

Town of West Yellowstone

Town Council Work Session

Monday, March 4, 2019

West Yellowstone Town Hall, 440 Yellowstone Avenue

West Yellowstone, Montana

2:00 PM

Agenda

Public Comment Period/Council Comments

Moonrise Meadows Subdivision

- Preliminary Plat Application
- Conditional Use Application

Discussion

The public is invited to attend.



**STAFF REPORT
MOONRISE MEADOWS MINOR SUBDIVISION
PRELIMINARY PLAT APPLICATION**

Note: This is the same report prepared for the West Yellowstone Planning Advisory Board except where noted with underlined and ~~struck through~~ text. The modified text reflects actions of the Planning Advisory Board, changes in the review schedule, fire district comments, and modified street access options proposed by the subdivider's engineer.

I. Basic Information

Date of Report:	January 22, 2019 <u>February 19, 2019</u>
Name of Subdivision:	Moonrise Meadows Minor Subdivision
Type of Subdivision:	1. Subsequent Minor Subdivision 2. Condominium Subdivision
Number of Lots and Residential Dwelling Units:	5 lots and 180 new dwelling units (180 condominium units in 15 twelve-plex residential buildings on four lots, with an existing home and garage/residence one lot)
Legal Description:	Tract 1 (PUD Tract) as shown on the subdivision plat of the Madison Addition to West Yellowstone, located in the SW ¼ of Section 27, Township 13 South, Range 5 East, Gallatin County, Montana
Acres:	21.82 acres
Zoning:	R-4 Residential Medium Density Apartments
Applicable Subdivision Regulations:	Town of West Yellowstone Subdivision Regulations, adopted by Ordinance No. 94 in 1982; West Yellowstone Municipal Code 16.04.010; Montana Subdivision and Platting Act
Land Owner:	Yeakey Family Trust
Applicant:	Rob Yeakey
Agent/Representative:	Matt Hausauer, PE, C&H Engineering and Surveying, Inc.
Surveyor/Engineer:	Mark A. Chandler, PE, PLS, C&H Engineering and Surveying, Inc.
Date Originally Received:	July 25, 2018
Date Determined Sufficient:	January 2, 2019
Review Deadline:	March 4, 2019 <u>March 20, 2019 as per Extension Agreement #1</u>
Planning Advisory Board's Public Hearing:	Tuesday, January 29, 2019 at 7:00 p.m., <u>continued on February 12, 2019</u>
Staff Recommendation:	That the Planning Advisory Board recommend the following to Town Council: Adopt this report as findings of fact and recommend preliminary approval subject to 29 conditions.
Town Council's Meeting:	Public hearing scheduled for Tuesday, February 19 <u>March 5, 2019</u> at 7:00 p.m. on the preliminary plat and subdivision application and a conditional

	use permit for a planned unit development. However, the developer has indicated he may not be able to attend this hearing so may seek to reschedule.
Planning Advisory Board Recommendation:	To be determined <u>Adopt this report as findings of fact and recommend preliminary approval subject to 31 conditions. Also, under a separate motion, the Board recommended the Town Council petition the US Forest Service to allow development of a street and associated public facilities from the west boundary of the property south to Iris Street.</u>
Note: <i>This preliminary plat (subdivision) application is being reviewed concurrently with the applicant's conditional use permit (CUP) application to obtain approval of a planned unit development (PUD) by the Town Council under Chapters 17.32 and 17.34 of the West Yellowstone Zoning Ordinance; please see the zoning staff report for additional information. The draft CUP/PUD report is being <u>was</u> provided to the Planning Advisory Board for context and so that the Planning Advisory Board is <u>was</u> aware of requirements for that aspect of the development (such as potential conditions and improvements). The Planning Advisory Board does not have a role in the CUP/zoning proceedings on the development.</i>	

Submitted by:



 Dave DeGrandpre, AICP
 Land Solutions, LLC
 Contract Planner for the Town of West Yellowstone

~~January 22~~ February 19, 2019

 Date

II. Introduction

Moonrise Meadows is a proposed minor subdivision located in the northwest corner of the Town of West Yellowstone. See Figure 1 for a locator map of the property.

The property is described as Tract 1 of the Madison Addition, located in the SW ¼ of Section 27 of Township 13 South, Range 5 East, P.M.M., Gallatin County, Montana. The proposal would create five lots ranging in size from approximately 2.24 to 6.9 acres from the existing 21.82-acre tract.

The property is located west of Hayden Street behind the homes fronting Hayden Street in the northwest portion of the Madison Addition. The property currently contains a residence and garage/residence near the end of Moonrise Way, a 12-15-foot wide private driveway serving the structures.

As shown on the preliminary plat, Moonrise Way intersects with Hayden Street across from Grayling Avenue. The first segment of Moonrise Way is proposed to be renamed Grayling Avenue and rebuilt to municipal standards, then connect to proposed Moonrise Meadows Loop, a new street which would serve the development. The remainder of the driveway would be removed where it currently traverses Lot 1 of the proposed subdivision.

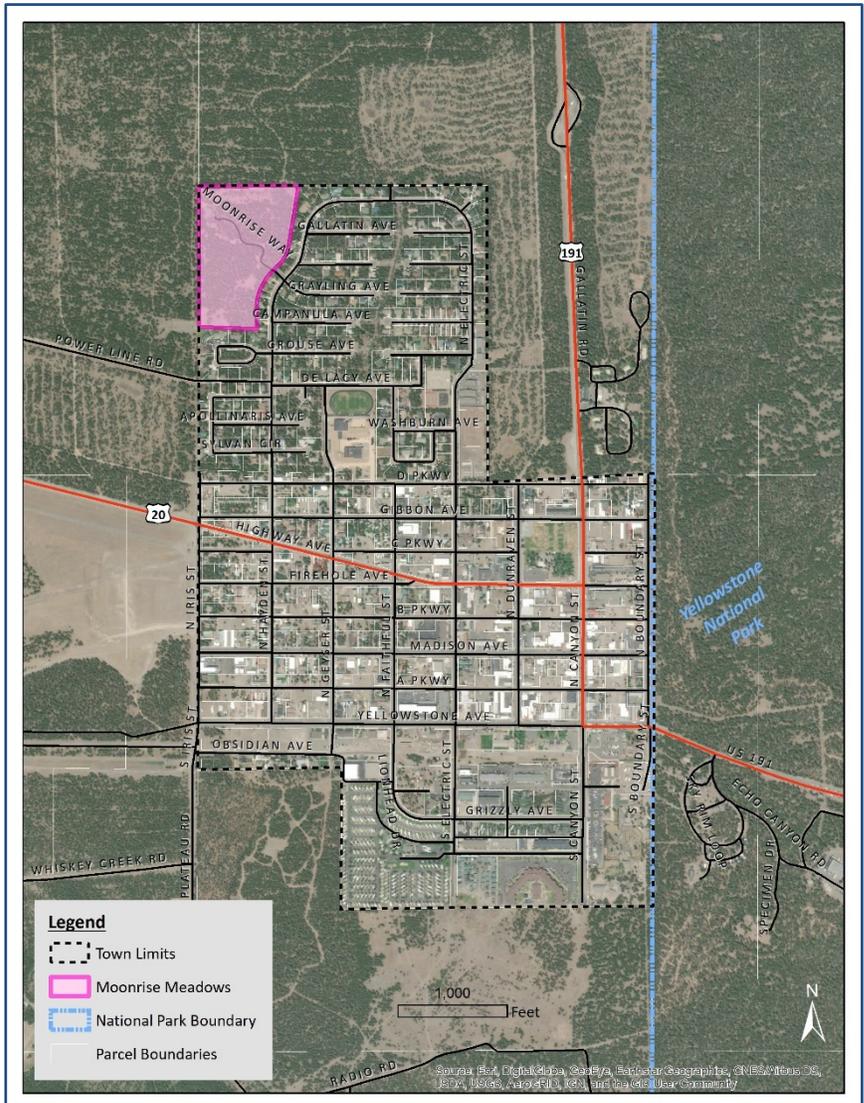


Figure 1: Locator Map

During the public hearing the reviewing planner, Planning Advisory Board members, and members of the public expressed that only having one access to the subdivision is a safety concern. Based on this concern the subdivider proposed two new options for access to the property (Figures 3 and 4 on page 23). Option 1 would include two accesses, one aligned with Grayling Avenue and one aligned with Cascade Avenue. Both accesses would be 28 feet wide one-way streets with two lanes. Option 2 would provide a primary and an emergency access, with the primary access four lanes (52 feet) wide with an additional six-foot drive-over median, and using the existing Moonrise Way as an emergency access with break-away gates. In both options, also proposed is a four-way stop at the intersection of Hayden and Cascade to address sight distance concerns at the intersection.

III. Review Procedure

The subject property was created through recordation of the plat of the Madison Addition on October 12, 1984. The proposed subdivision meets the Town of West Yellowstone Subdivision Regulations' (WYSR) definition of a "minor subdivision" and is also a "condominium subdivision". Because this is a re-subdivision of a subdivided tract, according to Montana Code Annotated (MCA) Section 76-3-609, this is a "subsequent minor subdivision" as opposed to a "first minor subdivision".

Because this is a condominium development that includes the creation of lots, subsection II.A.22.d of the WYSR requires that the subdivision be reviewed under the procedures contained in II.A, Sections 1 through 18 of the regulations. As such, the potential "Summary Review Procedures for Minor Subdivisions" outlined by Section II.A.20 do not apply to this minor subdivision.

As this is also a PUD, the development is subject to Section II.A.23 of the WYSR, "Procedures for Planned Unit Developments", as well as Chapter 17.34 (Planned Unit Development) and Chapter 17.32 (Conditional Uses) of the Town's Zoning Code.

The subdivision regulations require review of the subdivision application and preliminary plat by the West Yellowstone Planning Advisory Board, which ~~will make~~ made a recommendation to the Town Council, including the procedures contained in II.A, Sections 1 through 18 of the regulations for the subdivision aspect of the PUD. However, the Planning Advisory Board does not have a role reviewing the CUP application for the PUD under the Town's zoning ordinance.

The subdivision application is also subject to the review procedures in the MSPA, including the pre-application process, element review, and sufficiency review required by state law. The following is the timeline surrounding the project to date:

1. Pre-application request submitted April 24, 2018.
2. Pre-application meeting held May 4, 2018.
3. Pre-application meeting follow-up letter sent May 14, 2018.
4. Preliminary Plat Application submitted on July 25, 2018.
5. First element review completed on August 1, 2018 (5 working days into 5 working days element review period required by 76-3-604(1)(b), MCA). Application was found "incomplete".
6. Response to first element review letter submitted on September 7, 2018, triggering second element review period.
7. Second element review completed on September 14, 2018 (5 working days into second 5 working days element review period). Application was again found "incomplete".
8. Response to second element review letter submitted on October 10, 2018, triggering third element review period.
9. Third element review completed on October 17, 2018 (5 working days into third 5 working days element review period). Application was found "complete", triggering a 15-day sufficiency review period per 76-3-604(2), MCA.
10. First sufficiency review completed on November 7, 2018 (15 working days into the 15 working days sufficiency review period required by 76-3-604(2)(a), MCA). Application was found "insufficient".
11. Response to first sufficiency review submitted on November 15, 2018, triggering second sufficiency review period.

12. Second sufficiency review completed on December 7, 2018 (15 working days into the second 15 working days sufficiency review period). Application was again found “insufficient”.
13. Response to second sufficiency review submitted on December 10, 2018, triggering third sufficiency review period, with an updated Traffic Impact Study submitted December 11th (omitted from December 10th submittal).
14. Third sufficiency review completed on January 2, 2019 (15 working days into the third 15 working days sufficiency review period). Application was found “sufficient” for review, triggering the 60 calendar day review period of the subdivision application and preliminary plat outlined by Section II.A.10 of the WYSR, giving a review deadline of March 4, 2019 for the Town Council to decide on the subdivision application and preliminary plat. (60 calendar days from January 2nd falls on March 3rd, a Sunday, so the deadline moves to Monday, March 4th, based on Section 1.08.070 of the Town Codes.)
15. Legal notice is being published in the West Yellowstone Star each Friday from January 11 through February 15, 2019, and the applicant, agent, adjoining landowners, and known purchasers under contract for deed of property immediately adjoining the subdivision were notified by registered mail sent January 10, 2019, not less than 15 days prior to the date of the public hearing, as per 76-3-605(3), MCA.
 - ✓ ~~The notice requirements have all been met to date.~~
16. The staff report and recommendation ~~are to be~~ were published and provided to Planning Advisory Board members on January 22, 2019.

~~The following are the remaining steps in the review procedure for the subdivision application and preliminary plat:~~

17. The Town of West Yellowstone Planning Advisory Board ~~will hold~~ held a work session for the board members to familiarize themselves with the project prior to the public hearing. The work session ~~is scheduled for~~ occurred on Tuesday, January 22, 2019 beginning at 12:00 p.m. at the West Yellowstone Town Hall. Notice of the work session was published on January 11, 2019.
18. The Planning Advisory Board ~~will hold~~ held a public hearing on the Moonrise Meadows subdivision preliminary plat application on Tuesday, January 29, 2019 at 7:00 p.m. and continued the public hearing on Tuesday, February 12, 2019 at the West Yellowstone Town Hall. The Planning Advisory Board ~~will~~ reviewed the preliminary plat application to determine whether it conforms to the provisions of the WYSR and the MSPA. The Planning Advisory Board ~~will~~ acts in an advisory capacity and recommends to the Town Council the approval, conditional approval, or disapproval of the plat.
19. The written Planning Advisory Board recommendation is ~~to~~ being submitted to the Town Council and subdivider on February 19, 2019, within 10 days after the public hearing. The reviewing planner ~~will~~ prepared this report on behalf of the Planning Advisory Board according to the board recommendations.
20. The Town Council is scheduled to hold a public hearing to review and act on the subdivision application and preliminary plat, and to hold a public hearing and act on the CUP for the PUD, on ~~February 19, March 5, 2019~~ 2019 at 7:00 p.m. at the West Yellowstone Town Hall. ~~This date is subject to change pending discussion with the subdivider, who indicated he may not be able to attend the February 19 hearing.~~ Following the hearing, the Town Council will determine whether the preliminary plat and subdivision application conforms to the provisions of the WYSR and the MSPA, and whether the CUP for the PUD conforms to Chapter 17.32 (Conditional Uses) and Chapter 17.34 (Planned Unit Developments) of the Town’s Municipal Zoning Code.

21. Unless another extension to or suspension of the 60-day review period is agreed upon between subdivider and the reviewing agent (or Planning Advisory Board or Town Council), the Town Council must approve, conditionally approve, or deny/disapprove the proposed subdivision on or prior to the review deadline of March 4, 20, 2019.
22. Pursuant to 76-3-620, MCA, following any decision by the Town Council to deny or conditionally approve a proposed subdivision, the Town Council shall, within 30 working days following the decision, prepare (the reviewing planner will draft the written decision for the Town Council) and sign a written statement that must be provided to the applicant, that must be made available to the public, and that:
 - a. includes information regarding the appeal process for the denial or imposition of conditions;
 - b. identifies the regulations and statutes that are used in reaching the decision to deny or impose conditions and explains how they apply to the decision to deny or impose conditions;
 - c. provides the facts and conclusions that the governing body relied upon in making its decision to deny or impose conditions and references documents, testimony, or other materials that form the basis of the decision; and
 - d. provides the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved.

Pursuant to Section II.A.11 of the WYSR, the approval shall guarantee that the terms of the approval will not be affected by changes in the subdivision regulations and that the governing body may not impose any additional conditions as a prerequisite to final plat approval providing said approval is obtained within one year¹. The approval shall be effective for not more than one calendar year²; at the end of this period the governing body may, at the request of the subdivider, extend its approval for not more than one calendar year³.

23. Upon approval or conditional approval of the subdivision and preliminary plat, the subdivider may proceed to meeting any conditions required to obtain approval of the final plat in accordance with

¹ According to 76-3-610(2), MCA, except as provided in 76-3-507 (the section for bonding for improvements), after the application and preliminary plat are approved, the governing body and its subdivisions may not impose any additional conditions as a prerequisite to final plat approval if the approval is obtained within the original or extended approval period as provided in 76-3-610(1).

² According to 76-3-610(1), MCA, this approval must be in force for not more than 3 calendar years or less than 1 calendar year. Because the maximum time limit allowed by the WYSR is one calendar year, that should be the approval period that is granted if the subdivision is approved or conditionally approved, subject to provisions for extensions.

³ Also according to 76-3-610(1), MCA, "At the end of this period the governing body may, at the request of the subdivider, extend its approval for a mutually agreed-upon period of time. Any mutually agreed-upon extension must be in writing and dated and signed by the members of the governing body and the subdivider or subdivider's agent. The governing body may issue more than one extension." To as to comply with the WYSR and not conflict with state law, if the subdivision is near the expiration date of its preliminary approval period, the subdivider could request an extension, which should also be in force for no more than one calendar year to comply with the WYSR and state law. The WYSR and state law both allow for more than one extension.

Sections II.A.11 through 18 of the WYSR and the applicable portions of state law, including but not limited to 76-3-611, MCA, which governs review of final plats.

The procedures discussed above are in addition to zoning procedures, including those for the CUP for the PUD, which is scheduled to be approved concurrently by the Town Council, and other requirements of the Town's Municipal Codes and other reviewing authorities.

