BELGRADE CITY-COUNTY PLANNING OFFICE

91 East Central Avenue
Belgrade, MT 59714

GOLDEN WILLOW MINOR SUBDIVISION

DATE: April 10, 2019
TO: Gallatin County Commission
FROM: Belgrade City-County Planning Board
DATE OF MEETING: April 16, 2019

DESCRIPTION/LOCATION:

Allied Engineering on behalf of WIN, INC, has requested preliminary plat approval of a 5-lot minor subdivision on 29 acres. The property is described as Tract A-1 of COS No. 1839 located in the SE ¼ of Section 20, T1S, R5E, P.M.M., Gallatin County, Montana. The property is located adjacent to the Valley Grove Subdivision at the north end of Bison Trail. The property is not located within any zoning district. There is an existing residence and accessory buildings on the 24-acre Lot 5 which has access off Harper Puckett Road. The other 4 lots off the planned extension of Bison Trail are slightly larger than 1 acre and are proposed for a residence and guest house on each lot.

STAFF FINDINGS AND PLANNING BOARD FINDINGS:

1. The project is subject to the Gallatin County Subdivision Regulations. The applicant has submitted a summary environmental assessment and community impact report. Notice of public the public planning board and county commission meetings was sent to adjoining property owners as required in the subdivision regulations.

2. Access to the Lots 1-4 will be from Bison Trail-a paved public road maintained by the Valley Grove Subdivision. Access to Lot 5 is via Harper Puckett Road, a County maintained paved road. Standard Gallatin County Road Department requirements are listed as conditions of approval. Additional dedication along Harper Puckett Road is required to comply with adopted transportation plans. The applicant has obtained a maintenance agreement with the Valley Grove Homeowner’s Association for the shared maintenance of Bison Trail. The applicant stated at the Planning Board meeting that they would pave the extension to Bison Trail to the north end of Lot 3 and Lot 4.
3. Subdivision regulations require that all areas disturbed during construction be seeded with vegetation types approved by the Gallatin County Weed Supervisor.

4. The subdivision is located within the Central Valley Fire District. The Central Valley Fire District has been consulted regarding fire protection for the proposed subdivision. The subdivision is required to meet the minimum fire protection standards in Appendix I of the Gallatin County Subdivision Regulations. The applicant plans to utilize the Valley Grove Subdivision fill-site as the fire protection water supply for the subdivision. The applicant will need an agreement with Valley Grove to do so. The specifications and performance and access of the fire protection water supply must be reviewed and approved by the Central Valley Fire Department. Also, per an option in Appendix I, each new home in the subdivision will be required to have a fire sprinkler system.

5. No parkland is required for minor subdivisions or subsequent minor subdivisions.

6. The subdivision is located outside the Gallatin Field Airport’s influence area, but is in an area that can be affected by the airport’s operations. An avigation easement is required to be filed with the final plat as with all subdivisions in the Belgrade planning area.

7. The site was approved for a 32-lot major subdivision, Golden Willow Estates, in 2007. That preliminary plat approval has since expired.

8. Residents in the Valley Grove Subdivision objected to the extension of Bison Trail to serve the Golden Willow Minor Subdivision. The residents requested that the applicant serve the proposed subdivision with an access road off of Harper Puckett Road instead.

9. Concerns were raised by the neighbors about the proposed use of the lots. There is no zoning on the site or in the surrounding area. Land use will be controlled by covenants which the County does not enforce. The applicant stated that the proposed covenants would allow a single-family residence and one guest house on each lot along with accessory structures such as a garage or shop. Building height is planned to be limited to 30 feet.

The governing body must weigh the following criteria. The comments on the criteria are as follows:

1. **Primary Criteria**

**EFFECT ON WILDLIFE AND WILDLIFE HABITAT:**

The project is located an area with extensive residential development. Many common wildlife species can be expected to frequent the area. According to the environmental assessment, there are no critical wildlife areas known to be associated with this subdivision. Stream setbacks will help protect the Aajker Creek riparian area. This project will have minimal additional impact on wildlife and wildlife habitat.

**EFFECT ON PUBLIC HEALTH AND SAFETY:**
The applicant must meet the minimum requirements of Appendix I of the subdivision regulations for fire protection. The applicant has obtained an agreement with the Valley Grove Homeowner’s Association to utilize the Valley Grove Subdivision fill-site a fire protection water supply. All new homes in the subdivision are required to fire sprinkler systems per the option being used by the developer.

Water and sewer will be provided by on-site wells and septic systems meeting the requirements of the Montana Department of Environmental Quality and the Gallatin County Health Department.

