

**BEFORE THE  
GALLATIN COUNTY COMMISSION  
GALLATIN COUNTY, MONTANA**

<b>IN THE MATTER OF THE APPLICATION OF CTA LAND &amp; DEVELOPMENT, LLP FOR PRELIMINARY PLAT APPROVAL FOR THE VILLAGE AT AMSTERDAM MAJOR SUBDIVISION S2015-052</b>	<b><u>FINDINGS OF FACT</u> <u>CONCLUSIONS OF</u> <u>LAW AND ORDER</u></b>
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PURSUANT to the Montana Subdivision and Platting Act, Section 76-3-101 through 76-3-625, Montana Codes Annotated, and the Gallatin County Subdivision Regulations (Subdivision Regulations), after notice given, a public hearing was held before the Gallatin County Commission (Commission), at the Gallatin County Courthouse, 311 W. Main Street, Bozeman, Montana, on November 24, 2015, beginning at approximately 9:00 A.M., to consider a request by CTA Land & Development, LLP (Subdivider) for preliminary plat approval to subdivide a 78-acre property into 58 residential lots, 2 commercial lots, and a 25-acre agricultural open space tract. The proposed subdivision will be completed in 3 phases. Phase I will contain 20 residential lots and 2 commercial lots; Phase II will contain 16 residential lots; and Phase III will contain 22 residential lots and the 25-acre agricultural open space tract. The purpose of the public hearing was to consider public testimony concerning the application, review required plans and information, determine if the information complies with the Amsterdam/Churchill Community Plan, and the requirements of the Gallatin County Subdivision Regulations and the Montana Subdivision and Platting Act.

The following is the record upon which the Commission based its approval on this preliminary plat:

1. The Staff Report of County Planner, Christopher Scott with Exhibits (*Staff Report*);
2. Applicant's complete submittal containing everything listed in the Table of Contents;
3. Written letter from Walt Sales, Amsterdam Churchill Community Planning Group;
4. Written letter from the Amsterdam School District;
5. Email from Randy Visser presented at hearing referred to as Exhibit A entered into the hearing record at 9:14:19 AM;
6. The recorded and log-note proceedings of the hearing 9:14:03 AM through 12:07:22 PM which includes the verbal comments of the public (*Hearing Record*).

The Commission having allowed the opportunity for testimony and public input considering the same, being fully advised of all matters presented to it regarding this matter, make the following:

#### **I. FINDINGS OF FACT**

1. **Subject Property.**

The property is located in the East One-Half (E ½) of the East One-Half (E ½) of the East One-Half (E ½) of Section 14, Township One South (T1S), Range Three East (R3E), P.M.M. Gallatin County, Montana; generally located southwest of the intersection of Amsterdam Road and Churchill Road lying within the established community of Churchill (Subject Property).

2. **Background.**

The Subject Property as it currently exists was created by Deed 21FM751 on September 28, 1973. The property is currently undeveloped and is under agricultural production. A preliminary plat was approved in April of 2007 known as Amsterdam Village that exists on the Subject Property and adjacent properties to the west. The preliminary plat approval for the Amsterdam Village received an extension till April of 2017. The Amsterdam Village preliminary plat approval included 410 lots on 348 acres. The title holder to the Subject Property will be required to relinquish all right, title, and real property interests in any prior

preliminary plat approval under the Montana Subdivision and Platting Act before preliminary plat approval.

3. **Surrounding Land Uses/Zoning.**

Land uses surrounding the property include a mix of uses with residential to the east, commercial to northeast, and agriculture to the south, north and west. The surrounding properties and the Subject Property are not zoned.

4. **Topography/Natural Resources.**

The topography of the site is characterized by gently rolling topography that should not pose any major problems for the construction of roads, buildings, or the installation of utilities.

There are no known geologic hazards (i.e., rock falls, unstable slopes) present within the site. However, the entire Gallatin Valley is susceptible to damage from seismic events. Required Covenants for the subdivision include provisions, which require all structures to be constructed in compliance with Montana State adopted codes for construction, including codes for the pertinent seismic zone.

5. **Vegetation/Weeds.**

The Subject Property is currently under agricultural production. Specifically, the project site has been used for non-food crop production, including alfalfa and small grains. The Subdivision Regulations requires that the Subdivider obtain an approved weed management plan from the Gallatin County Weed Control District prior to preliminary plat approval, which the Subdivider has provided as required. Prior to final plat approval, the Subdivider must enter into a Memorandum of Understanding with the Gallatin County Weed Control District, and the final plat must include a provision for maintenance and weed control.