Public Hearings Outline: The "Subdivision Review" Chapter of the 2017 West Yellowstone Growth Policy includes the following from the section for *Public Hearings*:

Public hearings provide the opportunity for individuals who have an interest in or may be impacted by a proposed subdivision to express their concerns to Planning Advisory Board and Town Council. Montana's Subdivision and Platting Act requires public hearings for major and subsequent minor subdivisions. This section serves to outline how public hearings will be conducted by the Planning Advisory Board and Town Council for proposed subdivisions in West Yellowstone.

1. Notice of the public hearing will be published in a newspaper at least 15 days prior to the hearing date.
2. At least 15 days prior to the hearing, notifications will be sent, by certified mail, to the subdivider, each property owner of land adjoining the proposed subdivision, and each purchaser under contract for property adjoining the proposed subdivision.
3. A quorum, consisting of a majority of Planning Advisory Board members and Town Councilpersons, is required for official action. When a quorum is not present, no action on the item will be taken and the hearing will be rescheduled to the next available meeting date for which public notice requirements can be met.
4. At the hearing a staff member, or contract reviewer, will give a summary of the staff report pointing out key issues, findings and recommendations, followed by board or council members being given the opportunity to ask questions of staff.
5. The subdivider and/or their representative will be given the opportunity to provide a summary of the subdivision proposal and address the key issues, findings and recommendations. In the case of a hearing before the Town Council, the subdivider may also discuss their preference for mitigation. Councilpersons will then be given the opportunity to ask questions of the subdivider.
6. The presiding officer will ask for public comments from proponents, opponents and others, followed by the subdivider being given the opportunity for rebuttal. In the interest of time, the presiding officer may limit the amount of time members of the public are given to speak so long as everyone desiring to speak has a reasonable opportunity.
7. The presiding officer will close the public hearing for board or council deliberation. During this time board or council members may ask questions of the subdivider, staff and any members of the public. Due to late hour or other extraordinary circumstances, a public hearing may be closed and continued at a later date.
8. The board will deliberate and make a recommendation (Planning Advisory Board) or decision (Town Council) on the application.
9. Prior to voting on the subdivision application, board or council members will review the subject matter contained in the public comments and discuss whether and how the comments impacted their decisions.
10. Planning Advisory Board recommendations and Town Council decisions will be supported by written findings of fact and conclusions of law.

IV. Proposed Findings of Fact

The MSPA requires that decisions regarding proposed subdivisions be made with respect to several criteria including compliance with state subdivision law, local subdivision regulations, the growth policy, and zoning. More specifically, all subdivisions in Montana must be reviewed under the primary subdivision review criteria defined in 76-3-608(3)(a), MCA, which include a proposed subdivision's impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety. The "Subdivision Review" chapter of the 2017 West Yellowstone Growth Policy defines these criteria and provides guidance as to evaluating whether adverse impacts exist. Below are the criteria, the growth policy definitions, and an evaluation of the proposed Moonrise Meadows subdivision's anticipated impacts on applicable criteria, and applicable mitigation being proposed or recommended by the reviewing planner.

A. Impact on Agriculture

Definition of Agriculture (per Growth Policy): Agriculture means the use of land for growing, raising, or marketing of plants or animals to produce food, feed, and fiber commodities. Examples of agricultural activities include, but are not limited to, cultivation and tillage of the soil; dairying; growing and harvesting of agricultural or horticultural commodities; and the raising of livestock, bees, fur-bearing animals, or poultry. Agriculture does not include gardening for personal use, keeping of house pets, kenneling, or landscaping for aesthetic purposes. The definition of agricultural land also includes land considered by the Natural Resources Conservation Service to have a soil of agricultural importance and lands devoted to a soil conservation or rangeland management program.

According to the West Yellowstone Growth Policy, when evaluating a proposed subdivision's impact on agriculture, West Yellowstone will consider the following factors:

- The amount of agricultural land removed from production.
- The amount of agricultural land with soil considered prime or having statewide or local importance by the Natural Resources and Conservation Service.
- Potential conflicts between the proposed subdivision and adjacent agricultural operations including interference with the movement of livestock or farm machinery, maintenance of fences, proliferation of weeds, harassment of livestock by pets, odors, visual quality.

The subject property, being slightly over 20 acres in size, has some potential for timber production that would fall under the definition of agriculture. Land to the east and south is an urban/suburban residential setting in the Town of West Yellowstone. Land to the north and west is United States Forest Service property used for wildlife habitat, recreation, and timber production with potential for livestock grazing. Soil on the subject property and immediate vicinity is classified by the US Department of Agriculture as *Typic Cryochrepts* with high elevation, a short frost-free period of 50 to 70 days, and not identified as prime farmland. It does not appear that the soils have agricultural importance or that the land in this vicinity is devoted to soil conservation or any rangeland management program.

Being within the municipal boundaries of the Town of West Yellowstone, and the lack of agricultural uses in the area, the land's potential for agriculture is minimal. The surrounding national forest lands' potential for timber and grazing uses are not likely to be impacted by the proposed subdivision.

B. Impact on Agricultural Water User Facilities

Definition of Agricultural Water User Facilities: Agricultural water user facilities shall mean those facilities which provide water for agricultural land or provide water for the production of agricultural products. These facilities include, but are not limited to, ditches, canals, pipes, head gates, tanks, drains, reservoirs, ponds and developed springs used for agricultural purposes.

According to the growth policy, when evaluating a proposed subdivision's impact on agricultural water user facilities, West Yellowstone will consider the following factors:

- The location and proximity of an agricultural water user facility.
- Potential conflicts between facility users and subdivision residents.
- The rights of all water right owners and users of the facility.

Agricultural water user facilities do not exist in this area; therefore, no impacts are anticipated.

C. Impact on Local Services

Definition of Local Services: Local services mean any and all services provided to the public by local government entities or public utilities such as transportation systems, including non-motorized facilities, parking, law enforcement, fire protection, drainage structures water supply, sanitary sewage disposal, solid waste disposal, recreation, parks, libraries or schools.

Per the growth policy, when evaluating a proposed subdivision's impact on local services, West Yellowstone will consider the following factors:

- The goals and objectives of existing plans.
- Increased demand on services and need to expand services as a result of the proposed subdivision. Lack of adequate service capacity and capability of a local service may be grounds for denial if the impact cannot be mitigated by the applicant.
- The cost of providing services by determining the per capita or per lot cost of services and current and anticipated tax and fee revenue.

A discussion of potential impacts and applicable comments from the various local service providers falling under the growth policy definition of local services follows.

Transportation Systems:

The subdivision occupants will utilize the Town of West Yellowstone's street system and the Montana Department of Transportation's (MDT) state highways through town. Integral parts of the street system that would serve the development and see increased traffic include the internal subdivision streets, Hayden Street, US Highway 20, D Parkway, De Lacey Avenue, Gibbon Avenue, and Electric Street. The internal streets (a potential new extension of Grayling Avenue and Cascade Avenue and the new Moonrise Meadows Loop) are proposed to be developed by the subdivider then dedicated to and maintained by the Town of West Yellowstone.

Along with the subdivision application, the subdivider submitted a traffic impact study (TIS). The TIS estimates that at full build-out, the project would produce an average of 1,298 daily vehicle trips or roughly seven per dwelling unit per day. The author of the TIS found that the development would increase traffic along Hayden Street, DeLacy, Gibbon and others, but found that all streets and intersections would still function within their carrying capacities at a Level of Service of C or better (on a scale of A through F) under average annual traffic conditions, even when projecting natural increases in traffic levels over the next eight years. The author states traffic volumes on Hayden

will increase to approximately 2,000 vehicle trips per day including existing and subdivision traffic, but “it is generally expected that local urban roadways can handle over 5,000” vehicle trips per day.

The author also evaluated traffic under peak summer conditions, and found the local streets and intersections would still function within an acceptable range, although the intersection of Hayden Street and Highway 20 may experience LOS D conditions in summer by 2026. The impacts of the subdivision on the municipal streets should be evaluated by the Planning Advisory Board and Town Council through the subdivision review process. Any mitigation required for the Town’s street network would need to be supported with appropriate findings.

During the public hearing process several people commented that the additional traffic on Hayden as a result of this subdivision would have a significant adverse impact on walkers and bicyclists and result in traffic congestion and safety concerns. Several people stated a new road leaving the subdivision’s western boundary on US Forest Service property and running south to intersect with Iris Street would be appropriate and necessary. District Ranger Jason Brey of the US Forest Service stated a petition to establish a new street would be more likely to be approved if it came from the Town of West Yellowstone instead of the subdivider. The Planning Advisory Board also found this to be an appropriate mitigation measure, which is included in the Board’s recommendations at the end of this report.

The TIS includes an evaluation of the subdivision’s impact on state highways. As per December 14, 2018 correspondence with MDT planner Mike Tierney, MDT concurs with the findings in the TIS that the subdivision does not appear to require mitigation to state highways. Mr. Tierney stated that if the Town requires the subdivider to make mitigations or improvements on MDT roads, an encroachment permit would be required and MDT would need to approve the plan.

Non-Motorized Facilities:

The application minimally addresses non-motorized facilities such as sidewalks, walking paths, bike paths or lanes, and trails. The subdivision does not include an explicit proposal to provide non-motorized transportation facilities, but the subdivision’s Community Impact Report (Element 4.3 of the subdivision application), Section 10.a, indicates an “optional gravel trail may be installed within the open space to provide pedestrian circulation between the lots.” Any requirements for such provisions would be determined by the Town Council.

It is noteworthy that there are minimal sidewalks, trails, or paths in the immediate vicinity for any new subdivision sidewalks, trails, or paths to connect to. Like those in the surrounding neighborhood, occupants walking or bicycling to travel to other parts of West Yellowstone would need to rely on streets. The additional population added to the community by the development is likely to add to non-motorized needs of the community, particularly along Madison Addition streets. This can be mitigated by requiring future owners to waive the right to protest creation of a special improvement district for non-motorized transportation facilities, subject to the limitations of such waivers detailed by 76-3-608(7), MCA, which states, “*A governing body may not require as a condition of subdivision approval that a property owner waive a right to protest the creation of a special improvement district or a rural improvement district for capital improvement projects that does not identify the specific capital improvements for which protest is being waived. A waiver of a right to protest may not be valid for a time period longer than 20 years after the date that the final subdivision plat is filed with the county clerk and recorder.*”

Parking:

Vehicular parking for the subdivision has been addressed within the application. In addition, the zoning regulations prescribe the minimum number and design of parking spaces based on future

land uses. The site plan depicts private parking areas on each lot proposed for apartment buildings. Lot 4 (with the existing home) has a garage and driveway space for parking. If future uses on the lots are provided with parking areas as required by the zoning regulations, the subdivision will not impact public parking facilities or the Town's management of them.

Law Enforcement:

The subdivision will receive law enforcement services primarily from the Town of West Yellowstone Police Department. Based simply on the projected 450 residents in 180 new dwellings, an increase in demand on the Police Department's resources is likely to occur. The subdivider has not proposed any mitigation measures to offset the impact on the Police Department. However, the impact may be offset with increased tax revenue from assessments on subdivision lots and future improvements.

Chief of Police Scott Newell provided written comments on the project on August 13, 2018. In his letter, Chief Newell identified three main concerns: (1) the single entrance/exit to the subdivision off Hayden Street, (2) intersection safety (Grayling Ave./Hayden Street), and (3) snow removal within the development.

Chief Newell's first concern regarding the single entrance/exit to the subdivision is addressed under Section IV.G of this report, Impacts to Public Health and Safety. Chief Newell's second concern regarding intersection safety has been addressed ~~to some degree with a recent reconfiguration of the proposed intersection that moved the subdivision entrance farther to the south. Unlike the previous iteration of the intersection, the subdivision entrance is now proposed to be directly across Grayling Avenue in an attempt to reduce intersection conflicts. However, visibility to the north and south is still a concern due to the curves in Hayden Street along the property by proposing a four-way stop at the intersection of Hayden Street and Cascade Avenue. The idea is if all vehicles must come to a stop at this intersection, concern regarding not being able to see vehicles travelling south along Hayden from the subdivision entrance will be alleviated.~~

~~Visibility of traffic at this intersection is addressed in the TIS for the project, and a diagram referred to as a vision triangle exhibit shows roughly 280 feet of sight distance from the subdivision entrance to the south and about 260 feet to the north along Hayden Street. The TIS also recommends "some roadside vegetation be trimmed to help maximize the available intersection sight distance." [Note: it is unclear how offsite vegetation on private property would occur.] Regardless, the exhibit does not appear to address visibility under winter conditions when snow banks in West Yellowstone can be above the line of sight from a typical passenger vehicle. Please see Figure 4 below.~~

Figure 4: Vision Triangle Exhibit with Snowbanks

~~Figure 4 shows that due to the curve in Hayden Street to the north and due to typical snowbanks during winter, there is significant potential for views from the subdivision entrance along Hayden Street to the north to be blocked, increasing the potential for traffic accidents to occur. This would have a significant adverse impact on the Town's transportation system as well as public health and safety.~~

~~The subdivider currently owns lots one and two, identified in red on Figure 4. In order to mitigate this concern, a condition of approval could be that lots one and two be made a part of the subdivision and that the Town have the right to remove snowbanks from the lots along Hayden Street to mitigate impacts to the traffic system and to improve traffic safety to subdivision residents. Another option may be to move the subdivision road entrance to across from Cascade Avenue. Cascade Avenue is located at the apex of a curve along Hayden. Relocating the intersection to this location could provide greater sight distance.~~

Chief Newell's third concern (snow storage) is addressed most comprehensively in the application on page 2 of "Response to Element Review Comments" dated 12/7/2018. The discussion provides detailed calculations of expected snowfall, snow volume reduction factors (compaction, melting, sublimation, etc.), and the storage areas provided. The project engineer's conclusion is the proposed snow storage areas are adequate, with additional landscaped areas available on site should extreme conditions warrant more. Note: On both of the revised street access options, the subdivider is proposing to use private lots between the existing Moonrise Way and an extension of Cascade Avenue as additional snow storage.

While it may be true that the entire site can accommodate snow from the future streets, parking lots and structures, it is not clear that each lot can contain all of the projected snow to be cleared from that lot, as well as the adjacent public subdivision streets. For example, the site plan shows Lot 4, which contains the existing residence, being used to store snow from other lots. It is important to keep in mind the lots may be sold to different parties, so a future owner of Lot 4 might not want to allow snow from Lot 3 to be placed on his/her property. To address this, the final plat should contain easements for snow storage allowing for snow from the entire subdivision to be placed in specific locations as necessary. Alternately, if the subdivider is able to demonstrate each lot can accommodate snow from the future lot improvements and adjacent subdivision street, no easements would need to be provided.

Fire Protection:

The subdivision is located in the Hebgen Basin Fire District. The fire station is located in downtown West Yellowstone, approximately one mile to the south. Land Solutions has contacted Fire Chief Shane Grube to inquire about fire district comments on the proposal. ~~To date, no response has been received from Chief Grube or the fire district but comments are expected shortly.~~ Chief Grube submitted a letter of review dated January 28, 2019 that references the International Fire Code standards and addresses several issues including the use of stand pipes and sprinklers in the residential buildings, hydrant location and spacing, road width and clearance, and the need for 52 feet of drivable road surface with 12-foot borrow ditches if only one ingress/egress is used.

The application includes a fire hazard analysis by Coffman Engineers, which includes key mitigation measures including ignition resistant exterior building construction materials, all buildings to be fully sprinklered, and a defensible space of 30 feet around buildings. The development plans also include the streets proposed and fire hydrants as part of the upgrades to the Town's water system. ~~Without~~ Comments from the Fire District do not directly address impacts on their facilities and services ~~is difficult for the reviewer to gauge,~~ but it should be noted that increased tax revenues from the subdivision and improvements have the potential to offset the increased demand in fire district services and facilities.

Drainage Structures:

The application includes a design report for stormwater management for the subdivision. The report indicates site grading, channelized flow, and retention ponds will be used to manage stormwater runoff. The plan calls for drainage ditches along the Moonrise Meadows Loop roadway, several culverts, and two sizable retention ponds in the open space easements: one on Lot 1 and one on Lot 2.

Stormwater from the site will be generated from the publicly dedicated Moonrise Meadows Loop and from private improvements such as the parking lots and residential structures. Based on acreage of impervious surfaces (lot coverage), the private parking lots and structures will generate significantly more acreage than the public streets. The subdivider proposes that the Town of West

Yellowstone maintain stormwater facilities within the development. In terms of efficacy, those persons who benefit from the improvements should generally bear the proportional costs of maintaining the improvements, so a condition of approval should specify that the unit owners or lot owners, at the subdivider's discretion, shall be responsible for maintenance of the stormwater collection and retention system within this subdivision.

Water Supply and Sanitary Sewage Disposal:

The subdivision would be served by extensions and connections to the Town of West Yellowstone's municipal water system and wastewater treatment system. The application includes an engineering design report that includes estimates of water and wastewater demands and a discussion of the extensions to be made from the Town's systems. The plan includes a looped water main and sanitary sewer collection system proposed to run along Moonrise Meadows Loop and connect to the municipal mains within Hayden. The subdivider proposes to install the mains in 2019 prior to final plat filing, with individual extensions to the residential structures installed upon development of the structures potentially in 2019 and 2020. The report states the subdivision will be analyzed by the Town Engineer using the Town's master water and sewer models to confirm adequate volume, pressure, and capacities exist within the systems.

It should be noted that a moratorium, adopted under Resolution No. 693, currently prohibits any new connections or new uses to the Town's water system. Additionally, Town Manager Dan Sabolsky recently indicated the Town is working with DEQ to sort out compliance issues with the municipal wastewater treatment system so it is currently unclear whether the system can accommodate significant new inflows at this time and it is unclear when both water and sewer will be available.

