

### **FINDINGS OF FACT – Silver Creek Estates**

The Yellowstone County Board of Planning recommends the following Findings of Fact for the preliminary plat of Silver Creek Estates for adoption by the Billings 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 (Section 23-302(H), BMCC).

**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 irrigated cropland located in the City limits that has been slated for urban development since it was originally annexed into the City limits and zoned in the early 2000's. It will remove 60 acres from agricultural production.

The Cove Ditch is adjacent to the north side of the property. The ditch is at the north side of an 80-foot wide street right-of-way known as Cove Avenue. No additional easement is necessary for the Cove Ditch.

The Hi-Line Ditch borders portions of the property's southern boundary. The subdivision has the potential to impact the Hi-Line Ditch in two ways. First the ditch company needs access along the ditch to properly maintain the ditch. In accordance with 76-3-504(1)(l), MCA, and 23-411.C., BMCC, the subdivider is responsible for providing easements for drainage ways, irrigation canals/ditches and their laterals found on the property being subdivided that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights. At this location, the ditch is driven and annually dug out by the maintenance crew on the south side. Therefore a total working easement of 20 feet from the south bank is needed on the south side, most of which was provided with River Rock Estates to the south. Even though the ditch maintenance occurs on the south side, a buffer area is still needed on the north side of the ditch to filter storm water runoff and allow for annual burning to occur without damaging neighboring fences. To accommodate these needs, it is recommended as a condition of approval that a 20-foot wide easement be provided from the bank on the south side of the ditch and a 10-foot wide easement be provided from the bank on the north side of the ditch. It is also recommended that a note be added to Sections II. and VIII. of final SIA that no structures, including fences shall be erected within the ditch easements, and the area should be kept free of yard waste and grass clippings (**Condition #1**).

The other impact the subdivision may have on the ditch is from storm water runoff. There is an historic amount of storm water runoff from this property into the ditch. That amount will still be allowed in accordance with two agreements secured between the subdivider and the High Ditch Company and the Big Ditch Company in 2008. In this case, preliminary storm water plans show storm water to be potentially directed to both the Hi-line Ditch (adjacent) and the Big Ditch (south of River Rock Estates). Therefore it is recommended as a condition of approval that the subdivider ensure that the final stormwater plan is done in compliance with the existing written agreements between the subdivider and the effected ditch companies, the High Ditch Company

and the Big Ditch Company. If alternative plans are proposed, updated agreements shall be necessary (**Condition #2**).

## **2. Effect on local services**

- a. **Utilities** – Water service will be provided by the City of Billings from two connections to the water main in 46<sup>th</sup> St. West. The developer will install new water mains in all of 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). The subdivider shall also complete a water main connection out to 50<sup>th</sup> Street West, and then up 50<sup>th</sup> to where the proposed street connection will be made from the Mont Vista Subdivision during the adjacent phase of the subdivision (Phase III), to provide for a future connection to the West. This is necessary for both water quality and quantity assurances. It is recommended as a condition of approval that the last two sentences to Section VI.A. of the SIA be updated with this language (**Condition #3**).

Sanitary sewer service for Phases I and II will be provided by connecting to the existing City sewer main in North Hollow Brook Drive (located to the south in River Rock Estates) extending it north through the 20-foot wide linear park strip on the southern property line between Lots 11 & 12, of Block 1. A connection to the existing sewer main in 50<sup>th</sup> Street West will be made during Phase III of the subdivision, to provide for a future connection to the West. City Engineering has requested that the final SIA be updated to clarify the sewer connections (**Condition #4**). 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 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 is proposed to be provided by a network of curb and gutter that discharges into storm water pipes and eventually to one or two detention areas. Two ponds are proposed at this time; one south of the intersection of Silver Creek Trail and Pine Creek Trail, and one along Silver Creek Trail toward the west side of the subdivision. City Engineering has requested that the two detention ponds be combined into one pond unless infeasible due to grades. The City has most recently been taking ownership of and maintaining newly created storm water ponds, and the request for a single pond is due to the City's maintenance needs. Alternatively, if two detention ponds are needed, then the ponds shall be owned and maintained by the Homeowners' Association, and a permanent storm water easement placed over them on the final plat (**Condition #6**).

