



**YELLOWSTONE COUNTY BOARD OF PLANNING**  
**CITY OF BILLINGS AND**  
**YELLOWSTONE COUNTY, MONTANA**



**AGENDA**

November 21, 2017 MEETING TIME: 6:00 p.m.  
1st Floor Large Conference Room, Miller Building  
2825 3rd Avenue North, Billings, Montana 59101

1. **CALL TO ORDER - Planning Board President:** Welcome and Introduction of new and returning Board Members.
2. **APPROVAL OF AGENDA\*** - including any additions or deletions to agenda. The agenda for a regular meeting will be closed at 5:00 p.m. three (3) working days prior to the date of the meeting.
3. **MOTION. APPROVAL OF MEETING MINUTES:** November 14, 2017
4. **PUBLIC COMMENT PERIOD** – As required (3 minute maximum per person). *Any member of the public may be heard on any subject that is not on the agenda. The Planning Board will not take any action on these items at this time, but could choose to add an item to the next meeting's agenda for discussion.*
  - 4a) **Comments on items not on agenda and requests to add items to future agendas**
  - 4b) **Comments on items on the non-public hearing agenda items**
5. **DISCLOSURE OF CONFLICT OF INTEREST:**
6. **DISCLOSURE OF EX PARTE COMMUNICATION:** Ex Parte Communication Binder is available at the Sign-In and Agenda station.
7. **OLD BUSINESS** (Agenda items that were not discussed or not completed in a previous meeting or items requiring action).
  - a. **PUBLIC HEARINGS/PUBLIC HEARING PARTICIPATION GUIDELINES.** The County Planning Board welcomes public input on matters brought before the Board. To ensure a fair and effective public comment process, we ask that you consider the following guidelines when presenting your comments: Address the Planning Board directly. You must state your name and address before commenting. This is an opportunity to explain how you will be affected by the decision and why that is an important consequence. By state law, the Planning Board must consider only certain criteria when reviewing subdivisions (76-3-608(a), MCA). Please see the attached

guidelines for the criterion. Thank you for participating!

1. Public Hearing. Motion/Recommendation to City Council. Falcon Ridge Subdivision, 3rd Filing. Dave Green, Planner II, presenting.
  
8. **NEW BUSINESS:** (Agenda items new to this meeting).
  
9. **OTHER BUSINESS:**
  - a. (Standing Item) Long Range Strategic Issues and an overview of future City and County issues and projects.
  
  - b. Discussion. Agenda items for December 12, 2017 and December 26, 2017
  
10. **ADJOURNMENT**

### **Public Hearing Participation Guidelines**

The County Planning Board welcomes public input on matters brought before the Board. To ensure a fair and effective public comment process, we ask that you consider the following guidelines when presenting your comments: **Address the Planning Board directly. You must state your name and address before commenting.** This is an opportunity to explain how you will be affected by the decision and why that is an important consequence.

1. Be informed of the process and the requirements of the Board. If you are commenting about a subdivision, please limit your comments to the review criteria.

**By state law, the Planning Board must consider only certain criteria when reviewing subdivisions (76-3-608(a), MCA). These criteria include:**

- Effect on agriculture and agricultural water user facilities
- Effect on local services
- Effect on the natural environment
- Effect on wildlife and wildlife habitat
- Effect on public health and safety

2. Provide specific information about why you are concerned about the pending application, how the decision will impact the review criteria listed above, and provide suggestions on how to minimize or eliminate the impact.
3. Respect the right of others to participate. Wait until the previous speaker has completed their comments before making your own comments. Do not talk over the person commenting or with other people in attendance.
4. The public hearing is not an opportunity to question or accuse the applicant or their agent. If you have questions of the Board, the applicant or the agent, ask the question directly to the Board during the public hearing portion of the meeting. The Board will respond or request the applicant or agent to respond after the public comment portion of the hearing is closed.
5. After the public comment portion of the hearing is closed, no further comments are allowed unless you are addressed directly by a Board member.
6. You should expect the Board to make a balanced recommendation in accordance with its statutory responsibilities. The Board's ability to make reasonable and thoughtful recommendations is dependent on a fair consideration of everyone's interests.

