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## STAFF REPORT #MJR-FP-20-01

### TransCanada BAKER WORKFORCE FACILITY MAJOR SUBDIVISION FINAL PLAN

June 5, 2020

Baker Workforce Housing, a Major Subdivision and Buildings for Lease or Rent Subdivision, a proposed 300 R.V. and Dormitory subdivision (NO PERMANENT TRACTS OF RECORD ARE BEING CREATED) on 57.351 acres located in the E½ Section 15, Township 07 North, Range 59 East, P.M.M., Fallon County, Montana.

**Owner:**

Fallon County  
PO Box 846  
Baker MT 59313

**Subdivider:**

TC Energy formerly known as Transcanada  
13710 FNB Parkway, Suite 300  
Omaha NE 68154-5200

**Property Description:**

A 300 unit Recreational Vehicle Park Subdivision and a 25 unit Building for Lease or Rent temporary Workforce Housing Facility Section 15, Township 07 North, Range 59 East, P.M.M., Fallon County, Montana. The entire Section is owned by Fallon County, a political subdivision of the State of Montana. Mitigation of the site shall take place once the Keystone project is finished to the same condition as it was once construction began.

**Property Size:**

The total area involved in the subdivision is 57.351 acres for the Workforce Camp, 24.121 acres for the Contractor Yard, and 24.045 acres for the Tank Yard. The Tank Yard and Contractor Yard are NOT a part of this subdivision.

**Zoning District:**

The subject property is subject to existing Fallon County AAA and Workforce Housing Zoning Regulations. The Workforce Housing Zoning Regulations were adopted post the preliminary plan approval for the Workforce Housing Subdivision and as such are not applicable to this project.

**Compliance with Conditions of Approval:**

**Condition #1:** Sewage treatment and water supply will be obtained for the subdivision. The internal water supply system and sewage collection system to be constructed by applicant shall be submitted to Montana DEQ for review and approval. In addition, the applicant shall provide the County with approval for connection of that internal system to the City of Baker water system for water supply, which approval will specify the capacity of water service being provided. For sewage treatment, the applicant shall provide the County with approval for connection of the internal system to the City of Baker sewer system and/or agreements for transporting and disposing of sewage at another municipal treatment facility, which approvals and/or agreements will specify the capacity of sewage treatment services to be provided for the subdivision. (mitigating §§76-3-102(4) and 608(3)(a), MCA, Sub.Rg. IVA-8d, VI-J and VI-K- impacts to natural environment, public health and safety).

**Status:** The condition is met.

**Comments:** The Final Plan application includes water supply and wastewater disposal agreements executed with the City of Baker. Additionally, the final plans and specifications were re-submitted to MDEQ requesting an updated approval to construct. The MDEQ approval for the water and sewer utilities has been provided with the signed and stamped construction plans. Attached is the “will-serve” letters or agreements from Southeast Electric Cooperative, Coral Creek Landfill, as well as the Baker Water and Wastewater agreements.

**Condition #2:** The applicant shall comply fully with the mitigations offered in the application, except those mitigations modified by the conditional final plan approval. (mitigating §76-3-608(4) MCA and all impacts identified in the application, impacts to public health and safety).

**Status:** The condition is met.

**Comments:** The 76-3 608 MCA criteria are the baseline established for the impact on the Primary Review Criteria (Effect on Agriculture, Agricultural Water Users Facilities, Local Services, Natural Environment, Wildlife and Wildlife Habitat, and Public Health and Safety). Failure to mitigate or address the identified impacts during Preliminary Plan Review are cause for denial of the Final Plan for the project.

The Sherriff’s Department has stated that they are working with TransCanada and will conduct all future mitigation via the County Commission, and that pursuing mitigation with Transcanada is not necessary at this time. The Sheriff and Under Sheriff have been in contact with Transcanada regarding security and are comfortable with the project proceeding to Final Approval.

Given the 76-3-608 concerns expressed during the Preliminary Plan review process related to impacts on local services it is worth while to point out that even though a Final Plan has been approved, the developer, TransCanada, is still bound by the agreements and promises made during Preliminary Review. These promises include but are not limited to adverse impacts on Local Services.

**Condition #3:** Plans for stormwater drainage shall be submitted to County Planning for approval, subject to the variance granted with respect to the subdivision. County Planning is authorized to hire a qualified engineer at the expense of the applicant to review the stormwater drainage plans for compliance with the subdivision regulations. (mitigating §§76-3-102(4), 501 and 608(3)(a), MCA, Sub.Rg. IVA-8 and VI-L impacts to agriculture water user facilities, natural environment).

