision to be recorded in conjunction with the final plat;
3. Submitting with the plat a certificate of a title abstracter showing the names of the owners of record of the land and the names of lien holders or claimants of record against the land (M.C.A. 76-3-612, 2017);

4. Causing to be recorded in conjunction with the final plat The Ranches at Belt Creek Homeowner's Association covenants that pertain to the development and that contain, at a minimum, a noxious weed control program, an erosion control program, a limit to livestock and pets, a provision prohibiting commercial or industrial uses, and that impose upon all landowners the exclusive responsibility to share with the other members of The Ranches at Belt Creek Homeowner's Association the maintenance of the public rights of way created by and indicated on the subdivision plat;
5. Pursuant to 7-22-2152 MCA, submitting a written plan to the Cascade County Weed and Mosquito Board specifying the methods for weed management procedures with regards to this development;
6. Causing to be recorded in conjunction with the final plat homeowners' association documents with sufficient authority and procedural mechanisms to administer, enforce, and fund the perpetual maintenance and discretionary improvement of the public rights of way created by and indicated on the subdivision plat;
7. Causing to be recorded on the plat a statement concerning limited public services.
8. Causing to be recorded on the plat an Agricultural Notification Statement;
9. Design, construction, inspection, and certification, by a licensed professional engineer, of all internal private roads and cul-de-sacs to Cascade County Subdivision Road Specifications, as well as the purchase and installation of all required street signs and stop signs. All of the above items to be at the developer's expense and to be completed prior to the approval of the final plat.
10. The inclusion on the major plat of a statement provided by Cascade County certifying the status of the internal subdivision roads;
11. The inclusion of setbacks in the covenants as required by the Cascade County Zoning Regulations;
12. Obtaining approval for the proposed water and sewage disposal systems from state and/or local health departments;
13. To be filed with final plat a Declaration of Covenant that declares that all of the properties described shall be held, sold, and conveyed subject to the following covenant which shall run with the real property and be binding on all parties having any heirs, successors and assigns, and shall bind each owner thereof. The covenant may be revoked for any or all parcels within the subdivision by mutual consent of the owners of the parcels in question and the governing body of Cascade County;
14. The homeowners association shall be responsible for the continual maintenance of the public improvements including fire suppression equipment as well as all public parkland and open space area as outline in the covenants and homeowners documents and on the plat and accompanying submittal;
15. Causing to be recorded in conjunction with the final plat, an agreement requiring property owners of each subdivision tract to take part in any Rural Special Improvement District (RSID) for the reconstruction, improvement or perpetual maintenance of all

interior roads, or any other road that can be used to access these lots as determined by Cascade County, provided that all other property owners served by said road share equitably in such an RSID. This statement of waiver shall be placed on the final plat;

16. Causing to be recorded on the plat a statement concerning the near proximity of two Montana Fish Wildlife and Parks Block Management Areas that would allow public hunting;
17. Inspection and certification, by a licensed professional engineer, of all fire suppression and storage facilities, to be also approved by the Fire Chief of the Belt Rural Volunteer Fire District. All of the above items to be at the developer's expense and to be completed prior to the approval of the final plat;
18. The homeowners' association shall be responsible for the continual maintenance of the equipment subject to adequate inspections by the Fire Chief of the Belt Rural Volunteer Fire District to insure the equipment is being properly maintained;
19. A copy of the MDEQ General Discharge Permit for Stormwater associated with construction activity shall be submitted prior to final plat approval, if applicable.

Attachments: Findings of Fact
Reduced Copy of Preliminary Plat

cc: Trophy Property Developers Inc
Mark Leo, Big Sky Civil and Environmental