

## FINDINGS OF FACT – Western Subdivision

The Planning staff has prepared the Findings of Fact for the preliminary plat of Western Subdivision 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 23-303.H.1.]**

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

The subject property is part of a larger 160-acre property that was annexed into the City in 2008 and master planned and rezoned for a mixed use development 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. However, the original master plan of the property may not be followed as development appears to be occurring in small pieces and not under the same ownership. There is agricultural and large-lot residential property to the south and west of the subject property, commercial and multi-family development to the east, and to the north, across King Avenue West is property master planned for mixed uses as well. The subject property has been irrigated and farmed for many years. The proposed subdivision will take 32.6 acres out of agricultural production. There is a large irrigation drain ditch to the south and west of the property within a 60-foot wide easement. No changes to this or other irrigation facilities are proposed with this subdivision.

### 2. Effect on local services

- a. Utilities** – Water services can be provided by the City of Billings. The subdivider will tie into the existing water main in King Avenue West, and extend the water main south along S. 44<sup>th</sup> Street West frontage. From there, internal lines will service each lot. Services will be installed in phases as development occurs in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department and MDEQ

Sanitary sewer service will be provided by connecting to the existing City of Billings sewer main in King Avenue West and extending it south along the S. 44<sup>th</sup> Street West frontage. From there, internal lines will service each lot. Services will be installed in phases as development occurs in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department and MDEQ.

NorthWestern Energy will provide electric services and MDU can provide gas services to the subdivision. Easements will need to be shown on the final plat that are acceptable to these utility providers (**Condition #1**).

- b. Storm water** – Storm water drainage for S. 44<sup>th</sup> Street West and King Avenue West shall be provided by surface drainage via curbs and gutters to underground storm drain lines. City Public Works owns the Shiloh Conservation Area to the south at the end of S. 44<sup>th</sup> Street West, which will soon be developed as a large natural storm water management

area for Billings' west end. Storm water facilities interior to each lot shall be designed to hold the required storm water amount on site. These facilities, such as boulder pits or retention ponds will be reviewed individually during site development review. 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 South 44<sup>th</sup> Street West and King Avenue West. South 44<sup>th</sup> St. West is classified as a Collector street, and therefore requires dedication of a 40-foot half-width right-of-way. This right-of-way dedication was provided with the original platting of this property. King Avenue West is a Principal Arterial street within the State Department of Transportation's (MDT) jurisdiction. The appropriate amount of street right-of-way was also previously dedicated for King Avenue West. Four accesses are being proposed off of South 44<sup>th</sup> Street West along the eastern boundaries of Lots 2 & 4. One new approach is proposed off of King Avenue West at or near the northwest corner of Lot 1 of the subdivision. MDT will need to approve of the King Avenue West approach. City Engineering is recommending that the Lot 2 frontage of King Avenue West be labeled with a no-access strip, and the Lot 1 frontage is labeled with a controlled access strip (**Condition #3**).

The developer will be responsible for construction of South 44<sup>th</sup> Street West where it fronts the subject property. This will be done in phases which are to be outlined in the final SIA (**Condition #2**). Street improvements for South 44<sup>th</sup> Street West will include 30 feet of pavement, curb, gutter, and boulevard-style sidewalk on the west side of the street. The remaining street width and curb/gutter/sidewalk on the east side will be constructed when the properties adjacent to the east develop in the future.

Improvements to King Avenue West will be at the discretion of MDT based on their policies and near-term improvement plans for this section of King Avenue West. The Traffic Impact Study (TIS) submitted for the first phase of this project identified the potential need for a westbound left-turn lane at King Avenue West and South 44<sup>th</sup> Street West. As MDT is still reviewing this study, City Engineering has recommended a condition of approval that the subdivider obtain approval or denial of the left turn lane on King Avenue West prior to final plat approval. If MDT requires the turn lane it will be the responsibility of the subdivider to construct it (**Condition #4**). City Engineering also indicated that depending on the traffic mitigation measures used at the intersection of King Avenue West and South 44<sup>th</sup> Street West, the City reserves the right to limit the operation of the northern-most access onto South 44<sup>th</sup> Street West (shown on the plat at 134 feet south of the intersection of King Avenue West) to a right-in/right-out intersection only. Furthermore, updates to the TIS will be required with development of each of the lots in this subdivision, based on the expected density and resulting traffic volumes. Adding notes to this effect in the final SIA is recommended as a condition of approval (**Condition #5**).

