

Findings of Fact
Lenhardt Square Subdivision 3rd Filing

Staff is forwarding the recommended Findings of Fact for Lenhardt Square Subdivision 3rd 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 currently used for agricultural purposes and the property around this subdivision will continue to be used for agricultural purposes. In the SIA Conditions That Run With The Land 'D' lot owners are informed that agricultural activities will continue around this development. There are water rights with this property that will be retained by the 'Founders' of Lenhardt Square. All ditch and drainage easements shall continue on the property as they currently exist as long as irrigation is continued on the property or is needed by others downstream.

In the SIA under Conditions That Run With The Land 'D', the language implies that the lot owner is responsible for any impacts from the farming activity on the land next to them. **(Condition #1)** requires that language to be changed to conform with the wording of other SIA's in the past have had farming activity is next to the proposed subdivision.

2. Effect on local services

- a. **Utilities** – Water service for the proposed lots will be from an existing 12 inch water line in South 44th Street West. Appropriately sized water mains and services to the individual lots will be installed in the internal streets of the proposed subdivision. It is anticipated that each lot will be provided with its own separate water service. All water construction improvements shall be installed in conformance with the design standards, specifications and rules and regulations of the City of Billings and Montana Department of Environmental Quality, and approved by City Engineering division.

In the SIA under VI Utilities A. Water, it is stated that 'The maximum (and minimum) quantity of City water required to be supplied to the entire Lenhardt Square property will be 1.2 million gallons per day. Upon request of the Founders or their assigns, the Engineering Department will determine at its discretion whether additional water in excess of the then-applicable maximum/minimum amounts can be provided to the property before the next reservoir expansion project is completed'.

Sewer services are to be provided by the City of Billings. There is currently an existing 18 inch sanitary sewer line in South 44th Street West. Appropriate sized mains and services in the internal street will provide service to the individual lots within the

subdivision. An 18 inch sanitary sewer will be installed in Elsa May Street and also a 15 inch sanitary sewer main will be installed in Georgina Drive. Lot owners will be responsible for final connection to the services at the time of lot development.

Private utilities such as telephone, electric, cable television and gas lines shall be placed in designated utility easements outside the road right of way prior to surface improvements. 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 #2)**

- b. **Storm water** –All drainage improvements shall comply with the provisions of the City of Billings Storm Water Management Manual and Section 23-706, BMCC. Storm water will be handled using a storm drain system, including curb and gutter, inlets and storm drain piping provided for all public street within the subdivision. A storm drainage report will be submitted for each individual lot and constructed as planned out in the report after submitting and receiving approval from City Engineering.
- 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** – This subdivision is being developed as multi-family housing the developer will be required to name the ‘internal streets’ to facilitate addressing. **(Condition #3)** This development is proposed to be built in 2 phases. Proposed Lot 1 will be built first then Lot 2. With the construction of Phase 1 the subdivider will complete the construction of his share of South 44th Street West and 30 feet of asphalt and curb, gutter and boulevard sidewalks on half the length of Georgina Drive to the north and the majority of Elsa Mae Street to the south of the proposed subdivision.

The developer will build all improvements to the adjacent streets, including 30 feet of asphalt and curb and gutter along the property frontage of Lots 1 and 2. South 44th Street West, Georgina Drive, Elsa Mae Street and Stahl Street within the subdivision will all be public roads. All the internal streets including curb, gutter and boulevard sidewalks will be built in accordance to all the City of Billings Site Development requirements and as outlined in the Lenhardt Square PUD and approved by City Engineering before construction.

In the SIA III Transportation ‘B’ titled ‘Bikeways and Sidewalks’ this needs to be ‘Sidewalks/Linear Parkways/Pathways’, **(Condition #4)** Bikeways are discussed under heading ‘F’.

A traffic study will need to be completed for this development when they begin to build on the property. When an applicant submits drawings for the master site plan they will be required by City Engineering to submit a traffic study.

