

FINDINGS OF FACT – Western Sky Subdivision, Amended Lot 2A, Block 1

The Planning staff has prepared the Findings of Fact for the preliminary plat of Western Sky Subdivision, Amended Lot 2A, Block 1 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 had remained as agricultural land since the annexation and original zone change until earlier this year when subdivision and similar multi-family development was initiated on the property adjacent to the north. The original master plan of the property will not be followed as further zone changes and platting has occurred. 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 and across King Avenue West is property master planned for multi-family and mixed uses. 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 crossing the subject property within a 60-foot wide easement. With this subdivision, the developer is proposing to vacate the existing easement and relocate the drain to the west property line, within a new 30-foot wide easement. The drain ditch will then be filled in so that development of the property can occur. It is recommended as a condition of approval that the vacation of the existing ditch easement and relocation of the drain be approved by all parties with an interest in the ditch. Evidence of this agreement shall be provided with the final plat documents (**Condition #1**).

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 South 44th Street West, and extend the water main south along that same 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 South 44th 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 #2**).

- b. **Storm water** – Storm water drainage for South 44th Street 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 east of the subject property 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 44th Street West. South 44th 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. Five accesses are being proposed off of South 44th Street West along the eastern boundaries of Lots 2A-1 and 2A-2. These accesses shall be approved by City Engineering and the final plat shall show breaks in the no-access strip for the approved access points (**Condition #3**).

The developer will be responsible for construction of South 44th Street West where it fronts the subject property. Street improvements for South 44th 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.

- 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). Access for emergency service providers will be from South 44th Street West, and by an emergency access off of King Avenue West that was created with the development of the lots to the north within Western Subdivision. A reciprocal access easement will need to be recorded with the final documents to ensure that this subdivision has legal rights to use the emergency access road. 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 the Elder Grove School District for elementary and middle school students, and School District #2 for high school students.

Both districts responded to requests for comments and indicated that the respective schools had capacity for more students. 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 3.57 acres and a total of 4.53 acres of park is proposed for this plat. The subdivider has proposed to provide a 2.01-acre private park area in the northwest corner of the subdivision (Lot 2A-5), which is adjacent to private parkland provided with the platting of Western Subdivision to the north. An additional 2.52 acres of public parkland is proposed to be dedicated on the southern portion of the subdivision along the Hogan’s Slough drainage. This area will serve as a greenbelt and eventual trail connection, as Hogan’s Slough is identified in the Bikeway and Trail Master Plan as a future trail corridor. PRPL is in favor of the parkland proposal.
- 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 residential development. Hogan’s Slough is located on the southern portion of the subject property. In order to comply with the City Subdivision Regulations, any portion of the 100-year floodplain for Hogan’s Slough that is within the subject property will need to be shown on the final plat, and the area within it shall be labeled as “No-Build Area” (**Condition #4**).

A preliminary geotechnical study was performed for the Western Subdivision (immediately to the north) 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 has been included in the SIA.

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 can be used until a second permanent full-access road develops. Project specific Geotechnical reports will be completed at the time of building permit application to ensure structures are suitably designed to account for sub-surface conditions. Overall, the impacts from the subdivision on public health, safety and welfare should be minimal.

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 long-term bike lane along South 44th Street West at this location. No bike lane improvements are proposed at this time; however, these facilities should be further evaluated in the future when the streets are fully developed. The Plan also identifies a trail corridor along Hogan's Slough. The subdivider has proposed to dedicate a corridor along the slough as public parkland. A trail could eventually be located in the parkland.

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.]

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, R-70, and P zoning districts. 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/or subsequent building permit review.

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 lots from five accesses of South 44th 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 Sky Subdivision, Amended Lot 2A, Block 1 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, September 23, 2013.

Thomas W. Hanel, Mayor