The reviewing planner has requested comment from engineering representatives of the Town regarding water and wastewater system capacities. To date, no comments on the Town water system's ability to serve the proposed development have been received from Forsgren Associates, which is believed to be currently serving as the Town's engineer. Former Town Engineer Winston R. Dyer, PE, provided a letter of review on August 8, 2018. In that correspondence, Mr. Dyer noted that a looped water system is desirable for providing appropriate flow, pressure, and firefighting capability. He also noted several fire hydrants have been shown on the site plan at strategic locations so as to protect the various proposed multi-family structures, but [the Town] will leave the location and layout of the hydrants to the Fire District.

After a governing body (Town Council) grants preliminary plat approval but prior to final plat approval, subdivisions creating lots under 20 acres in size typically must be reviewed and approved by DEQ under the "Sanitation in Subdivisions Act" (Title 76, Chapter 4, MCA) for water supply, waste water treatment, stormwater management, and solid waste disposal. However, this project is proposed to use a "municipal facilities exclusion" (MFE) from state subdivision review. The MFE is a commonly used exemption from DEQ review which is applicable to land divisions "*located within jurisdictional areas that have adopted growth policies or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided*". For West Yellowstone, that means the subdivision can be exempt from state sanitation review based on the Town having an adopted growth policy and certifying adequate storm water drainage and adequate municipal facilities (i.e., water, wastewater, solid waste) will be provided.

It is the reviewing planner's understanding that municipal facilities may be subject to review by DEQ under different laws even if the land division served by the public or municipal systems is exempt from subdivision review. In any event, the Town of West Yellowstone should ensure the water

supply, wastewater treatment, stormwater and solid waste systems meet the Town's requirements and/or DEQ rules and are adequately installed prior to final plat approval.

Solid Waste Disposal:

The Community Impact Report submitted with the application indicates there are multiple options for solid waste collection within the proposed subdivision including L&L Site Services, Republic Services, and the Gallatin County Transfer Station located north of Town.

On August 2, 2018, Land Solutions contacted Jim Simon, District Manager of the Gallatin Solid Waste District, to provide the Solid Waste District the opportunity to comment, and a courtesy notice was emailed to Mr. Simon again on January 11, 2019. To date, no comment has been received from the Solid Waste District.

Recreation & Parks:

The Town of West Yellowstone provides park and recreational opportunities. The reviewing planner contacted Brandy Holland, Parks and Recreation Coordinator, for comments, who has not responded to date. In addition, cross country ski and bike trails, Yellowstone National Park, and the Custer Gallatin National Forest provide recreational access and facilities that may be used by subdivision residents.

The proposal includes open space easements that could be used for some park or recreation purposes. No specific recreational improvements within the open space areas are proposed. Park dedication requirements for subdivisions are outlined in the WYSR and the MSPA, which are discussed later in this report.

Libraries:

The West Yellowstone Public Library would serve future occupants of the subdivision. Increased tax revenues generated by the development should offset the additional demands on services.

Schools:

Public school services for the subdivision would be provided by the West Yellowstone School District, with the school being approximately ½ mile southeast of the property. Based on an estimate of 16% of the population being enrolled in K – 12th grade, the subdivider estimates 72 students could be enrolled in the school system. The reviewing planner contacted Superintendent Kevin Flanagan of the School District, who hasn't responded to date.

Note regarding impacts on schools: 76-3-510(1), MCA states, *"A local government may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education."*

Other Local Services:

Other local service providers of interest include electrical, telephone, and internet providers, mail delivery, ambulance and medical service providers.

Fall River Electric Co-op is the electrical service provider in this area. The reviewing planner spoke with Randy Wakefield about the proposed development, and then requested comments via email. To date, Mr. Wakefield has not provided comments.

CenturyLink is the telephone and internet service provider in this area. The reviewing planner contacted CenturyLink about service provision. Sales Manager Gina Mason referred the reviewer to other personnel, but no follow-up was received. It appears the subdivider would need to make appropriate arrangements to extend telephone and internet facilities into the subdivision.

Energy West Montana provides natural gas services in this area. Evan Mathews, District Manager, responded to the reviewing planner's inquiries. Mr. Mathews provided feedback and a suggestion to modify the natural gas feeds into the subdivision that would decrease the amount of pipe required to serve the area. He added that the design can't be set in stone without actual load numbers, but he did not believe there would be any issues in supplying the needs of the development.

The subdivider has proposed to install mailbox units along Grayling Avenue within the entrance to the subdivision. The reviewing planner contacted the West Yellowstone Post Office and Postmaster Sara Erbe stated the development would not be on their rural route at this time because they do not have any carriers, and because of the subdivision location in Town. She added that they have a large number of post office boxes available, so mail service could be provided. A condition of approval should require the method of mail delivery is determined and approved by the US Postal Service prior to final plat approval.

The Hebgen Basin Fire District provides emergency medical (ambulance) services and would respond to medical emergencies in the subdivision. The Fire District was solicited for comment as described above, but no comment has been received to date.

The West Yellowstone Medical Clinic would serve future occupants of the subdivision locally. The reviewing planner contacted Buck Taylor, Director of the West Yellowstone Medical Clinic, to solicit comments on the proposed development, but Mr. Taylor has not responded to date.

It is important that any common facilities relied upon for the subdivision but not accepted for maintenance by a public entity to be maintained by the owners association, which is a common necessity for condominium subdivisions. The reviewing planner is recommending a condition to address maintenance so as to not impact local service providers (including the Town) by avoiding any expectations of private improvements being maintained by a public entity.

Based on the above discussion, it generally appears local services are or will be made available, and if the subdivider works with the service providers to extend the necessary services, the impacts on these service providers will be minimal as a result of the subdivision.

D. Impact on the Natural Environment

Definition of Natural Environment: The natural environment means the physical, chemical, and biological factors that exist within or influence a geographic area or community. These factors include, but are not limited to, geology, soils, topography, climate, surface water, groundwater, floodplain, vegetation, and objects or places of cultural, historic, or aesthetic significance.

According to the growth policy, when evaluating a proposed subdivision's impact on the natural environment, West Yellowstone will consider the following factors:

- Riparian or wetland areas
- Vegetation cover or type
- Noxious weeds
- Important or sensitive natural habitats
- Surface and groundwater quality
- Stream bank stability
- Erodible soils

- Cultural and historic landmarks
- The amount of open space preserved for natural resource conservation
- Results of water and sanitary facility inspection for all proposed lots
- The number of cuts and fill on slopes as a result of road or building construction

No known riparian or wetland areas exist on or adjacent to the subject property, and the subdivision is unlikely to impact such areas. Vegetation on the property consists of coniferous (lodgepole pine) forest typical of the area. Much of the vegetation will be removed with development of the streets, buildings, parking lots, stormwater retention ponds, and snow storage areas. The application states the open space easements will preserve natural vegetation to the maximum extent possible, but based on the site plan and to create a 30-foot defensible space around structures for fire safety, much (most) of the vegetation will be removed or altered.

Proliferation of noxious weeds are of greatest concern when soils are disturbed through development activities. The proposed covenants address control of weeds in the open space in Article IV, Section 5 and on lots in Article VI, Section 11. Chapter 8.32 of the Town's Municipal Code also provides for Town enforcement of noxious weed control provisions.

The immediate area does not contain surface water, and high groundwater is not suspected in the immediate vicinity that could be impacted, especially given the lack of on-site wastewater treatment systems. No streambanks exist that could be impacted.

Soils erosion does not appear to be a major concern given the level terrain and surrounding well-established vegetation, as long as disturbed soils do not remain exposed for long periods of time. The application includes a dust prevention and control plan that calls for best management practices during the construction and installation of water, sewer and storm water utilities, road construction, parking lot grading and the construction of the residential buildings. The plan calls for minimizing disturbed areas, covering, reseeding, or landscaping disturbed areas, and similar measures. In addition, the applicant will need to obtain a Storm Water Pollution Prevention Plan Permit (SWPPP) from DEQ to address erosion from the soil disturbance from development because the disturbed area is greater than one acre in size. If the subdivision receives preliminary plat approval, a condition should be required to address this potential permit requirement. These methods would help minimize soil erosion. As such, the reviewing planner is recommending conditions requiring the SWPPP and that the dust prevention and control plan be implemented during construction of public improvements.

Natural habitats for wildlife are addressed in Section IV.F of this report (below).

No cultural or historic landmarks are known or suspected to exist that may be impacted by the subdivision.

No open space is proposed to be preserved for natural resource conservation purposes as part of the subdivision. The development is proposed to contain some open space areas, but not for conservation purposes.

Water and sanitary facilities will be subject to Town and DEQ approvals or exclusions from subdivision review. As such, the Town's policies for water and sanitation facility management should ensure unsanitary conditions do not result from operation of the development.

Considering the gentle slopes on the property proposed for development, road cuts and fill and other disturbances from construction should not create impacts on these aspects of the natural environment.

Based on an evaluation of the factors above, this subdivision should have a minimal effect on the natural environment.

E. Impact on Wildlife

Definition of Wildlife: Wildlife means birds and animals that are not domesticated or tamed.

Per the growth policy, when evaluating a proposed subdivision's impact on wildlife, West Yellowstone will consider the following factors:

- Potential for human-wildlife conflicts
- The number of wildlife-friendly amenities, such as preserved open space, enhanced habitat or wildlife protection devices

The property (and West Yellowstone as a whole) is located in an area where deer, elk, bear, bison and other wildlife exist. The property is also bordered on the north and west by Custer Gallatin National Forest land. Given the number of people who would reside within the subdivision and wildlife attractants like garbage, barbecue grills, and landscaping, there is significant potential for human-wildlife conflicts in this subdivision, although it should be stated that such potential exists today throughout the Madison Addition. The proposed development includes several acres of open space that wildlife can and likely will continue to inhabit to some degree, but given the scale of development and as long as wildlife attractants can be managed, wildlife is likely to mainly abandon the property use nearby forest lands.

Julie Cunningham, Bozeman Area Wildlife Biologist at the Wildlife Division of the Montana Department of Fish, Wildlife & Parks (FWP), provided comments on the proposed subdivision. The comments include a number of recommendations, most of which she indicated are items to be included in private covenants. Most of these recommendations are included in the proposed covenant document, including:

1. Fences constructed to be wildlife-friendly.
2. Garbage facilities to be bear-resistant.
3. That owners acknowledge and understand that feed or supplements, such as salt blocks, are an attractant to wildlife and are against state law for public safety and wildlife health, and that pet food, gardens, fruit trees, birdseed (which are discouraged from April 1st through November of each year), barbeque grills, and compost piles, unless limited to grass, leaves and garden clippings, can attract bears and other wildlife.
4. Pet control.
5. Notifications that wildlife will feed on vegetation, and owners should consider landscaping with native vegetation less likely to suffer extensive feeding damage.
6. Acknowledgment of predators and necessary precautions.

A representative signing for Jodi L. Bush, Office Supervisor of the Montana Ecological Services Office of the United States Fish & Wildlife Service (USFWS), also provided comments on the proposed development. The USFWS comments provide some recommendations similar to the covenant items discussed above; however, the USFWS comments expand upon the provisions of the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, and the Endangered Species Act, and include some more specific recommendations to minimize impacts on migratory birds (not to remove active nests, along with other conservation measures), to follow eagle management guidelines if an active eagle nest is located within ½ mile (none are known at this time), and no feeding of wildlife other

than birds should be allowed. These and some other recommendations by USFWS that aren't completely covered by the proposed covenants, primarily relating to minimizing bear attractants during construction, when the USF&Ws' site management recommendations should be implemented.

To mitigate potential impacts to wildlife, a condition that incorporates the wildlife-related comments from FWP and the USF&WS into the covenants and subdivision approval should be included. If the FWP and USF&WS recommendations are incorporated into project documents and carried out over time, this proposal is likely to have an acceptable impact on wildlife.

F. Impact on Wildlife Habitat

Definition of Wildlife Habitat: Wildlife habitat means an area containing the complex of environmental conditions essential to wildlife for feeding and forage, cover, migration, breeding, rearing, nesting, or buffers for those areas. It also includes areas essential to the conservation of species protected by the Endangered Species Act or of special interest or concern to the State of Montana.

Per the growth policy, when evaluating a proposed subdivision's impact on wildlife habitat, West Yellowstone will consider the following factors:

- The presence and potential destruction of wildlife habitat.
- Proposed subdivisions proximity to migration routes.
- Water quality of aquatic species.

There is no doubt that wildlife habitat would be lost with the conversion of this 20+ acres from a single family residential homesite on the edge of Town to a higher density apartment complex with 180+ residential units, parking lots, stormwater retention ponds, and streets. Much of the property, which provides habitat today, would be cleared of vegetation to accommodate development.

The property is not known to be in or near a special migration route. The property does not contain and is not located near surface water or groundwater that would be impacted by the development. The property abuts the Custer Gallatin National Forest, which is comprised of more than three million acres managed for multiple uses, including wildlife habitat. Being within the municipal boundaries and an expansion of a residential neighborhood, this development provides an appropriate setting at relatively little cost to any crucial wildlife habitat, especially considering limited opportunities for expansion and redevelopment of the Town, and the need for more housing expressed in the West Yellowstone Growth Policy. As such, conversion of property within the Town boundary from primarily forest land to multi-family residential housing, particularly when so much similar habitat is available to wildlife, is an acceptable tradeoff.

G. Impact on Public Health and Safety

Definition of Public Health and Safety: A condition of well-being, reasonably free from danger, risk or injury, for a community at large, or for all people, not merely for the welfare of a specific individual or a small class of persons. Conditions that relate to public health and safety include, but are not limited to, flood hazards, geologic hazards, dam failures, avalanches, air quality, water quality, toxic or hazardous substance exposure, fire or wildfire hazards, proximity to high voltage power lines or high pressure gas lines, noise, air or vehicular traffic hazards, parks and recreation facilities, and threats to life, health, safety and wellness.

Per the growth policy, when evaluating a proposed subdivision's impact on public health and safety, West Yellowstone will consider the following factors:

- Potential hazards to residents of the proposed subdivision from high voltage lines, high-pressure gas lines, highways, railroads, or railroad crossing and nearly industrial or mining activity.
- Any public health or safety hazards created as a result of the proposed subdivision, such as traffic or fire conditions, contamination or depletion of groundwater supplies, accelerated stormwater runoff, widening of existing floodplain or flood hazard areas.

There are no flood hazards that could impact the development or result in the development creating a hazard related to flooding. There are no dams upstream from the development. Avalanches are unlikely due to lack of steep slopes. Air quality in the area is high, with little involved in the proposal that is likely to negatively impact air quality as long as consideration is taken to alleviate dust during construction, which is addressed in Section IV.D of this report. Water quality is unlikely to be impacted because there are no surface waters in the immediate vicinity of the project, and ground water is estimated to be ±40-feet deep at the site. No toxic or hazardous substances, high voltage power lines, high pressure gas lines (other than natural gas for household use) or other unusual or specific threats to life, health safety, or wellness are known to exist. The primary concerns related to public health and safety impacts from the development include geologic hazards, wildfire hazards, and vehicular traffic hazards, as discussed below.

Geologic Hazards

The application includes a Geotechnical Investigation Report. The conclusion of the report is the soils present at the site will be adequate to support the proposed structures, provided the recommendations made in the report are properly followed. It summarizes several construction-related recommendations as particularly crucial. Because the report indicates there are crucial steps to be taken during construction to protect public safety, a condition of the subdivision approval and a condition of the CUP approval should address adherence to the report's recommendations.

Wildfire Hazards

The property is located in a lodgepole pine forest where fire is a natural part of the ecosystem. The West Yellowstone area has a well-documented history of recent wildfires, including forest fires in 1998, 2003, 2007, and 2016. To address fire safety, the subdivision application includes a Fire Hazard Analysis. The authors considered applicable codes and regulations that apply to the development, fire department access, construction materials, defensible space around structures, fire-fighting water supply (flow, hydrants, etc.), building sprinklers, fire department resources, fire hazard, and fire history. The analysis concludes that the fire hazard severity is on the low end of the spectrum when analyzed under the 2012 International Wildland-Urban Interface Code, and includes mitigation measures the developer has chosen to implement into the design and construction of the development.

Proposed mitigation measures include ignition resistant exterior building construction materials, all buildings to be fully sprinklered, and a defensible space of at least 30 feet around buildings. These elements of the project should be considered part of the subdivider's proposed mitigation measures, and adherence to the proposed measures should be part of any approval. An additional concern is the street design with one ingress/egress, which is discussed below.

Traffic Hazards

This development has brought up three concerns pertaining to traffic hazards: the use of only one ingress/egress, intersection safety at the proposed extension of Grayling Avenue and Hayden Street, and impacts on Town streets and other intersections.

Regarding one ingress/egress, West Yellowstone Police Department Chief Newell wrote, “A single accident, disabled vehicle, or roadway maintenance can effectively shut down access into or out of the subdivision. In law enforcement, we often see that optimum situations rarely occur. For example, a person moving in may employ movers. I can foresee a moving van or truck, particularly a truck-tractor semi-trailer combination vehicle, failing to adequately negotiate the corner and becoming stuck. These vehicles are not easily moved and require significant wrecker resources. Often it can take hours to get such equipment to handle the situation. With only one way in and out, I expect this to become a reoccurring issue.”

