

**Amended Block 2, Foxtail Village Subdivision, 2<sup>nd</sup> Filing**  
**Findings of Fact**

Staff is forwarding the recommended Findings of Fact for Amended Block 2, Foxtail Village Subdivision, 2<sup>nd</sup> Filing for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (Sections 23-304(c), BMCC).

**A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-304 (c) (1)]**

**1. Effect on agriculture and agricultural water user facilities**

The subject property is vacant former cropland located in the City limits that has been slated for urban development since it was originally planned in 2005. The Birely Drain is south of the property, adjacent to Block 3 of Foxtail Village Subdivision, 2<sup>nd</sup> Filing. This is an irrigation drain ditch and the development of this property shall not impair its function. A 48-inch culvert will be installed under 60<sup>th</sup> Street West when it is constructed, in order to continue the Birely Drain channel to the west. Also, the subdivider is proposing to drain storm water into the ditch. Discharging water into the drain requires the approval of the Birely Drain board of directors, and therefore a letter of approval is required as a condition of approval (**Condition #1**).

Any other ditches within the project boundaries shall be perpetuated for the benefit of upstream and downstream users. At the time the original 2<sup>nd</sup> Filing final plat was approved a written agreement was reached with adjacent property owners to the north that a drain ditch along the western edge of the subject property would be redirected into the City's stormwater drain system and discharged as it had historically been done, into the Birely Drain. When 60<sup>th</sup> Street West is constructed for this development, the adjustment to this drain ditch will be accomplished. Overall, this development should not have a negative effect on the agricultural industry.

**2. Effect on local services**

- a. **Utilities** – Water service will be provided by the City of Billings. The developer will install new water mains in the new local streets, new individual services to all of the lots, and new fire hydrants in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality (MDEQ).

Sanitary sewer service will be provided by connecting to the existing City of Billings' sewer mains in the subdivision. The subdivider will install new sewer mains in the local streets and individual services for each lot in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department and MDEQ.

MDU will provide gas services and Yellowstone Valley Electric Cooperative will provide electric services to the subdivision. Easements shall be shown on the final plat that are acceptable to these utility providers (**Condition #2**).

- b. **Storm water** – Storm water drainage for the public streets is proposed to be provided by curb and gutters that discharge into storm water pipes and eventually to a detention pond to the south and then discharged into the Birely Drain. To ensure permission is granted from the Birely Drain board to discharge storm water into the drain, a letter from the board is required to be submitted from them with the final plat documents. Additionally, a Storm Water Pollution Prevention Plan (SWPPP) is required for the property prior to any construction activity on the site. These and all other drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the City Engineering Department.
- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City’s landfill has adequate capacity for this waste.
- d. **Streets** – The lots within the subdivision would be served by the extension of the existing streets, Foxtail Lane and Foxtail Loop West, east of the subject property to 60<sup>th</sup> Street West, which will also be built to connect with Grand Avenue to the south. These internal street rights-of-way were dedicated previously with the 2<sup>nd</sup> Filing plat but with a width of 50 feet. Although the current City standard requires 56-foot rights-of-way, no changes are being proposed to the street layout, and therefore the City cannot require the additional right-of-way dedication with this 2<sup>nd</sup> Filing Amendment. Instead, to accommodate the needed infrastructure, 5-foot wide sidewalk and street light easement will be provided parallel to the 50-foot street dedications.

Foxtail Lane, Foxtail Loop West, and Kennedy Way are proposed to be built to City standards by providing a 34-foot width, curb/gutters, and boulevard sidewalks. 60<sup>th</sup> Street West will be built to the half-street standard, with 30 feet of pavement, and curb, gutter and boulevard sidewalk on the east side of the street only. The rest of the street will be completed if and when the adjacent property to the West develops in the City.

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 54<sup>th</sup> St. West and Grand Ave. (Station #7). The Billings Chief of Police noted in comments that “...Already in established patrol area. Continued development without increase in resources may adversely affect our ability to provide timely service.” The subdivision is located within the ambulance service area of American Medical Response (AMR).
- f. **Schools** – School District #2 provides educational services to elementary through high school students. Schools serving these students are Central Heights Elementary, Lewis and Clark Middle School, and Senior High School. A response from Senior High principal, Dennis Holmes, indicated that Senior now has a capacity of 1,900 students and a current enrollment is 1,600 students.