Due to fact that the storm water calculations and proposed management plans submitted with the preliminary plat are very preliminary, City Engineering is not able to adequately evaluate the proposed design and mitigation measures for this subdivision. As a result, it is recommended as a condition of approval that the final storm water management plans shall provide evidence that the proposed storm water detention areas providing mitigation for Silver

Creek Estates (including any area to be used for Silver Creek detention in River Rock Estates) are sized to handle the calculated storm water runoff amounts based on percolation rates determined by the adequate geotechnical analysis of the soils. Additionally, the subdivider shall provide evidence that the existing culverts along the Hi-Line ditch are adequately sized or will be upgraded prior to development in Silver Creek Estates (**Condition #5**).

All other drainage improvements shall also satisfy the criteria set forth by the *City of Billings Storm water 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 two access points off of 46<sup>th</sup> Street West and one off of 50<sup>th</sup> Street West. 46<sup>th</sup> Street West is identified as a Collector street, and as such, the subdivider will dedicate the remaining 24 feet of right-of-way necessary to complete the needed 74-foot right-of-way along the subject property’s frontage. The subdivider will also be responsible for finishing the remaining street improvements along 46<sup>th</sup> St. west to make up a 39-foot wide street, with curb, gutter and boulevard sidewalks. 50<sup>th</sup> Street West is identified as a local street south of Rimrock Road. It is not yet constructed to City standards. The subdivider will dedicate 28 feet of right-of-way along the subject property’s frontage for its eventual construction. At the time the adjacent phase of development is proposed, the subdivider will be responsible for completing the 30 feet of pavement and the curb, gutter, and sidewalk for 50<sup>th</sup> Street West, from the Pine Creek Trail intersection to the northern property boundary of the subdivision. The remainder of 50<sup>th</sup> Street West will be constructed in the future if necessary, and the subdivider is waiving the right to protest inclusion in a future Special Improvement District (SID) for its completion. To limit access to the new proposed lots to the internal street network, a one-foot no-access strip will be shown on the plat along the 46<sup>th</sup> St. W. and 50<sup>th</sup> St. W. frontages.

Other existing rights-of-way adjacent to the subject property are found along the northern property boundary. Cove Avenue and Leroy Lane were platted with the adjacent subdivisions to the north in the 1960’s, but never build as roads. The subdivider is not proposing to construct these streets at this time, however, has again waived the right to protest inclusion in a future SID for their completion in the future if deemed necessary. In order to restrict access to these unbuilt streets, it is recommended that a one-foot no-access strip be shown on the final plat along their frontages as well (**Condition #7**).

The internal streets that will serve the new lots will be built within 56-foot dedicated rights-of-way to City standards by providing a 34-foot width, curb/gutters, and boulevard sidewalks. They will be built in at least three phases. Any dead-end sections of these streets greater than 150 feet in length will need to have a temporary turnaround built to City standards at their terminus.

A Traffic Impact Study (TIS) was completed for Silver Creek Estates in order to evaluate the subdivision’s impact on the street network in the surrounding area. Impacts were evaluated

for three main area intersections that will be effected by the development of the subdivision. These intersections are 46<sup>th</sup> Street West and Rimrock Road, Rimrock Road and Shiloh Road, and Shiloh Road and Poly Drive. The subdivider's TIS did not assign cash contributions for the identified impacts to these intersections, so the City Traffic Engineering Division identified those amounts based on the standard methodology used to determine the pro rata share of a development's intersection improvement cost. City Engineering has provided the calculations and determined that a contribution of \$35,500 will be required of the subdivider, and can be done on a phased basis. Engineering has requested updates to the final SIA language accordingly (**Condition #8**). Prior to final plat approval, the subdivider shall make the appropriate contributions for the first phase of development, and contributions for subsequent phases prior to their release for sale and development.

- 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); this station also has a police presence. The subdivision is located within the ambulance service area of American Medical Response (AMR).

Access to the first two phases of the subdivision will be from two access points off of 46<sup>th</sup> St. West. At the time of the third phase development, a third access point off of 50<sup>th</sup> St. West will be provided.

- f. **Schools** – School District #2 provides educational services to elementary through high school students. Schools serving these students are Boulder Elementary, Lewis and Clark Middle School, and Senior High School. No written responses from the district were received at the time this report was drafted. However the district is in the process of master planning for growth and will be addressing school capacity and facilities as part of that process.
- 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. The 11% requirement amounts to 5.66 acres for this subdivision. The subdivider proposes to meet this requirement with both land dedication and cash in lieu of land in the following way. During the platting of the subdivision to the south, River Rock Estates, the subdivider provided 6.02 acres of parkland which was in excess of the required parkland dedication for River Rock Estates by 3.66 acres. The extra parkland was dedicated order to create a larger neighborhood park to be used by that subdivision and this current subdivision proposal. This arrangement is described in the final SIA for River Rock Estates (Document #3601197). Therefore, if one subtracts the excess 3.66 acres from the 5.66 acres required for this subdivision, the remaining amount is 2.0 acres required. The subdivider proposes to dedicate three 20-foot wide trail connections as linear parkland with this subdivision amounting to 0.16 acres of land. The remaining 1.84 acres of required parkland will be provided by a cash contribution in accordance with Section 23-1006 of the Billings Montana City Code (BMCC).

