

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Harmony Meadows Subdivision, 2nd Filing and has provided them for review by the Planning Board, as follows:

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 was previously irrigated agricultural land irrigated from the Suburban Ditch, which is located on the north edge of the subject property. On the west side of the subject property is the Hogan Slough. The Hogan Slough runs to the south and drains into the Yellowstone River. The Suburban Ditch flows farther east and then north into the City of Billings. No water rights are being transferred to future owners of this property.

2. Effect on local services

- a. Utilities** – Public water and sewer services will be provided to the future lots through lines within the internal subdivision streets extended from the main lines within Elysian Road. The subdivider will place 12 inch water mains inside the proposed subdivision connecting to 8 inch stub outs from Elysian Road. This will be done to City of Billings Public Works and MDEQ standards, rules and regulations. In the final phase of this subdivision development, the subdivider will install a 12 inch water line along the entire length of the common frontage with Mullowney Lane at Phase IV development. It will be installed to City Public Works and MDEQ standards. The subdivider will install an 8 inch gravity feed sewer main in the interior roads of the subdivision. These lines will connect to existing 8 inch sewer stub outs along Elysian Road. The sewer lines will be installed to meet all City Public Works and MDEQ standards. Private electric and gas utilities will be served by Northwestern Entergy and MDU. Easement for the private utilities will be shown on the final plat. **(Condition #1)**
- b. Storm water** – Stormwater management for the proposed subdivision will be provided by directing water through a network of curb and gutters, inlets and piping to a retention pond located within the dedicated parkland at the southern end of this subdivision by the Yellowstone River. This detention facility in the dedicated public park land will be reviewed and approved for location, size, functionality, maintenance, and any other requirements the City Parks Department deems necessary for proper functioning within the park. **(Condition #2)** A preliminary storm drain report was submitted to City Public Works with the preliminary plat submittal and a final stormwater management plant will be submitted to City Public Works for final review and approval with the final plat. **(Condition #3)** All drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and are subject to review and approval by the City Engineering Department. In the SIA under Storm Drainage language must be

modified to properly define that a Park Maintenance District will be maintaining the storm water detention facility. **(Condition #4)**

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** – Access to the subdivision will be from Elysian Road. At this time, there are no plans to access off of Mallowney Lane. The applicant must add a controlled access strip on the face of the plat along Elysian Road so that the City Engineering Division may manage access from the proposed lots in Elysian. **(Condition#5)** Elysian Road will be upgraded to Collector Street status. Required improvements to the street will include, but not be limited to, curb and gutter, a multi-use path, and a three lane section along the frontage of the subdivision as required by the City Engineering Division. The subdivider plans to make these improvements at the same time as the phases of the subdivision. Construction of improvements will be done to City of Billings Engineering Division standards and approved before construction. There is currently a bridge across Hogan Slough on Elysian Road. The internal subdivision streets named Dodger Lane and Interstate Avenue will be constructed to 44-foot back of curb to back of curb pavement widths, with curb, gutter, and 5-foot wide boulevard style sidewalks within 70-foot wide rights-of-way. From the south side of the intersection of Dodge Lane and Interstate Avenue, including Story Road, the roads will be paved with a standard width of 34 feet back of curb to back of curb. The sidewalks will be built at the time of lot development with the exception of the ADA ramps at the street intersections. The ADA ramps will be built by the developer at the time of street construction. **(Condition #6)**

A traffic study was submitted with this subdivision proposal. There are other intersections outside the subdivision that it impacts that need to be analyzed through the study and submitted to City Engineering for review and approval before final plat. Offsite intersection contributions must be identified within an updated Traffic Impact Study. These contributions also must be outlined within the SIA detailing each intersection and timing of contribution. **(Condition #7)**

Proposed street names for the internal streets have been approved by the City Fire Department and the County GIS Department. The street that runs north and south will be a continuation of an existing street name, Interstate Avenue, in accordance with Billings Subdivision Regulations, Section 23-406 (A) 8 Street Continuity: Streets that are a continuation of streets in contiguous territory shall be so aligned as to assure that their centerlines shall coincide and shall have matching names.

Dodger Lane, a proposed internal street that runs east and west in this subdivision, will run west to Hogan Slough. Dodger Lane will be the connection to the future subdivision to the west. The subdivider will be providing a 50% contribution for the design, permitting and construction of the crossing of Dodger Lane over the Hogan Slough. It will be part of the Phase III construction and the contribution will be made at that time. Should the cost of the crossing exceed the 50% contribution

specified, the City of Billings will have the right to create a Special Improvement District (SID) to cover the additional costs. In the SIA under Transportation A Streets paragraph 2, the last sentence will be modified to include language that any overages incurred beyond the 50% that was initially contributed for crossing Hogan Slough may be provided through creation of an SID to include lots within the subdivision. **(Conditions #8)**

