

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Josephine Landing Subdivision, 1st 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 is currently farmland that has been purchased, rezoned and will be annexed for this filing. Any irrigation facilities will continue to provide irrigation to the remaining farmed area to the west. Development of this first filing of the subdivision will take about 32 acres of prime irrigated farmland out of production, negatively effecting agriculture in the community. However, this area of the community has been identified by the City for future urban development and there is currently no mechanism to mitigate loss of farmland in the City of Billings or Yellowstone County.

2. Effect on local services

- a. **Utilities** – Water service will be provided by the City of Billings. 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).

This subdivision will be required to install water lines throughout the development. It is also required to install a water line to the east to connect with the proposed Harmony Meadows Subdivision across Hogan Slough. When the developer constructs Story Road in Josephine Landing, they will be required to extend the water line to the east property line. Construction of the water main to the east property line of Story Road must be done with the construction of the Hogan Slough Crossing. The timing of this water line extension must be identified in the SIA (**Condition #1**),

Sanitary sewer service will be provided by connecting to the existing 24 inch gravity sewer trunk main in the easterly edge of the subdivision and continuing west through the subdivision. Lateral sanitary sewer will be extended west from the new trunk main in the new internal streets. 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. Many of the private utility lines will go in the alleys.

- b. **Storm water** – Storm water drainage is proposed to be handled by curb and gutters that discharge into storm drainage piping as well as surface conveyance in some areas. The storm drainage pipes will discharge into a system of retention areas. The stormwater outfalls will be directed to the Hogan Slough adjacent to the subdivision. These and all other drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the City Engineering Division.

Storm water facilities within the subdivision will be maintained by the Home Owners Association (HOA) as outlined by the City of Billings Engineering Division regulations. Along with this requirement, the applicant will need to submit the HOA documents before final plat approval outlining how the HOA will maintain the system. Should the HOA fail to maintain the storm water system correctly, the City of Billings would need to be able to come in and maintain it for them with the ability to create an SID to maintain the storm water facilities. The applicant will have the HOA documents completed and reviewed by the Engineering Division before final plat approval (**Condition #2**).

This property has the Hogan Slough along the entire eastern boundary of this subdivision. During a major storm event, there is the possibility that Hogan Slough could overflow. Language shall be added to section V Storm Drainage in the SIA that provides greater detail of how the 100-year storm will impact the subdivision and whether mitigation measures are required to address potential flooding in the subdivision from Hogan Slough. The applicant also will add a paragraph in the Conditions That Run With The Land section of the SIA informing property owners of any mitigation requirements for lots in the subdivision and identifying the possibility of the Hogan Slough overflowing during large storm events (**Condition #3**).

In this subdivision, the applicant is proposing to have both above ground and below ground storm water facilities. The above ground facilities are proposed to be a dual-purpose water feature and a storm water facility. The ponds are proposed to have water flowing through them most of the time with the capacity to handle storm water runoff as well. With the proposed ponds having water flowing through them on a constant basis, the applicant needs to do a hydrogeological evaluation to ascertain any possible impacts to surrounding properties and provide information to future property owners regarding these impacts (**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** – All internal streets are proposed to be built to City standards by providing a 34-foot width, curb/gutters, and boulevard sidewalks. They will be built to meet the requirements of the City of Billings Engineering Division and receive their approval before any construction.

A Traffic Impact Study (TIS) was completed in order to evaluate the subdivision's impact on the street network in the surrounding area. In the TIS provided by the developer for the 1st Filing, it recommends the following improvements be addressed:

- The intersection of Muldowney Lane and Elysian Road should be converted to an all way stop in order to accommodate development driven traffic for the subdivision and other area developments.
- Improvements to the South Frontage Road and Muldowney Lane intersection should be planned for the near future. At a minimum, a northbound auxiliary left-turn bay should be implemented.
- When the Multi-use trail is constructed along the south side of Elysian Road, special consideration should be given to traffic control, signage, pavement markings and visibility at intersection and driveway crossings.
- The speed limit along Elysian Road should be lowered from 45 to 35 miles per hour. It is generally intended that Elysian Road will be constructed as a three-lane facility as development progresses in Josephine Landing and Harmony Meadows to the east.

The TIS also identified contributions to be made at 5 different intersections where the subdivision will be contributing to the cost of improvements. These intersections include: South Frontage Road (Midland Road) and Muldowney Lane, Muldowney Lane And Elysian Road, Elysian Road and East Lane, East Lane and South Frontage Road, and Elysian Road and South Frontage Road.

Future filings of Josephine Landing will require updates to the TIS to account for any roads or connections that currently do not exist in the area, such as the Story Road connection to the east. In the SIA under III Transportation A. 4., it discusses the building of the Story Road connection to the east and contributions to the design and construction of a bridge over Hogan Slough for Story Road. At the time of the second filing of Josephine Landing, the applicant will provide a TIS update addressing this Story Road connection and the impacts this subdivision will have on that road, as well as identify any cash contributions that may be required because of those impacts (**Condition #5**).

