

**FINDINGS OF FACT – Lenhardt Square Subdivision, 1st Filing,
Amended Lots 1 & 2, Block 1, Subdivision for Rent or Lease**

The Planning staff has prepared the Findings of Fact for the preliminary plan of Amended Lots 1 & 2, Block 1, Lenhardt Square Subdivision, 1st Filing and has provided them for approval by the Billings City Council, as follows:

A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302.H.2.]

1. Effect on agriculture and agricultural water user facilities

The subject property is part of a larger 114-acre property that was annexed into the City in 2008 and rezoned for Planned Unit Development (PUD) zoning at that time. The property has remained as agricultural land since the annexation and zone change and is now beginning to be prepared for development. There is agricultural and large-lot residential property to the north and west of the subject property, and a multi-family development was built on property within the development to the south. The subject property has been irrigated and farmed for many years. The proposed development will take 15.6 acres out of agricultural production and the remaining acreage will be taken out of agricultural production as it develops in the future. The property owners plan to maintain the irrigation ditches and infrastructure on the non-developed portions of the property and changes to irrigation on this property are not expected to affect other agricultural water user facilities in the area.

2. Effect on local services

- a. Utilities** – Water services will be provided by the City of Billings. The subdivider will tie into the existing 12-inch water main in S. 44th St. West, and extend the water main for the remaining length of S. 44th St. West to Monad Road north and east to Shiloh Road. The City will be granted a perpetual easement for the length of Monad from the eastern edge of Lot 1-A if the street dedication has not yet been made in the future “St. Vincent Healthcare Subdivision” to the east (**Condition #6**). As with the original filing of Lenhardt Square Subdivision, a maximum of 600,000 gallons per day of water shall be supplied to the entire Lenhardt Square development, until the Zone 2 West Storage Expansion Project improvements are completed. 600,000 gallons per day is approximately half the originally anticipated water needs for the entire development, so no shortage is expected with this development.

Sanitary sewer service will be provided by connecting to the existing City of Billings’ 18-inch sewer main in S. 44th St. West. The subdivider will install sanitary sewer main lines to the north as far as needed to service both lots. Individual services for each lot will be installed 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 NorthWestern Energy will provide electric services to the subdivision. Easements have been shown on the face of the plat that are acceptable to these utility providers.

- b. **Storm water** – Storm water drainage for the public streets shall be provided by surface drainage via curbs and gutters to underground storm drain lines. 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 Public Works 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 subject property fronts S. 44th Street West and Monad Road. The developer will be responsible for construction of those streets where they front the subject property. For street frontage where there is adjacent private property to the west (i.e. Tracts 2A and 3A, Certificate of Survey 2063, Amended) this developer is responsible for construction of 30 feet of street, and curb, gutter and sidewalk or bikeway on the east side. The remaining nine feet, and the west-side curb, gutter and sidewalk or bikeway will be constructed when the adjacent properties are developed in the future. However, there is a portion of Monad Road (approximately 278 feet) fronting the north property line of proposed Lot 1A that fronts the Shiloh Drain which is owned by the City of Billings. It is not the policy of the City to complete half streets fronting these types of facilities. Therefore, it is recommended as a condition of approval that the developer be responsible for the entire street section, including 39 feet of width, curb, gutter and sidewalk and bikeway along the 278 feet of frontage (**Condition #4**).

Development of the above streets is proposed to be done in phases. The first phase will include the development of S. 44th St. West as it fronts Lot 2, as well as a temporary emergency access road (20-foot wide all-season gravel surface) beyond this point following the S. 44th St. W./Monad Road corridor north then east, across land owned by St. Vincent Healthcare to Shiloh Road. St. Vincent Healthcare has a pending subdivision plat that would dedicate the needed right-of-way for this emergency access road. However, if the platting and dedication is not complete prior to the final plat of this development, a temporary emergency access and perpetual utility easement shall be provided from all appropriate landowner(s) to complete this secondary access road (**Condition #6**). Additionally the design and construction plans for the emergency access road, including the gates, bollards, and/or signage shall be reviewed and approved by City Fire Department prior to its construction (**Condition #5**).

The other peculiarity of this stretch of Monad Road is that the proposed curve does not meet the required design speed for the ‘collector’ status street that it is. The City Subdivision Regulations specify that collector streets must be designed to handle speeds of 35 miles per hour. In order to maximize the development potential of the property, the subdivider is proposing a variance from that requirement of the Subdivision Regulations. Staff is recommending approval of the variance request, with the condition that

alternative speed reducing measures be installed as reviewed and approved by City Engineering (**Condition #7**). The request and staff analysis are included in the Attachments.

Each of the lots will be granted two access driveways; Lot 2 will have accesses off of South 44th St. West, and Lot 1-A off of Monad Road. Internal roads for the apartment complex will be reviewed and approved prior to approval of the final development plan (**Condition #3**) and a reciprocal access easement will be recorded for the entire complex so that residents will have unrestricted internal circulation.

Impacts of traffic on off-site intersections generated by this development shall be analyzed and mitigated. Specifically, the original Lenhardt Square Traffic Impact Study, dated February 2009, shall be updated and any impacts identified resulting from this subdivision shall be mitigated prior to final plan approval for Phase I impacts, and prior to release for transfers for Phase II impacts (**Condition #1**).