Residents in the Valley Grove Subdivision objected to the use of Bison Trail to access the new subdivision. Bison Trail is a public dedicated road-way built to County paved standards that is maintained by the Valley Grove Homeowner’s Association. The neighbors noted that Bison Trail does not have sidewalks and the increased traffic from the 4 residential lots could be dangerous. The new subdivision has a lot density of more than 1 lot per acres therefore as per Section 7.1 of the subdivision regulations, no pedestrian facilities are required. The applicant has agreed to pave their extension of Bison Trail to the north end of Lot 3 and Lot 4. The additional 4 lots would not warrant any additional off-site traffic improvements.

**EFFECT ON LOCAL SERVICES:**

The creation of four additional lots in an area of existing residential development will have minimal impact on local services, however the cumulative effect of many subdivision in the valley will have an impact on services. An avigation easement is required to protect the interests of the nearby Bozeman-Yellowstone International Airport. Agreements are required and have been obtained from the Valley Grove Homeowner’s Association for shared maintenance of the Valley Grove roads and fire fill-site. The applicant is required to waive the right-to-protest future Rural Improvement Districts (RID’s)-should there be a need for a community wide road improvements.

The Belgrade Long Range Transportation Plan designates Harper Puckett Road as a collector road. Collector roads should have a 90 foot wide right-of-way. An additional dedication of 15 feet west of the centerline is recommended to make the dedication of Harper Puckett Road 45 feet wide west of the section line.

**EFFECT ON THE NATURAL ENVIRONMENT:**

The applicant has submitted a Weed Management Plan to the Gallatin County Weed Department. The subdivision should have minimal impacts to the natural environment. DEQ and County Health Department requirements for water and sewer are required to be met.

Aajker Creek passes over Lot 5. The creek does not drain an area large enough to warrant a flood hazard evaluation and there is no mapped floodplain along the creek. The subdivision regulations required a minimum 150-foot setback-measured from the high water mark-along either side of the creek to protect the stream.

**AGRICULTURE:**
This project will have a minor impact on agriculture as some of the property is used to produce hay, and grain, or pasture. The applicant is planning to continue agricultural practices on Lot 5. Conditions of approval require the covenants to contain a neighbor’s right to farm, and requires the maintenance of fences adjacent to agricultural land.

**AGRICULTURE WATER USER FACILITIES:**

Aajker Creek is used by local irrigators. The owners of the irrigation systems have been contacted. The preliminary plat shows the 150-foot-wide setback on either side of the stream as required by the subdivision regulations. Standard irrigation water user facilities conditions and covenants are listed in the conditions of approval.

2. **The proposed subdivision must comply with the survey requirements of the Montana Subdivision and Platting Act.**

   The subdivision meets the requirements of the Montana Subdivision and Platting Act.

3. **The proposed subdivision must comply with local subdivision regulations and the review process of the regulations.**

   The subdivision will comply with the Gallatin County Subdivision Regulations.

4. **The proposed subdivision must provide easements for the location and installation of any planned utilities.**

   The final plat must provide all required easements for utilities. Easements should be a minimum of 20 feet wide and located along lot lines. Utilities can also be located within road right-of-ways.

5. **The proposed subdivision must provide legal and physical access to each parcel within the subdivision.**

   Legal and physical access will be provided by Bison Trail and Harper Puckett Road, both existing public roads.

**BELGRADE AREA GROWTH POLICY**

Section 6-A-1 of the Gallatin County Subdivision Regulations states “The design and development of a subdivision shall conform with adopted comprehensive plans, zoning ordinances and other resolutions and regulations.

The Belgrade Area Growth Policy-2006 Future Land Use Map designates the area where this subdivision is located as “Medium Density”. According to the Growth Policy, Medium Density areas are located outside the City, but are generally oriented to major roads and within a reasonable distance to schools and businesses. Future subdivision should be oriented to existing development.
The subdivision’s proposed use and density is similar to the use and density of nearby properties and conforms to the Belgrade Area Growth Policy.

PLANNING BOARD RECOMMENDATION:

The Belgrade City-County Planning Board reviewed the Golden Willow Minor Subdivision. The Planning Board took written and spoken public comment at their March 25, 2019 public meeting. The Planning Board voted 5-1 to recommend preliminary plat approval of the Golden Willow Minor Subdivision finding that the subdivision meets state statute, the subdivision regulations, and complies with the Belgrade Area Growth Policy. Planning Board member Elizabeth Marum opposed the motion to approve due to the proposed road configuration—feeling that the 4 subdivision lots on Bison Trail should connect to Harper Puckett Road. Planning Board member Thomas Moe abstained from voting due to his position on the Valley Grove Homeowner’s Association Board.