6. **Sanitary Review.**

The Subdivision is to connect to the existing community wastewater treatment system with final treatment by the Town of Manhattan. Currently the area is served by the Churchill Sewer District which has a contract with the Town of Manhattan to provide 75,000 gallons per day (gpd) of reserved wastewater treatment. The proposed Subdivision will generate wastewater quantities of approximately 23,690 gpd. The Subdivider will be required to install the necessary sewer system facilities in accordance with the requirements of the local sewer district, Montana Department of Environmental Quality (MDEQ) and the Gallatin City-County Environmental Health Department (GCCHD). The Subdivider shall also obtain all approvals prior to undertaking any construction.

GCCHD will be the primary reviewing authority on the proposed subdivision to insure compliance with the Sanitation in Subdivisions Act and County regulations. GCCHD indicated that the Subdivision will need to go through Sanitation Act review. Additionally, a "Will Serve" letter from the public wastewater treatment facility will need to be provided as part of Sanitation Act review.

7. **Water Supply.**

The Subdivider proposes individual residential water wells on each lot. Furthermore, the Subdivider proposes to utilize existing shares of the Low Line Canal Company it holds to use for irrigation water from May to June. Additionally, the Subdivider intends to provide a 120,000 gallon fire protection pond. The Subdivider's application states that the average well depth in the area is 160 feet with average flows of 67 gpm, which is sufficient for a single family home. The Subdivider has provided a detailed Engineering Report on water capacity that is contained under Tab I of the Subdivider's application. The proposed method of supplying domestic water to each lot must comply with the design standards adopted by MDEQ. As a condition of approval, MDEQ approval must be obtained.

GCCHD specified that commercial lots having businesses that serve 25 or more persons per day a public water designation and design will be required by MDEQ.

The Montana Department of Natural Resources and Conservation Water Resources Unit (DNRC) has determined that the proposed subdivision may utilize House Bill 168 allowing the use of exempt wells to service the subdivision under the definition of the “combined appropriation” of exempt wells in effect prior to the First Judicial Court’s ruling on October 17, 2014.

8. **Roads/Access.**

Primary access to the subdivision will be provided by Amsterdam Road and Churchill Road (Highway 288). Churchill Road is maintained by the Montana Department of Transportation (MDT) and Amsterdam Road is maintained by the Gallatin County Road and Bridge Department (Road Department).

The Subdivider has completed a Traffic Impact Study (TIS) for the proposed subdivision, which can be found in the Subdivider’s application under Tab N. The Subdivider’s TIS concludes that there will be no appreciable drop in level of service and therefore is not recommending any improvements to lane geometry or configuration to improve LOS or limit delay due to the proposed project. The Subdivider will be required to obtain approach permits from MDT for each of the two proposed road approaches to the subdivision and any driveway approaches to the two commercial lots. The two proposed road approaches will be allowed to have full turn movements. Allowed approached movements for the shared driveway approach accessing the two proposed commercial lots will be determined by MDT at the time of permitting the approach once development of the lots occur. MDT is requesting a 20-foot building setback from the western Right-Of-Way line of Churchill Road (Hwy 288) to accommodate future widening.

With the development of the subdivision new interior subdivision roads will be constructed. The new interior subdivision roads will be constructed to the paved

standards of the Subdivision Regulations with a 24-foot finished top surface inside a 60-foot wide Right-Of-Way. The Subdivider has proposed access to unsubdivided land to the west and south of the Subdivision. All dead-end roads shall provide an approved turn around. Where a dead-end road will be extended in the future, a temporary cul-de-sac or "T" turnaround shall be provided.

An encroachment permit will need to be obtained from the Road Department for road access points on to Amsterdam Road. Additionally, the Subdivider will be required to dedicate to the public 30 feet of Amsterdam Road south of centerline for the entire length of the Subdivision's frontage onto Amsterdam Road. All new lot owners of the subdivision will become members of the Property Association and will participate in the subdivision road maintenance costs.

9. **Pedestrian Facilities.**

In accordance with Section 7 J. of the Subdivision Regulations, the installation of Pedestrian Facilities is required on at least one side of the interior roads for the residential portion of the subdivision since the net density of the residential portion of the subdivision has a lower density than 1 dwelling unit per half acre. The Subdivider will also need to provide a pedestrian facility along the two commercial lots fronting Churchill Road. Pedestrian Facilities along the commercial lots will connect with the proposed trails within the subdivision's dedicated parkland along Churchill Road. Additionally, Pedestrian Facilities will be placed along the subdivision's frontage of Amsterdam Road in conformity with Policy 3.5.1 of the Amsterdam / Churchill Community Plan.