**Status:** The condition is met.

**Comments:** The plans for stormwater drainage along with a letter providing the determination of stormwater capacity for the Camp has been sent to Interstate Engineering for review and concurrence. A copy of their report is hereby attached to and incorporated into the report.

**Condition #4:** Prior to any development and/or soil disturbance, a noxious Weed Management Plan for the proposed development shall be submitted to the County Weed District for review and approval. All specifications and requirements of the approved plan shall be met. (§§76-3-102(4), 501(1) and 608(3)(a), MCA, Sub.Rg. VI-S, impacts to agriculture).

**Status:** The condition is met.

**Comments:** The noxious weed management plan was submitted and approved by the County with the zoning approval for the “mini-camp” as well as the conditional subdivision approval. To further confirm the sufficiency of this document, Mr. Butori, Fallon County Weed Administrator has been provided the most up to date version of the weed management plan and has been requested to provide a recommendation on the plan as part of this submittal. The approval of the Weed Management Plan is included in the Final Plan application materials.

**Condition #5:** Prior to any development, Approach Permits shall be requested and obtained from the Montana Department of Transportation (MDT) for access points from Highway 12 into the subdivision. All requirements of the approved Approach Permits shall be met. (§§76-3-102(3)(4), 501(1), and 608(3)(a), MCA, impacts to public health and safety- local services: roads, agriculture).

**Status:** The condition is met.

**Comments:** Approach permits have been issued by MDT and are included in the Final Plan application materials.

**Condition #6:** Applicant shall comply with all requirements of the MDT and submit written confirmation from MDT of compliance (Sub.Rg. VI-H, impacts to public health and safety- local services: roads, agriculture).

**Status:** The condition is met.

**Comments:** The access will be constructed in accordance with the MDT approach permits with a post-construction inspection by MDT for compliance. (The SIA and Bonding guarantees completion)

**Condition #7:** Plans for the location and installation of individual mailboxes shall be reviewed and approved prior to installation. (§§76-3-102(4), 501(1), and 608(3){a}, MCA and Sub.Rg. VI-H(b)(viii) impacts to local services).

**Status:** The condition is met.

**Comments:** For security purposes and ease of mail delivery, mail will be delivered to the main office, where it will be distributed to Camp residents.

**Condition #8:** The applicant shall have a fire plan approved by the fire chief of Baker Rural Fire District. (§76- 3- 608(3){a}, MCA and Sub.Rg VI-Q, impacts to local services: fire protection).

**Status:** The condition is met.

**Comments:** The Final Plan application includes the emergency response plan for the Camp. This included building fire safety and was submitted with the original subdivision application, which is the basis for the conditional approval. The Baker Fire Chief has provided his review and approved of the fire safety and suppression for the Camp. His letter regarding this review is attached. The emergency response plan has also been provided, where on page 4, 5, and 9 all discuss fire safety.

**Condition #9:** The final plan shall be prepared in accordance with the applicable State survey requirements, Montana Subdivision and Plat Act survey requirements and the County Subdivision Regulations. (§§76- 3- 102, 402, 501 and 608(3)(a), MCA).

**Status:** The condition is met.

**Comments:** Final record drawings and Final Plan have been provided to the County with the SIA and Final Plan applications.

**Condition #10:** Any additional, replacement or relocated utility lines shall be installed underground, in accordance with the County Subdivision Regulations, unless otherwise determined by the utility providing the service. (§76-3-608(3)(a), MCA and Sub.Rg. VI-M).

**Status:** The condition is met.

**Comments:** Much of the work associated with utilities is work in process and is a part of the SIA and performance bonding. The Final Plan application includes a provision that the final 'As Built Drawings' can be supplied to the County post construction. The SIA and Bonding guarantee the construction.

It is the opinion of the Planning Staff that the developer provides the final 'As Built Drawings' for the future records of Fallon County.

**Condition #11:** The following requirements shall be added to the Code of Conduct (mitigating impacts to public health and welfare):

Any exterior lighting shall be directed downward to minimize visibility beyond the property line; (§76-3-608(3)(a), MCA and Sub.Rg. VII-D-2).