In written comments Jason Brey, Hebgen Lake District Ranger for the Custer Gallatin National Forest, expressed similar concerns. District Ranger Brey wrote, “I do have concerns associated with the high density of structures within the subdivision and the fact that the subdivision will only be served by one primary access road. During a wildfire incident, evacuation of the public, while at the same time, being able to provide access to fire fighters engaging in the incident is critical. It is unclear to me as to whether a one-way in and one-way out road will provide for adequate ingress and egress during a wildfire incident. I trust that Hebgen Basin Fire District and the West Yellowstone Police Department will provide feedback to this and are the appropriate agencies to do so in this matter.” ~~As of this writing, no comments have been received from Shane Grube of the Hebgen Basin Fire District provided comments regarding access, stating that if one access is used, it should have a 52-foot drivable surface (addressed below).~~

The subdivider’s agent addressed this concern with the following discussion (found on pages 2 and 3 of “Response to Element Review Comments” – those dated November 7, 2018):

“The access to the property is specifically addressed in Section 3 of the Fire Hazard Analysis (Appendix F). The ingress/egress requirements for the development are determined by the International Wildland-Urban Interface (IWUIC) 2012 [Note: this is not accurate – the Montana Legislature removed access standards from IWUIC under ARM 24.301.181.] and the International Fire Code (IFC) 2012. Section D106 of the IFC determines that projects having up to 200 dwelling units may have one fire apparatus access road when all buildings, including non-residential occupancies, are equipped throughout with an approved automatic sprinkler system in accordance with 903.3.1.1 or 903.3.1.2. The proposed buildings will be required to have automatic sprinkler systems in accordance with such standards. The development has fire hydrants with adequate fire flow spaced according to IFC regulations (see section 6 of the Fire Hazard Analysis). Subdivision driveway/alley requirements based on the IFC are all exceeded within the proposed development. Numerous turnarounds exist within the proposed site plan. The road at the single ingress/egress point is thirty-six feet wide, providing 80% greater width than required by the IFC. All roads/driveways/alleys within the Subdivision will be paved, exceeding the requirements of IFC paragraph 50.2.3. Appropriate defensible space will be provided and maintained around the proposed buildings. Per Section 9 of the fire hazard analysis, the proposed subdivision is closest to a low or moderate hazard severity classification per the IWUIC.”

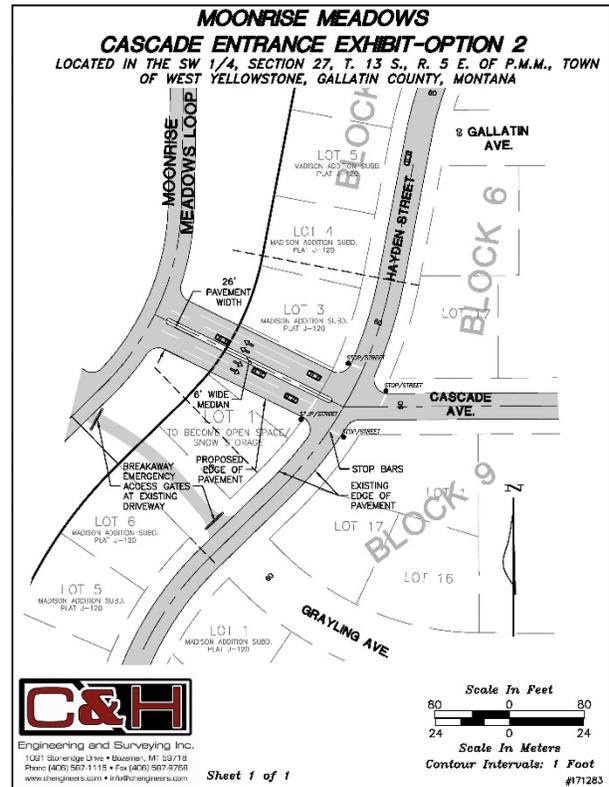
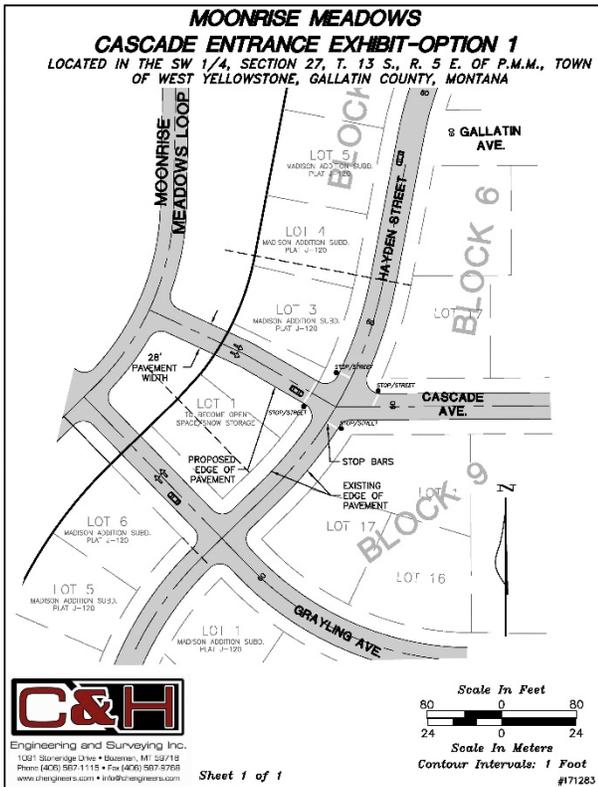
While the subdivider’s agent addressed this from the perspective of fire safety, it is not clear whether Chief Newell’s concern with the single ingress/egress is alleviated in full. The International Fire Code’s provisions are noteworthy in terms of fire-related access issues, and the proposed wider 36-foot road width at the subdivision entrance is an important consideration. Part of the justification provided for having only one ingress/egress under the International Fire Code is that all buildings “are equipped throughout with an approved automatic sprinkler system”. At this time it is not clear whether the existing home and garage with apartment are equipped with such systems, but the subdivider has indicated retrofitting can occur if necessary.

As Chief Newell wrote, if for some reason Grayling Avenue within the subdivision were to become blocked, there is no other way in or out of the subdivision. If this happened under dangerous circumstances like a wildland fire, the results could be disastrous.

The WYSR were adopted in 1982 and are currently being revised. The WYSR do not explicitly require more than one access. The closest mention is found in Tables 1 and 2, where the maximum length of a road ending in a cul-de-sac is 600 feet. However, the regulations provide some discretion, stating, *"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, and to public convenience and safety, and in their relation to the proposed uses of the land to be served by them."* In the reviewer's experience, it is highly unusual for subdivisions of this scale to not have more than one access. For example, the Gallatin County Subdivision Regulations require more than one access for any subdivision containing six or more lots and, "To allow for sufficient access for emergency providers, the County in coordination with the appropriate fire district or fire service area, may require the Subdivider to provide a second access for Minor Subdivisions." (Section 7.C.7) It should be noted county subdivisions rarely include fire hydrants and home sprinkler systems.

Given the well documented local fire history and comments from public safety professionals, it seems imprudent to think that approximately 450 new residents can safely be served by one access. In fact, the West Yellowstone Growth Policy specifically addresses fire safety and the need to develop additional standards for defensible space, building materials, water supply and ingress and egress. To provide for public safety, a condition of approval should be included that the developer will provide a second ingress/egress for the subdivision within a publicly dedicated easement. Ideally the access would be a street built to municipal standards connecting back to Hayden Street. However, if this is not feasible, a narrower emergency access with breakaway gate and gravel surface could be developed, so long as it connects to a public roadway and provides an adequate means of escape.

During the public hearing the reviewing planner, Planning Advisory Board members, and members of the public expressed that only having one access to the subdivision is a safety concern. Based on this concern the subdivider proposed two new options for access to the property (Figures 4 and 5 below). Option 1 would include two accesses, one aligned with Grayling Avenue and one aligned with Cascade Avenue. Both accesses would be 28 feet wide one-way streets. Option 2 would provide a primary and an emergency access, with the primary access four lanes (52 feet) wide with an additional six-foot drive-over median, and using the existing Moonrise Way as an emergency access with break-away gates. The Planning Advisory Board chose to recommend that the subdivider provide two ingresses/egresses built to Town standards and be approved by the Town's Engineer instead of choosing a specific option.



Figures 3 and 4: Options for accessing the subdivision proposed by the subdivider

Regarding intersection safety, this issue is addressed in detail in Section IV.C of this report. The main concern at this point is has been visibility to the north from the proposed extension of Grayling Avenue at the subdivision entrance. This concern can be addressed by either requiring Lots 1 and 2, directly to the north of the entrance, to be incorporated into the subdivision and snowbanks managed along those lots to allow drivers to see oncoming traffic travelling south along Hayden Street, OR relocating the subdivision entrance to across from Cascade Avenue where sight distance would be greater. To address this concern, the subdivider has proposed to move the primary access across from Cascade Avenue, use Lots 1 and 2 for snow storage, and work with the Town to install a four-way stop at Cascade Avenue, which alleviates the sight distance issue.

Regarding impacts of roughly 1,300 average daily vehicle trips to be generated by the subdivision, the TIS submitted with the application concludes all existing streets and intersections would continue to function at a Level of Service of C or better, which based on the reviewer’s experience is generally considered to be acceptable for peak hour conditions. A transportation planner from MDT reviewed the TIS and concurred with the findings. Although the new traffic will mean longer wait times at intersections and generally more traffic along the local streets, given the capacity of the intersections and streets, this seem to present more of an aggravating circumstance than a major safety concern. As written above, based on public comment and their own knowledge, the Planning Advisory Board found the impact of traffic from this subdivision could result in public safety impacts, and thereby recommended the Town Council petition the US Forest Service to allow a western access running from the property south to Iris Street.

Based on all of the above discussion, if the developer provides a second access to the subdivision and provides for clear sight distance to the north and south, the impacts of this subdivision on public health and safety will be acceptable.

H. Survey Requirements/Subdivision Regulations/Review Procedure:

In addition to the review criteria outlined above, 76-3-608(3)(b), MCA also requires the governing body to issue written findings of fact that weigh compliance with:

- the survey requirements provided for in part 4 of [the MSPA];
- the local subdivision regulations; and
- the local subdivision review procedure provided for in [Part 6 of the MSPA];

1. Survey Requirements:

The final plat review process will need to ensure review the final plat for compliance with the Administrative Rules of Montana Uniform Standards for Final Subdivision Plats. This is typically done through review of the final plat for compliance with conditions of approval and by an examining land surveyor who reviews the surveying for errors in drafting and calculations. The preliminary plat was prepared by a registered land surveyor licensed in Montana and the survey information shown on the preliminary plat appears to be in substantial compliance with applicable standards.

2. Subdivision Regulations:

The reviewing planner has reviewed the subdivision for compliance with the design standards and other requirements of the WYSR, including procedural requirements and administrative provisions. The subdivision generally complies with the WYSR. The following are some applicable standards to consider when reviewing the subdivision and that should be made conditions of approval if preliminary plat approval is granted:

Section II.A.10 of the WYSR enumerates basis for the Town Council’s decision to approve, conditionally approve, or disapprove a preliminary plat and application. The basis is:

- Whether the preliminary plat, environmental assessment, public hearing, planning board recommendations and additional information demonstrate that the development of the subdivision would be in the public interest. The governing body shall disapprove any subdivision which it finds not to be in the public interest. It should be noted that this ‘public interest’ review criterion was removed from state subdivision law several years ago.
- To determine whether the proposed subdivision would be in the public interest the governing body shall issue written findings of fact which weigh the following criteria for public interest:
 - a. The basis of the need⁴ for the subdivision;

⁴ The “basis of need” criterion is no longer part of state law.

- b. Expressed public opinion⁵;
- c. Effects on agriculture;
- d. Effects on local services;
- e. Effects on taxation⁶;
- f. Effects on the natural environment;
- g. Effects on wildlife and wildlife habitat, and
- h. Effects on public health and safety.

As stated in the footnotes, the Planning Advisory Board and Town Council should be careful with how the subdivision is evaluated for being in the “public interest”, as this is no longer authorized under the MSPA. The MSPA requires review under other criteria as described in this report, so public interest should not be the basis of the decision or the sole basis for any specific condition.

Also discussed in the footnotes is the fact that the following criteria listed by the WYSR in relation to the public interest are no longer subdivision review criteria under the MSPA, and should therefore for the most part be disregarded: basis of need, expressed public opinion, and effects on taxation. That is not to say these items cannot be considered --- in fact public input must be considered, but they should not be the basis for the Town Council’s decision on the subdivision.

The remaining criteria from Section II.A.10 of the WYSR are still primary review criteria for subdivisions according to the MSPA. Previous portions of this Section IV of this report give an analysis on the subdivision’s expected impacts on those criteria.

Design Standards:

Section III of the WYSR provides design and improvement standards. These standards address items such as lot design, streets specifications, drainage, water and sewer, mail delivery, and other items. All subdivisions approved by the Town Council are required to comply with the design and improvement standards, except where granted a variance is granted. No variances to the subdivision regulations are requested, nor do any variances appear necessary. The following is an analysis of the subdivision under with some of the noteworthy standards that apply to this subdivision:

- Section III.A.4, “Improvement Design”: Engineering plans, specifications, and reports required in connection with public improvements or other elements of the subdivision required by the governing body shall be prepared by a registered engineer or a registered land surveyor as their respective licensing laws allow in accordance with the Montana Subdivision and Platting Act and these regulations.
 - ✓ The plat and plans have been developed by professional, registered surveyors and engineers.

⁵ The “expressed public opinion” criterion is no longer part of state law, but public comment should be considered, evaluated, and addressed as deemed appropriate.

⁶ The “effects on taxation” criterion is no longer part of state law.

- Section III.A.7, “Streets and Roads”, subsection (c), “General Street and Road Standards”, (1) Intersections: (b) two streets meeting a third street from opposite sides shall meet at the same point, or their centerlines shall be offset at least one hundred twenty-five (125) feet.
 - ✓ The original preliminary plat depicted an offset of ±110-feet from the Grayling Avenue centerline and the centerline entering the subdivision. The subdivision has been redesigned to comply with this standard. Both of the revised access options provide more than 125 feet between intersections.
- Section III.A.7, “Streets and Roads”, subsection (c), “General Street and Road Standards”, (1) Intersections: (c) intersection design shall provide acceptable visibility for traffic safety as dictated by the designed operating speeds on the individual roadways.
 - ✓ Intersection visibility is addressed in the TIS ~~but concerns persist as described above. A condition of approval is suggested to provide greater sight distance for traffic safety and with the installation of a four-way stop at the intersection of Cascade and Hayden.~~
- Section III.A.7, “Streets and Roads”, subsection (c), “General Street and Road Standards”, (2): Curbs and gutters or swales shall be required as determined by the governing body according to the character of the area, density of development, and nature of adjoining properties. Curbs and gutters of adjoining properties shall be extended according to current specifications of local and state authorities. Curbs, gutters and swales shall be designed as part of an overall subdivision grading and drainage plan. (See Grading and Drainage, page 33.)
- Subsection III.A.7(c)(3): Sidewalks or walkways shall be provided when required by the governing body.
 - ✓ The application does not include curbs or gutters, but site grading and swales are proposed to manage stormwater. Curbs and gutters are not developed in the Madison Addition. Sidewalks or walkways are not proposed as part of the plan, nor are they found in the Madison Addition. The application indicates an optional gravel trail may be installed within the open space to provide pedestrian circulation between the lots, which is being recommended as a subdivision improvement, to be installed prior to final plat approval.
- Subsection III.A.7(c)(5): Existing trees and other vegetation shall be preserved where possible. Plantings may be required for buffering, screening, or soil erosion protection and are subject to approval by the governing body.
 - ✓ The application does not indicate exactly what vegetation is to be removed or preserved, or provide a specific plan for a buffering or screening. The following parts of the application pertain to vegetation and perimeter buffers:
 - The plat shows a 100’ open space easement and buffer along the southern boundary, a 50’ open space easement along the east boundary, and a 2+ acre open space easement on Lot 1. The plat and plans do not indicate what the buffers would consist of. Based on the site plan, a significant amount of vegetation would have to be removed from the eastern open space easements and the open space easement on Lot 1 to accommodate stormwater runoff and snow storage.
 - Subdivision application element 2.0, “Response to Preapplication Comments” states: *“Landscaping will be left in a natural vegetative state except for those areas*

proposed for disturbance and defensible space areas as recommended by the Fire Hazard Analysis in Appendix F.”

- The Community Impact Report (subdivision application element 4.3), Section 8.c, Adjacent Land Use (page 2.6), states: *“The subdivision was designed to have a minimal effect on the surrounding land uses. A 50-ft landscape buffer is provided along the east and south boundaries of the property to buffer the subdivision from the existing single-family lots within the Madison Addition Subdivision. A 30’ landscape buffer and fence is provided along the northern and western boundaries of the proposed subdivision to minimize the effects of the subdivision on the unplatted U.S. Forest Service lands to the north and west.”*
- Subdivision application element 10.0 is a Fire Hazard Analysis that indicates a plan for 30-feet of defensible space around the structures.

Based on the above, it is not entirely clear what the subdivider proposes for vegetation preservation, plantings or screening. It is important to note that the zoning regulations allow landscaping to be required for PUDs. The reviewing planner feels the need for landscaping, perimeter buffering and vegetation preservation and removal is mostly dependent upon the proposed use of the lots for apartments, rather than the five-lot subdivision. For this reason, a condition is being recommended that makes a general reference to zoning compliance and adhering to the conditions of the pending CUP, but the verbiage for the recommended condition for landscaping, perimeter buffering and vegetation preservation and removal is part of the reviewing planner’s recommendation on the CUP for the PUD. Additionally, at the public hearing, a member of the public requested the private open space along the eastern boundary be extended to the northeast corner to alleviate potentially significant adverse impacts. The subdivider agreed.