Additionally, the subdivider will be required to expand the Park Maintenance District (PMD) created for the River Rock Park, to include the lots in this subdivision. This shall be done as each phase is released, with the first phase lots included prior to final plat approval if the

PMD has been established by that time. To ensure expansion of subsequent phases, the Parks Department shall be required to sign the release document for the subsequent phases of development (**Condition #9**). At this time, the PMD has not been established for River Rock Park, as the park is very minimally developed as a natural grass area, with storm water detention features.

In order to ensure that the storm water detention feature could be integrated into the park, a Park Master Plan was developed and approved for the park prior to the River Rock Estates Subdivision final plat approval. It was also determined at that time that an SID would be created to construct the park improvements when 60% of the total lots have building permits pulled on lots in River Rock Estates. In acknowledging that River Rock Estates will benefit from the 2.36 acres of River Rock Park dedicated on its behalf, and Silver Creek Estates will benefit from the 3.66 acres of River Rock Park dedicated on its behalf, the Parks Department has recommended that a separate SID be created for the improvements to the park. Therefore it is recommended that Silver Creek lot owners will be responsible for funding improvements to 3.66 acres of River Rock Park through the creation of an SID no later than when building permits for 130 dwelling units are issued within Silver Creek Estates (**Condition #9**). The 130 dwelling units comprises approximately 60% of the anticipated dwelling units planned, including the large lots that will accommodate multiple units.

- 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. In order to assure the coordination of mailbox locations, it is recommended as a condition of approval that subdivider provide a letter from the postal service acknowledging their agreement with the mailbox locations prior to final plat approval (**Condition #10**).

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

The subject property is in an area that has been slated for urban development for many years. It consists of irrigated agricultural slightly sloping to the south, bordered on the north by the Cove Ditch and on the south by the Hi-Line Ditch. While there subject property is not located in any mapped flood plains, City Engineering has recommended that future property owners be notified of the potential for the Cove and Hi-Line ditches to overtop in large storm events (**Condition #11**). During development, storm water pollution prevention best management practices are required to be used and monitored to prevent erosion on exposed ground. These provisions should help balance any impacts 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 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**

Storm water management and soil conditions have the potential to impact the public health and safety of future property owners in this subdivision. City Engineering will review the storm water management plans for compliance with the City's most current Storm water Management Manual. As to the soil conditions, a geotechnical analysis was completed for the subject property

and specified several mitigation measures to be followed during construction. The City Building Official has commented that during construction water infiltration must be prevented from any source, sites must be properly excavated with an appropriate fill zone, followed by proper compaction, and raising the footings and slabs three feet above groundwater. Therefore verification from a geotechnical engineer that the site has been prepared according to the report must be provided prior to foundation approval. These specifications shall be added to the final SIA to inform future lot owners and builders (**Condition #12**).

**B. Was an Environmental Assessment required? [(MCA 76-3-616 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 Urban Area Transportation Plan 2009 Update and the Billings Area Bikeways 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: 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 Bikeway and Trail Master Plan. A trail corridor is identified in the plan to the south of the subdivision along the Hi-Line Ditch. In order to allow access to the eventual Hi-Line Ditch trail, two 20-foot wide corridors are proposed to be dedicated as right-of-way connections to the south.

**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)]**

If approved with the proposed conditions of approval, the proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and 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 proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302(H)(3)(e)]**

The subject property is zoned Residential-9600. The lot sizes within the subdivision conform to the requirements of that zone. Further setbacks and structure specific requirements will be reviewed for compliance at the time of 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 23-302(H)(3)(b)]**

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

**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 46<sup>th</sup> Street West and 50<sup>th</sup> Street West, to interior local streets proposed to be known as Silver Creek Trail, Elk Ridge Trail, Pine Creek Trail, and Blue Mountain Trail.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Silver Creek Estates should 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.
- If proposed conditions of approval are met, the proposed subdivision will comply with state and local subdivision regulations, local zoning, and sanitary requirements and will provide 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, February 24, 2014.

---

Thomas W. Hanel, Mayor