



Sanders County Land Service Department

Subdivision Administration

December 4, 2024

Crawford Dinning of Tungsten Holdings, Inc
809 Mineral Ave
Libby, MT 59923

RE: Conditional Preliminary Approval of Blue Creek Major Subdivision

On November 26, 2024, the Board of the Sanders County Commissioners granted preliminary conditional approval of Blue Creek Major Subdivision, located in the Southwest One-Quarter of the Northwest One-Quarter (SW1/4NW1/4) of Section 20, Township 27 North, Range 34 West, PMM, Sanders County, Montana. The application is for a 9-lot major subdivision located approximately 3.5 miles northwest of Heron, MT along Montana Highway 200, a paved, state-maintained highway.

The Commissioners considered the subdivider's application, which included a preliminary subdivision plat, a summary of probable impacts, an environmental assessment, a community impact report, and supplemental material. Furthermore, the Commissioners considered relevant public comments received in writing and at the public hearings held on July 23, 2024, November 19, 2024, and November 26, 2024.

This preliminary approval is subject to the conditions listed below. The conditions are based on the Commission's findings of fact as outlined in the Amended Staff Report dated October 27, 2024. After each condition in parentheses are the regulations and statutes that were used as a basis for the imposition of the condition. An explanation of how the regulations and statutes apply to the decision is given in the findings of fact. The findings of fact provide the facts and conclusions that the County Commission relied upon in making its decision.

Prior to the final plat being granted approval, documentation is required to demonstrate all of the conditions have been met.

CONDITIONS OF APPROVAL:

1. The approved plans shall be adhered to. Any modifications in design must be submitted for review to Sanders County. *(This condition will ensure that the adopted standards will be followed. Amendments may require review under Section II-B-5, SCSR, Amending Approved Preliminary Plats Before Final Plat Approval, and Section II-B-8, Amending Final Plats.)*
2. The Subdivider shall comply with all other standards and procedures of the Sanders County Subdivision Regulations, which are applicable to this subdivision prior to receiving final plat approval, as well as all conditions and mitigations offered through the application which were not altered or amended during the review process. The Subdividers are hereby informed that any unmet regulations, procedures, offered conditions and mitigations, or provisions that are not specifically

listed as conditions of approval, do not, in any way, create a waiver, variance, or other relaxation of the lawful requirements of the Sanders County Subdivision Regulations or State law. *(This condition will ensure compliance with SCSR and MCA)*

3. The applicant shall submit an application for final plat review subject to review and approval by the governing body *(Staff Report Section I-D-1, Section II-B SCSR, and 76-3-611, MCA)*.
4. The final plat application shall include a final plat subject to the survey and platting requirements for subdivided lands of the MSPA, 76-3-402, MCA, and the final plat must comply with the Uniform Standards for Final Subdivision Plats as outlined by ARM 24.183.1107. The final plat will require review by the Sanders County Examining Land Surveyor and recorded at the Sanders County Clerk & Recorder's Office. *(Staff Report Section I-D-1, Sections II-B-2(b)(iii) & II-B-7 SCSR, 76-3-611(2)(a) MCA, and ARM 24.183.1107)*
5. The final plat or supplemental map shall show any road easement the subdivision relies upon for access. The existence of easements must be noted on the face of the final plat and on any deeds or other instruments conveying lots within the subdivision. *(Section VII-G(b)(v) SCSR and ARM 24.183.1107)*
6. The governing body shall approve the final plat only if it conforms to the conditions of approval set forth on the preliminary plat application and to the terms of the MSPA and SCSR; and if the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid. *(76-3-611(1), MCA)*
7. The Subdivider shall submit with the final plat a subdivision guarantee issued by an authorized title insurer or its title insurance producer showing the names of the owners of record of the land to be subdivided and the names of lienholders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lienholders or claimants of record against the land. *(76-3-612, MCA)*
8. The Subdivider or designated agents shall obtain from the Land Services Department copies of all public comments regarding the proposed water supply, sewage disposal systems, and stormwater plans, and submit these comments to the Montana Department of Environmental Quality (DEQ). *(76-3-604(7), MCA)*
9. The plans for water supplies, wastewater treatment systems, stormwater drainage, and solid waste disposal systems shall be reviewed and approved by the Montana Department of Environmental Quality (DEQ). The DEQ Certificate of Subdivision Approval(s) shall be filed with the Sanders County Clerk & Recorder's Office with the final plat. *(Staff Report Sections I-D-3(d), Sections VII-H, VII-I, VII-J, & VII-k, and 76-4, MCA)*
10. Prior to final plat approval, the private road approach shall be completed, including paving of the approach for a minimum of 25 feet from the edge of the State Highway pavement. The approved