Per Section 7 J. 2. of the Subdivision Regulation, Pedestrian Facilities shall:

- a. *be separated from the Roadway with a minimum 4-foot wide boulevard and be a minimum of 5 feet in width; and*
- b. *be maintained by the property owner's association as agreed to by Covenant recorded with Final Plat; and*

- c. be located within the dedicated public road Right-Of-Way or public road easement; and*
- d. be a permeable or impermeable surface capable of being used year round.*

10. **Parkland Dedication / Trail Corridors.**

In accordance with Section 6 G. of the Subdivision Regulations the Subdivider shall dedicate 11% of the area of the land proposed to be subdivided into parcels of one-half acre or smaller, 7.5% for area of land to be subdivide into parcels larger than one-half acre and not larger than 1 acre, and 5% for area of land to be subdivided into parcels between 1 acre and 3 acres. The total area required to be platted as Park is said to be 2.87 acres. The Subdivider has proposed a total of 7.12 acres of Park. The required parkland for each phase of the proposed subdivision will be provided. The parks are proposed to include pedestrian amenities (trails) and landscaping. The Subdivider intends to dedicate all parks to the County. As a condition of approval the Subdivider shall dedicate all parkland to the public and be maintained by the Property Owner's Association as agreed to by Covenant recorded with the final plat of each phase.

11. **Mail Delivery.**

Per Section 6 N. of the Subdivision Regulations, if mail delivery will not be to each individual lot within the subdivision, the Subdivider shall provide an off-road area for mail delivery within the subdivision in cooperation with the United States Postal Service. As a condition of approval, the Subdivider will be required to consult with the US Postal Service with regard to mail service, and the type and location of mail receptacles.

12. **Consent of Mortgage/Leinholders/Claimants of Record.**

As a condition of approval, the Subdivider shall record a certificate of consent of leinholders and/or claimants of record on the final plat or a separate document.

13. **Notice.**

Notice of this proposal and the public hearings was sent to adjacent property owners via certified mail, and published in the *Bozeman Daily Chronicle* on October 25 and November 1, 2015.

14. **Amsterdam/Churchill Community Plan.**

The Amsterdam / Churchill Community Plan Area (Plan) identifies the Subject Property as being located within the Town Core area, specifically located on the eastern side of the Ecton Ranch area, Category C.

The Ecton Ranch is a 348-acre property between Amsterdam and Churchill. The property currently has an approved preliminary plat for the Amsterdam Village project, a large mixed-use project designed to provide commercial development in the northeastern corner of the property south and west of the Churchill Bank, grading to residential development with substantial open space (approximately 50% of the development) on the remainder of the property. Steep slopes leading down to Camp Creek from the western edge of the property. While this property does have an approved preliminary plat, the planning process has identified several transportation connections (detailed in Policy 3.5) that should be made on this property if development plans change in the future. Additionally, the future land use map designates this property as “planned unit development”, to reflect both the existing approval and the community’s desire for a development providing creative, mixed-use development near the Churchill Bank and the intersection of Amsterdam Road and Churchill Road as well as west of Bethel Church, and substantial open space and park space with residential development on the remainder of the property. Should the currently-approved development plans change, the development standards and this plan will encourage a similar style of development as currently approved for the Amsterdam Village project.

According to Section 3.L.c.iv. of the Subdivision Regulations, when a subdivision is proposed in an area subject to the Growth Policy, the governing body shall review



the preliminary plat for compliance with the goals and applicable policies. *The County Commission may not withhold, deny, or impose conditions on a subdivision based solely on compliance with the officially adopted Growth Policy (§76-1-605(2)(b), MCA).*

15. **Planning Board Recommendation**

On November 10, 2015, the Gallatin County Planning Board at their public hearing voted in favor (4:0) of a motion to recommend approval of the preliminary plat with recommend Staff suggested conditions. Additionally, the Planning Board also recommended adding an additional condition of approval requiring the Subdivider to work with the School Districts to come up with mitigation on the Subdivisions impacts on schools.

16. **Additional Findings.**

The Commission made additional Findings of Fact as set forth in the recorded Hearing Record.

## **II. CONCLUSIONS OF LAW**

- A. The basis of the Commission's decision to approve, conditionally approve, or disapprove a subdivision is whether the preliminary plat, applicable environmental assessment, public hearing, staff report, or additional information demonstrates that development of the subdivision meets the requirements of Title 76, Chapter 3, MCA and the Gallatin County Subdivision Regulations.
- B. In accordance with Section 3 L. of the Subdivision Regulations, when a subdivision is proposed in an area subject to the Gallatin County Growth Policy (Growth Policy), the Commission shall review the preliminary plat for compliance with the goals and applicable policies (Chapter 3), and the Land Use Diagram (Chapter 10) of the Growth Policy. In this instance since the subdivision is located within Amsterdam/Churchill Community Plan Area (Community Plan) the Commission reviewed the preliminary plat for compliance with the policies of Community Plan.