The applicant is connecting to Story Road to the east and carrying that road across the subdivision to the west, with a connection to the west across the Hogan Slough. The subdivider will be providing a 50% contribution for the design, permitting and construction of the crossing of Story Road over the Hogan Slough. It will be part of the Phase IV construction and the contribution will be made at that time. Should the cost of the crossing exceed the 50% contribution, the City of Billings will have the right to create a Special Improvement District (SID) to cover the additional costs. In the SIA under Transportation A Streets paragraph 3, the last sentence must be modified to include language that any overages incurred beyond the 50% that was initially contributed for crossing Hogan Slough may be provided through creation of an SID to include lots within the subdivision. **(Conditions #8)**

The applicant and City staff has had a great deal of discussion regarding the roads in and around the proposed subdivision. Focus has been on the portion of Interstate Avenue south of Dodger Lane and the connections to Story Road to the east and across Hogan Slough to the west at the bottom portion of the subdivision. The City Subdivision Regulations state that the maximum length of a dead end cul-de-sac is 600 feet and that it cannot serve more than 20 lots or 30 dwelling units. The property to the south of the intersection of Interstate Avenue and Dodge Lane would require a distance of well over 600 feet for access and the applicant is planning on building apartments on the lots in the area. Since more than 30 dwelling units are to be built, a second way out of the subdivision on the southern portion must be provided.

The subdivision regulations also state that new subdivisions will connect to existing streets that abut the subdivision property. In this case, Story Road is an existing road in River Grove Estates Subdivision that dead ends on the south east property line of this proposed subdivision. It has not been completely built, its east end connects to Mallowney Lane and the west end to the south east property line of this proposed subdivision. Stearns Circle connects to the two ends of Story Road and serves the lots in the county subdivision. Stearns Circle is a gravel road.

There have been several different proposals put forward by the applicant and City staff to address the second access for the southern end of the subdivision. One was to connect to Story Road. This solution would give Harmony Meadows a second access out and meet the requirements of subdivision regulations to connect to existing roads that abut the subdivision property. If Story Road and Stearns Circle are to be utilized as an access by the subdivision, City Engineering staff requires

that the applicant pave the county subdivision road to county standards out to Mallowney Lane.

Another option discussed by the applicant and staff was to connect to the west over Hogan Slough into the future subdivision being prepared by McCall Development. This solution would give the needed second access out for this subdivision, connect the two neighborhoods, and provide access to parkland that is being dedicated in both subdivisions along the Yellowstone River. This option would require the applicant to request a variance from the subdivision regulations to connect to the existing Story Road that abuts the property on the east. In any option, the applicant would still be required to provide water and sewer utilities to the edge of the property at Story Road.

A last proposal was put forward by the applicant that accompanies this staff report. This proposal is to create a 'T' intersection with Interstate Avenue that connects east to Story Road and west to a crossing at Hogan Slough into the future Josephine Landing development being planned by McCall Development. This option would continue the Story Road. With this proposal, the applicant is providing a connection to an existing road and connecting to the future subdivision to the west, providing street frontage along the entire proposed dedicated parkland which the parks department is in favor of, and also provides pedestrian connectivity within the neighborhood and across this area of the community to support the future 'Marathon Trail' that is expected to eventually loop around Billings. A key corridor of this loop trail is to connect in this area between Riverfront Park and Zoo Montana.

Under the east/west connection proposal, the easterly connection to Story Road was proposed to be a temporary emergency access only and not open to daily traffic use. It would be closed with an accepted emergency access gate and signs. This temporary emergency access would provide a secondary access for Harmony Meadows Subdivision until the western connection over Hogan's Slough was completed and also would provide the River Grove Estates Subdivision an emergency access to the west, which it does not currently have. Sometime in the future should River Grove Estates Subdivision be redeveloped and/or annexed into the city, the road in that subdivision could be built to city standards and the emergency access gates would be removed giving a full secondary access.

The 'T' option is the preferred option for the Planning Division and the Parks Department because it is the best solution, providing the most benefit for not just the proposed subdivision and the neighborhood, but also the community. Under this option, Engineering is still requiring the applicant to pave Story Road/ Stearns Circle connection out to Mallowney Lane. Engineering has requested that at the time of developing Phase IV of Harmony meadows that the applicant pave the east and west end of Story Road and the connecting road between them, Stearns Circle. **(Condition #9)** It is not clear if the applicant is willing to complete this improvement under the "T" option since Harmony Meadows will have a second

access to the west. This issue may need further discussion at the plat review between the applicant Planning Board, and City staff.