STAFF SUGGESTED ACTION:

The County Commission needs to make the following determinations:

- A recommendation as to whether or not the proposed subdivision meets the requirements of the Gallatin County Subdivision Regulations and Section 76-3-608 MCA. If the Commission finds that the proposed subdivision meets the requirements of Section 76-3-608 MCA, the following conditions should be considered for preliminary plat approval, to be completed prior to final plat approval:

RECOMMENDED CONDITIONS FOR APPROVAL:

1. The final plat shall conform to the Uniform Standards for final subdivision plats and shall be accompanied by the required certificates.

2. The final plat shall show any necessary easements to allow construction and maintenance of utilities, both to, and within, the subdivision. The location of the easements should be acceptable to the affected utility companies.

The following statement shall be written on the final plat:

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

3. Department of Environmental Quality approval shall be obtained for the subdivision. The applicants shall make a concurrent submittal to the Department of Environmental Quality and the Gallatin City-County Environmental Health Department. The
applicants shall obtain the Gallatin County Health Officer’s approval.

4. A waiver of right to protest creation of Rural Improvement Districts for improvements to Bison Trail or Harper Puckett Road shall accompany the final plat.

5. Prior to final plat approval of any phase of the subdivision, the Subdivider shall comply with all pre-final plat requirements of the approved *Weed Management Plan* (“Plan”) for all onsite and offsite areas disturbed by any construction related activity.

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

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

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

6. The developer shall record covenants with the final plat including the following provisions.

a. The property owners are responsible for the control of State and County declared noxious weeds set forth and specified by the Montana Noxious Weed Control Act (MCA 7-22-2101 through 7-22-2153) and the rules and regulations of the Gallatin County Weed Control District.

b. A section addressing possible problems associated with adjacent farming practices, and affirming neighboring landowner's right-to-farm. The language shall state as follows: Lot owners and tenants of the subdivision are informed that adjacent uses may be agricultural. Lot owners accept and are aware that standard agricultural and farming practices can result in dust, animal odors, flies, smoke and machinery noise. Standard agricultural practices feature the use of heavy equipment, chemical sprays and the use of machinery early in the morning and sometimes late into the evening.
c. If the applicant uses the sprinkler option as part of their fire protection package the covenants shall include the following: All new residential structures must be sprinkled in accordance with Gallatin County Subdivision Regulations, Appendix I: Fire Protection Packages, 1.13 a through d, as follows:

Fire protection sprinkler/fire alarm project tracking process may be required by the Fire Protection Authority Having Jurisdiction (FPAHJ), where a structure has a fire protection sprinkler system installed as a part of a subdivision fire protection plan. The tracking process may be administered by the FPAHJ. The tracking process requirements are as follows:

a. The property owner shall provide 14-day written notice of intent to build a structure with a fire protection sprinkler system, and where applicable, a fire alarm system, engineered by a PE. A plans review fee will be paid by the subdivider/owner to the FPAHJ. A fee schedule shall be determined by the FPAHJ. In lieu of a plans review fee and at the discretion of the FPAHJ, the FPAHJ may require a third-party review (selected by the FPAHJ) of the plans at the expense of the subdivider/property owner.

b. The property owner shall provide written certification by a PE that the fire protection sprinkler system and, where applicable, the fire alarm system, are installed and fully operational prior to enclosure with sheet rock or interior wall covering installation. The FPAHJ shall be permitted to witness the testing with a minimum of 48 hours advanced notice.

c. The subdivider or property owner shall provide written certification, to the FPAHJ, by a PE and the subdivider or property owner that all fire protection requirements have been met prior to final occupancy. The FPAHJ shall be permitted to witness the checklist inspections required in this section. The subdivider or property owner shall provide the FPAHJ with 48 hours notice of the checklist inspections.

Occupancy shall be permitted only when all fire protection requirements have been met as determined by the FPAHJ.

d. Site plans of all lots must be submitted for review and approval by the Central Valley Fire District.

e. An open space fuel management plan shall be submitted and approved by the Central Valley Fire District.

f. The property owners, in accordance with state law, shall maintain all fences
bordering agricultural land.

g. Pets shall be controlled by the homeowner, and not allowed to roam at large.

h. No water may be removed from any irrigation ditch, canal, or other water conveyance facility without a water right, permit, or written water lease agreement with the appropriate water users and/or water conveyance facility’s authorized representatives.