***Thank you for participating.***

**Planning Board Meeting 2 (4th Tuesday)**

**Meeting Date:** 11/28/2017

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**Information**

**Subject**

**MOTION. APPROVAL OF MEETING MINUTES:**November 14, 2017

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**Attachments**

PlnBMinutes\_2017\_11\_15\_DRAFT

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# CITY/COUNTY PLANNING BOARD

*“Serving Billings, Broadview and Yellowstone County”*

**Board Attendance Roster:** Please note: “E” stands for excused absence, “A” stands for un-excused absence, “1” stands for present. **BYLAWS, YELLOWSTONE COUNTY BOARD OF PLANNING, (Amended, May 25, 2004) Section 4. Absences and Removal A.** Each member shall inform the Planning Director at least one day before the meeting of his/her inability to attend a Board or Committee meeting. Such an absence shall be considered an excused absence. If any Board member accrues three (3) or more consecutive unexcused absences from regular meetings, notice of which has been given at his/her usual place of work or residence, or by announcement at a meeting attended by him/her, the President may call such absences to the attention of the Board which may then recommend to the appointing authority that such member be asked to resign and that another person be appointed to serve out the unexpired term. Schedule: (\*\* denotes a Wednesday meeting)

	Position	01/10/2017	01/24/2017	02/14/2017	02/28/2017	03/14/2017	03/28/2017	04/11/2017	04/25/2017	05/09/2017	05/23/2017	06/13/2017	6/27/2017	07/11/2017	7/25/2017	08/08/17	08/22/17	09/12/17	09/26/17	10/11/17	10/24/17	11/14/17	11/28/17	12/12/17
<b>Dave Goodridge</b>	Mayor/Billings Ward I	1		1	1	E	1	1	E	E	-	E	1	-	-	E	1	E	1	E	1	1		
<b>Vacant</b>	Mayor/Billings Ward II	-	-	-	-	-	-	-	-	-	-	-	-	-	-		-	-	-	-	-	-		
<b>LaVerne Bass</b>	Mayor/Billings Ward III	1	1	1	1	-	1	1	1	E	-	1	1	-	-	1	1	1	A	1	E	1		
<b>Darell Tunncliff</b>	Mayor/Billings Ward IV	1	1	1	1	1	1	1	1	1	-	1	1	-	-	1	1	1	1	1	1	1		
<b>Patrick Klugman</b>	Mayor/Billings Ward V	1	1	1	1	1	1	1	1	1	-	1	E	-	-	E	1	1	1	1	1	R	-	-
<b>Troy Boucher</b>	YC District 1	-	1	E	E	E	E	1	1	1	-	1	1	-	-	E	1	E	1	E	E	1		
<b>Dennis Cook</b>	YC District 2	-	1	1	1	1	1	1	1	1	-	1	1	-	-	1	1	1	1	1	1	1		
<b>Vacant</b>	YC District 3	-	-	-	-	-	-	-	-	-	-	-	-	-	-		-	-	-	-	-	-		
<b>Vacant</b>	YC District 4	-	-	-	-	-	-	-	-	-	-	-	-	-	-		-	-	-	-	-	-		
<b>Woody Woods</b>	YC District 5	-	-	-	-	-	-	1	1	1	-	1	1	-	-	1	1	E	1	1	1	1		
<b>Vacant</b>	YC District 6	-	-	-	-	-	-	-	-	-	-	-	-	-	-		-	-	-	-	-	-		
<b>Francisco Saldivar</b>	YC District 7	1	1	1	1	1	1	1	1	E	-	1	1	-	-	E	E	1	1	1	1	1		
<b>Clint Peck</b>	Y County Cons. District	1	E	E	E	1	1	1	1	E	-	1	1	-	-	E	1	E	E	1	E	E		
<b>Scott Reiter</b>	<b>Ex-Officio SD2</b>		E	E	E	E	1	E	1	A	-	1	E	-	-	1	E	E	1	E	E	1		

# CITY/COUNTY PLANNING BOARD

*“Serving Billings, Broadview and Yellowstone County”*

**NOVEMBER 14, 2017**

*To be approved by a motion on November 28 2017*

## **1. Call the Meeting to Order**

President Tunncliff called the meeting to order at 6:00 p.m. on Tuesday, November 14, 2017, in the Miller Building 1<sup>st</sup> Floor conference room, 2825 3<sup>rd</sup> Avenue North, Billings, Montana.

