

## FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Emma Jean Heights Subdivision, 3<sup>rd</sup> 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 historically used for irrigated pasture and was the site of a gravel mine. It was annexed and master planned for development in 2006. It is adjacent to similar residential uses on all sides, and will provide community housing in an area that is not particularly productive for agriculture. It should not have a negative effect on the agriculture.

This 3<sup>rd</sup> Filing of the subdivision has some lots near the Billings Bench Water Association (BBWA) irrigation canal. No water rights are being transferred to new lot owners, and therefore the subdivision should not have an effect on agricultural water user facilities. The BBWA has asked for a 20 foot maintenance easement for a trackhoe to clean Lateral #1 every 5 years or as needed. There is an existing easement on the main ditch of 25 feet from centerline of ditch. The applicant needs to coordinate with the BBWA Ditch Company to make certain the easements are shown on the plat as required by the BBWA (**Condition #1**). Another concern expressed by the BBWA was people pumping water from the ditch without permits. In the SIA under **Conditions That Run With The Land, E.** the applicant will add to the paragraph language to inform future property owners they are not allowed to install a pump and take water out of the BBWA canal without a permit (**Condition #2**).

### 2. Effect on local services

- a. **Utilities** – Water services to the subject property are provided by the County Water District of Billings Heights (CWDBH). The existing water mains in Tania Circle and Jean Avenue will be extended to serve the new lots. CWDBH has indicated that they are requiring the water lines to be installed to complete the loop. The subdivider needs to connect the water lines in Tania Circle to the water lines in Jean Avenue. The developer needs to connect new water lines in Tania Circle to the new water lines in Jean Avenue to complete a looped water line system at the intersection of Tania Circle and Jean Avenue (**Condition #3**). The improvements are subject to the review and approval by CWDBH prior to construction. As proposed with the completion of the looped water line in Tania Circle to Jean Avenue, the CWDBH finds that the water main extensions are acceptable.

CWDBH has indicated that although what it is requiring and what is proposed for the new water lines is acceptable it is still waiting for the ‘as built’ drawings from Emma Jean Heights, 2<sup>nd</sup> Filing both Phases 1 and 2. As a condition of final

approval for this filing, the applicant will need to provide 'as built' drawings for the entire second filing (**Condition #4**).

Sanitary sewer service will be provided by the City of Billings by connecting to existing sewer mains in Tania Circle and Jean Avenue. As proposed, the City of Billings Public Works Department finds the sewer main extensions to be acceptable.

City of Billings Public Works has indicated that although what is proposed is acceptable it is still waiting for the 'as built' drawings from Emma Jean Heights, 2<sup>nd</sup> Filing both Phases 1 and 2. As a condition of final approval for this filing, the applicant will need to provide 'as built' drawings for the entire second filing (**Condition #5**).

MDU will provide gas services, and North Western Energy will provide electric services to the subdivision. Easements shall be shown on the face of the final plat as requested by these utility providers.

- b. **Storm water** – A storm water master plan was reviewed in 2007 for the overall master planned area of Emma Jean Heights Subdivision. At this time, there are no nearby City storm sewer lines to which this development can connect. However, it is in the City's Capital Improvement Plan to install storm sewer in Wicks Lane west to Bitterroot Drive and then south on Bitterroot Drive to Anchor Avenue in the near future. This subdivision will be able to connect once the lines are installed. Until then, the subdivider has proposed to construct internal storm sewer lines draining to temporary retention ponds.

At this time, storm water drainage for the public streets is proposed to be provided by curb and gutters that discharge into storm water pipes and eventually to retention areas on Lots 12 and 13, Block 2 of Emma Jean Heights Subdivision, 1<sup>st</sup> Filing and Lots 10 and 11, Block 10, of Emma Jean Heights Subdivision, 2<sup>nd</sup> Filing.

In addition to the proposed storm water management facilities, a Storm Water Pollution Prevention Plan (SWPPP) will be required of the developer and construction contractors prior to site disturbance to ensure that storm drain facilities are not compromised during site and home construction.