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located about 3 miles of the subdivision at South 24th St. West and Still Water Drive (Station #5). The Fire Department finds the proposed layout will provide adequate emergency access.
- e. **Schools** – The subdivision is located within Elysian School District #23 (SD#23) for elementary and middle school. They are in School District #2 (SD#2) for High School, West. These assignments will necessitate bussing of the students. Comments received from the Elysian School District state that they have more capacity for Elementary and Middle School students. They also state that with this subdivision bus routes would be added. SD#2 stated that West High School has more capacity for students.
- f. **Parks and Recreation** – Billings Subdivision Regulations Section 23-1002 (B) 1, requires parkland dedication for this subdivision at 11% of the overall land developed for residential uses. In accordance with this regulation, the subdivider is required to provide a minimum of 6.53 acres of parkland. The subdivider has proposed to meet this requirement by providing 5.25 acres of land at the southern end of the development by the Yellowstone River. The Parks Department staff is in favor of this proposal and supports the proposed street layout that has Story Road frontage all across the park land area from the eastern edge of the subdivision to the western edge of the subdivision. The remaining acreage will be provided with smaller ‘pocket parks’ spread throughout the housing in the subdivision. These ‘pocket parks’ will be private parks and will be maintained by an HOA. The City Parks Department must review and approve of the planned pocket parks in the subdivision to ensure that they will be counted toward park dedication requirements. **(Condition #10)**
- g. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision and has requested the installation of centralized mailbox units (CBUs). The developer will work with the USPS to identify appropriate locations of CBUs prior to final plat approval. **(Condition #11)**
- h. **Phasing** – The subdivider is planning to develop this property in four phases. Phase one includes Lots 7-12, phase two includes Lots 1 - 6 and Lots 20 -23, phase three includes Lots 13, 18 and 19, and phase four includes Lots 14- 17. See attachment A for a map of the proposed phases. The subdivider will be providing all the needed paperwork for the phased development of this subdivision prior to final plat approval. **(Condition #12)**

3. Effect on the natural environment

The subject property is vacant property that is generally flat in appearance and has been historically used for farming purposes. The Hogan Slough is on the western edge and the Suburban Ditch runs along the northern border of the subject property. There will be no water shares transferred to new owners within this subdivision.

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. As indicated within the Conditions the Run with the Land section of SIA, future property owners should be aware that the proposed subdivision is located near prime wildlife habitat and adjacent to open agricultural areas, therefore conflicts with wildlife may occur. Any damage caused by wildlife is the responsibility of the owner.

5. Effect on the public health, safety and welfare

Fire hydrants will be constructed to meet fire department requirements. Sidewalks and trails will offer a safe place for pedestrians to walk. The effects on public health and safety should be minimal.

B. Was an Environmental Assessment required? [(MCA 76-3-603 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 Bikeway 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: Predictable land use decision that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans. (p. 6) *The subdivision's mix of uses fits in with the surrounding existing and proposed development.*
- b. Goal: Affordable housing for all income levels dispersed throughout the City. (p. 6) *It is expected that the apartments in this subdivision will provide options for housing for residents of Billings as well as convenient local services.*
- c. Goal: More housing and business choices within each neighborhood. (p. 6) *The subdivision's mix of uses provides for housing and business choices in this neighborhood and area of the community.*

- d. Goal: Safe, functional, and attractive streets for all users, including drivers, bicyclists and pedestrians. (p. 13) *The proposed subdivision will provide excellent connectivity to properties on all sides, boulevard sidewalks on both sides of the streets, and a multi-use trail along Elysian Road.*

3. 2014 Billings Urban Area Long Range Transportation Plan

The proposed subdivision adheres to the goals and objectives of the 2014 Billings Urban Area Long Range Transportation Plan and preserves the street network and street hierarchy specified in the plan.

4. Billings Area Bikeway and Trail Master Plan (BABTMP)

The proposed subdivision lies within the jurisdiction of the BABTMP. The Plan identifies a primary bikeway along Elysian Road. A multi-use path and bike lanes are expected to be constructed when Elysian Road is improved in this area.

This area of this subdivision also is identified in the **Zoo Montana to Riverfront Park Trail Feasibility Study** completed in 2014. The Study identifies Elysian Road as having a high potential for a 10 foot wide trail within its public right-of-way, and this is planned with the reconstruction of Elysian Road with development of this subdivision. The Study also shows that a trail connection option closer to the Yellowstone River along the Story Road alignment would provide another excellent opportunity for access and connectivity along the River in this area. The proposals by the subdivider to provide both a full road connection from the current end of Story Road to the west across the subdivision and a 5+ acre, dedicated park across the southern end of the subdivision supports and is in alignment with the Study in this area.

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.]

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and 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 23-302.H.3.e.]

The subject property is located within the Community Commercial and Highway Commercial zoning districts. All development shall comply with the standards set forth in Section 27-308, BMCC for residential construction and 309, BMCC for commercial construction.

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 will be providing utility easements as requested by the City, MDU and NWE 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 Elysian Road and the internal streets in the subdivision.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Harmony Meadows 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 Update, does not conflict with the Transportation or Bikeway and Trail Plans, and supports the goals of the 2014 Zoo Montana to Riverfront Park Trail Feasibility Study.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

RECOMMENDATION

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Harmony Meadows Subdivision, 2nd Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

ATTACHMENTS

- A: Phasing map
- B: Preliminary Plat and Associated Documents