MDT approach permit will be filed with the final plat. *(Staff Report Sections I-D-1, I-C-2, & I-C-3, Sections VI-G and II-B-4, SCSR, and ARM 24.183.1107(5)(g))*

11. Prior to final plat approval, a private road construction permit for Blue Sky Court and Blue Sky Road shall be applied for, be permitted, and have improvements installed according to the approved permit, road construction plans, and Sanders County Subdivision Road Standards. The County will inspect all required improvements in order to assure conformance with the approved construction standards and specifications. *(Staff Report Sections I-C-2, I-C-3, I-D-1 and Sections VII-G and II-B-4, SCSR)*
12. A one-foot no-access easement shall be added along the frontage of Blue Creek Road for the benefit of Sanders County. In addition to the location of the easement being shown on the final plat, the following statement must appear on the face of the final plat or in the attached conditions of approval sheets (see ARM 24.183.1107 for 'Conditions of Approval sheet'):
"No road, driveway, or other vehicle access will be permitted onto Blue Creek Road from the Blue Creek Subdivision without a request to and approval from the Board of Sanders County Commissioners to amend the final approved plat for Blue Creek Subdivision."
(Staff Report Sections I-C-3, I-D-3(c) and ARM 24.183.1107)
13. The final plat application shall include a proposal to meet the cash-in-lieu parkland dedication provisions of Section VII-O SCSR and 76-3-621, MCA, which will be subject to approval by the governing body. Prior to final plat approval, the Subdivider shall dedicate to the governing body a cash donation equal to 7.5% of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than one acre and 5% of the area of the land proposed to be subdivided into parcels larger than one acre and not larger than three acres. Based on the lot sizes depicted on the preliminary plat, the cash donation will be the value of 7.5% of 1.8 acres, being the area of Lots 5 and 6, and 5% of 6.16 acres, being the area of Lots 4, 7, 8, and 9, which will equate to the value of 0.45-acre. The certification of accepting cash-in-lieu of parkland dedication shall be added to the face of the plat. *(Staff Report Sections I-D-1 & I-C-6, Section VII-O SCSR, and 76-3-621, MCA)*
14. The stormwater infrastructure easements shall be depicted on the face of the final plat. These easements will identify Lots 1-9 as the beneficiaries of these easements. *(Staff Report I-D3(d) and SCSR Section VII-H(g))*
15. Prior to final plat, the proposed improvements of the communal stormwater retention ponds (drainage facilities) located on Lot 4, 5, and 8 shall be constructed and installed in accordance with grading and drainage plan and with DEQ approval. The County will inspect all required improvements in order to assure conformance with the proposed drainage plan. *(Staff Report I-C-3 and SCSR Section VII-H)*
16. Prior to final plat, the Subdivider shall update the proposed CC&Rs Item 10 to add the requirement in the DNRC predetermination letter related to Notice of Completion of Ground Water Development: *"Each applicant must state their intention to use the 0.28 AF/year/household domestic use volume on their Form 602 instead of the DNRC standard of 1.0 AF/year."* *(Staff Report I-C-4, I-D-3(d), SCSR Section IV-A-6(a)(iv) and MCA 76-3-504(1)(j))*

17. A Noxious Weed Management Plan for the subdivision shall be approved by Sanders County, implemented, and the weeds shall be treated prior to final approval; the approved Weed Plan shall be recorded with the final plat. *(Staff Report Section I-D-3(a) and Section VII-R SCSR)*
18. That a private road maintenance agreement shall be filed with the final plat that addresses maintenance and repair of the private roads, including snow removal, grading, dust control and other surface maintenance, and maintenance and repair of culverts and stormwater drainage facilities. *(Staff Report Section I-C-3 and I-D-3(e) and Section VII-G(b)(xii) SCSR)*
19. Prior to final plat approval, non-flammable signs shall be installed for identification of Blue Sky Road and Blue Sky Court, as well as a 'STOP' sign on Blue Sky Road at the approach onto Montana Highway 200 as described in the road construction plans. *(Staff Report I-D-3(g) and SCSR Section VII-G(b)(x))*
20. Utilities must be placed underground, wherever practical. Utility facilities must be designed by utility firms in cooperation with the subdivider. These facilities are subject to all applicable laws, rules, and regulations of the appropriate regulatory authorities. If easements for utilities are shown on the final plat, they shall be shown with dashed lines, and in addition to showing the location of utility easements, the following statement must appear on the final plat:

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

(Staff Report Section I-C-1 and Section VII-L SCSR)
21. Prior to final plat approval, the Subdividers shall provide the County evidence of donating mitigation funds of \$500 per lot (\$4,500) as requested by the Heron Rural Fire District. *(Staff Report Section I-D-3(c))*
22. The "Homeowners Code of Responsibility" or comparable Firewise standards shall be filed with the final plat to educate new landowners so that they understand the risks and responsibilities of living in the Wildland Urban Interface. *(Staff Report I-D-3(g) and MCA 76-3-608(4) and Section VII-P, SCSR)*
23. Prior to final plat, the developer shall treat vegetation around the proposed building sites described within the application lot layout diagrams. This vegetation treatment of these proposed home sites will be in accordance with the recommendations provided in the "Homeowners Code of Responsibility". The vegetation treatment will be inspected and approved by the county or the Heron Rural Fire District to determine adherence to the "Homeowners Code of Responsibilities" recommendations. *(SCSR Section VII-P, Fire Risk Rating for Blue Creek Subdivision, "Homeowners Code of Responsibility", Heron Assistant Fire Chief's recommendations)*

24. FWP information on ways to reduce human/wildlife conflicts be listed on the final plat or in the attached conditions of approval sheets. (see ARM 24.183.1107 for 'Conditions of Approval sheet')
(Staff Report Sections I-D-3(e), I-D-3(f), and MCA 76-3-608(3)(a) and ARM 24.183.1107)
25. The following statement shall be stated on the final plat or in the attached conditions of approval sheets (see ARM 24.183.1107 for 'Conditions of Approval sheet')
"If any historical, paleontological, archaeological or cultural sites are discovered during construction or ground disturbance, all work will cease and the owner will contact the Montana Historic Preservation Office to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate."
(Staff Report Sections I-D-3(d), I-D-4, and ARM 24.183.1107)
26. The proposed Covenants, Conditions, and Restrictions shall be recorded with the final plat. The restrictive covenants shall contain the following language: *"These covenants may not be repealed or amended without the prior written consent of the Sanders County Commissioners".* (Staff Report Sections I-D-3(a), I-D-3(e), I-D-3(f), & I-D-4, and Section II-B-3(a) SCSR)

This recommendation for preliminary plat approval is for the creation of three (9) lots approved for single-family residential use contingent upon compliance with the conditions of approval. Any other uses require additional review and approval by Sanders County.

Preliminary, conditional approval will expire three (3) years from the date of preliminary approval unless the subdivider and Board of Sanders County Commissioners agree to an extension in accordance with Section III-A-4(f) of the Sanders County Subdivision Regulations and 76-3-610, MCA.

State law requires the local government to provide information to the subdivider regarding the appeal process for actions such as denial of a subdivision application. Under 76-3-625 MCA: *"A person who has filed with the governing body an application for a subdivision under this chapter may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to this chapter within 180 days of the final action, decision, order, or adoption of a regulation. The governing body's decision, based on the record as a whole, must be sustained unless the decision being challenged is arbitrary, capricious, or unlawful."* Further, a party who is aggrieved by a decision of the governing body to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision may, within 30 days from the date of the written decision, appeal to the district court in the county in which the property involved is located to challenge the decision. The petition must specify the grounds upon which the appeal is made. The governing body's decision, based on the record as a whole, must be sustained unless the decision being challenged is arbitrary, capricious, or unlawful.