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 Department.

- 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 proposed subdivision will be accessed by the extension of the existing streets from Anchor Avenue, Tania Circle and Jean Avenue. These streets will be built to the current design standards of 34-foot wide streets with curb, gutter and boulevard-style sidewalk within 56-foot rights-of-way. During the First Filing construction, a temporary gated emergency access road was constructed from the terminus of Anchor Avenue to the existing County gravel road, Columbine Drive, to the south. With this filing, this second access will need to be constructed to meet City street standards so that it functions as a full second access (**Condition #6**). Columbine Drive will still remain gravel as it exists off site within the County to the south.

A Traffic Impact Study (TIS) was completed with the original Master Plan in order to evaluate the subdivision's impact on the street network in the surrounding area. Cash contributions have not been made up to this point of the development of Emma Jean Heights for future intersection improvements. Two intersections have been identified to have a noticeable traffic increase. These are Hawthorne Lane and Yellowstone River Road, and Wicks Lane and Hawthorne Lane. A proportionate contribution will be made with this third filing of \$4,291.24 as described in the SIA for the two above mentioned intersections. The Bench Boulevard, Hilltop Road and Yellowstone River Road intersection was reviewed but that intersection has been upgraded with a roundabout by MDT. The Wicks Lane and Bitterroot Drive intersection was also reviewed but the impact was below the 2% threshold for contributions for improvements.

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The Police Department has no concerns with the proposal. The nearest fire station is located at 1601 St. Andrews Drive (Station #6).

The main fire department concerns are access to the site, water supply, and hydrant availability. With this filing of Emma Jean Heights the applicant is required to make the connection to Columbine Drive to the south. This includes paving to the southern edge of this subdivision and removing the gate and fence that currently blocks the street from this subdivision to the development to the south (**Condition #6**). Current subdivision regulations require 2 ways in and out of a major subdivision. If the second full access through Columbine Drive is constructed, the Fire Marshal indicated that the street layout will be acceptable.

In the SIA under **III Emergency Service**, the applicant indicates he will be installing 'An operational fire hydrant within 600 feet of the furthest portion of a residence under construction and 400 feet for commercial development. The fire hydrants will be installed with infrastructure construction and streets.

The subdivision is located within the ambulance service area of American Medical Response (AMR).

- f. **Schools** – School District #2 provides educational services to elementary through high school students. Beartooth Elementary School, Castle Rock Middle School, and Skyview High School will serve the children in this subdivision. Previous responses from the district’s facilities director regarding these schools indicated that both Beartooth and Castle Rock are currently overcrowded. School District #2 is currently constructing a new Middle School that will be open in the fall of 2016 and the District will be switching to K-5 elementary schools, moving 6<sup>th</sup> graders to middle schools. These changes should help eliminate overcrowding of schools in the Billings Heights, according to School District #2.
  
- g. **Parks and Recreation** – The parkland dedication requirement for this subdivision amounts to 0.75 acres (11% of the net single family lot area). The subdivider had master planned the subdivision park land areas for the entire subdivision during the First Filing. Based on the Planning Board’s recommendation to City Council at that time, the park master plan includes a 2.8 acre centralized neighborhood park just west of this filing, and an additional 1.7 acres of linear parkland along the BBWA canal, for a total of 4.5 acres of parkland. At this time, the subdivider is proposing to provide 0.75 acres of land dedication for parkland at the northeast corner of Tania Circle and what will be Emma Avenue to meet the park land dedication required for the 3<sup>rd</sup> Filing.

City of Billings Parks, Recreation and Public Lands (PRPL) is concerned the parkland dedication of one small piece at a time as each filing is platted may result in challenges to tracking dedications and ensuring the total park land dedication originally proposed is provided when all filings of the subdivision are complete. Therefore, to ensure the parkland as shown on the masterplan as updated with this 3<sup>rd</sup> Filing is provided, staff is proposing a condition that language be added to Section VI of the SIA stating that: “Park land shown on the subdivision master plan for the 3<sup>rd</sup> Filing will be dedicated either in whole or in part as further filings of Emma Jean Subdivision are platted until the total park land dedication of 4.5 acres that is master planned has been provided (**Condition #7**).

- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision. With the previous filing the developer provided centralized delivery facilities and the same is proposed for this filing. The developer will consult with the USPS prior to placement of the centralized mail boxes.

### **3. Effect on the natural environment**

The subject property is relatively flat with a slight slope to the east. A preliminary geotechnical evaluation was done for the subject area in December of 2006 to investigate soil, rock, and groundwater conditions and provide recommendations to support design and construction of foundation and drainage elements. The major findings indicated that the area is characterized by lean clay alluvium over poorly graded gravel with silt and sand, and shale bedrock. Construction on these substrates is fairly unrestricted, however, relatively high ground water will limit foundation depths to 7 feet maximum below grade.

The City Building Official has reviewed this geotechnical report and made notes on its recommendations that will be enforced at the time of building permit issuance and subsequent inspections as has been taking place with both the 1<sup>st</sup> and 2<sup>nd</sup> Filings.

#### **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 deer in the area, which may cause damage to their landscaping. This subdivision should have a minimal effect on wildlife and wildlife habitat.

#### **5. Effect on the public health, safety and welfare**

The subdivision is located in an area with no known natural hazards. Fire hydrants will be constructed to meet fire department requirements. The effects on public health and safety should be minimal.

#### **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 76-3-616, 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)
- b. Goal: Contiguous development focused in and around existing population centers separated by open space. (p.6)
- c. Goal: Affordable housing for all income levels dispersed throughout the City. (p. 6)
- d. Goal: More housing and business choices within each neighborhood. (p. 6)

##### **2. Billings Heights Neighborhood Plan**

The Billings Heights Neighborhood Plan identifies this area for medium density residential development on its Future Land Use Map, as this area was not yet annexed or developed when the Plan was adopted. The subdivision meets the following goals of the Heights Neighborhood Plan:

- a) **Increase extent and quality of non-motorized transportation facilities (Transportation Goal, Page 17).** The provision of a trail corridor along the BBWA Canal through the subdivision from Bitterroot Drive and Hawthorne Lane is a significant amenity for the neighborhood and the Heights overall.
- b) **Provide safe, good quality and affordable housing in the Heights. Develop housing patterns that are compatible with existing neighborhoods. Encourage high density multi-family development along arterial routes. Maintain similar housing in established neighborhoods (Land Use Goal, Page 19).** This subdivision provides medium density residential single-family development in a neighborhood with existing single family and some two-family development.
- c) **Encourage infill housing (Housing Goal, Page 23).** This property is surrounded by existing City and County development on the north, south, east and west and municipal services are already provided to much of the neighborhood making development of this property logical to provide municipal services efficiently.

### **3. Urban Area Transportation Plan 2009 Update**

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

### **4. Billings Area Bikeways and Trail Master Plan**

The proposed subdivision lies within the jurisdiction of the BABTMP. The Plan identifies a potential multi-use trail along the south side of the BBWA canal. The developer started construction of a trail along the BBWA with the first filing, and will continue its development with subsequent filings. This third filing has some lots that will have BBWA along the rear property line. The applicant will be continuing the multi-use trail along the south side of the BBWA canal.

#### **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 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 23-302.H.3.e.]**

The subject property is located within the R-70 zoning district. 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 23-302.H.3.b.]**

The subdivider shall provide utility easements as requested by the City, MDU and NWE on the face of the final 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 Emma Avenue, Jean Avenue, Anchor Avenue and Columbine Drive. These streets connect to existing street network from the first and second filings, and out to Bitterroot Drive.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Emma Jean Heights Subdivision, 3<sup>rd</sup> 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 Transportation or Bikeway and Trail Plans.
- 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 Emma Jean Heights Subdivision, 3<sup>rd</sup> Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

**ATTACHMENT**

A: Preliminary Plat and Associated Documents