- Subsection III.A.7(c)(10): Names of new streets aligned with existing streets shall be the same as those of the existing streets. Street names for noncontinuing streets shall not be duplicated nor be confused with existing street names. Street name signs shall be provided and placed by the subdivider as specified by the governing body at all street intersections.
 - ✓ The subdivision entrance street, which would line up with Grayling Avenue, is also proposed to be called Grayling Avenue. If the entrance is re-aligned to be across from Cascade Avenue, the entrance street should be named Cascade Avenue. A condition of approval should require that the proposed street names and signage be approved by the Town and appropriately posted.
- Subsection III.A.7(c)(13): Street lights may be required by the governing body on all streets within the subdivision.
 - ✓ The plat and site plan do not depict proposed street lights in the subdivision. Regarding nighttime outdoor lighting, the submittal states, *“No lighting is proposed with this subdivision application... Location and design of these elements will be provided with the PUD application.”* The submittal also states, *“The proposed lighting will all be building mounted and downward pointing and “dark skies” compliant.”* For public safety purposes a condition should be applied requiring outdoor lighting plan compliant with dark skies principles shall be submitted for the development that addresses street lighting along with parking lot and building lighting. The street lighting should include at least one downward pointing, side-shielded street light at the intersection of the

subdivision entrance road and Moonrise Meadows Loop, and at each entrance to the parking lots off Moonrise Meadows Loop. The intent of this street lighting is to ensure some nighttime illumination of building entrances and pedestrian crossings at the parking lot entrances. Town Council approval of the outdoor lighting plan shall be obtained prior to installation of street lights or prior to final plat approval, whichever is to occur first.

- Subsection III.A.7(c)(15): Roadway subgrades shall be free of sod, vegetative or organic matter, soft clay, or other objectional materials, properly rolled, shaped and compacted and subject to approval by the governing body.
 - ✓ This requirement is addressed by a condition of approval pertaining to street construction. This should be part of the engineering certification for the street improvements.
- Subsection III.A.7(c)(16): Roadway surface shall be constructed on a suitable base, using materials approved by the local governing body.
 - ✓ This requirement is addressed by a condition of approval pertaining to street construction. This should be part of the engineering certification for the street improvements.
- Subsection III.A.7(e): Streets and roads in Urban-Suburban Subdivisions shall meet the design specifications in Table II.

It appears the streets have been designed to conform to the standards in WYSR Table II as they apply to this subdivision. The subdivision entrance street, a collector, would have a width of 36 feet as required, and Moonrise Meadows Loop, a local street, would have a width of 28 feet compared to the minimum standard of 26 feet.

- Subsection III.A.8 of the WYSR outlines general requirements for Grading and Drainage.
 - ✓ The Design Report for Stormwater Management includes plans for stormwater drainage, and the Geotechnical Investigation Report includes specific recommendations for grading the site. Conditions of approval are recommended to require the grading and drainage plans to be implemented.
- Subsections III.A.9 – 12 include general language for water supply, sewage treatment, solid waste and utilities, all of which have been discussed in other sections of this report.
- Subsection III.A.13 includes easement requirements that will need to be adhered to with the final plat, as required by a recommended condition of approval.
- Subsection III.A.15 of the WYSR outlines parkland dedication requirements. This subsection of the regulations is incomplete in the versions the Town has available. Park dedication requirements are also provided in state law. Section 76-3-621(1), MCA lists the basic cash or land donation equivalents based on lot sizes, including: 5% of the area of the land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and 2.5% of the area of the land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres. A park dedication may not be required for land proposed for subdivision into parcels larger than 5 acres, which eliminates the statutory requirement for park dedication for Lots 1 and 5, which are both over 5 acres in size.

Lots 2 and 3, at 3.4615 acres and 4.2070 acres respectively (7.6685 acres total), are each larger than 3 acres and not larger than 5 acres, setting a dedication amount of 8,351 square

feet (2.5% of 7.6685 acres). Lot 4, at 2.2367 acres, is larger than 1 acre and not larger than 3 acres, setting a dedication amount of 4,871.53 square feet (5% of 2.2367 acres). Therefore, the park dedication would be a cash or land donation equivalent to 13,222.53 square feet.

Section 76-3-621(6), MCA requires that the local governing body waive the park dedication requirement if certain circumstances exist. Based on the specifics of this subdivision, the following appears the most applicable circumstance: The local governing body shall waive the park dedication requirement if the preliminary plat provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the required dedication. Regarding this subdivision's circumstances:

- ✓ The preliminary plat provides for a planned unit development with portions of the land permanently set aside for open space, which may include park and recreational uses. Whether the open spaces proposed are sufficient to meet the needs of the persons who will ultimately reside in the development must be determined through this review.
- ✓ The subdivision's Community Impact Report (Element 4.3 of the subdivision application), Section 10.a, explains the following: *"The proposed subdivision includes 2.72 acres of Common Open Space and 1.44 acres of Private Open Space located within open space easements on the proposed lots. The Open Space property will be left in a natural, unaltered state to the maximum extent possible. Stormwater facilities will be installed within the Open Space parcels and an optional gravel trail may be installed within the Open Space to provide pedestrian circulation between the lots."*
- ✓ Although the open space easements total ± 4.1 -acres, well in excess of the base requirement of $\pm 13,222$ square feet or ± 0.3 -acre, much of that area will be encumbered by stormwater retention ponds and used for snow storage. However, well over 0.3 acres could still be considered usable for parks and recreation purposes. The optional gravel trail through the open space would provide an actual recreational amenity that would make these areas usable, so its installation is included in the recommended conditions of approval for the park land waiver.
- ✓ The reviewing planner recommends the Town Council waive the park dedication requirement pursuant to 76-3-621(6)(a), MCA, based on the project being a planned unit development, subject to the subdivider providing the proposed 4.1+ acres of open space areas as land permanently set aside for park and recreational uses for the persons who will ultimately reside in the development; and all areas of the open space easements not encumbered by stormwater retention ponds shall be set aside for park and recreational purposes.

3. Planned Unit Developments

Under the WYSR, a PUD is defined as, *"A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks, or any combination thereof which comprises a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership."* Moonrise Meadows meets most of the elements of this definition because it consists of residential clusters built in a prearranged relationship to each other and having open space and community facilities in

common ownership. What is lacking is a mixture of uses but based on its location in the Madison Addition, industrial parks, shopping centers or office buildings would probably not be appropriate. According to the project engineer, the reason a PUD is being proposed on this property is because the Madison Addition Plat shows this property as Tract 1 (PUD Tract).

The WYSR include a section on PUDs. Unfortunately, the first two pages of the PUD section, pages 40 and 41, are missing from the current version of the regulations. However, the PUD section on page 42 includes the following requirement:

The governing body shall review the proposed plan and, before designating the subdivision a PUD, shall determine that the development plan promotes the clustering of individual building sites, conforms to the definition and intent of this section, and does one or more of the following:

- a. Preserves to the maximum extent possible, the natural characteristics of the land including topography, vegetation, streams and other bodies of water.
- b. Provides economies in the provision of roads and other public improvements.
- c. Preserves productive agricultural land.
- d. Protects important historic sites or structures or areas of important wildlife habitat.
- e. Provides developed facilities for recreational purposes.

As stated above, the Moonrise Meadows subdivision generally conforms to the definition of a planned unit development. Because pages are missing from the regulations, the intent of the section is not clear. Based on the preliminary plat and application materials, the only above element that the subdivision meets is (b), in that because it is a fairly high density development, Moonrise Meadows provides economies in the provision of roads and other improvements. The proposal would comply to a much greater extent if the subdivider were to provide not only open space but developed facilities for recreational purposes, perhaps a tot lot, walking paths or similar within the subdivision.

4. Review Procedure:

The subdivision is being reviewed in accordance with the general procedures of Sections II.A.1 through 18 of the WYSR. The review procedures are discussed in detail under the previous Section III of this report.

Review of the final plat and application will facilitate further review for requirements that apply at that time, such as requirements that all taxes assessed must be paid in full prior to filing of the final plat in accordance with 76-3-611(1)(b), MCA; and the Gallatin County Treasurer shall sign the plat verifying that the taxes and special assessments assessed and levied on the land have been paid. Conditions of approval make note of final plat requirements such as these.

I. Growth Policy

According to 76-1-605, MCA, a governing body within the area covered by a growth policy must be guided by and give consideration to the general policy and pattern of development set out in the growth policy in the authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities; and, authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities.

A growth policy is not a regulatory document and does not confer any authority to regulate that is not otherwise specifically authorized by law or regulations adopted pursuant to the law.

Additionally, a governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy.

Under Section II.A.9 of the WYSR, the Planning Board shall consider all relevant evidence relating to the public health, safety and welfare, including the environmental assessment and any officially adopted comprehensive plan for the involved area to determine whether the plat should be approved, conditionally approved, or disapproved by the governing body.

The following provisions from the West Yellowstone Growth Policy are relevant to this proposal:

- One of the key issues discussed in the 2017 West Yellowstone Growth Policy is the lack of available and affordable owner-occupied and rental housing for year-round residents and summer employees. Related Goal 1 is to increase the supply of affordable and workforce housing.

The subdivision application addresses this issue by stating the proposed subdivision helps resolve this key issue by providing 180 new residential units to create rental and owner-occupied lodging for full-time residents and seasonal employees. It should be noted that the project is not proposed as an affordable housing project that would receive benefits under government-supported housing programs or to obtain incentives such as those referred to in the growth policy. It seems there is no guarantee the housing units developed in the project will be affordable to the local workforce in need of housing. However, improving the available housing stock, particularly quality, moderately-sized apartment units, will likely provide some relief to a strained housing market and contribute to improved availability of housing units, thus benefiting the market for more affordable and workforce housing.

- Chapter 5 of the Growth Policy focuses on the Wildland-Urban Interface, which is an important consideration with this project. This chapter acknowledges the Madison Addition is an area of particular public safety concern, and in the Madison Addition homes are surrounded by dense pockets of lodgepole pine and landscape vegetation with little to no defensible space throughout the neighborhood. Goal 14 and the associated objectives and actions provide the primary steps the Town intends to take to address the Wildland-Urban Interface, including adoption of guidelines and regulations for fire protection and defensible space. However, for this development, the growth policy considerations should be made in conjunction with the Town's review of the project's impacts on public health and safety.

The application includes a fire hazard analysis by Coffman Engineers. The analysis considers applicable codes/regulations that apply to the development, fire department access, construction materials, defensible space, fire-fighting water supply (flow, hydrants, etc.), building sprinklers, fire department resources, fire hazard, and fire history. The analysis concludes that the fire hazard severity is on the low end of the spectrum as defined by the International Wildland-Urban Interface Code, and indicates key mitigation measures that the developer has chosen to implement into their fire prevention plan are:

- Fire resistant exterior building construction materials (i.e. siding and decks)
 - All buildings will be fully sprinklered
 - Landscaping improvement to provide a 30-ft defensible space around buildings
- ✓ Based on the above, this project generally complies with applicable elements of the growth policy, but particularly with regard to fire danger, an additional access is appropriate and additional fire resistant construction features, such as vents, gutters and eaves, would result in greater public safety and compliance.

J. Other criteria

Other criteria that a subdivision must be reviewed for, and which the governing body must issue written findings that weigh, include:

- The provision of easements within and to the proposed subdivision for the location and installation of any planned utilities (76-3-608(3)(c), MCA); and
- The provision of legal and physical access to each parcel within the proposed subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel (76-3-608(3)(d), MCA).

The following is a summary of the other *required* criteria not previously discussed:

1. Easements for Utilities:

The subdivision is proposed to be provided with natural gas, electrical and telephone utilities within appropriate easements. Locations and dimensions of the easements for utilities will need to adhere to the subdivision regulations and be approved by the service providers.

2. Legal and Physical Access:

The legal and physical access for all five lots will be via the public road network, ~~with an improved and extended Moonrise Way, with options including extensions of Cascade Avenue and Grayling Avenue and proposed Moonrise Meadows Loop. Moonrise Way would be improved to have an asphalt driving surface 36 feet in width. The first segment of Moonrise Way exists within an existing 60' wide dedicated strip that was part of the street dedications to the public/Town on the plat of The Madison Addition. The rest of Moonrise Way, on the subject property to its connection with proposed~~ All approved accesses to the property and Moonrise Meadows Loop will need to be part of the street dedications, at least 60 feet in width to the Town, assuming the Town Council is willing to accept the new street. Moonrise Meadows Loop is also proposed within a 60' wide easement dedicated to the Town, within which a 28' wide asphalt surfaced road is proposed to be built. Note: At the public hearing the Planning Advisory Board requested and the subdivider agreed to provide street and utility rights-of-way instead of easements.

Section IV.H of this report gives an evaluation of the legal and physical access in light of the design and improvement standards of the WYSR. As proposed and as required by the design and improvement standards of the WYSR, the subdivision lots will be provided legal and physical access.

K. Public Comments:

Notice requirements have been met for the subdivision proposal, including notices in the West Yellowstone Star, notices mailed to adjoining property owners, and courtesy emails sent to applicable public utilities, service providers, and other interested entities. ~~To date, the only written comment received is from John Costello.~~ Several written and verbal comments have been received, which are attached as meeting minutes and individual letters. Various agency comments received during the reviewing planner's initial reviews have been summarized and addressed throughout this report.

STAFF RECOMMENDATION
BY TOWN OF WEST YELLOWSTONE ~~REVIEWING PLANNER~~
PLANNING ADVISORY BOARD
FOR THE “MOONRISE MEADOWS” MINOR SUBDIVISION
~~JANUARY 22~~ FEBRUARY 12, 2019

The ~~reviewing planner~~ Planning Advisory Board recommends approval of the preliminary plat application for the Moonrise Meadows subdivision, a five-lot subsequent minor subdivision of Tract 1 of the Madison Addition, subject to the conditions below. After each condition in parentheses are the rules, regulations, statutes and findings of fact in the cited sections of the staff report that are a basis for the imposition of the conditions. All conditions are based on the findings and conclusions identified in this report and are recommended according to 76-3-608, MCA and the WYSR.

In addition to the conditional approval, the Planning Advisory Board recommended the Town Council petition the US Forest Service to allow development of a street and associated public facilities from the west boundary of the property south to Iris Street.

Recommended Conditions of Preliminary Plat Approval:

1. The final plat and associated documents and plans, as well as all related improvements for the subdivision, shall meet all applicable design and improvement standards and other requirements of the Town of West Yellowstone Subdivision Regulations (WYSR) of 1982, the Administrative Rules of Montana (ARM), and the Montana Subdivision and Platting Act (MSPA). (*WYSR, ARM, and MSPA*)
2. The subdivision shall be reviewed and approved for water supply, sewage disposal, storm water runoff, and solid waste services. If a municipal facilities exclusion is utilized, it shall be filed with the final plat. If the Montana Department of Environmental Quality (DEQ) review is deemed necessary by the reviewing body, the Certificate of Subdivision Approval shall be filed with the plat. (*WYSR III.A.8 – 11 and ARM 24.183.1107(5)(c)*)
3. Prior to final plat approval the subdivider shall complete all necessary improvements to the Town of West Yellowstone’s municipal water system, wastewater treatment system, and stormwater management facilities, as well as any common stormwater management facilities necessary to serve the subdivision, in accordance with Town and DEQ adopted standards and requirements. (*WYSR III.A.9– 10*)
4. The unit owners association or lot owners association, at the discretion of the subdivider, shall be responsible for maintenance of the stormwater collection and retention system. Such responsibility shall be included in either the subdivision covenants or the declaration of unit ownership. (*76-3-510, MCA*)
5. The applicant shall submit an approved Storm Water Pollution Prevention Plan Permit from DEQ as part of the final plat application. The approved plan shall be filed with the final plat. (*Staff Report IV.D, MCA 76-3-608(8)(a), MCA 75-5-401, and ARM 17.30.1105*)
6. The Dust Prevention and Control Plan that calls for best management practices for fugitive dust emissions during the construction and installation of water, sewer and storm water utilities, road construction, parking lot grading and the construction of the residential buildings, shall be implemented during construction. (*Staff Report IV.C and IV.G*)