- e. **Emergency services** – The Billings Police and Fire Department will respond to emergencies within the proposed subdivision. The nearest fire stations are located 476 6th St. West (Station #4) and 604 S. 24th St. West (Station #5). The Fire

Department staff has reviewed the proposed subdivision and approves of what is being proposed. The applicant will be installing fire hydrants at the required locations to meet regulations outlined in Fire Code. The Billings Police noted in comments that “continued development will eventually require additional resources to maintain current levels of service”. The subdivision is located within the ambulance service area of American Medical Response (AMR).

- f. **Schools** –School District #23 (Elysian Elementary) provides educational services to elementary through middle school students. Previous responses from Elysian indicated that due to their recent increase in student body (primarily from Josephine Crossing Sub. and Riverfront Pointe Sub. to the north), the district voters approved a \$250,000 school bond in 2011 and a then another \$10 million bond in March 2013. The school board then carried out plans to build additional class rooms and common area at their current site, as well as improve the school’s water and sewer systems. The school is now able to handle the additional student population that this subdivision may bring. Senior High School (School District #2) would serve as the high school for this subdivision. A response from Senior High School principal states they are currently at capacity.

- 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. Additional provisions in the laws allow this dedication of parkland to be waived if “the subdivision provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and the land and any improvements set aside for park purpose equals or exceeds the area [otherwise required].” The applicant is proposing to have parkland throughout this Planned Development subdivision that will be installed with the development of each filing. It will be privately owned and maintained by the Homeowners’ Association for the subdivision. The applicant will receive a final sign off letter from the City Parks Department for the proposed parkland dedication (**Condition #6**).

- 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. A note in the SIA acknowledges this, and indicates the developer’s intent to coordinate mailbox locations with the postal service.

- i. **Phasing** - The subdivider is planning to develop this property in two phases. Phase one includes Lots 1-45, Block 1, Lots 2-5, Block 3, Lots 6-13, Lot 17, Lots 21-33, Lots 44-47, Block 4 and Lot 1-11, Block 5, a total of 86 lots.

Phase two includes Lots 1-4, Block 2, Lot 1, Lots 6-16, Lots 31-39, Block 3, Lots 1-5, Lots 14-16, Lots 18-20, Lots 34-43, Block 4, Lot 12, Block 5, Lot 1, Block 6 and Lots 1-2, Block 7, a total of 50 lots.

See the attached phasing maps for the proposed phases. The subdivider has provided draft copies of all the needed paperwork for phasing and will be providing all the needed paperwork for the phased development of this subdivision with final plat approval.

3. Effect on the natural environment

The subject property is currently farmed and slopes to the south toward the Yellowstone River. In the SIA under Conditions That Run With The Land (I), the subdivider has notified future lot owners that the Yellowstone River Channel Migration Study sponsored by the Yellowstone River Conservation District Council and the U.S. Army Corp of Engineers, had identified areas which may be susceptible to erosion by the Yellowstone River. Prospective lot owners are encouraged to review the study and see what considerations they should take with structures and location of structures. This subdivision is not in the 100-year flood plain as identified on the Yellowstone County Current Floodplain Maps.

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 wildlife habitat in the area, and wildlife indigenous to the area may cause damage to their landscaping or interface with domestic animals, residents, and visitors. This subdivision should have a minimal effect on wildlife and wildlife habitat.

5. Effect on the public health, safety and welfare

There should be no impacts to public health, safety and welfare as a result of this subdivision.

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 76-3-210, 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: 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: Protect and increase the availability of public access to natural areas and trails along the River (p. 10).
- d. Goal: Safe, functional, and attractive streets for all users, including drivers, bicyclists and pedestrians (p. 13).
- e. Goal: Healthy, safe neighborhoods and communities with sense of pride (p. 15).

2. 2014 Billings Urban Area Long Range Transportation Plan

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

3. Billings Area Bikeways and Trail Master Plan (BABTMP)

The proposed subdivision lies within the jurisdiction of the BABTMP. There is a long-range bike lane identified on Elysian Road and on East Lane. The applicant will be building a multi-use trail along the entire frontage of the property along the south side of Elysian Road and contributing 50% to the construction of a pedestrian bridge over Hogan Slough with this 1st Filing. The developer to the east will be doing the same with the 1st Filing of Harmony Meadows so there will be a trail constructed from Muldowney Lane to East Lane for multi modal users and youth to get to Elysian School. The applicant is also providing park land along the southern boundary of the development. This will provide an opportunity for another trail, the Marathon Loop, along the southern end of the subdivision. The subdivider to the east is also providing parkland along the southern portion of its subdivision that will continue this trail to the east.

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 will be located within the Josephine Landing Planned Development zoning district. A Master Plan and Planned Development Agreement (PDA) were established in 2016 specifying land use allowances and restrictions. This proposal will be added to the PDA and substantially complies with the Master Plan and PDA.

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 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 connects to the other road within the proposed Josephine Landing Subdivision.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Josephine Landing Subdivision, 1st Filing does 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 Plan or Billings Area Bikeways and Trail Master 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.

RECOMMENDATION

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Josephine Landing Subdivision, 1st Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

ATTACHMENT

Preliminary Plat and Associated Documents