Sincerely,
BOARD OF COUNTY COMMISSIONERS
Sanders County, Montana

Absent

Dan B. Rowan, Presiding Officer

Anthony B. Cox

Anthony B. Cox, Member

John Holland

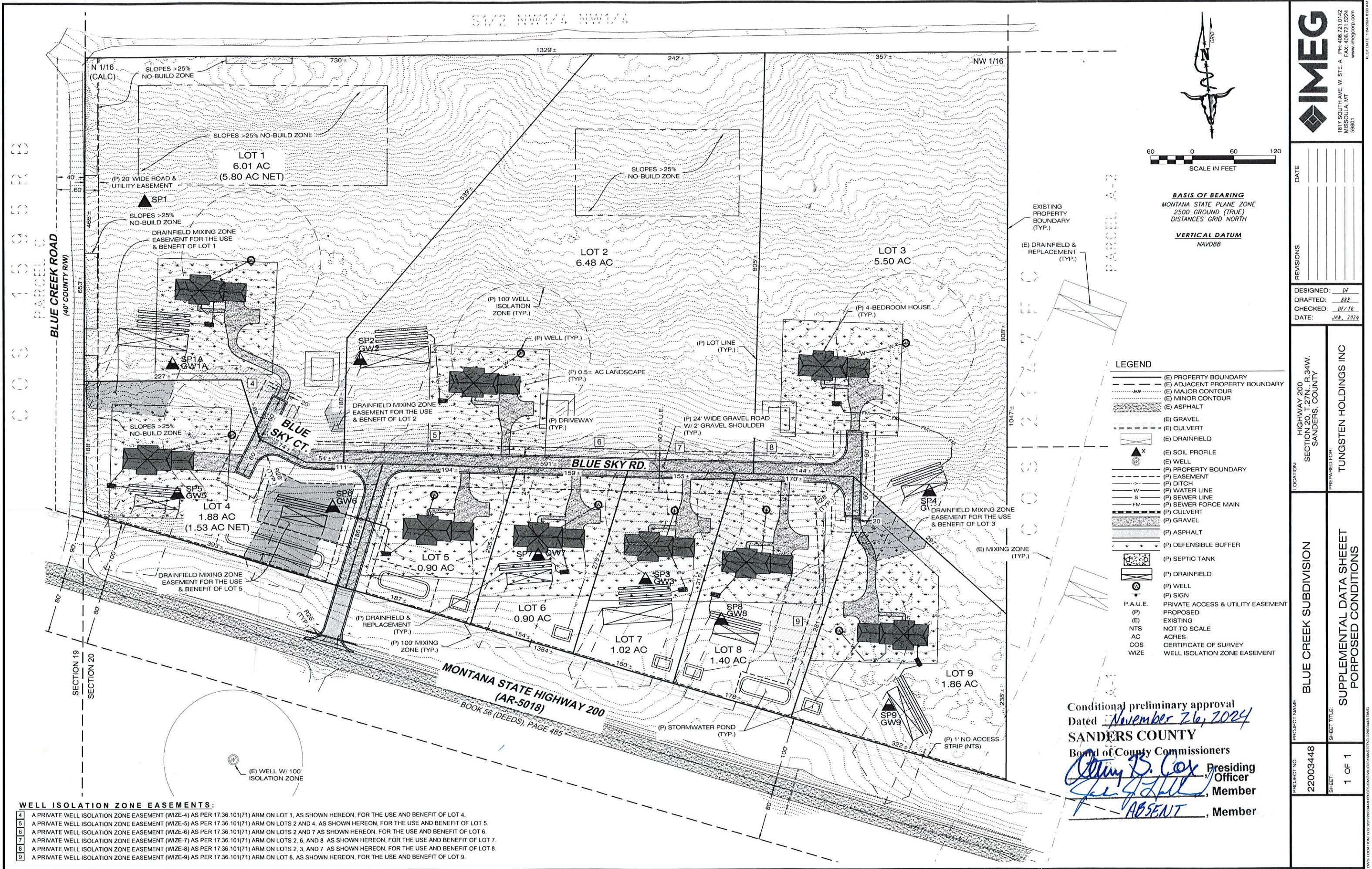
John Holland, Member

Ric Wadmon 12/4/24

Attest: Clerk & Recorder

Date

pc: Tamara Ross and Dan Fultz
IMEG Corp.
1817 South Ave West, Suite A
Missoula, MT 59801



Conditional preliminary approval
Dated November 26, 2024
SANDERS COUNTY
Board of County Commissioners
Otting B. Cox, Presiding Officer
John J. Hill, Member
ABSENT, Member

WELL ISOLATION ZONE EASEMENTS:

4 A PRIVATE WELL ISOLATION ZONE EASEMENT (WIZE-4) AS PER 17.36.101(71) ARM ON LOT 1, AS SHOWN HEREON, FOR THE USE AND BENEFIT OF LOT 4.
5 A PRIVATE WELL ISOLATION ZONE EASEMENT (WIZE-5) AS PER 17.36.101(71) ARM ON LOTS 2 AND 4, AS SHOWN HEREON, FOR THE USE AND BENEFIT OF LOT 5.
6 A PRIVATE WELL ISOLATION ZONE EASEMENT (WIZE-6) AS PER 17.36.101(71) ARM ON LOTS 2 AND 7 AS SHOWN HEREON, FOR THE USE AND BENEFIT OF LOT 6.
7 A PRIVATE WELL ISOLATION ZONE EASEMENT (WIZE-7) AS PER 17.36.101(71) ARM ON LOTS 2, 6, AND 8 AS SHOWN HEREON, FOR THE USE AND BENEFIT OF LOT 7.
8 A PRIVATE WELL ISOLATION ZONE EASEMENT (WIZE-8) AS PER 17.36.101(71) ARM ON LOTS 2, 3, AND 7 AS SHOWN HEREON, FOR THE USE AND BENEFIT OF LOT 8.
9 A PRIVATE WELL ISOLATION ZONE EASEMENT (WIZE-9) AS PER 17.36.101(71) ARM ON LOT 8, AS SHOWN HEREON, FOR THE USE AND BENEFIT OF LOT 9.