The Community Plan was adopted as a revision to the Growth Policy. The Community Plan is in compliance with the Growth Policy and is designed to give greater specificity within the Community Plan. The Commission may not withhold, deny, or impose conditions on a subdivision based solely on compliance with the officially adopted Growth Policy (76-1-605(2)(b), MCA).

C. In accordance with Section 76-3-608, MCA, the Commission considered the primary criteria as a basis to provide a decision on the Subdivision during the public hearing. An environmental assessment was accompanied with the preliminary plat for the major subdivision. The environmental assessment addresses the primary review criteria established in 76-3-608(3) (a), MCA, (effects on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety). The Commission in review of the primary criteria acknowledged the following:

1. Agriculture. The 78-acre Subject Property has been actively farmed as non-food crops and grazing. Properties in the area are used for agriculture uses and therefore the subdivision will include covenants to mitigate any potential impacts of nearby agricultural uses.
2. Agricultural Water User Facilities. The Subject Property does not contain any agricultural water user facilities on the Subject Property. Valley Ditch an agricultural water user facility is located across Amsterdam Road within 500 feet of the Subject Property. The Agricultural Water Users were notified of the Subdivision as required with pre-application of the subdivision, however no response was received. As a condition of approval that the Subdivider shall record with the final plat covenants as further mitigation that are related to water conveyance facilities.

### 3. Local Services

- a. Fire Protection. The proposed subdivision is within the Amsterdam Rural Fire District (Fire District) that is a volunteer fire department. The Subdivider will be required to comply with the fire protection requirements of the Subdivision Regulation.

The Subdivider proposes to provide the needed water supply for fire protection by utilizing a combination of water from the proposed central water system and man-made pond. The Subdivider will need to provide one of the fire protection packages listed for Major Residential Subdivisions having 50 or more lots/units. Additionally, the Subdivider will also need to comply with the fire protection requirements for Commercial Subdivision for the 2 proposed commercial lots.

As a condition of approval that the Subdivider will have the Amsterdam Rural Fire District review the fire protection method as to whether it meets the requirements of the Gallatin County Subdivision Regulations prior to final plat approval.

- b. Law Enforcement. The Gallatin County Sheriff will provide law enforcement services to the proposed subdivision.
- c. Emergency Medical. Emergency medical services will be provided by American Medical Response.
- d. Schools. The proposed subdivision is within the Amsterdam School District for grades K-8 and the Manhattan School District for grades 9-12. The Gallatin County Superintendent of Schools has estimated a student impact on the K-6 school to be .45 students per household with a total estimated increase of 26 students. The Subdivider has agreed with the Gallatin County Superintendent of

School's estimated number of projected students. The Gallatin County Superintendent of Schools additionally raised concerns of impacts to the Amsterdam School District in having to pay tuition for its students to attend Manhattan School for grades 7th-8th. Furthermore, Manhattan Schools Superintendent has acknowledged the Manhattan schools are full and that overcrowding of the existing schools will become an issue with current growth with new subdivisions adding to the complexity. The Subdivider projects that students will likely enter the school system over a five to ten year period, which coincides with the build-out of the Village at Amsterdam Subdivision. Additionally, the Subdivider claimed that with the addition of more 7<sup>th</sup> and 8<sup>th</sup> graders and the subsequent reimbursement, the Amsterdam School could begin to educate all students within the district and forgo the tuition cost.

4. Natural Environment. The Commission recognized that no known critical plant communities exist on the site. All new lots will connect to the existing centralized municipal sewer system. The development will reduce the amount of irrigated land that will significantly reduce the volume of pesticides/fertilizers applied and much of the common open space areas will utilize native grasses and drought-tolerant species which will reduce the need for the application of herbicides and fertilizers. Furthermore, the Subdivider proposes to implement measures to protect soil from all types of potential erosion during construction on site by utilizing Best Management Practices (BMP's) to control and minimize possible contamination of any proximate surface waters. The Subdivider has also provided a weed management plan that was approved by the Gallatin County Weed Control District, which the Subdividers will be required to comply with.
  
5. Wildlife. The Subject Property has no records of having endangered, threaten or sensitive wildlife species. Typical animals that can occasionally be found on the property include whitetail and mule deer, ground squirrels, and red fox in addition to birds including Red-tailed Hawk, Savannah Sparrow, Easter Kingbird, Mourning Dove, Black-billed Magpie, Horned Lake, and Killdeer.