- 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 605 South 24th Street West (Station #5). Internal private fire hydrants shall be installed and spaced every 300' to meet fire department requirements. (**Condition #5**) 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** –The schools that will serve this subdivision are West High School, Riverside Middle School and Big Sky Elementary. Staff received comments back from West High School stating they are currently at capacity for student body but there is an established bus route in the area for student pick up. At the time of this staff report no other schools had commented.
- g. **Parks and Recreation** – Section 76-3-621 (6) of the Montana Subdivision and Platting Act. There is no need for additional parkland dedication if the Planned Unit Development has met the requirements. The Lenhardt Square Planned Unit Development provides open space for parkland and also for multi-use trails. The master site plan shows this area of the PUD with a total of 5.87 acres for Open Space/Pathways with 15.27 acres for Condos/Townhomes. The applicant in the SIA VII Parks/Open Space needs to define what amount of land is being provided as Open Space (**Condition #6**).

All open space shall meet the requirements outlined in the Lenhardt Square Planned Unit Development (PUD) agreement. The PUD Exhibit A (See **Attachment A** below) shows an open area in the center of the subject property that is being subdivided with linear connections to the north and south. The subdivider will need to accommodate those connections with site development. Article VI – Open Space from the PUD defines requirements for open space and the approval process. The subdivider will provide to the City a letter from the 'Reviewer' stating they have met the intent of the Open Space provision of the PUD prior to final plat. (**Condition #7**)

In the Lenhardt Square 1st Filing Linear Parkway Strips were defined and agreed upon by the City of Billings and Lenhardt Square. In an effort to keep the development consistent throughout the applicant will include in the SIA under VII Parks/Open Space wording that is the same as what is in the Lenhardt Square 1st Filing relating to the size of Linear Parkway Strips (**Condition #8**).

- 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 #9**)

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 be in proximity to deer and antelope habitat. This is referenced in the SIA under Conditions That Run With The Land, A.

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:** More housing and business choices within each neighborhood (p. 6).

2. 2014 Billings Urban Area Long Range Transportation Plan

The proposed subdivision adheres to the goals and objectives of the 2014 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 Trails Master Plan (bike plan) identifies long-range bike lanes on the two collectors within the project area - labeled South 44th St W and Georgina Drive. The master site plan of Lenhardt Square identifies a 'Common/Open Space' connection to the north and south of this property through a central 'Common/Open Space' in this part of the Planned Unit Development master planned site as shown on Exhibit A attached to this staff report, Attachment A. The plan also identifies 'Linear Parkway/Pathway and Linear Parkway/ Bikeway around the outer edge of the two proposed parcels along roads.

In the SIA Transportation 'F' it states: A 10-foot bikeway is proposed along the north side of Elsa Mae Street. This statement does not address the bike plan. The bike plan identifies street surface Bikeways on South 44th Street West and one on Georgina Drive that is a continuation of the one identified on Monad, the applicant needs to correctly identify the bike plan in the SIA (**Condition #10**).

The Lenhardt Square PUD also identifies a Linear Parkway/Bikeway on the south side of Georgina Drive. Also on the Lenhardt PUD there are Linear Parkway/Pathway's identified on the perimeter of the proposed subdivision, with the exception mentioned in the previous sentence. As part of the construction of the development the applicant will be building road, curb and gutter and installing boulevard sidewalks along the roads as required by City standards and the Lenhardt Square PUD.

The applicant will need to address the at the time of Master Site Plan Review the details of the north and south connection through the main 'Common/Open Space' to show they are meeting the requirement of the Lenhardt Square 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 a Planned Unit Development, Lenhardt Square, and the underlying zoning is Multi-Family Restricted (MF-R). All development shall comply with the standards set forth by the PUD and any requirements that apply within the 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 the utility companies 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 44th Street west which comes off of King Avenue West. Then onto local streets, on the south of the proposed subdivision is Elsa Mae Street and on the north Georgina Drive.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Lenhardt Square Subdivision, 3rd 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 2015 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, January 12, 2015

Thomas W. Hanel, Mayor

Attachment A