7. The final plat shall include the easements and dedications depicted on the preliminary plat. Easements shall include open space easements in favor of the lot owners and/or condominium unit owners. Access and utility easements rights-of-way shall be dedicated to the public and include acceptance of the dedications by the Town Council of the Town of West Yellowstone. *(Staff Report IV.C and WYSR III.A.13)*
8. Easements shall be placed on the final plat for snow storage. The easements shall either encompass all areas shown on the preliminary plat for snow storage and be dedicated to the Town of West Yellowstone and unit or lot owners associations for snow storage purposes, OR the subdivider shall demonstrate sufficient snow storage exists on each lot for snow from the respective lots' roadway and parking improvements, as well as the lots' street frontage. If the subdivider can demonstrate each lot can contain its own snow as well as snow from the street frontage, no snow storage easements are required. *(Staff Report IV.C)*
9. All construction shall adhere to the recommendations of the Fire Hazard Analysis and related plans including all structures to be sprinklered as per the International Fire Code, at least 30 feet of cleared defensible space shall be provided around all structures, fire resistant building materials shall be used for roofs, siding, decking, vents, eaves and gutters, and fire hydrants shall be provided with locations and spacing approved by the Hebgen Basin Fire District. *(Staff Report IV.G)*
10. The developer shall provide a second developed ingress/egress ~~for the subdivision within a minimum 30-foot publicly dedicated easement. At a minimum, the roadway shall be 12 feet wide with 13 feet of vertical clearance, built to municipal construction standards with a gravel surface, emergency access signage and a breakaway gate. The road must connect the subdivision to a Town or State roadway built to Town of West Yellowstone standards within a minimum 60-foot right-of-way and approved the Town Engineer.~~ *(Staff Report IV.G)*
11. ~~To address sight distance and intersection safety, either Lots one and two of Block 2 of the Madison Addition, located directly to the north of the subdivision entrance, shall be made a part of the subdivision, and easements shall be provided so that the Town of West Yellowstone shall have the right to remove snowbanks from the lots along Hayden Street to improve sight distance, OR the subdivision entrance shall be placed directly across from Cascade Avenue.~~ *(Staff Report IV.C and WYSR III.A.7)*
12. Prior to any construction or obstructions occurring in a publicly-dedicated right-of-way, permission shall be obtained from the Town Council according to Town codes and policies. *(Chapter 12.24 WYMC and ARM 24.183.1107(5)(g))*
13. Prior to final plat approval the subdivider shall build the streets as proposed in the preliminary plat application and in accordance with the Town of West Yellowstone Subdivision Regulations, except as proposed with higher standards and possible relocation of the subdivision entrance street, which are added mitigation for subdivision impacts. All street improvements shall be certified by a registered engineer, with all improvements subject to approval by the Town Council. *(Staff Report IV.H.2 and WYSR III.A.7)*
14. Roadway surfaces shall be constructed on a suitable base. Roadway subgrades shall be free of sod, vegetative or organic matter, soft clay, or other objectional materials, properly rolled, shaped and compacted and certified by a registered engineer, with all improvements subject to approval by the Town Council during final plat approval. *(WYSR III.A.4 and III.A.7(c)(15 & 16))*
15. Electrical, telephone and natural gas utilities shall be installed underground to each lot in the subdivision according to the local service provider requirements and Section III.A.12 of the WYSR. *(WYSR III.A.12)*

16. All construction of public improvements, grading and drainage, parking areas and residential buildings shall be conducted with oversight by a geotechnical firm to ensure the assumptions and recommendations of the Geotechnical Investigation Report are observed. Evidence of compliance and status reports pertaining to this condition may be required by the Town of West Yellowstone at any time during construction and prior to any certificate of occupancy being issued for any buildings. *(Staff Report IV.G)*
17. The legal and physical access locations for the proposed lots from the public streets shall be denoted on the face of the final plat. *(76-3-608(3)(d), MCA)*
18. A plan for street names and traffic control and street identification signs shall be reviewed and approved by Town Council. The subdivider shall install all approved signs prior to final plat approval. *(WYSR III.A.7(c)(10)*
19. The current and future lot owners shall waive their rights to participate in future improvements to the public transportation network (motorized and non-motorized transportation) that serves the subdivision. The following language shall be printed on the face of the final plat: *“Acceptance of a deed for a lot within this subdivision shall constitute a waiver of any right of the lot owner to protest creation of a Special Improvement District for improvements to the public transportation network (motorized and non-motorized transportation), including, but not limited to, paving, intersection improvements, the installation of drainage facilities, curbs and gutters, traffic control devices (signs, signals, lane markers, etc.), pedestrian walkways or bikeways, snow storage, vegetation removal, fencing and wildfire fuels reduction. The waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land; however, the waiver of a right to protest may not be valid for a time period longer than 20 years after the date that the final subdivision plat is filed with the county clerk and recorder.” (Staff Report IV.C)*
20. Maintenance of all common elements, including stormwater facilities for the development, shall be incorporated into the Declaration of Unit Ownership recorded with the final plat. The provisions for maintenance of common elements shall require future maintenance costs to be shared equitably and provide for private enforcement. *(Staff Report IV.C)*
21. An outdoor lighting plan compliant with dark skies principles shall be submitted for the development that addresses street lighting along with parking lot and building lighting. The street lighting should include at least one downward pointing, side-shielded street light at the intersection of the subdivision entrance road and Moonrise Meadows Loop, and at each entrance to the parking lots off Moonrise Meadows Loop. The intent of this street lighting is to ensure some nighttime illumination of building entrances and pedestrian crossings at the parking lot entrances. Town Council approval of the outdoor lighting plan shall be obtained prior to installation of street lights or prior to final plat approval, whichever is to occur first. *(WYSR III.A.7(c)(13) and Staff Report IV.H.2)*
22. Town Council will waive the park dedication requirements pursuant to 76-3-621(6)(a), MCA, based on the project being a planned unit development, subject to the subdivider providing the proposed 4.1+ acres of open space areas as land permanently set aside for park and recreational uses for the persons who will ultimately reside in the development. All areas of the open space easements not encumbered by stormwater retention ponds shall be set aside for park and recreational purposes. The subdivider shall provide developed recreational facilities, including a gravel trail through the open space, a tot lot with playground equipment, or similar facilities, to be approved by Town Council final plat approval. The parkland dedication waiver shall appear on the final plat. *(Staff Report IV.H.2 and IV.H.3 and 76-3-621(6)(a), MCA)*

23. All taxes assessed must be paid in full prior to filing of the final plat. The Gallatin County Treasurer will need to sign the plat verifying that the taxes and special assessments assessed and levied on the land have been paid. *(76-3-611(1)(b), MCA)*
24. A title report (or title abstract) shall be submitted with the final plat application and filed with the final plat. If the property has a mortgage or lien, a consent-to-plat form must be signed by the holders of said mortgage or lien and the consent-to-plat form filed with the final plat. The Town reserves the right to have the Town Attorney review and approve the title report prior to final plat review by the Town Council. *(76-3-612(2), MCA and ARM 24.183.1107(5)(a))*
25. The final plat shall be reviewed for errors and omissions in calculation and drafting by an examining land surveyor commissioned by the Town of West Yellowstone. The final plat shall be reviewed for compliance with conditions of preliminary approval. *(Staff report IV.H. and 76-3-611, MCA)*
26. The method of mail delivery for subdivision residents shall be determined and approved by the US Postal Service prior to final plat approval. If cluster boxes are approved, the subdivider shall install the boxes with approval by the US Postal Service prior to final plat filing. *(Staff Report IV.C)*
27. The wildlife-related recommendations from the Montana Department of Fish, Wildlife & Parks and the US Fish & Wildlife Service shall be incorporated into the covenants and Declaration of Unit Ownership. During construction, the subdivider and contractors shall incorporate the following into the project plans and carry them out to the best of their abilities:
 - A. Promptly clean up any project related spills, litter, garbage, debris, etc.
 - B. Prohibit overnight camping within the project vicinity, except in designated campgrounds, by any crew member or other personnel associated with this project.
 - C. Store all food, food related items, petroleum products, antifreeze, garbage, personal hygiene items, and other attractants inside a closed, hard-sided vehicle or commercially manufactured bear resistant container.
 - D. Remove garbage from the project site daily and dispose of it in accordance with all applicable regulations.
 - E. Notify the Project Manager of any animal carcasses found in the area.
 - F. Notify the Project Manager of any bears observed in the vicinity of the project.*(Staff Report IV. E and IV. F)*
28. This preliminary approval is issued in conjunction with the Conditional Use Permit for a Planned Unit Development. Compliance with the zoning approval is an element of this preliminary approval letter and will be verified during final plat review. *(Staff Report IV.2.H)*
29. This preliminary plat approval and these conditions will be valid for a period of one year from the date of the signed approval statement. At the end of this period the governing body may, at the request of the subdivider, extend its approval for a mutually agreed-upon period of time. Any mutually agreed-upon extension must be in writing and dated and signed by the members of the governing body and the subdivider or subdivider's agent. The governing body may issue more than one extension at its discretion. *(76-3-610, MCA)*
30. All public streets shall be located within dedicated public rights-of-way instead of easements. *(Staff report IV.J. and 76-3-608, MCA)*

31. The private open space easement along the property's eastern boundary shall be extended to the northeast corner of the subdivision. (Staff report IV.H)

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January 30, 2019

RE: Moonrise Meadows P.U.D. – Request for Height Limit Relaxation

To whom it may concern,

I am writing to request a building height limit relaxation be included as a part of the Moonrise Meadows Planned Unit Development located on Tract 1 of the Madison Addition. References below are to the West Yellowstone Municipal Code as passed by Ordinance 267 on Sept 5th, 2018.

We request that the maximum Building Height as defined in Section 17.04.070 and referenced in Section 17.16.060 be increased to be 37'. We believe this relaxation will result in better land use and comply with the intended purpose of the covenants for the following reasons:

1. The 12-plex apartment buildings as submitted are designed to articulate the façades on a human scale, break down the perceived mass and scale of the 3-story buildings, and create a residential building typology. This is achieved through the use of vertical building forms, varied roof lines and façade materials. This approach creates a smaller perceived scale than when using traditional horizontal banded forms such as a continuous wainscot.
2. The vertical building forms are associated with significant jogs in the foundation (2'-6" minimum) creating façade relief and further emphasizing human scale building elements.
3. Varied roof lines are strongly associated with the vertical building forms. Gable roofs are used to create a residential typology. The relatively narrow footprints of the vertical forms keep the gable roof heights as low as possible while creating visual interest.
4. Regarding land use, we believe a height relaxation will provide the best land use through increased building efficiency and density, that is to say, more units can be accommodated in a smaller footprint. In this project, a three-story building will accommodate (12) units for a given footprint instead of the (8) units that would be provided by a two-story building with an equivalent footprint. With the proposed medium density of 8.25 dwelling units/acre, if the development were to accommodate the same number of units using two-story buildings, it would result in a significantly larger total constructed footprint on the land with an unfortunate associated loss of open space and existing trees as the buildings would need to be spaced much closer together. We believe the proposed strategy of utilizing small footprint area, providing ample open and recreational space, retaining as many existing trees as feasible, and building taller, more space efficient buildings results in the best land use and most pleasing aesthetic result.

Thank you for your consideration of this proposed relaxation. Please let me know if I can provide further information.

Sincerely,



Dean Burgess, AIA
Studio H Design

STAFF REPORT
MOONRISE MEADOWS CONDITIONAL USE PERMIT/PLANNED UNIT DEVELOPMENT

I. Basic Information

Date of Report:	February 19, 2019
Name of Project:	Moonrise Meadows Planned Unit Development
Type of Application:	Conditional Use Permit Application for a Planned Unit Development
Number of Lots and Residential Dwelling Units:	5 lots and 180 new dwelling units (180 condominium units in 15 twelve-plex residential buildings on four lots, with an existing home and garage/residence on one lot)
Legal Description:	Tract 1 (PUD Tract) as shown on the subdivision plat of the Madison Addition to West Yellowstone, located in the SW ¼ of Section 27, Township 13 South, Range 5 East, Gallatin County, Montana
Acres:	21.82 acres
Zoning:	R-4 Residential Medium Density Apartments
Land Owner:	Yeakey Family Trust
Applicant:	Rob Yeakey
Agent/Representative:	Matt Hausauer, C&H Engineering and Surveying, Inc.
Surveyor/Engineer:	Mark A. Chandler PE, PLS, C&H Engineering and Surveying, Inc.
Date Originally Received:	September 7, 2018
Review Deadline:	N/A
Legal Notice Published:	Each Thursday January 11 – March 1, 2019 except for February 7 and 14 in the West Yellowstone Star
Staff Recommendation:	Adopt this report as findings of fact and grant conditional approval subject to 17 conditions
Town Council’s Meeting:	Public hearing scheduled for Tuesday, March 5, 2019 at 7:00 p.m. on the preliminary plat and subdivision application and the Conditional Use Permit for a Planned Unit Development.
Note: <i>This Conditional Use Permit (zoning) application is being reviewed in conjunction with the applicant’s preliminary plat and subdivision application. Please see the preliminary plat staff report for additional information.</i>	

Submitted by:



 Dave DeGrandpre, AICP
 Land Solutions, LLC
 Contract Planner for the Town of West Yellowstone

February 19, 2019

 Date

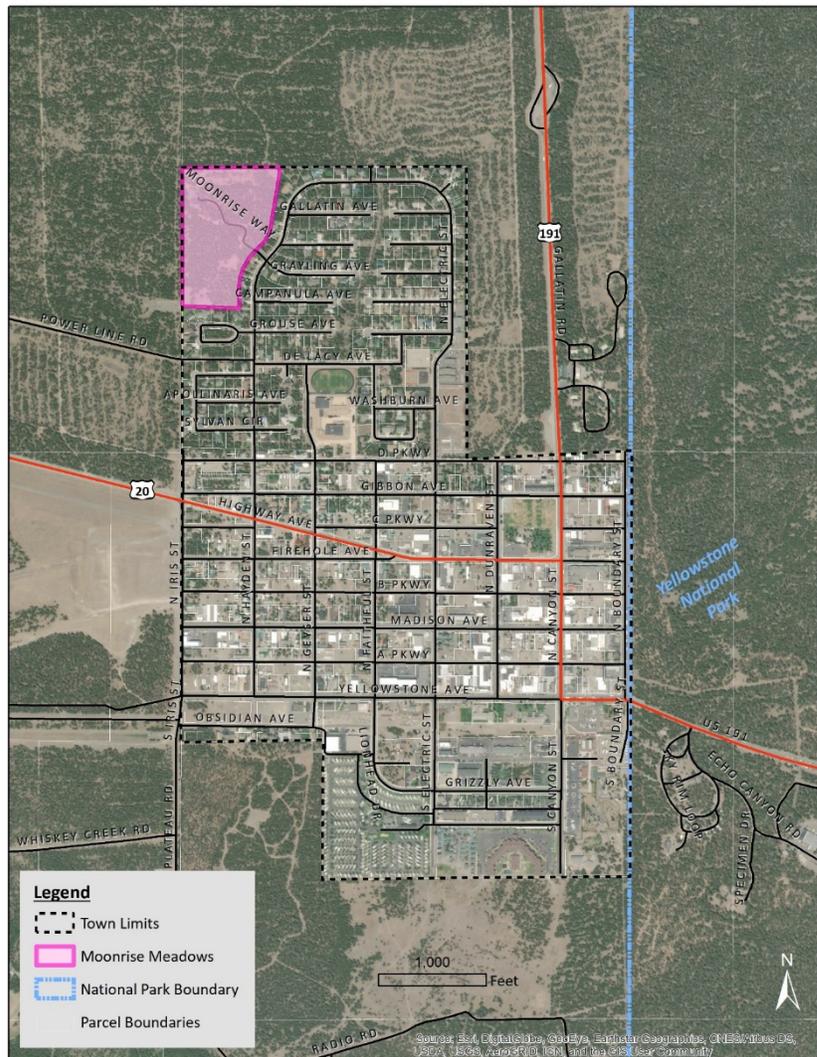
II. INTRODUCTION

The Yeakey Family Trust, represented by Rob Yeakey, intends to subdivide Tract 1 of the Madison Addition to create five lots. Lots 1 – 3 and Lot 5 would be developed with fifteen 12-plex apartment buildings while Lot 4 would contain the existing residence and garage/apartment. The apartment buildings are proposed to be three stories high and contain 180 residences. The developer intends the residences to be available for condominium ownership under the Montana Unit Ownership Act (Title 70, Chapter 23, MCA).

The Madison Addition plat identifies this parcel as a 'PUD Tract'. Planned unit developments are governed under Chapter 17.34 of the Town of West Yellowstone Zoning Ordinance. As such, according to Section 17.34.070, "Approval of a planned unit development shall be obtained through conditional use permit procedures as specified in Chapter 17.32 of this title and by following the adopted subdivision regulations." Therefore, this development is subject to conditional use permit review, which, along with the requested PUD, is the subject of this report. The subdivision preliminary plat and subdivision application is being concurrently reviewed by the Town's Planning Advisory Board and Town Council.