Standard wildlife covenants will be required to help mitigate any potential impacts on wildlife.

6. Wildlife Habitat. The Subject Property does not contain any significant wildlife habitat.
  
7. Public Health and Safety. The subdivision was found to not be subject to potential man-made hazards such as high voltage power lines, high-pressure gas lines, high traffic volumes, and mining activities. Based on the available information, the Subdivision is not subject to potential natural hazards such as steep slopes and snow or rockslides. Public health and safety provisions are required as conditions of final plat approval.

D. In accordance with Section 76-3-608 (3)(b), MCA, the Commission may not approve a subdivision application and preliminary plat unless the proposed subdivision complies with:

1. The survey requirements of the Montana Subdivision and Platting Act: The final subdivision plat must comply with the survey requirements of the Montana Subdivision and Platting Act.
  
2. The local subdivision regulations and review process of these regulations: The Subdividers and the local government have complied with the subdivision review procedures set forth in the Subdivision Regulation.

E. In accordance with Section 76-3-608 (3) (c), MCA, the proposed subdivision must provide easements for the location and installation of any planned utilities. The final subdivision plat would be required to show all required easements for utilities. Easements shall be located along property lines, and utilities can be located within road Rights-of-Way.

F. In accordance with Section 76-3-608 (3)(d), MCA, the proposed subdivision would provide the provision of legal and physical access to each parcel within the subdivision and

the required notation of that access on the applicable plat and any instrument transferring the parcel. Legal and physical access would be provided to each lot within the subdivision. The required notation of legal and physical access would be required to be delineated on the face of the final subdivision plat.

G. The Commission made additional Conclusions of Law as set forth in the recorded Hearing Record.

### ORDER

After evaluating the record and the testimony of the Planning Staff, the Subdivider, and members of the public, Commissioner Skinner made a motion (11:44:51 AM) to approve the Village at Amsterdam Major Subdivision Preliminary Plat with Staff suggested conditions, modified conditions, and additional conditions as discussed by the County Commission during the hearing. Additionally, Commissioner Skinner in his motion also moved that the approval of the preliminary plat is conditioned on the County's receipt of a written release from CTA Land and Development, LLP of any right, title, and interest it may have in the prior preliminary plat approval for the Amsterdam Village Major Subdivision (April 2007) as such approval concerns the real property that is the subject of this preliminary plat. As part of such release, CTA Land and Development shall agree to indemnify, hold harmless, and release the county for all liability, damages, claims, and fees in any way relating to the prior preliminary plat approval for the Amsterdam Village Major Subdivision. Commissioner Seifert seconded said motion. The Commission made findings and conclusions related to the motion on the floor starting at (11:46:26 AM). The motion passed upon a unanimous vote of 3 in the affirmative and 0 in the negative. (12:07:12 PM).

THEREFORE IT IS NOW HEREBY ORDERED that the preliminary plat for the Village at Amsterdam Major Subdivision is approved by the County Commission with conditions of final plat approval listed below.

1. The final plat of each phase shall conform to the uniform standards for final subdivision plats and shall be accompanied by the required certificates.

2. The final plat of each phase shall contain a statement requiring lot access to be built to the standards of Section 7. of the Gallatin County Subdivision Regulation.
3. The subdivider shall record on the final plat or on a separate document a certificate of consent of mortgagee, leinholders and/or claimants of record for the subdivision if the property is subject to a mortgage, leinholders and/or claimants of record.
4. A copy of the following applicable documents, in one submittal, shall be submitted to the Gallatin County Attorney's Office, at least thirty (30) days prior to submitting an application for final plat approval of each phase to the County Planning Department. Subdivider shall provide a cover letter with the submittal explaining which documents are being submitted and including the name of the subdivision and the date of preliminary plat approval:
  - a. Articles of Organization or Incorporation for the Homeowner's or Property Owner's Association accompanied by a letter from the Secretary of State approving the Articles.
  - b. Bylaws controlling the operation of the Homeowner's or Property Owner's Association.
  - c. Restrictive and Protective Covenants encumbering the real property contained within the subdivision. All County required covenants shall be in a separate section and clearly delineated.
  - d. Any and all public road easements.
  - e. Any and all improvements agreements, if applicable, along with: (i) itemized estimates of the cost of improvements to be included in the agreement certified by a licensed engineer; and (ii) drafts of the form of financial security.
  - f. Any and all required maintenance agreements, including road maintenance agreements.