- 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. 24<sup>th</sup> St. W. (Station #5) and at 54<sup>th</sup> St. W. and Grand Ave. (Station #7). The subdivision is located within the ambulance service area of American Medical Response (AMR). With the development of the first phase, two points of access shall be provided - -- full access off of South 44<sup>th</sup> Street West, and an emergency access off of King Avenue West to meet the emergency services standards. Fire Department staff has recommended that standard language to be included in the final SIA regarding the emergency access road design and installation (**Condition #6**). Additionally, fire hydrant locations and fire sprinkler designs will be reviewed and approved with the site development plan prior to building permit issuance.
  
- 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** – In accordance with Section 23-1002.B. of the City Subdivision Regulations, this multi-family development subdivision shall provide 11% of the net land to be developed for parkland. The required parkland amount for this proposal is approximately 3 acres. The final amount will be determined by taking 11% of the net acreage being used for multi-family development. The subdivider has proposed to meet this parkland requirement by providing a park area in the southwest corner of Lot 3, which then can be expanded and added to with subsequent development of the properties to the south and west. If this ultimately occurs, the result could be a centralized park of approximately 10 acres for the residents in the neighborhood. PRPL is in favor of this proposal. The final details are still being worked out, and it is recommended that the final plat and SIA shall be updated to indicate the final parkland plan as approved by PRPL(**Condition #7**).
  
- 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 lot developers will be required to work with the USPS in locating the CBUs suitably to meet their delivery 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 multi-family residential development. Hogan's Slough is located south of the subject property.

A preliminary geotechnical study was performed for the first phase subdivision in the summer of 2012. The study indicated the presence of high ground water to levels of 7 and 8 feet below the surface. This will necessitate de-watering at the time of underground utility installation. The study also indicated the soils are fine-grained which are compressible under the anticipated foundation loads. Additional project-specific studies will need to be completed as part of the building permit plan review process for all proposed development. A note to this effect shall be included in the final SIA (**Condition #8**).

#### **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 temporarily emergency access road to King Avenue West will be constructed until a second permanent full-access road develops.

#### **B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-303.H.4.)]**

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 23-303.H.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: Contiguous development focused in and around existing population centers separated by open space. (p.6)
- b. Goal: Affordable housing for all income levels dispersed throughout the City. (p. 6)

The proposed subdivision is inconsistent with these goals of the Growth Policy:

- a. Goal: Protection of groundwater, surface water, riparian areas, air quality and productive agricultural land. (p. 9)
- b. Goal: Promote public transportation options with predictable, convenient routes. (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. The proposal for development of the property includes multi-family residential uses which provide increased densities on land served by municipal water and sewer. (Theme 1, Planned Growth, Page 21). However, the Plan also encourages compact and infill development to conserve agricultural land and natural resources (Theme 1, Planned Growth, Page 15). The development proposed for this property is compact but the irrigated, agricultural property is on the fringe of the urban area and is not infill.

## **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 short-term bike lane along King Avenue West, and a proposed long-term bike lane along South 44<sup>th</sup> Street West at this location. No bike lane improvements are proposed along either frontage at this time; however, these facilities should be further evaluated in the future when the streets are fully developed.

### **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 23-303.H.2.a.]**

In order to satisfy the requirements of the Montana Subdivision and Platting Act any development project resulting in multiple buildings for rent or lease on a single lot shall either be reviewed as a 'Subdivision for Rent or Lease' (SRL) or be exempt in some way from that requirement. One such exemption from SRL review is for multiple buildings on a single lot to be established as condominium or townhouse unit ownerships. The subdivider has submitted a multi-building development proposal for Lot 1 and has indicated his intention is to establish the units as condominiums. Therefore, it is recommended as a condition of approval that the condominium ownership be established by the creation of the Homeowners Association and the filing of the applicable unit-ownership documentation with the County Clerk & Recorder prior to final plat approval. If the condominium or townhouse ownership is not desired for Lot 1 or any subsequent multi-building lots, the development shall undergo SRL review, unless otherwise exempt under state and local law (**Condition #9**). If recommended conditions of approval are met, the subdivider and the local government shall 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 23-303.H.2.e.]**

The subject property is located within the RMF-R zoning district. All development shall comply with the applicable regulations and standards set forth in Chapter 27, BMCC. Final development

plans will be reviewed for compliance with zoning prior to master site plan approval and subsequent building permit issuance.

**F. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-303.H.2.b.]**

The subdivider shall provide utility easements as requested by the City, MDU and NWE on the final plat (**Condition #1**).

**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 23-303.H.2.c.]**

Legal and physical access is provided to the proposed Lot 1 from a single access point off of King Avenue West, and to the remaining proposed lots from four accesses of S. 44<sup>th</sup> Street West. Reciprocal access easements will likely be established for all of the lots in order to allow for shared use of the internal private road that are planned.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Western Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to some 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.
- If the recommended conditions of approval are met, the proposed subdivision will comply 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.

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Thomas W. Hanel, Mayor