III. MAPS

Figure 1. Locator Map



Subject Property



TOWN OF WEST YELLOWSTONE

SEC. 27 & 34 T. 13 S., R. 5 E.
PRINCIPLE MERIDIAN MONTANA

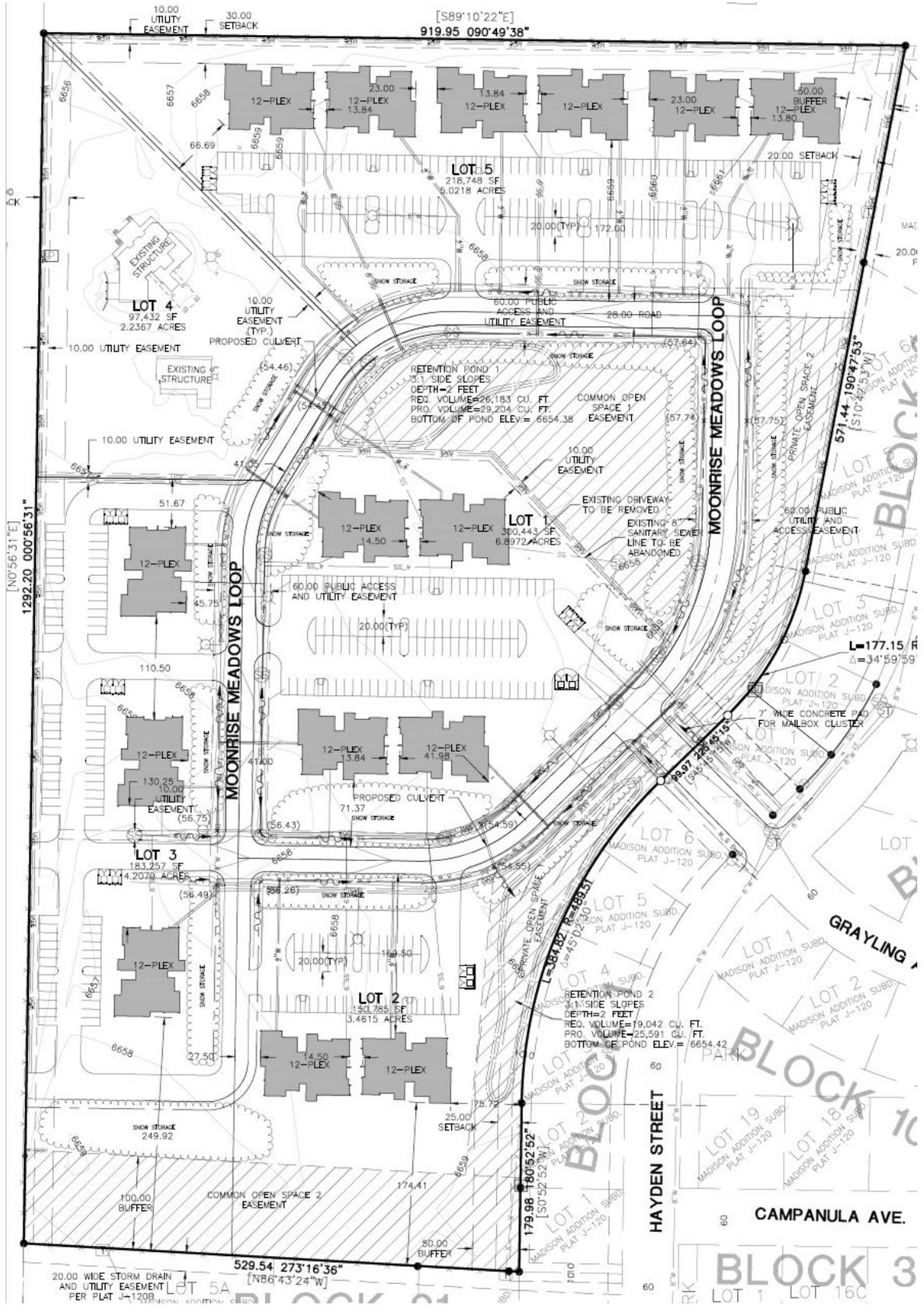
ZONING LEGEND

- B-3 = CENTRAL BUSINESS DISTRICT
- B-4 = EXPANDED BUSINESS DISTRICT
- E-2 = ENTERTAINMENT DISTRICT
- M-1 = COMMERCIAL--LIGHT MANUFACTURING
- PLI = PUBLIC LAND AND INSTITUTIONS
- R-1 = RESIDENTIAL--SINGLE-FAMILY--LOW DENSITY
- R-2 = RESIDENTIAL--SINGLE-FAMILY--MEDIUM DENSITY
- R-3 = RESIDENTIAL--MEDIUM DENSITY
- R-4 = RESIDENTIAL--MEDIUM DENSITY APARTMENTS

LEGEND

- ⊙ BLOCK NUMBER
- + LOT NUMBER

Map 2. Zoning map showing the property in the R-4 district



Map 3. Excerpt of site plan

IV. ZONING AND SUBDIVISION CONSIDERATIONS

- A. Under the Town of West Yellowstone Zoning Ordinance (WYZO), the subject property is located in the R-4 Residential Medium Density Apartments district. This district is intended to provide for the development of medium density apartments and should provide for a variety of housing types to serve the varied housing needs of area residents.
- B. Apartments are allowed as permitted uses in the R-4 district as per WYZO Section 17.16.020(A). Under the zoning, the term ‘apartments’ means a building or portions thereof designed with more than four individual dwelling units. The site plans include fifteen 12-plex buildings that would meet the definition of apartments under the zoning and would therefore be permitted in the district. The apartments would be submitted to the Montana Unit Ownership Act (Title 70, Chapter 23, MCA) as condominiums.

Montana Code Annotated defines ‘condominium’ as *“the ownership of single units with common elements located on property submitted to the provisions of this chapter. The term does not include a townhome, a townhouse, a community land trust, or a housing unit located on land belonging to a community land trust. [MCA 70-23-102(6)]* In general terms, condominium is a type of ownership where a person owns the interior of the unit but not the ground beneath. The exterior of the structure, hallways, parking lots, garbage facilities, etc. are typically owned in common.

- C. Planned unit developments are defined under the WYZO as *“an area of land in single ownership or control to be developed as a single integrated unit, the plan for which may not correspond in lot size, bulk or type of building, density, lot coverage, use, and required open space of the regulations established in the district.”* Planned unit developments are governed by WYZO Chapter 17.34. According to Section 17.34.070, approval of a planned unit development shall be obtained through conditional use permit procedures as specified in Chapter 17.32 of the zoning regulations and by following the adopted subdivision regulations. Additionally, the section for PUDs stipulates that when the Town Council approves a planned unit development, permits shall be issued only in accordance with the approved plan and stipulated conditions.
- D. According to WYZO Section 17.32.010, the intent of conditional use permits is to provide for specified uses, other than those specifically permitted in each district, which may be appropriate in the district under certain safeguards or conditions. Per subsection 17.32.020(B), conditional use permits shall be granted only by the Town Council when their findings are that:
 - 1. The use conforms to the objectives of the master plan and the intent of this title,
 - 2. Such use will not adversely affect nearby properties or their occupants,
 - 3. Such use meets density, coverage, yard, height, and all other regulations of the district in which it is to be located, unless otherwise provided for in this title, and
 - 4. Public hearings have been held, after the required legal notices have been given and the public has been given a chance to be heard upon the matter.

Section V of this report provides an analysis of and proposed findings of fact in light of the above criteria for conditional use permits.

- E. The procedure for conditional use permits is outlined by WYZO Section 17.32.030. According to subsection (B), after the application is filed with the West Yellowstone Town Office, Town Council shall cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each such application is consistent with the intent and purpose of the zoning regulations. Subsection (C) states the Town Council shall, after legal notice of not less than ten days, hold a public hearing on the application and take testimony from interested parties. The Town Council shall then either approve or deny the application. If the application is denied, reasons for denial should be given.
- F. Section 17.32.040 contemplates a “conditional approval” for conditional use permits, such that the Town Council may make the granting of a conditional use permit subject to reasonable limitations or conditions as it may deem necessary to enhance the appearance of the property, to reduce any adverse effects on nearby property or residences, to preserve the character of the area, or to make it more acceptable in other ways. The reviewing planner’s recommendation in Section VI of this report includes potential conditions of approval for consideration by the Town Council in light of the review criteria and proposed findings of fact. The recommendation includes time limits associated with the zoning approval that are consistent with the subdivision review, platting and development processes. The time limits could be modified or extended along with a subdivision approval.
- G. In addition to the requirement for applications to be submitted for conditional use permits, the application requirements for conditional use permit applications for planned unit developments are listed under WYZO Section 17.34.040. The section states a conditional use permit application for a PUD shall include a plan of development with the following information (renumbered for this report):
 - 1. A sketch of the proposed site showing existing physical features, i.e., topography, vegetation, streams, structures, streets, utility lines, etc.;
 - 2. General information and plans of utility systems;
 - 3. Legal description and plat of proposed site;
 - 4. Notation of acreage within the proposed site, numbers of lots, typical lot size, proposed uses of lots, sites for parks and recreation or other public and quasi-public uses;
 - 5. Existing zoning of the proposed site and surrounding area;
 - 6. Names, location, and tentative finished grades of all proposed streets;
 - 7. Location and design of all proposed structures (should include distances from streets and property lines and between structures);

8. Location and number of proposed parking spaces;
9. Copies of all covenants and legal instruments pertaining to operation of the planned unit development.

The submitted application for a conditional use permit includes the above information.

- H. Section 17.34.050 lists potential “legal requirements” for PUDs. Subsection (A) requires that in a PUD containing areas or facilities of common or restricted ownership, the subdivision plat, dedication, covenants, and other recorded legal agreements shall:
1. Legally create automatic membership in a nonprofit homes association or similar instrument;
 2. Place title to any common property or facility in the homes association;
 3. Appropriately and permanently limit the uses of common property and open space;
 4. Give each lot or unit owner the right to use and enjoyment of any common property or facility;

The submitted application includes a draft “Declaration of Protective Covenants, Conditions and Restrictions for Moonrise Meadows Subdivision” and a draft “Declaration of Condominium Ownership for Moonrise Meadows Condominium” that represent the applicant’s proposal to comply with Section 17.34.050 of the zoning regulations for PUDs.

- I. Section 17.34.060 of the zoning regulations for PUDs outlines specific “Standards of development” for PUDs. It requires that all planned unit developments shall meet or exceed a number of standards of development. The standards are as follows (renumbered for this report), along with a discussion of this proposal’s compliance with each applicable standard .
1. Site. Planned unit development sites shall not be exposed to adverse elements, i.e., smoke, dust, noise, etc., which might create damage to property or bring harm to occupants.

It does not appear the site would be exposed to adverse elements, i.e., smoke, dust, noise, etc., which might create damage to property or bring harm to occupants. Regarding dust, the application includes a Dust Prevention and Control Plan that calls for best management practices for fugitive dust emissions during the construction, including plans for covering, reseeding, or landscaping the disturbed areas; plans to minimize vehicle and equipment movement; and to reduce wind entrainment. In addition, the applicant will likely need to obtain a Storm Water Pollution Prevention Plan Permit SWPPP from the Montana Department of Environmental Quality (DEQ) to address erosion from the soil disturbance because the expected disturbance is more than one acre in size. Implementation of the dust plan and obtaining a permit are important requirements of the subdivision, and with private improvements involved in the conditional use permit, are appropriate to tie to the zoning approval. These methods would help minimize soil erosion; the reviewing planner is

recommending conditions requiring the SWPPP and that the Dust Prevention and Control Plan be implemented during construction of all improvements.

2. Site Size. Site size for planned unit developments shall be appropriate to the proposed area and design but shall not be less than two acres (except B-3 district—fifteen thousand square feet minimum).

The size of the site is 21.82 acres, well in excess of the minimum size of two acres. The site plan shows how the main permitted use in the R-4 district (apartment buildings) can be constructed on the site in compliance with parking and setback requirements while providing internal streets, sewer and water, fire hydrants, storm water management, open space, and garbage disposal. As detailed in the subdivision staff report, a primary issue with the design is the proposed one ingress/egress to the development, over which public safety professionals have expressed concern. Aside from that, the design complies with the zoning and would meet the needs of the future residents so is generally appropriate.

3. Density. Density for residential planned unit developments shall be as follows: for R-4, twenty units per acre.

The property is 21.82 acres in size. The maximum number of residential units under the zoning is 436. The proposal is for 182 residential units, well under the maximum allowable density.

4. Setback. Minimum setback from perimeter boundary of the site shall be twenty-five feet, except in B-3 district where normal setbacks shall apply.

The PUD site plan shows where the 25-foot setbacks lie along the east boundary, 30-foot setbacks along the west and north boundaries, and a 100-foot buffer along the south boundary. All structures are shown to comply with the 25-foot minimum perimeter setback requirement.

5. Off-Street Parking. Off-street parking shall be provided in convenient locations and in accordance with Chapter 17.42 of this title.

The PUD site plan shows parking areas on each of the proposed apartment lots. Chapter 17.42 of the WYZO requires the following in regard to parking:

- 17.42.030(A)(3): Required off-street parking for apartments to be located not more than 100 feet from the building they are required to serve.

The parking spaces shown on the site plan are distributed in a manner that places them within 100 feet of the buildings they serve.

- 17.42.030(B): Where a distance is specified, such distance shall be measured by a straight line from the nearest point of the building that the parking area is required to serve.

The 100-foot distance discussed previously was measured using straight lines from nearest points of the buildings to the parking spaces.

- 17.42.030(C): Off-site parking areas must be accessible by a public street, parkway, or interior park and shall be owned or leased by the owner of the property being served by such parking and such parking lot shall have a recorded land covenant requiring such land be maintained as a parking lot so long as the property, building or use served is in operation or until another suitable parking area is established in accordance with this chapter and approved by the town council.

Parking areas are not proposed off-site. Each lot is provided parking spaces for the respective buildings and occupants. As such, subsection 17.42.030(C) does not apply.

- 17.42.030(D): Required parking spaces shall not be located in any required front or side yard...

The zoning ordinance does not define 'required' front or side yard but based on the reviewer's experience with zoning ordinances in other locations, the required yard is the same as a minimum setback area. The site plan for this development does not include any parking spaces within any front or side setback areas.

- 17.42.040, Parking layouts: Where more than three off-street parking spaces are required, they must be constructed in accordance with one of the four designs shown in Figure 17.42.040 or other parking layout approved by the building official and the Town Council.

The parking lot layouts use 90-degree parking, with 10 by 20-foot parking spaces and 25-foot wide driving aisles as provided in Figure 17.42.040 of the zoning regulations. See Figure 1 to the right.

- 17.42.042, Size and surfacing requirements:

- An off-street parking space shall be at least ten feet in width and twenty feet in length...exclusive of access drives, yards or ramps. Such spaces shall have a vertical clearance of at least seven feet.
- Where more than three off-street parking spaces are required, the parking area shall be arranged according to the dimensions and layout of one of the four designs outlined in Figure 17.42.040 and shall include access into the parking area.

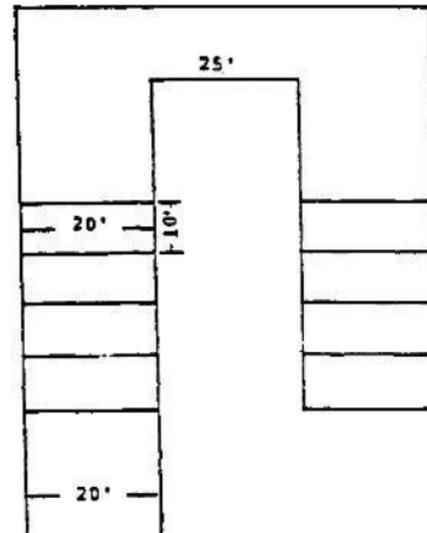


Figure 1: Figure 17.42.040, design #4 of the zoning diagram

- C. Where more than three off-street parking spaces are created, spaces must be developed and maintained with a dust-free surface approved by the building official and town council.
- D. A bond for an amount equal to the cost of those improvements shall be provided to the Town to be held until such time as the required improvements are completed and approved.
- E. If parking lot improvements are not completed, the bond shall be forfeited and bond proceeds shall be used to complete the project.

The PUD site plan depicts the typical size of parking spaces at the required 10 by 20-foot dimensions. Vertical clearances are not shown, but no height limitations are expected. A dust free surface will be required. A bond for the parking facilities may be required according to the zoning ordinance.

- 17.42.050, Plans:

A plan of the proposed off-street parking facility shall be submitted along with the application for a building permit for the building the off-street parking is required to serve. The plan shall clearly indicate curb cuts, lighting, landscaping, construction details, fencing and other features which may be required by the town council or the building official.

A recommended condition would require a plan of the proposed off-street parking facilities to be submitted along with the applications for building permits. The plan shall clearly indicate curb cuts, lighting, landscaping, construction details, fencing and other features which may be required by the Town Council or the Building Official, including all applicable conditions of the approval.

- 17.42.060, Lighting:

Lighting used to illuminate a parking area shall be arranged in such a manner that it will not be a hazard to passing motorists or constitute a nuisance of any kind. Where the parking area is within 150 feet of any property classified as residential by this title and where the parking area is directly visible by the residents within 150 feet, illuminating devices shall be shaded in a manner that would direct the light away from the residential property.

A recommended condition would require compliance with the lighting section of the parking standards.

- 17.42.090, Spaces required: (A) Single and multifamily, two spaces per unit (one space as required may be within the driveway area); (B) Apartments, one and one-half spaces per unit.

The following are the numbers of spaces required and noted on the site plan on each lot:

- Lot 1: 72 spaces required for 48 units; 96 spaces are proposed.

- Lot 2: 36 spaces required for 24 units; 48 spaces are proposed.
 - Lot 3: 54 spaces required for 36 units; ±72 spaces are proposed.
 - Lot 4: 4 spaces required for two units; none are shown on the site plan, but 4+ spaces can easily be provided within the existing garage and driveway.
 - Lot 5: 108 spaces required for 72 units; 144 spaces are proposed.
6. Off-Street Loading. Off-street loading shall be provided in accordance with Chapter 17.44 of this title.

The PUD site plan does not show any loading areas. Chapter 17.44 of the zoning regulations do not require off-street loading areas for single-family and apartment uses.

7. Open Space. Not less than fifteen percent of the planned unit development site shall be designated and maintained as common open space for the use of the occupants of the development.

Fifteen percent of 21.82-acres is 3.273 acres, which is the minimum open space requirement for a PUD. The preliminary plat and PUD site plan shows 178,780 square feet (±4.1-acres) of proposed open space, which is more than required. Some areas are shown as easements for “common open space” and some easement areas are entitled “private open space”.

8. Utilities. Utilities shall be provided in a manner to meet Town specifications.

The locations of proposed utilities are shown on the PUD site plan. A condition should require that utilities be provided in a manner to meet Town specifications.

9. Landscaping. Landscaping may be required to provide a buffer between proposed uses or between different adjacent district classifications.

Plans for landscaping were not submitted with the application. The application submittal states, *“Buffers and setbacks are shown on the preliminary plat. Landscaping will be left in a natural vegetative state except for those areas proposed for disturbance and defensible space areas as recommended by the Fire Hazard Analysis in Appendix F.”* The site plan shows the buffers or open spaces along the eastern boundary are planned to be used in large part for snow storage and a storm water retention area where much of the vegetation would have to be removed. The reviewing planner is recommending a condition to preserve native vegetation not disturbed and in accordance with the Fire Hazard Analysis.

