

Findings of Fact
Popelka Commerce Center Subdivision

Staff is forwarding the recommended Findings of Fact for Popelka Commerce Center 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, 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, although there is an irrigation ditch running across the north west corner of the proposed subdivision. Comment from the Suburban Ditch company state that the ditch came into use in 1905 with an accompanying easement. The major user of this ditch is City Parks, Recreation and Public Land (PRPL) for irrigating Amend Park. Suburban Ditch Company in their comments do not recommend re-locating the ditch but would prefer that it be piped. The easement would be left in place to allow for maintenance. This parcel of land is currently a vacant lot that is adjacent to a commercial area of Billings. There will be no effect on agriculture but the ditch will be a concern that will have to be resolved with the Suburban Ditch Company. **(Condition #2)**

2. Effect on local services

- a. **Utilities** – Water service for the proposed lots will be from water lines already inside the subdivision. A 12 inch water line originating from South Billings Boulevard is in Commerce Way to the west edge of Southgate Drive. Commerce Way and Southgate Drive are street names within the proposed subdivision. There also is an existing 8 inch water line from King Avenue East that travels north in the drive access for Dairy Queen. When Commerce Way is completed the 8 inch line and 12 inch line will be connected to create a looped water supply within the subdivision. When Commerce Way is complete separate domestic water services will be provided for each proposed building site from the looped water main. Lot owners will be responsible for connection to these services at the time of lot development.

Sewer services are to be provided by the City of Billings. There is currently an existing 8 inch sewer line from King Avenue East that extends north into Commerce Way. This 8 inch line will be extended to the lots within the subdivision with separate sewer services provided to each individual building site. Lot owners will be responsible for final connection 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.

MDU has requested a utility easement on the north and west edge of Commerce Way.
(Condition #1)

- b. **Storm water** –All drainage improvements shall comply with the provisions of the 2011 City of Billings Storm Water Management Manual and Section 23-706, BMCC. Storm water will be handled on site through surface flow on the streets and parking lots. It will be collected through a network of catch basins and then ultimately discharged to the City’s storm drain system at the allowed discharge rates.
- 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 internal street, Commerce Way, connects to South Billings Boulevard and King Avenue East. Commerce Way and Southgate Drive are both proposed to be private drives. The applicant has proposed the private roads to enable the future tenants to be able to maintain them in a similar fashion to other multi-building commercial developments with in Billings. The roads are in an easement that allows for public utilities and access. All the internal streets will be built in accordance to all the City of Billings Site Development requirements and approved by City Engineering before construction.

King Avenue East and South Billings Boulevard are both currently built out streets with existing curb gutter and sidewalks no additional improvements will be required by this subdivision. Sidewalks within the proposed subdivision will be constructed at the time of building construction on a lot.

In the SIA Section II, Conditions that run with the land, when each lot develops they will need to submit a letter updating the April, 2001 Traffic Impact Study.

There are four access points proposed for this subdivision from King Avenue East and two from South Billings Boulevard. The interior roads will provide the network for traffic circulation within the proposed subdivision and the accesses to King Avenue East and South Billings Boulevard per the Conditions and Reciprocal Easements filed with the original subdivision plat under records of the Yellowstone County Clerk and Recorder, Document Nos. 3328536, 3356092, and 3700606.

- 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 475 6th Street West (Station #4). 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. (Condition #3)

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.

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.

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 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 trail connecting the existing trail along Southgate Drive through the Popelka Commerce Center to Amend Park. Trail easements are shown on the plat along the east side of Lot 3A-1, the east side of Lot 3A-5, and the south side of Lot 3A-3. Trail construction will be done at the time of lot improvements.

4. Amend Village Vision (SBBURD Master Plan)

Residents and businesses co-exist and complement one another in a mixed-use village oriented toward Amend Park. New and improved tree-lined streets, alleys, pathways, and greenways connect existing businesses, new housing, and attractive community amenities. Compact residential and neighborhood services facing Amend Park help activate its diverse, year-round, multi-generational recreational programs.

Key Concept 4: Focus new commercial development toward the park, including local dine-in restaurants and/or sports bars in the commercial area southeast of the park where there are opportunities for outdoor patios overlooking the park.

Key Concept 5: Encourage recreation-oriented commercial uses near the park. Examples are a bike store with bike rentals, indoor recreation near the southeast corner of the park such as a fitness center, indoor play, electronic game center, bowling alley, skating rink, etc. Such uses could serve the neighborhood, local employers, hotels, South Hills, and the Josephine Crossing subdivision.

Key Concept 6: Improve access to community and commercial services through better streets and pathways and Safe Routes to Schools.

The proposed subdivision meets some of the Key Concepts outlined in the SBBURD Master Plan.

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 Entryway General Commercial zoning. All development shall comply with the standards set forth in Section 27-1001, 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 South Billings Boulevard and from King Avenue East via the new private street 'Commerce Way' and through the private road/driveways network shared with the overall development.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Popelka Commerce Center 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 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, June 9, 2014.

Thomas W. Hanel, Mayor