In addition, a copy of the Restrictive and Protective Covenants and any and all maintenance agreements must be submitted to the County Planning Department at the same time as submittal to the County Attorney's Office. Subdivider shall provide a cover letter to the Planning Department along with the submittal explaining which documents are being submitted and including the name of the subdivision and the date of preliminary plat approval.

5. Two copies of the certificate of a licensed title abstractor shall be submitted along with a copy of the proposed final plat to the Gallatin County Attorney's Office at least thirty (30) days prior to submitting an application for final plat approval for each phase. The Gallatin County Attorney's Office shall review the Certificate of a Licensed Title Abstractor prior to final plat approval of each phase.
6. The existing approved preliminary plat for the Amsterdam Village Major Subdivision shall be terminated prior to final plat approval of the Village at Amsterdam Major Subdivision, unless the preexisting approved preliminary plat has otherwise expired. Such termination shall be approved in writing by all owners of

the real property that is subject of the pre-existing preliminary plat for the Amsterdam Village Major Subdivision.

7. A "Notice of Decision" prepared by the Planning Department shall be recorded by the subdivider with the Gallatin County Clerk and Recorder. Once recorded the subdivider shall provide evidence that it has been recorded to the Planning Department.
8. The subdivider shall have three (3) years to complete all conditions and apply for final plat approval for all phases.
9. A "Property Owners' Association" shall be formed for the maintenance of all interior roads, parks, trails, storm water infrastructure and water & sewer facilities as agreed to by covenant recoded with the final plat of all phases.
10. The subdivider shall consult with the US Postal Service with regard to mail service, and the type and location of mail receptacles. If a central located bank of mail receptacles is to be used, the location and access shall be shown on the final plat.

**Natural Environment:**

11. A memorandum of understanding shall be signed between the Weed Control District and subdivider prior to final plat approval of each phase.
12. Prior to final plat approval of any phase of the subdivision, the Subdivider shall comply with all pre-final plat requirements of the approved *Weed Management Plan* ("Plan") for all onsite and offsite areas disturbed by any construction related activity.

Notwithstanding the above, all areas disturbed by construction, including areas on-site and areas off-site shall be, prior to final plat approval, sufficiently controlled for noxious weeds and sufficiently re-vegetated, as determined by the District, with grasses approved by the District. In addition, Subdivider shall, prior to final plat approval, provide evidence of all control and re-vegetation work (and any other pre-final plat vegetation management required by the *Plan*) to the District and the Planning Department.

The subdivider may request that any required seeding and/or control of noxious weeds required to be completed prior to final plat be included in an Improvements Agreement, pursuant to the Section 8.b.1.g of the Subdivision Regulations. The Improvements Agreement shall state any seeding and weed control work required to be completed prior to final plat be conducted during the next season where seeding and weed control work can reasonably be accomplished.



For the control of noxious and nuisance weeds for any year beyond year one of the approved *Plan*, Subdivider shall enter into an Improvements Agreement, pursuant to Section 8.b.1.g of the Subdivision Regulations, with the Gallatin County Board of County Commissioners.

The approved *Plan*, along with written approval from the District that all work required by the *Plan* prior to final plat approval was conducted in compliance with the *Plan*, shall be submitted to the Gallatin County Planning Department at the time of application for final plat approval.

13. All areas of the public right-of-way or easement disturbed during construction activities must be sodded or reseeded.

**Roads and Access:**

14. A detailed signage and drainage plan shall be submitted to the County Road Department for approval, prior to the start of any construction. The plan shall address the requirement for road name signs to be installed at all intersections, as well as STOP sign(s) at all intersections with County and State maintained roads. STOP signs and other regulatory or warning signs may also be needed on some internal roads, and shall be addressed in the plan. All signage shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), Millennium Edition.
15. All interior roads shall be built to County Subdivision Regulation paved standards and be within a 60-foot right-of-way or easement, dedicated to the public, unless other County road standards apply. Roads dedicated to the public are accepted for public use, but the County accepts no responsibility for maintaining the same.
16. All permanent and temporary dead-end roads shall provide an approved turn around in compliance with Section 7 C. 6. of the County Subdivision Regulations.
17. A pre-construction meeting shall be scheduled with the County Road Department prior to the start of any construction.
18. All roadwork shall be built to Montana Public Works Standard Specifications (Current Edition), inspected and certified by a licensed engineer. Any deviation from these standards must be certified by an Engineer in coordination with the County and/or MDT. Such inspections and certification shall be provided to the County Road and Bridger Department office in writing prior to final plat approval.
19. For all onsite and offsite road improvements a 2 year written warranty from the project contractor to Gallatin County shall be submitted to the County Road and Bridger Department office prior to final plat approval of each phase.
20. All new road names for the interior subdivision roads shall be verified by the Gallatin County GIS Department prior to final plat approval of each phase.