10. Structure Design. Structure design should be compatible with surrounding uses and proposed uses within the planned unit development utilizing harmonious variations in materials, textures, and colors providing each unit with adequate light, air, and protection from adverse effects.

The application includes proposed building plans for the apartments. Below are perspectives of the proposed buildings:



Figure 2: Building illustration - 3-dimensional perspectives

The zoning language discussed here is subjective, but these representations of the proposed buildings depict an appropriate building design that seems compatible with the surrounding and proposed uses, using harmonious variations in materials, textures, and colors. It seems the design would be suitable at providing each unit with adequate light, air, and protection from adverse effects. One concern relates to the proposed building heights, which is discussed later in this report.

- 11. Section 17.16.030 prescribes the minimum lot areas and widths in the R-4 district. Subsection (B) requires that the lot area for buildings other than single-family dwellings shall be not less than 5,000 square feet plus 640 square feet for each additional unit over one, with a minimum lot width of 50 feet.

Based on the number of units on each lot, the minimum lot sizes are calculated as follows; each proposed lot size follows the minimum requirement:

- Lot 1 (48 dwelling units): 5,000 square feet plus 47 units over one multiplied by 640 square feet (30,080 square feet) results in a minimum lot size of 35,080 square feet. Lot 1 is proposed at 300,443 square feet.
- Lot 2 (24 dwelling units): 5,000 square feet plus 23 units over one multiplied by 640 square feet (14,720 square feet) results in a minimum lot size of 19,720 square feet. Lot 2 is proposed at 150,785 square feet.

- Lot 3 (36 dwelling units): 5,000 square feet plus 35 units over one multiplied by 640 square feet (22,400 square feet) results in a minimum lot size of 27,400 square feet. Lot 3 is proposed at 183,257 square feet.
- Lot 4: Because Lot 4 is for single-family residential purposes, Subsection 17.16.030(A)'s standard is as follows: "Lot area of single-family dwellings shall be not less than five thousand square feet with a minimum lot width of fifty feet." Lot 4 is proposed at 97,432 square feet, well in excess of the required 5,000 square feet minimum lot size.
- Lot 5 (72 dwelling units): 5,000 square feet plus 71 units over one multiplied by 640 square feet (45,440 square feet) results in a minimum lot size of 50,440 square feet. Lot 5 is proposed at 218,748 square feet.

In addition to complying with the minimum lot size requirements, the minimum lot width standard of 50-feet is met with the configuration of each lot.

12. Section 17.16.040 of the WYZO includes minimum lot coverage and floor area in the R-4 district. Not more than 40% of the lot area shall be occupied by the principal and accessory buildings. Each dwelling shall have a minimum of 750 square feet of floor area in its living quarters.

The reviewing planner estimates lot coverages are proposed at between 8.8% (Lot 4) and 19.2% (Lot 5), well under 40% of each lot.

The proposed apartment units range in size from approximately 1,091 to 1,415 square feet, well above the 750 square feet required of living/floor area in each unit.

13. Section 17.16.050 of the WYZO includes standards for "Yards" in the R-4 district. Every lot in the R-4 district shall have the following minimum yards: front yard: 25 feet; rear yard: 20 feet; side yards: 8 feet each side.

Front yards are proposed with depths of 25+ feet; rear yards are shown at 25+ feet (which must also comply with the 25' setback from perimeter boundary of the site as required for PUDs); and side yards are shown at ±27+ feet.

14. Section 17.16.060 of the WYZO includes a maximum building height of 32 feet in the R-4 district. The WYZO Section 17.04.070 states, "*Building height*" means the vertical distance from the average elevation of the proposed finished grade at the front of a building to the highest point of a flat roof, the deck line of a mansard roof, and the mean height between eaves and ridge for gable, hip, and gambrel roofs.

The reviewing planner estimates the building heights would be approximately 35.5 feet, based on a presumption that the proposed finished grade at the front of a buildings would be approximately the same elevations as the tops of the building slabs shown on the elevation views. This is approximately three feet higher than the allowed building height in R-4.

According to the zoning ordinance, the intent of the PUD chapter is to encourage better land use development by relaxing the strict mechanical regulations of the zoning and providing a method and standards whereby structures and uses can be designed and developed as a unit instead of the traditional lot-by-lot method, yet carrying out the intended purposes of the zoning. (Section 17.34.010)

The application includes a revised request dated January 30, 2019 for a height limit relaxation, prepared by Mr. Dean Burgess of Studio H Design, Inc., as the project architect. The submittal requests that the maximum building height be increased to 37 feet. The reviewing planner's evaluation of the requested increased building height is part of the analysis below of the CUP/PUD review criteria.

V. REVIEW CRITERIA

Below are the criteria for conditional use permits and an evaluation of the proposal under the criteria. According to WYZO Section 17.32.020(B), conditional use permits shall be granted only by the Town Council when their findings are:

A. The use conforms to the objectives of the master plan (growth policy) and the intent of this title (the zoning ordinance).

One of the key issues discussed in the 2017 West Yellowstone Growth Policy Update is the lack of available and affordable owner-occupied and rental housing for year-round residents and summer employees. Goal 1 of the Growth Policy is to increase the supply of affordable and workforce housing. The application states the proposed subdivision helps resolve this key issue by providing 180 new residential units to create rental and owner-occupied lodging for full-time residents and seasonal employees. It should be noted that the project is not proposed as an affordable housing project that would receive benefits under government-funded housing programs or to obtain incentives such as those referred to in the Growth Policy (Objective 1.3 for example). It seems there is no guarantee the housing units developed in the project will be affordable to the workforce in need of housing in West Yellowstone. However, improving the available housing stock, particularly quality, moderately-sized apartment units, will likely provide some relief to a strained housing market and contribute to improved availability of housing units, thus possibly benefiting the market for more affordable and workforce housing.

Another relevant key issue discussed in the Growth Policy is short-term commercial rentals – a.k.a. nightly vacation rentals. Short term (nightly, weekly) rentals can take longer term (monthly, yearly) housing stock off of the market. This constrains the supply of rental units available for the workforce and general population of West Yellowstone and likely drives up rent prices. There are also benefits of short-term vacation rentals identified in the Growth Policy.

Currently the zoning regulations do not explicitly speak to the allowed period of occupancy of residential dwellings. However, as a whole it appears the commercial nature of short-term vacation rentals would preclude them from being allowed in residential districts. The Growth Policy's Action 2.2.1 supports this interpretation.

The project is proposed for non-transient residential purposes, as detailed in Section 2.11(a) of the proposed condominium declaration states, "*No Unit shall be leased for less than thirty (30) days or for hotel or transient purposes.*" For this reason, and because the WYZO does not seem to intend to permit transient, commercial short-term rentals, this appears to be an important element to be included in the final declaration of unit ownership.

Town Appearance is another key issue discussed in the Growth Policy, including Goal 7, which seeks to improve the appearance of West Yellowstone. Objective 7.1 is to create programs and regulations for improving the appearance of West Yellowstone. One of the standards of development for a PUD is structure design, which "should be compatible with the surrounding and proposed uses or between different adjacent districts". [WYZO 17.34.060(J)] Structure design is addressed on page 12 of this report. Conditional use permit review also allows for reasonable limitations or conditions that the Town Council may deem necessary to enhance the appearance of the property, to reduce any adverse effects on nearby property or residences, to preserve the character of the area or to make it more acceptable in other ways.

One potential item of discussion is that while the eastern open space areas are intended to buffer the development from residential lots to the east, much of vegetation will have to be removed to accommodate snow storage, stormwater runoff, and defensible space for fire protection around the apartment buildings. There will still be a vegetated buffer along the eastern property boundary, but it will be of limited opacity. Perhaps this is an acceptable tradeoff to help meet the Town's need for housing and to provide for fire safety. The nearest single-family residence would be about 100 feet away from the nearest apartment building, which seems to be an acceptable distance in a municipality.

The visual impacts from the development could be deemed greater as a result of Project Architect Dean Burgess' request to increase the maximum building height from 32 to 37 feet. The request states the buildings are designed to articulate the facades on a human scale, break down the mass of the 3-story buildings, and create a residential building topology, adding that this approach creates a smaller perceived scale. The request cites significant jogs in the foundation creating façade relief, and the varied roof lines. The request also states that a height relaxation will provide greater efficiency of land use, meaning more units in a smaller footprint. Mr. Burgess also states the if the proposed 180 units were to be accommodated in two story buildings instead of three, the units would take up a much larger land area and eliminate much of the open space areas.

Given the required setbacks, parking spaces, streets, parkland, storm water containment, snow storage, and other requirements of the zoning and subdivision rules it is not clear that 180 units in two-story buildings could actually be accommodated on the site. However, Mr. Burgess' point that this land use allows for some open space, trees and vegetated buffers along the property boundaries bordering existing development is valid.

Given the fact that the development would be somewhat obscured from other properties and the general public unless they enter the development, the increase in building heights are likely to have little impact on the visual impacts. In addition, the structure designs do appear compatible with the area with the use of harmonious variations in materials, textures, and colors. Based on the reviewer's experience, three story structures are common in R-4 type multi-family zoned areas.

Chapter 5 of the Growth Policy focuses on the Wildland-Urban Interface. This chapter of the Growth Policy acknowledges that within West Yellowstone the Madison Addition is an area of particular concern, and in the Madison Addition homes are surrounded by dense pockets of lodgepole pine and landscape vegetation with little to no defensible space throughout the neighborhood. Goal 14 and the associated objectives and actions provide the primary steps the Town intends to take to address the Wildland-Urban Interface, including adoption of guidelines and regulations for fire protection and defensible space. However, for this development, since those actions haven't yet been implemented by the Town, the growth policy considerations should be made in conjunction with the town's review of the project's impacts on public health and safety.

The CUP/PUD application includes a fire hazard analysis by Coffman Engineers. The analysis considers applicable codes/regulations that apply to the development, fire department access, construction materials, defensible space, fire-fighting water supply (flow, hydrants, etc.), building sprinklers, fire department resources, fire hazard, and fire history. The analysis concludes that the fire hazard severity is on the low end of the spectrum as defined by the International Wildland-Urban Interface Code, and indicates key mitigation measures that the developer has chosen to implement into their fire prevention plan are:

- Fire resistant exterior building construction materials (i.e. siding and decks)
- All buildings will be fully sprinklered
- Landscaping improvement to provide a 30-foot defensible space around buildings.

Based on the above, this project generally complies with applicable elements of the growth policy, but particularly with regard to fire danger, an additional access is appropriate and additional fire resistant construction features, such as vents, gutters and eaves, would result in greater public safety and compliance.

The overall intent of the zoning is to provide for the public health, safety, morals, or the general welfare of the community. (76-2-301, MCA) In addition to fire safety discussed previously, two other health and safety concerns related to the development are providing a second ingress/egress and building the residential structures under the guidance/with assistance from a geotechnical engineer. These two items are discussed in detail in the subdivision staff report, which contains related conditions of subdivision approval. These issues are equally important under the zoning based on the intent of zoning in state statutes and are incorporated herein. Based on the factors cited above, the proposed use conforms to the objectives of the growth policy and the intent of the zoning.

B. Such use will not adversely affect nearby properties or their occupants.

The subject property is located in the R-4 zoning district. *“The intent of this district is to provide for the development of medium density apartments. The district should provide for a variety of housing types to serve the varied housing needs of area residents.”* (WYZO 17.40.010) Land to the north and west is undeveloped US Forest Service property. To the south and east, properties are developed single-family residences, with some vacant or undeveloped lots. The proposed apartments would not result in undue noise, glare, fumes or other impacts that would be incompatible with the neighborhood. The buildings have been designed with architectural considerations to be attractive and of reasonable scale. The applicants have included open space, setbacks and buffer areas to mitigate impacts on surrounding properties.

One potential item of concern is traffic safety. The application includes a Traffic Impact Study (TIS) that addresses traffic safety, finding that all streets and intersections will continue to function at acceptable levels after buildout. During the subdivision public hearing process, the subdivider offered two options to provide a second ingress/egress and alleviate intersection sight distance concerns, with the final option to be approved by the Town Engineer. To promote public health, safety and general welfare, this condition is incorporated into the recommended conditions of approval for this PUD.

No other impacts are expected to be significant on nearby properties or occupants.

C. Such use meets density, coverage, yard, height, and all other regulations of the district in which it is to be located, unless otherwise provided for in this title.

This report details the proposal’s substantial compliance with density, coverage, yard and other regulations. The one exception is building height, which the architect has requested be relaxed from 32 to 37 feet and which may be granted by the Town Council through the PUD approval process. The proposal would help meet the housing needs of the community by providing additional housing stock in a strained housing market. Therefore, this proposal substantially complies with the zoning and intent of PUDs.

D. Public hearings have been held, after the required legal notices have been given and the public has been given a chance to be heard upon the matter.

For a conditional use to be approved, the Town Council must hold a public hearing on the application and take testimony from interested parties following legal notice of not less than 10 days. Legal notice was submitted to the West Yellowstone Star and has been published regularly from February 1 through March 1, 2019. The Town Council public hearing is scheduled for March 5, 2019, during which the public will be given a chance to be heard on the matter.

VI. RECOMMENDATION

Based on the findings contained in this report and an evaluation of the proposal under the WYZO, the reviewer recommends Town Council approve the Moonrise Meadows CUP/PUD application for the development and construction of 15 twelve-plex apartment buildings containing 180 apartment units on Tract 1 of the Madison Addition subject to the conditions listed below. All conditions must be met prior to a certificate of occupancy being issued for the units.

1. Development and construction shall substantially comply with all plans submitted with the application, including building designs, heights, structural setbacks and other zoning requirements.
2. To comply with Section 17.16.040 of the WYZO, no more than 40% of each lot's area shall be occupied by the principal and accessory buildings; and each dwelling shall have a minimum of 750 square feet of floor area in its living quarters.
3. To provide for defensible space around structures, a minimum area of 30 feet between any structure and any property boundary shall be cleared of forest vegetation, but may include fire resistant landscaping. The open spaces shown on the site plan shall also be provided and maintained as proposed.
4. Landscaping in the buffers and open spaces shall be left in a natural vegetative state except for those areas required to be disturbed for development and for defensible space areas.
5. The future lot or unit owners shall be responsible for future maintenance of the vegetation preserved in the perimeter setbacks, buffers, grounds and open spaces. Said maintenance responsibilities shall be incorporated into the private covenants or Declaration of Unit Ownership recorded with the final plat.
6. Building heights shall be limited to a maximum height of 37 feet as defined by Section 17.04.070 of the WYZO.
7. Off-street parking facilities shall be installed on each lot to serve the buildings as proposed on the site plan and in accordance with Chapter 17.42 of the WYZO. Prior to construction of the improvements or issuance of building permit(s), a plan of the proposed off-street parking facilities shall be submitted to the Town Offices, which shall clearly indicate curb cuts, lighting, landscaping, construction details, fencing and other applicable features. Prior to issuance of

certificates of occupancy, the parking facilities required to serve the residences shall be complete and approved by the Town Manager or Town Council.

8. Prior to construction of the parking improvements, a lighting plan shall be submitted to the Town Offices for review by the Town Council. Lighting used to illuminate a parking area shall be arranged in such a manner that it will not be a hazard to passing motorists or constitute a nuisance of any kind. Illuminating devices shall be shaded in a manner that would direct the light away from the residential properties on site and surrounding the development. The lighting plan shall also conform to the applicable conditions of the subdivision's preliminary approval.
9. Not less than 15 percent of the planned unit development site shall be designated and maintained as common open space for the use of the occupants of the development. Maintenance shall be the responsibility of the unit and lot owners.
10. All water, sewer, and stormwater utilities shall be provided by the developer according to Town of West Yellowstone specifications.
11. All construction of public improvements, grading and drainage, parking areas and apartment buildings shall be conducted with oversight by a geotechnical firm to ensure the assumptions and recommendations of the Geotechnical Investigation Report are observed. Evidence of compliance and status reports pertaining to this condition may be required by the Town of West Yellowstone at any time during construction and prior to any certificate of occupancy being issued for the buildings.
12. The Dust Prevention and Control Plan that calls for best management practices for fugitive dust emissions during the construction and installation of water, sewer and storm water utilities, road construction, parking lot grading and the construction of the residential buildings, shall be implemented during construction.
13. The applicant shall submit an approved Storm Water Pollution Prevention Plan Permit from the Montana Department of Environmental Quality as part of the final plat application. The approved plans shall be filed with the final plat.
14. Bear-resistant garbage receptacles shall be installed in the locations as shown on the PUD site plan.
15. All construction shall adhere to the recommendations of the Fire Hazard Analysis and related plans including all structures to be sprinklered as per the International Fire Code, at least 30 feet of cleared defensible space shall be provided around all structures, fire resistant building materials shall be used for roofs, siding, decking, vents, eaves and gutters, and fire hydrants shall be provided with locations and spacing approved by the Hebgen Basin Fire District.
16. The developer shall provide a second developed ingress/egress built to Town of West Yellowstone standards within a minimum 60-foot right-of-way and approved by the Town Engineer.

17. This conditional use /PUD approval is issued in conjunction with the Moonrise Meadows conditional preliminary plat approval. Upon expiration of the preliminary plat approval without any extensions being issued or filing the final plat, this zoning approval shall also expire. Extensions to the preliminary plat approval shall apply to this zoning approval. Upon filing the final plat of the Moonrise Meadows subdivision, this approval shall be in effect for four years from the date of filing the final plat. At the end of that period the Town Council may, at the request of the landowner, extend this zoning approval for a mutually agreed-upon period of time. Any mutually agreed-upon extension must be in writing and dated and signed by the Town Manager or Mayor and the landowner or landowner's agent. The Town Council may issue more than one extension at its discretion.