

Findings of Fact
North Pointe Square Subdivision, 2nd Filing

Staff is forwarding the recommended Findings of Fact for North Pointe Square Subdivision, 2nd Filing 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, 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 adjacent to a commercial 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 service for the proposed lots is provided by County Water District of Billings Heights (CWDBH). There are existing water mains in the adjacent property extended north from Pemberton Lane. These lines will be extended along the southern property boundaries. Also a public water main is adjacent in Main Street which will be extended within the new proposed internal streets, North Pointe Square Drive and North Pointe Drive. Lot owners will be responsible for extension of individual water services at the time of lot development.

Sewer services are to be provided by the City of Billings. The existing sewer collection lines and lift station in North Pointe Square Subdivision are privately owned and maintained as a common area described in the overall North Pointe Subdivision Declaration of Covenants and Restrictions, as amended in 2007. The private system will be extended to serve the new lots and shall be located within the North Pointe Square Drive access and utility easement. 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**).

The other private utility potentially effected is a high pressure gas line owned and managed by Phillips66 that is located on the property's east side within a 14-foot easement along Highway 87 North. With the near-term reconstruction of the Highway 312/87 intersection planned with Montana Department of Transportation's (MDT) Bench Boulevard reconstruction project, Phillips66 has indicated concern that the pipeline may need to be moved. Phillips66 is currently reviewing the plans would like to reserve an

easement right for the pipeline if necessary. Also, Phillips66 would like to make future lot owners of Lots 1, 2, and 3 aware of its 'Encroachment Guidelines for Developers and Property Owners' which provide standards for development near the pipeline. It is recommended as a condition of approval that a note be added to the 'Conditions that Run with the Land' section of the SIA indicating the pipeline's presence and the need to follow the encroachment guidelines when developing the affected lots (**Condition #2**).

- b. **Storm water** –All drainage improvements shall comply with the provisions of the 2011 City of Billings Storm Water Management Manual. The subdivision currently directs its storm water to a private system of catch basins, inlets and piping that empties to a private storm drain outfall to Five Mile Creek to the north. This private system is part of the common areas for the overall development described in the private covenants and restrictions for all of North Pointe Subdivision. Because the privately owned and maintained storm sewer system is proposed to drain the public right-of-way for North Pointe Drive, City Engineering has requested that a development agreement document be provided with the final plat documents allowing the City to drain storm water into this private storm drain system, and describing the maintenance responsibility for the private storm drain system (**Condition #3**).
- 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 subdivision connects to the adjacent retail complex to the south, and can be accessed through its private driveway network and the associated reciprocal easements that are described in the fore mentioned Declaration of Covenants and Restrictions for all of North Pointe Subdivision. The development to the south has one access onto Main Street and one onto Pemberton Lane.

With this subdivision, another access onto Highway 87 North is being proposed and will be reviewed and approved by MDT. It is the developer's responsibility to obtain the approach permit from MDT prior to final plat approval (**Condition #4**) and any construction permits prior to construction. This access will serve North Pointe Drive, a commercial local access street that will service both the subject property and properties to the north and west. With this subdivision a 35-foot half-width right-of-way will be dedicated, and an easement for the other 35 feet on the north side will be provided, as secured by the developer from the land owners to the north. At the time of development to the north, the remaining right-of-way will be required to be dedicated. The road will eventually serve as access to properties to the west, and therefore, in accordance with Section 23-406.A.1. of the City Subdivision Regulations, it is recommended as a condition of approval that the 35-foot half width right-of-way dedication be extended to the west property boundary of Lot 5 (**Condition #5**).

Construction of North Pointe Drive will be completed in multiple phases. With Phase I of this subdivision, the south half of North Pointe Drive will be constructed to its intersection with the interior private street 'North Pointe Square Drive'. This will include 30 feet of pavement, and curb, gutter and boulevard sidewalk on the south side of the

street. Once Lot 5 is proposed for development, Phase II improvements will be required, including extending the south half of North Pointe Drive to the western property boundary of Lot 5. As such, Lot 5 will need to be restricted from transfer until such time as those improvements are completed or financially secured. It is recommended as a condition of approval that these improvement specifications and timing be added to the Section III.A. of final SIA (**Condition #6**), and phasing details be added to the final SIA, and Restrictions on Transfers and Conveyances be provided for Lot 5 with the final documents (**Condition #7**).

In addition to the construction of the south half of North Point Drive to its intersection with North Pointe Square Drive with the first filing, boulevard sidewalks shall also be constructed along the Highway 87 frontage of Lots 1, 2 and 3. Section III.B. of the final SIA shall be updated to reflect this requirement (**Condition #8**). Also, as indicated in the SIA, a no-access strip shall be shown on the final plat along this frontage to indicate no further accesses will be permitted to Highway 87.

- 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 1601 St. Andrews Drive (Station #6), the only station in the Billings Heights. The subdivision is located within the ambulance service area of American Medical Response.

The subdivider is installing water line extensions with hydrants to provide fire suppression for the subdivision.

- f. **Schools** –This commercial subdivision should have a minimal effect on schools.
- g. **Parks and Recreation** - Parkland dedication is not required for this subdivision, as it is a commercial 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. Storm water shall be managed in compliance with an approved plan and the property is outside of the flood plain. New development proposals will need to prepare and submit a project-specific geotechnical analysis to minimize any potential impacts from soil and groundwater conditions (**Condition #9**).

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, and 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 (**Condition #9**). 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 2006 Billings Heights Neighborhood Plan, the Urban Area Transportation Plan, 2009 Update, and the Billings Area Bikeway and Trails Master 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 Highway 87 North, adjacent to the subdivision. MDT is in the process of finalizing plans for the reconstruction of this intersection; it is unknown if a bike lane is proposed. No new improvements will be required with this subdivision to meet the Trail Plan recommendations.

4. The Billings Heights Neighborhood Plan

This proposed subdivision is in compliance with several of the goals and objectives of the Heights Neighborhood Plan including:

Goal: To revitalize Main Street to increase and retain the commercial core of the Heights. Encourage improvements such as access redesign, signage, and landscaping to functionally and aesthetically improve Main Street. Incorporate safe pedestrian walkways along Main Street.

Goal: To provide housing and commercial development compatible with existing development. To meet residents preferred vision of the Heights.

Goal: Increase business opportunities for the Heights as future bypass connections are constructed. Encourage high quality development guidelines to ensure organized growth and development of businesses.

Goal: Provide easier access to existing businesses on Main Street. Provide alternate routes for traffic that will lessen the intensity of the existing traffic on Main Street allowing smoother traffic operations to gain access to businesses.

Goal: To provide aesthetically appealing business and streetscape development in the Heights.

Goal: To prohibit dead-end water and sewer service lines.

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

The subject property is located in Highway Commercial 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.

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 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**).

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)]

Access to the subdivision shall be from Highway 87 North via the new public street 'North Pointe Drive' and through the private road/driveways network shared with the adjacent development to the south. Existing reciprocal access agreements are in place within the Covenants and Restrictions documents. New easements shown on the plat and described in easement documents will be filed with the final plat.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of North Pointe Square Subdivision, 2nd 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, and the 2006 Billings Heights Neighborhood Plan, 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, March 24, 2014.

Thomas W. Hanel, Mayor