21. A “no access” strip shall be required along all lot boundaries that border county maintained roads with the exception of approved access for interior subdivision roads.
22. The subdivider shall submit completed approach permits and environmental checklist for each of the proposed interior road approaches onto MDT right-of-way. The approach permits must be approved and issued by MDT with all approaches constructed and installed prior to final plat approval of the phase of which the approaches are located on.
23. A building setback of 20 feet from the western right-of-way of Churchill Road (HWY 288)
24. The subdivider shall waive a right to protest the creation of a rural improvement district (RID) for transportation improvements to Churchill Road and Amsterdam Road and the intersection of Churchill Road, Amsterdam Road, and Kunje Blvd. The waiver of right to protest shall be valid for a period of 20 years after the date the final subdivision plat is filed with the County clerk and recorder.
25. The subdivider shall meet with MDT to consider installation of crosswalks on Churchill Road at subdivider’s expense.

**Water Conveyance Facilities:**

26. Unless there is written consent from the appropriate water users and/or water conveyance facility’s authorized representatives, stormwater, snowmelt, water from dewatering practices, or other water originating from within the boundaries of the subdivision shall not discharge into or otherwise be directed into any irrigation ditch, canal, pipeline, or other water conveyance facility.
27. The subdivider shall not undertake any activity that would result in the interference or obstruction in the transmission of water in any water conveyance facility. Before any maintenance, improvements, or modifications are performed on any water conveyance facility, written permission must be obtained from the water users and/or water conveyance facility’s authorized representatives. Upon completion of maintenance, improvements, or modifications to any water conveyance facility, the subdivider shall provide written notice to the water users and/or water conveyance facility’s authorized representatives and allow them an opportunity to inspect such work.

**Utilities:**

28. All utility easements are to be shown on the final plat of each phase. Utility easements shall be centered along side and rear lot lines wherever possible, and shall be twenty (20) feet wide. If utility easements are not possible along side and rear lots

lines, written approval shall be obtained from all utility providers. Underground utilities, if placed in the road right-of-way, shall be located between the roadway and the right-of-way line. Such underground facilities shall be installed or utility culverts provided before the road is surfaced. In addition, the following statement must appear on the final plat of each phase:

*“The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as ‘Utility Easement’ to have and to hold forever”.*

**Public Health and Safety:**

29. The subdivider shall provide a Fire Protection method in accordance with the Gallatin County Subdivision Regulation. The subdivider shall have the Amsterdam Rural Fire District review the Fire Protection method and all fire protection requirements per the Gallatin County Subdivision Regulation prior to final plat approval of each phase. The subdivider shall obtain written verification from the Amsterdam Rural Fire District that the required fire protection requirements of the Gallatin County Subdivision Regulation have been met.
30. The Subdivider shall record all covenants required to meet the fire protection requirements of Appendix I of the Subdivision Regulations.
31. The Subdivider shall provide the Amsterdam Rural Fire District a copy of the final subdivision plat for each phase prior to final plat approval.
32. If the subdivider chooses to have the Amsterdam Rural Fire District conduct the required testing and/or plan review, all fees for fire protection water supply testing (\$300 + \$10 per hydrant) and all fees for fire sprinkler system plan review and testing (\$200 per system) shall be paid by the subdivider as part of the application for final plat approval.
33. The subdivider shall be required to install the necessary water and sewer system facilities in accordance with the requirements of MDEQ. Additionally, the Subdividers are required to submit plans and specifications for the proposed facilities to MDEQ, and shall obtain their approvals prior to undertaking any construction.
34. State Department of Environmental Quality approval shall be obtained. The subdivider shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The subdivider shall obtain the Gallatin County Health Officer’s approval.

**Parkland / Open Space / Trails:**

35. All required parkland shall be dedicated to the public on the final plat of each phase. All parkland dedicated to the public is accepted for public use, but the County accepts no responsibility for maintaining the same. Tract C of Phase 3 shall be delineated as open space on the final plat of phase 3.
36. The subdivider shall install a landscaping within the parkland areas prior to final plat approval of the phase of which the parkland are located on.
37. All trail improvements shall be installed for each phase as shown on the subdivider's parkland dedication plan prior to final plat of each phase. A minimum 25-foot wide public trail easement or right-of-way shall be provided for all trails on the final plat. All trails within the Subdivision shall be constructed at a minimum to the Class II trail specifications with a width of not less than five feet. All trails shall connect to the required Pedestrian Facilities when feasible.