i. Unless there is written consent from the appropriate water users and/or water conveyance facility’s authorized representatives, post development storm water, snowmelt runoff, water from dewatering practices, or other water originating from within the boundaries of the subdivision shall not discharge into or otherwise be directed into any irrigation ditch, canal, pipeline, or other water conveyance facility.

j. The property owners shall remove any trash or debris that originated from within subdivision and has accumulated in the water conveyance facilities passing through the property by no later than May 1st of each year. If the owner fails to remove the trash or debris as described above, the water users and/or water conveyance facility’s authorized representatives may cause the trash or debris to be removed and bill the owners of the subdivision for such efforts. Until such time that the lots are conveyed, such requirements shall be the responsibility of the developer.

k. Lot owners are hereby notified of the water users, water conveyance facility’s authorized representatives, and/or their designee’s right to access the property to maintain and repair the water conveyance facility (this includes, but is not limited to, placement of excavated material, removal of vegetation and debris along the water conveyance facility); to install, repair, and or adjust head gates and other diversion structures; and to carry out other normal means of repair and maintenance related to the ditch.

l. The owners shall not undertake any activity that would result in the interference or obstruction in the transmission of water in the water conveyance facility. Before any maintenance, improvements, or modifications are performed on any water conveyance facility, written permission must be obtained from the water users and/or water conveyance facility’s authorized representatives prior to commencing such work. Upon completion of maintenance, improvements, or modifications to any water conveyance facility, the person responsible for such work shall provide written notice to the water users and/or water conveyance facility’s authorized representatives and allow them an opportunity to inspect such work.

m. Lot purchasers are hereby notified that Montana law provides specific
protections in regards to liability and nuisance claims for agricultural operations and irrigators. Those specific protections include, but are not limited to Section 85-7-2211, MCA; Section 85-7-2212, MCA; and Section 27-30-101, MCA.

n. At the time homes or other structures are built, lot owners that use Bison Trail for access shall participate with the Valley Grove Homeowner's Association for a proportionate share of the maintenance and snow removal of Bison Trail, if accepted by the Valley Grove Homeowner's Association.

o. Lot owners shall be responsible for the shared maintenance of the fire protection water supply if accepted by the Valley Grove Homeowner's Association.

p. Any covenant which is included herein as a condition of preliminary plat approval and required by the County Commission may not be amended or revoked without the mutual consent of the owners in accordance with the amendment procedures in these covenants and the governing body of Gallatin County. A copy of the covenants shall be submitted to the Belgrade Planning Office. A copy of preliminary approval document, and the certificate of a licensed title abstractor shall be submitted to the Gallatin County Attorney's Office. Both submittals shall be 30 days prior to scheduling a hearing for final plat approval. The Attorney's Office shall approve the covenants and certificate prior to final plat approval.

7. Prior to final plat approval the Subdivider must provide evidence that they comply with Section 5.G.9 of the Gallatin County Subdivision Regulations regarding beneficial water use permit/availability of water.

8. An avigation easement as provided by the Gallatin Airport Authority shall be filed with the final plat.

Road Department Conditions:

9. A "Homeowners Association" must be formed for the maintenance of all interior roads. A copy of the Homeowners Association by laws are required to be submitted to the County Attorney's office prior to final plat.

10. A detailed signage and drainage plan shall be submitted to the County road office for approval, prior to the start of any construction. This plan should specifically address the requirement for road name signs to be installed at all intersections, as well as STOP sign(s) at all intersections with county maintained roads. STOP signs and other regulatory or warning signs may also be needed on some internal roads, and this should be addressed in the plan. All signage must conform to the Manual on Uniform Traffic Control Devices (MUTCD), Current Edition.
11. An encroachment permit shall be obtained from Gallatin County for all access points from County maintained roads. All internal lots will be limited to one driveway access. Each access must be at least 75 feet from the nearest intersection County maintained road.

12. 45 feet of Harper Puckett Road west of the section line shall be dedicated to the public (or be in a public easement) on the final plat.

13. A no-access strip is required to be shown on the final plat along all lot boundaries that border Harper Puckett Road except at County approved encroachments.

14. The extension of Bison Trail shall be constructed and paved to Gallatin County Standards (paved to the north end of Lot 3 and Lot 4), within a 60 foot wide right-of-way or public access easement as shown on the preliminary plat.

15. A pre-construction meeting shall be set with the County Road Department prior to the start of any construction.

16. All areas of the public right of way disturbed during construction activities shall be sodded or reseeded.

17. All roadwork shall be built to Montana Public Works Standard Specifications (Current Edition), inspected and certified by a licensed engineer. Such inspection and certification must be provided to the County road office in writing. Final approval will not be given until this documentation is received.

