

Findings of Fact
Shadow Lawn Estates Subdivision

Staff is forwarding the recommended Findings of Fact for Shadow Lawn Estates Subdivision 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 Billings Subdivision Regulations (Section 23-303(H), 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 23-303(H)(1)]

1. Effect on agriculture and agricultural water user facilities

The subject property is not used for agriculture, and has no irrigation facilities serving it. It is currently a vacant lot that is in a residential area of Billings. Overall, there is no anticipated effect on irrigation facilities or agriculture from this proposal.

2. Effect on local services

- a. **Utilities** – Water services for the proposed Lots 1 through 4 in the subdivision will come from a 10-inch water line in Poly Drive. Lot 5 will receive water service from a 6-inch water line in O’Malley Drive. A 2-inch water line will be run from the 10-inch line in Poly to serve the subdivision. Lot owners will be responsible for extension of water services at the time of lot development.

Sewer services are to be provided from a private sewer main to be located in Shadow Lawn Court for Lots 1 through 4. Lot owners will be responsible for connecting to the services at the time of lot development.

Private utilities such as electric and gas are available to the lots upon development. To ensure the proper utility easements are provided, it is recommended that the developer consult with the utility companies and place the requested easements on the final plat (**Condition #1**).

- b. **Storm water** – Storm water management will be evaluated at the time of lot development. All drainage improvements shall comply with the provisions of the 2011 City of Billings Storm Water Management Manual.
- 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** – Poly Drive provides access to the proposed lots. A private road, Shadow Lawn Court, is proposed to serve lots one through four as shown on the plat. Access to lot number five will be off of O’Malley Drive. The cul-de-sac ends of Shadow Lawn Court will be built to meet Fire Department needs. Poly Drive currently is a 48 foot wide paved road within a 60 foot right-of-way. This subdivision plat will dedicate an additional 10

feet on the south edge of Poly Drive. This is a variance from Section 23-406(B)(6), BMCC that would require the provision of 50 feet of right of way for half of Poly Drive (a Minor Arterial street) as it fronts the north side of the subject property. The development would normally have dedicated 20 feet to meet the requirement. No improvements are required at this time for Poly Drive, but City Public Works anticipates a widening project of Poly Drive in 2015. The additional 10 feet is in anticipation of a bike lane and a new 5 foot wide sidewalk, the work is to be done by the city at no cost to the subdivider. Staff is supporting the variance request for the right-of-way dedication.

- e. **Emergency services** - The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest emergency service station is located at 2305 8th Ave North (Station #1). The subdivision is located within the ambulance service area of American Medical Response.

The subdivider is installing a 6-inch private fire line and a hydrant placed on Shadow Lawn Court to provide fire suppression for the subdivision. The private fire line and hydrant will be maintained by a homeowner's associations.

- f. **Schools** –School children would attend Highland Elementary, Lewis & Clark Middle and Senior High School. Staff received comments from the principal of Senior High School that said they would be glad to have students from this subdivision. School District #2 had no concerns with the proposal. Given there are only four building lots proposed with this subdivision there will be a minimal effect on schools.
- g. **Parks and Recreation** - Parkland dedication is not required for this subdivision, as it is a Minor subdivision.
- h. **Mail Delivery** - The United States Postal Service indicated that a Central Box Unit will be required. The size of the box will depend on the number of deliveries. The location of the Central Box Unit shall be reviewed and approved by the post office.

3. Effect on the natural environment

The proposed subdivision should have only minor effects on the natural environment. There will be short term air and noise pollution associated with construction on the property. Stormwater shall be managed in compliance with an approved plan and the property is outside of the flood plain. New development will need to follow recommendations of the geotechnical analysis to minimize any potential impacts from soil and groundwater conditions.

4. Effect on wildlife and wildlife habitat

The proposed subdivision should not affect wildlife or habitat. There are no known endangered or threatened species on the property. However Montana Fish Wildlife and Parks stated that the area is known to have resident deer, wild turkeys and other wildlife presence, a note informing future land owners of this possibility is found in the 'Conditions that Run with the Land' section of the SIA.

5. Effect on the public health, safety and welfare

The subdivision should not negatively affect public health or safety. The subject property is not within a mapped floodway or flood zone. A geotechnical survey will be required prior to construction to ensure appropriate foundation designs are installed based on the subsurface conditions. There are no obvious threats to public health, safety or welfare.

B. Was an Environmental Assessment required? [MCA 76-3-616 and BMCC 23-901]

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616, MCA and 23-901, BMCC.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2008 Growth Policy Update, the Urban Area Transportation Plan, 2009 Update, and the Heritage Trail Plan? [BMCC 23-303(H)(3)]

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

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

- a. **Goal: Predictable land use decisions 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 and County townsites (p.6).**
- c. **Goal: Contiguous development focused in and around existing population centers separated by open space (p. 6).**
- d. **Goal: More housing and business choices within each neighborhood (p. 6).**

2. Urban Area Transportation Plan Update 2009

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

3. Billings Area Bikeway and Trail Master Plan

The Billings Area Bikeway and Trail Master Plan identifies a proposed bike lane along Poly Drive. The sub-divider is providing 10 feet along the south side of Poly Drive for future construction by the city of a 5 foot wide sidewalk and a bike lane. No new improvements will be required with this subdivision to meet the Trail Plan recommendations.

4. Highland Neighborhood Plan

This proposed subdivision appears not to significantly further but also not to conflict with some of the goals and objectives of the Highland Neighborhood Plan, including improving traffic flow and pedestrian access and circulation at the intersection of Poly Drive and Virginia Lane; maintaining the residential character of the Highland Neighborhood; and encourage infill housing development. The new development will be large lot, single family housing that will fit

within the immediate area of the development in the neighborhood. Dedication of 10 feet of right-of-way on Poly Drive will enable a future improved sidewalk and bike lane along Poly Drive.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608(3)(b), BMCC 23-303(H)(2)]

The proposed subdivision, with the proposed conditions, satisfies the requirements of the Montana Subdivision and Platting Act and conforms 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 23-408]

The property is currently served by an existing 8-inch City main. It will be partially abandoned and re-graded to serve the lots. Private sewer mains will be extended east and west under Shadow Lawn Court and lot owner will connect to them when construction takes place. The private sanitary sewer under Shadow Lawn Court will be maintained by the homeowners association. The subdivision will conform to sanitary requirements.

F. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-303(H)(2)(e)]

The subject property is located in R-96 zoning. All development shall comply with the standards set forth in Section 27-308, BMCC. Final zoning compliance will be determined at the time of the building permit.

G. 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 plat provides easements for utilities throughout the proposed subdivision. It is recommended that the developer work with NWE and MDU to show the needed easements on the final plat (**Condition #1**).

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 23-303(H)(2)(c)]

Access to the subdivision shall be from Poly Drive. The proposed private road, Shadow Lawn Court, will provide access to Lots 1 through 4 in the proposed subdivision. Lot 5 will have access off of O'Malley Drive. Easements shown on the plat and described in an easement document will be filed with the final plat.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Shadow Lawn Estates Subdivision, 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 and does not conflict with the 2009 Transportation Plan Update or the Trail Plan.
- 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, November 18, 2013.

Thomas W. Hanel, Mayor