**Pedestrian Facilities:**

38. The subdivider shall install Pedestrian Facilities within the subdivision along all interior subdivision roads and along the frontage of Amsterdam Road and the commercial lots along the frontage of Churchill Road. Furthermore, Pedestrian Facilities shall provide connection to trails within dedicated parkland/open space within the subdivision. The Pedestrian Facilities shall meet the requirements of Section 7 J. 2. of the Gallatin County Subdivision Regulation.

**Voluntary School Mitigation:**

39. Each residential lot shall pledge \$1,000.00 to the Amsterdam Elementary School, District 75 upon the initial sale of each lot.

**Covenants:**

40. The subdivider shall record the following covenants on or with the final plat of any phase:
  - a. *The control of noxious weeds is the responsibility of the property owner whether the lot is improved or unimproved, and shall be as set forth and specified under the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.*
  - b. *Lot owners and residents of the subdivision are informed that nearby uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in smoke, dust, animal odors, flies and machinery noise. Standard agricultural practices feature the use of heavy equipment, burning, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.*

- c. *All fences bordering agricultural lands shall be maintained by the property owners, in accordance with state law.*
- d. *All structures shall be constructed in compliance with Montana State adopted codes for construction, including codes for pertinent Seismic Zone, and current fire codes as adopted by the State of Montana.*
- e. *The artificial feeding of all wildlife and big game shall be prohibited, including providing any food, garbage or other attractant.*
- f. *All garbage shall be stored in animal-proof containers or be made unavailable to animals.*
- g. *Pets shall be controlled by each property owner, and not allowed to roam at large.*
- h. *Owners acknowledge that wildlife damage to landscaping and other property may occur. Owners shall accept the risk and shall not file claims against any governing body for such damages.*
- i. *Temporary erosion control measures shall be installed and continuously maintained for the duration of construction and shall include:*
  - i. *All non-construction areas shall be clearly marked and protected during construction by fencing or other identification;*
  - ii. *The protection of loose piles of clay, debris, sand, silt, or other earthen material during periods of precipitation or runoff with filter fabric fence, hay bales, temporary gravel, and/or earthen or sand bag dikes;*
  - iii. *All soil disturbance activities shall cease if adverse weather conditions exist. Adequate temporary erosion control measures shall be immediately installed during adverse weather conditions.*
- j. *No water may be removed from any irrigation ditch, canal, or other water conveyance facility without a water right, permit, or written water lease agreement with the appropriate water users and/or water conveyance facility's authorized representatives.*
- k. *Unless there is written consent from the appropriate water users and/or water conveyance facility's authorized representatives, stormwater, snowmelt runoff, water from dewatering practices, or other water originating from within the boundaries of the subdivision shall not discharge into or otherwise be directed into any irrigation ditch, canal, pipeline, or other water conveyance facility.*
- l. *Lot owners shall remove any trash or debris that originated from within the subdivision and has accumulated in a water conveyance facilities by no later than May 1st of each year. If any lot owner fails to remove the trash or debris as described above, the water users and/or water conveyance facility's authorized representatives may cause the trash or debris to be removed and bill the lot owner for such efforts.*
- m. *Lot owners shall not undertake any activity that would result in the interference or obstruction in the transmission of water in the water conveyance facility. Before any maintenance, improvements, or modifications are performed on any water conveyance facility, written permission must be obtained from the water users and/or water conveyance facility's authorized representatives prior to commencing such work. Upon completion of maintenance, improvements, or modifications to any water notice to the water users and/or water conveyance*

*facility's authorized representatives and allow them an opportunity to inspect such work.*

- n. Lot purchasers are hereby notified that Montana law provides specific protections in regards to liability and nuisance claims for agricultural operations and irrigators. Those specific protections include, but are not limited to Section 85-7-2211, MCA; Section 85-7-2212, MCA; and Section 27-30-101, MCA.*
- o. Lot owners are strongly encouraged to route stormwater away from domestic wellheads and test their domestic wells annually for nitrate, bacteria, and arsenic.*
- p. Any covenant, which is included herein as a condition of the preliminary plat approval and required by the County Commission shall not be amended or revoked without the mutual consent of the owners, in accordance with the amendment procedures in the covenants, and the County Commission.*

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A party, as defined by 76-3-625 M.C.A., who is aggrieved by a decision of the Commission may, within thirty (30) days after this decision, appeal to the Gallatin County District Court.

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**GALLATIN COUNTY COMMISSION**

  

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**R. STEPHEN WHITE, CHAIRMAN**

12-22-15  

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**DATE**

**ATTEST:**

  

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**CHARLOTTE MILLS,  
CLERK & RECORDER**