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire stations are located at 604 S. 24th St. W. (Station #5) and at 54th St. W. and Grand Ave. (Station #7). The subdivision is located within the ambulance service area of American Medical Response (AMR). Two points of access shall be provided to meet the emergency access road design standards and fire hydrants shall be installed and the apartments will have sprinklers installed. These provisions will be reviewed and approved with the final site plan prior to final plat approval (**Condition #3**).
- f. **Schools** – The subdivision is located within School District #2. Students from the proposed subdivision will likely attend Central Heights Elementary School, Riverside Middle School and West High School. School District #2 is currently undergoing a Facilities Master Planning effort to determine appropriate capacities and district boundaries for all of its schools. Results will be available in January 2013, but for now, the affected schools appear to have adequate capacity to serve the students of this proposed subdivision. School bus access to the site will be reviewed and organized by the bussing providers.
- g. **Parks and Recreation** – When the original Lenhardt Square PUD was reviewed and approved in 2008, an overall master plan was derived for the entire subdivision. The master plan (see Attachments) established two major common/ open space areas and a series of linear parkways. The subject property has linear parkways identified along its street frontages, in which bikeways will be installed during street construction. Additionally, there is a linear parkway/pathway “connector” identified to be provided within a 30-foot wide easement shown on the First Filing plat. The original purpose of the connector was to connect to a similar pathway proposed on the property to the east within the St. Vincent Healthcare (SVHC) Subdivision. Since that time, SVHC has redesigned the layout of the trail network within their subdivision resulting in no adjacent connection to the east. At this time, the proposal is to relocate the 30-foot wide easement further south within Lot 3 of Lenhardt Square Subdivision, 1st Filing. It is recommended

as a condition of approval that the new easement document be recorded prior to final plat approval, and that the Lenhardt Square Master Plan document be updated and attached to the final SIA of this subdivision (**Condition #2**).

- h. Mail Delivery** - The United States Postal Service will provide postal service to the subdivision and has requested the installation of centralized mailbox units (CBUs). The developer is proposing to locate the CBUs inside the management office and will work with the USPS to meet there needs.

3. Effect on the natural environment

The subject property is on the western edge of the City of Billings. The generally flat property has been used for agricultural purposes for many years before it was planned for residential and commercial development.

A geotechnical study was performed for the First Filing of the subdivision in 2009 which gave general structural recommendations for building on the site. An additional project-specific study will be completed prior to issuance of building permits on property. A note to this effect is included in the SIA. Overall the subdivision should have a minimal effect on the natural environment.

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 and other wildlife in the area, which may cause damage to their landscaping. Since the property is near urban development and has been annually tilled for agricultural production his subdivision should have a minimal effect on wildlife and wildlife habitat.

5. Effect on the public health, safety and welfare

Fire hydrants will be constructed to meet fire department requirements and apartment buildings will have sprinkler systems installed. A secondary temporarily emergency access road to Shiloh Road will be constructed until a permanent full-access road develops. Sidewalks and trails to the parks will offer a safe place for pedestrians to walk. The effects on public health and safety should be minimal.

B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-302.H.1.)]

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 2001 West Billings Plan, the Urban Area Transportation Plan--2009 Update, and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-302.H.4.]

1. Yellowstone County-City of Billings 2008 Growth Policy

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

- a. Goal: Predictable land use decision that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans. (p. 6)
- b. Goal: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods. (p. 6)
- c. Goal: Contiguous development focused in and around existing population centers separated by open space. (p.6)
- d. Goal: Affordable housing for all income levels dispersed throughout the City. (p. 6)
- e. Goal: Additional bicycle facilities throughout the City and County (P. 12).

2. 2001 West Billings Plan

The plan to develop the property at urban densities is in line with the managed growth theme of the West Billings Plan. However, the Plan also encourages compact and infill development to conserve land and natural resources (Theme 1, Planned Growth, Page 15). The development proposed for this property is compact but the property is on the fringe of the urban area and is not infill.

The subject property is located in an area that the West Billings Plan identifies as a place for residential development, with a commercial center identified to the east at the intersection of Shiloh Road and King Avenue West. The proposal for development of the property would include both residential and commercial uses in a mixed use environment (Theme 3, Achieving a Distinctive Community Character, Page 38).

3. Urban Area Transportation Plan 2009 Update

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

4. Billings Area Bikeway and Trail Master Plan (BABTMP)

The proposed subdivision lies within the jurisdiction of the BABTMP. The Plan identifies a proposed long-term bike *lane* along both S. 44th St. West and Monad Road at this location. However, the developer, in accordance to the Master Plan for Lenhardt Square Subdivision, is proposing to construct a 10-foot wide separated bikeway on the east side of S. 44th St. W. and the west and north side of Monad Rd. These provisions will meet the intent of the Plan.

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 23-302.H.3.a.]

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and in general to the design standards specified in the local subdivision regulations. On variance is being requested to the design specifications for Monad Road. 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 proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302.H.3.e.]

The subject property is located within the Lenhardt Square PUD. All development shall comply with the standards set forth in the City Council approved Planned Development Agreement. Final development plans will be reviewed for compliance with zoning prior to final plan approval (**Condition #3**).

F. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-302.H.3.b.]

The subdivider has provided utility easements as requested by MDU and NWE on the face of the plat. In order to loop the City water main lines to Shiloh Road, the City has requested that either the Monad Road right-of-way be dedicated the entire length to Shiloh Road, or a perpetual utility easement be provided for recording with the final documents (**Condition #6**).

G. 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 23-302.H.3.c.]

Legal and physical access is provided to the proposed lots from S. 44th St. West and Monad Road.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Amended Lots 1 & 2, Block 1, Lenhardt Square Subdivision, 1st Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2008 Growth Policy Update, the West Billings Plan, and does not conflict with the Transportation or Bikeway and Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, 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, December 17, 2012.

Thomas W. Hanel, Mayor