- Notification of the presence of agricultural operations in the vicinity; (§76-3-608(3)(a), MCA and Sub.Rg. III-A-6(b)(iv) and VI-S).
- Each lot shall be maintained in a clean, attractive, and weed-free manner. Noxious weeds must be pulled sprayed or cut prior to seed maturity; (§§76-3-102(5)(6), 501(1), and 608(3)(a), MCA and Sub.Rg VI-S).
- Address numbers shall be clearly marked at the driveway entrance(s) and on buildings, as well as pad sites and shall be easily identified from the road; (§7 6-3-608(3)(a), MCA and Sub.Rg. III-A-6(b)(iv) and VI-Q).
- There may be slow moving agricultural machinery traveling on Highway 12; (§76-3- 608(3)(a), MCA and Sub.Rg. III-A-6).
- All water used in the camp shall be obtained from a non-agricultural water supply and not from stock water tanks, irrigation ditches or agricultural pipelines; (§ 76-3-608(3)(a), MCA and Sub.Rg. III-A-6(b)(iv)).
- All recreational vehicles, if skirted, shall be skirted with non-combustible materials; (Sub.Rg. III-A - 6(6)(iv)).

**Status:** The condition is met.

**Comments:** The Target Hospitality Welcome Letter and Code of Conduct to satisfy this requirement was included in the Final Plat application.

**Condition #12:** Applicant shall provide and comply with a dust mitigation plan to the County, which identifies the responsible parties and twenty-four-hour contact information. (§76-3-608(3)(a), MCA) and Sub.Rg.III- A-6(b)(iv)(F), impacts to roads, public health and safety)

**Status:** The condition is met.

**Comments:** The Final Plan application contains a construction, mitigation, and reclamation plan as was submitted with the original subdivision application. Section 2.14, Page 8 addresses dust mitigation. It is attached for reference. A contact roster will be provided to the County, emergency responders, and City of Baker as it is maintained throughout the occupancy of the Camp to address concerns related to dust mitigation.

**Condition #13:** Applicant shall submit a seeding and erosion control plan and comply with the plan. (§76-3-608(3)(a), MCA and Sub.Rg. Environmental Assessment, Part III (4), mitigation impacts to agriculture and public health and safety).

**Status:** The condition is met.

**Comments:** The Final Plan application contains a construction, mitigation, and reclamation plan that was submitted with the original subdivision application. As a summary, during construction of the camp, work areas will be cleared of vegetation and graded to provide a safer work area for construction. The site will be graded to provide access roads and to provide flat areas for all buildings. Grading will also provide for mild slopes for parking lots and spaces for RV units. The Contractor is required to keep disturbance and spoil within the approved work area. The work area boundaries will be marked with flagging and/or lathe prior to disturbance. The Contractor will install temporary erosion controls, including water bars, silt fence, straw fiber rolls and hay bales prior to initial disturbance and then regularly maintain these structures until permanent erosion controls are installed. The Contractor will limit clearing to the minimum necessary to complete the work.

During operation of the camp, gravel roads and parking areas may be re-graded to maintain a smooth surface.

All disturbed areas will be graveled or have topsoil replaced. Contours will tie into existing ground at the projects limits. Cleanup activities, including installation of permanent erosion and sediment controls and final seeding, will follow topsoil replacement. After the construction work area has been cleaned up, seeded, and fences replaced, Target Lodging will implement a post-construction monitoring program until the disturbed work area has been stabilized to required levels per state permit and a Notice of Termination can be filed with the appropriate agencies. Target Lodging will perform inspections on at least a monthly basis in areas that are identified as high priority areas that will include:

- Disturbed slopes that empty to streams or rivers;
- Disturbed steep slopes (greater than 30 percent) that empty to wetlands, highways, or major roads; and
- Steep slopes (greater than 30 percent) with highly erodible soils.

Monitoring will be done on foot, with vehicles when access is available, or by aerial patrol. Inspections will also be conducted when there is a potential for run-off on an as needed basis. Inspection reports will be filled out and an explanation provided if inspections were not performed in a given month.

**Condition #14:** The camp manager shall maintain all improvements in the same condition as they exist at final plan. (§76-3-608(3)(a), MCA).

**Status:** The condition is met.

**Comments:** The Final Plan application places the maintenance responsibility on Target Hospitality. Target Hospitality is responsible for the operation of the Camp and has established procedures and agreements to ensure proper operation. Additional measures are noted as part of the Camp Code of Conduct that were provided as part of the SIA submittal which is under the authority of Target and included in the table of conditions that will be adhered as outlined under Condition 2.

**Condition #15:** In addition to "as built" locating underground utilities within the subdivision, the applicant shall locate internet service, phone service and other communications services on the final plan. (Sub.Rg. VI M).

**Status:** The condition is met.

**Comments:** The Final Plan application identifies communication services Final Plan layout and are bonded for to guarantee construction as part of the SIA.

**Condition #16:** The applicant shall comply with all items and conditions of the lease. (§76 -3-608(3)(a), MCA).

**Status:** The condition is met.

**Comments:** The Lease agreement with Fallon County is a separate document that is in addition to the preliminary plat approval. A copy of the lease is included in the Final Plat application materials.