- g. **Parks and Recreation** – Residential subdivisions creating lots with housing densities less than one dwelling unit per ½-acre are required by State and local laws to dedicate 11% of the net land area (or provide an equivalent cash contribution) for parkland. When the Foxtail Village Subdivision, 2<sup>nd</sup> Filing was originally reviewed and accepted by the City in 2008, parkland provisions were met by a cash contribution in lieu of land dedication. The funds were dedicated to developing Cottonwood Park, which is north and east of the subject property.
- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision and has indicated that centralized mailbox units will be required as were installed for the previous filing of this subdivision. Prior to final plat approval the developer shall coordinate mailbox locations with the postal service (**Condition #3**).

### **3. Effect on the natural environment**

The subject property is generally flat previously irrigated agricultural land. Though it is not currently cultivated, surrounding properties to the north, south and west all have some level of agricultural activity on them. As a result, the ground water in this area is high, especially during irrigation season. A geotechnical study has been completed for this property and recommends specific mitigation measures for the groundwater and soil conditions. These measures will be implemented at the time of building permit review.

In addition to groundwater, surface stormwater will need to be carefully considered. The Cove Creek drainage south of Rimrock Road, whose channel was obliterated by agricultural activity many years ago, effectively flows to the ditches and lowest ground surface in the area. In major storm events flooding would take the form of shallow sheet flows. Part of the western edge of this property is within the 100-year flood plain of Cove Creek south of Rimrock Road as identified in a floodplain study done by PBS&J in 2007. Though this floodplain area south of Rimrock Road is not yet regulated by FEMA, it is the best available data for this drainage, and as such the city recommends that the main finish floor of each house is at least 18 inches above the top of curb elevation in the front of each lot to prevent inundation of the main floor. A note to this effect is found in the SIA. Also during development, stormwater pollution prevention best management practices are required to be used and monitored to prevent erosion on exposed ground. If these precautionary measures are taken into account, the effect on (and from) the natural environment should be minimal.

### **4. Effect on wildlife and wildlife habitat**

There are no known endangered or threatened species on the property. There is a note in the SIA that warns future lot owners of the presence of deer in the area, which may cause damage to their landscaping. This subdivision should have a minimal effect on wildlife and wildlife habitat.

### **5. Effect on the public health, safety and welfare**

Based on the provision for emergency services and mitigation measures proposed for ground and surface water, as discussed above, there are no anticipated effects on public health, safety and welfare resulting from this subdivision.

**B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-304 (c)]**

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616, MCA.

**C. Does the subdivision conform to the Yellowstone County-City of Billings 2008 Growth Policy, the Urban Area Transportation Plan 2009 Update and the Billings Area Bikeways and Trail Master Plan? [BMCC 23-304 (c) (3)]**

**1. Yellowstone County-City of Billings 2008 Growth Policy**

The proposed subdivision is consistent with the following goals of the Growth Policy:

- a. Goal: More housing and business choices within each neighborhood (p. 6).
- b. Goal: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (p. 6).
- c. Goal: Safe, functional, and attractive streets for all users, including drivers, bicyclists and pedestrians (p. 13).

**2. Urban Area Transportation Plan 2009 Update**

The proposed subdivision adheres to the goals and objectives of the 2009 Transportation Plan Update and preserves the street network and street hierarchy specified in the plan.

**3. Billings Area Bikeways and Trail Master Plan**

The proposed subdivision lies within the jurisdiction of the Billings Area Bikeways and Trail Master Plan. No future trail corridors are identified adjacent to the subject property, but Grand Avenue is identified as having a future bike lane. There are no immediate plans for this corridor.

**D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMCC 23-304 (c) (4)]**

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

**E. Does the subdivision conform to sanitary requirements? [BMCC 23-304 (c) (5)]**

The subdivision will utilize the City's water, sanitary sewer, and solid waste collection and disposal services. All services are approved and regulated by state and federal authorities.

**F. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-304 (c) (6)]**

The subject property is located within R-70 zone. The lot size conforms to the requirements of this zone. Further setbacks and structure specific requirements will be reviewed for compliance at the time of building permit review.

**G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-304 9 (c) (7)]**

The subdivider has provided utility easements as requested by MDU and YVEC on the face of the plat.

**H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-304 9 (c) (8)]**

Legal and physical access is provided to the proposed lots from Foxtail Lane, Foxtail Loop West, Kennedy Way and 60<sup>th</sup> Street West.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Amended Block 2 of Foxtail Village Subdivision, 2<sup>nd</sup> Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several of the goals and policies of the 2008 Growth Policy Update and does not conflict with the Transportation or Bikeway/Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, April 23, 2012.

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Thomas W. Hanel, Mayor