18. For all proposed development onsite and offsite road improvements a two (2) year written warranty from the contractor shall be required. This warranty must be submitted to the county road office prior to final approval.

Ditch Conditions:

19. The final plat shall show stream setback of 150 feet along either side of the center line of Aajker Creek within the subdivision as shown on the preliminary plat. This setback shall provide for the unobstructed passage and delivery of water, unobstructed access, inspection, use, routine maintenance, repair, and construction related to water conveyance facilities.

20. The following note shall appear on the final subdivision plat: “Any water conveyance facility non-interference setback or easement shown on the subdivision plat does not eliminate any secondary easement described by Section 70-17-112, MCA.

21. Unless there is written consent from the appropriate water users and/or water conveyance facility’s authorized representatives, post development storm water,
snowmelt runoff, water from dewatering practices, or other water originating from within the boundaries of the subdivision shall not discharge into or otherwise be directed into any irrigation ditch, canal, pipeline, or other water conveyance facility.

22. The subdivider shall not undertake any activity that would result in the interference or obstruction in the transmission of water in any water conveyance facility. Before any maintenance, improvements, or modifications are performed on any water conveyance facility, written permission must be obtained from the water users and/or water conveyance facility’s authorized representatives. Upon completion of maintenance, improvements, or modifications to any water conveyance facility, the subdivider shall provide written notice to the water users and/or water conveyance facility’s authorized representatives and allow them an opportunity to inspect such work.

23. Appropriate approvals must be obtained for any culvert crossings required within the subdivision.

Fire Department Condition:

24. The applicant shall comply with Section 5 of Appendix I of the Gallatin County Subdivision Regulations for fire protection. All fire protection measures must be reviewed and approved by the Central Valley Fire Department and be in place and operable prior to final plat approval, including fire hydrant access.

If approved, the developer shall have three (3) years from the date of preliminary approval to complete the above conditions and apply for final plat approval.
Tom & Missy Miller
236 Bison Trail
Bozeman, MT 59718
March 26th, 2019
Belgrade City & County Planning Office
91 East Central Avenue
Belgrade, MT 59714
Re: Golden Willow Minor Subdivision

We would like to express our concerns with regard to the entrance accessing the new subdivision off of bison trail. It would be better served to all who live on bison trail if the access to the Golden Willow Minor Subdivision was directed off of Harbor Puckett. We do not appreciate that we were excluded from being made aware of this...the people who live on bison trail!

We have lived in this neighborhood for 22 years. It has always been a quaint & quiet place to live. You can walk the neighborhood on most days & not hear a sound. We do not want the constant chaos that this will cause with dump trucks, semi’s & traffic running up & down the street all day long for the next couple of years. We feel this would disrupt our quality of living. Our streets will eventually be torn up & full of pot holes needing repair. We the home owners will have to bare the expense of those repairs, not the builder/contractor. We were made aware by our neighbors that you, the board, don’t even live in this neighborhood! Your daily lives will not be affected by this chaos! We respectfully request that you keep in mind how important your quality of living is. Under no certain terms do we accept this!

Respectfully,

[Signature]

Tom & Missy
25 March 2019
97 Bison Trail
Bozeman, MT 59718

Belgrade City County Planning Board
91 East Central
Belgrade, MT 59714

RE Golden Willow Minor Subdivision

Dear Sirs:

I have some concerns with the proposed subdivision as currently proposed for a public hearing tonight.

1. The adjacent property owners did not receive notice until Saturday, March 23rd which is basically no notice for a public hearing as weekends should not count.
2. Your project manual does not indicate the Valley Grove HOA was notified and they are the entity that maintains and plows Bison Trail which is the proposed access.
3. There is no obvious indication in the project manual the new subdivision will be required to pay HOA fees for their use of Bison Trail. A new subdivision goes beyond general public access.
4. We have very unstable cable service here. Previous contacts with the cable technicians could not resolve things because they stated the bandwidth is saturated and they have no plans to upgrade the service. The cable company should not be allowed to extend our feed. The project manual does not indicate any of the cable utilities were notified or queried.
5. There is no indication whether the new subdivision plans to use Valley Grove HOA water to meet their fire water requirements. If they plan to use that water, they should be required to pay the HOA fees.
6. The plat map shows a cul de sac. However, there is no verbiage that says the cul de sac cannot be removed by future actions and Bison Trail extended even further. This is a quiet subdivision and adding traffic to Bison Trail is counter productive.

I object to the project being approved tonight based on the above comments. I also suggest formal action be deferred and a formal meeting rescheduled with reasonable public notice.

Sincerely,

Michael B. Lonergan
509-989-0258