**Condition #17:** Applicant shall prohibit and enforce no use of herbicides and pesticides within 100 feet of the wetlands for the entire period of occupancy of the site. (§76-3-608(3)(a), MCA and Sub.Rg. Environmental Assessment, Part IIL Part IV (5)).

**Status:** The condition is met.

**Comments:** The Final Plan application and supporting materials contain the necessary items to address this condition. Items include the Camp "Welcome Letter" attached to the Code of Conduct.

**Condition #18:** All work, duties and responsibilities identified in the application or responsibilities of the camp operator and Target Logistics are included as conditions of the final plan. (§76-3-608(4), MCA).

**Status:** The condition is met.

**Comments:** The Final Plan application and SIA contains a 32-page spreadsheet of commitments and responsibilities that are part of any 'Final Approval'. The report is attached to and is made part of this report by reference.

**Condition #19:** The Applicant is financially responsible for the reasonable cost of engineering, consulting and professional and/or contracted services secured by the County, at the sole discretion of the County, for additional review and/or final plan review and approval for this subdivision.

**Status:** The condition is met.

**Comments:** As part of the Final Plan application, TransCanada has paid the 'standard' Final Plan application fees. Fallon County has maintained detailed accounting of the expenses associated with finalizing the project and will reconcile and invoice TransCanada for any underpayment associated with the project.

*1. Park dedication requirement.*

The requirement for parkland dedication was waived due to the temporary nature of the Workforce Facility. This subdivision is therefore exempt to the dedication of parkland as provided by 76-3-621 MCA.

*2. Certificate of title abstracter.*

The property is vested in Fallon County, a political subdivision of the State of Montana. There are no liens against the property and the Board of County Commissioners have executed a lease with the developer to facilitate the construction of a temporary Workforce Housing Facility a Contractor's Yard and Tank Farm. The Plan is not a Recordable Document where the project is by Rent or Lease. There is space for the Commission to approve the final plan.

*3. County Treasurer Certification.*

The property is TAX EXEMPT. As such, certification for the County Treasurer to execute prior to filing is not necessary.

*4. Conformity with Subdivision Regulations and Preliminary Plat Processes.*

The Final Plan Application contains a 32-ledger sized page spreadsheet summarizing the promises made to the Commissioners and Public via the preliminary plan approval process. A copy of these spreadsheets are incorporated into and are part of this report. What follows is a summary and it is recommended that the Commissioners review the entire document prior to deciding on the Final Plan.

- There are several references to Camp Security and Augmentation to Local Law Enforcement. Planning has contacted the Fallon County Sheriff's Department and have been informed that TransCanada is working with them and they do not need any further assistance on the matter.
- Tertiary Engineering review of the Camp storm water plans. Interstate Engineering has been contracted to provide the additional review. Their report is hereby incorporated into and made a part of this Final Plan report.

- The Subdivision Improvement Agreement and Performance Bond to guarantee construction of the facility have been previously approved by the Fallon County Board of Commissioners.
- Many of the promises made deal with the Tank Yard or Contractors Yard and are beyond the scope of Final Plan approval but are binding upon the developer via the lease agreement with Fallon County.

The final plan is consistent with the preliminary plan approved by the Fallon County Commission. The only modifications are to comply with conditions of approval imposed by the County or by other regulatory processes and procedures and the balance of the final plat application and supporting materials appear to be consistent with the Fallon County, City of Baker and Town of Plevna Subdivision Regulations as well as the Uniform Standards for Final Subdivision Plats.

**CONCLUSION:**

It is the opinion of Staff that based upon the final plan application and the additional documentation submitted as a part thereof, or incorporated by reference herein, that the project is in compliance with (or are included in the SIA and guaranteed by Bonding) the Fallon County Subdivision Regulations and the Conditions of Approval imposed by the Fallon County Commissioners on December 2, 2014. Further, it is recommended that the Fallon County Commissioners APPROVE the final plan application for the Baker Workforce Housing, a Major Subdivision and Buildings for Lease or Rent Subdivision, a proposed 300 R.V. and Dormitory subdivision (NO PERMANENT TRACTS OF RECORD ARE BEING CREATED) on 57.351 acres located in the E½ Section 15, Township 07 North, Range 59 East, P.M.M., Fallon County, Montana.

**SUGGESTED FORM OF MOTION:**

I move the adoption of Staff Report MJR-FP-20-01 as findings of fact and that the Final Plan for the TransCanada Baker Workforce Facility Subdivision be APPROVED.