### **Introduction of Planning Board Members and Planning Department Staff**

President Tunncliff called for introductions of the members of the Planning Board and staff.

**Attending Planning staff members:** Wyeth Friday, Director, Planning & Community Services; Monica Plecker, Planning Division Manager; Dave Green, Planner II; Tammy Deines, Planning Clerk

**Others in Attendance:** Mac Fogelsong, Sanderson Stewart; Gary Owen, Sanderson Stewart; Trent Buscher; Dennis Buscher; Bridget Baugh; Jorden Martinez

**Approval of the November 14, 2017 Agenda.** The agenda was approved with a unanimous voice vote.

### **Approval of Minutes: October 19, 2017, Special Joint Meeting with the Billings Park Department, (Parks Comprehensive Plan)**

**Motion** Board member Saldivar made a motion and Board member Cook seconded the motion to approve the October 19, 2017 special joint meeting minutes as submitted. The motion carried with a unanimous voice vote.

### **Approval of Minutes: October 24, 2017**

**Motion** Board member Bass made a motion and Board member Woods seconded the motion to approve the October 24, 2017 meeting minutes as submitted. The motion carried with a unanimous voice vote.

3. **Public Comment:** President Tunncliff asked if there was anyone wishing to speak during the public comment portion of the meeting. He stated any member of the public may be heard on any subject that is not on the agenda; the Planning Board will not take any action on these items at this time, but could choose to add an item to the next meeting agenda for discussion. There were no public comments.

### **5-6. Disclosure of Outside (Ex Parte) Communication– Board Members and Planning Staff.**

The Ex Parte Communication Binder is available at the Sign-In and Agenda station.

There were no Conflicts of Interest and no Ex Parte Communications reported by the Board.

## CITY/COUNTY PLANNING BOARD

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### **7. NEW BUSINESS:**

#### **7b. Plat Review/Discussion. Falcon Ridge Subdivision Major. Dave Green, Planner II, presenting.**

Planner Dave Green opened this agenda item with the presentation of the staff report. He pointed out a correction in the staff report and stated the zoning for this development will allow single family homes, duplexes, and patio homes. He pointed out the parkland dedicated to the City with the first filing of the subdivision and explained the Park Department's determination for the parkland dedication requirement for this filing.

### **INTRODUCTION**

On October 2, 2017, Sanderson Stewart, agent for Falcon Ridge I, LLC, owners, applied for preliminary major plat approval for Falcon Ridge Subdivision, 3rd Filing. The proposed subdivision creates 35 new lots for single-family residential development. The subject property is generally located on the south side of Masters Boulevard, east of Golden Acres Drive. The property is zoned Residential Multi-Family-Restricted (RMF-R). The Yellowstone County Board of Planning will review the plat at this meeting and conduct a public hearing on November 28, 2017.

### **RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Falcon Ridge Estates Subdivision, 3rd Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

### **PROPOSED CONDITIONS OF APPROVAL**

Planning staff recommends the following conditions of approval:

1. To minimize the effects on local services and ensure public safety, prior to final plat approval the applicant will submit a final storm water report to City Engineering for review and approval.
2. To minimize the effects on local service prior to final plat approval, the applicant will coordinate with the USPS to determine what type of delivery system is preferred and to locate and provide the correct amount of space for safely delivering the mail to the residents.
3. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

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### **Discussion**

President Tunncliff called for discussion and questions from the members of the Board. President Tunncliff asked if potential storm water flows moving southward towards Rimrock Road have been addressed. Dave Green stated the storm water for this filing will be detained onsite. The City Engineering Division did not mention in their review comments using the new detention facility which will be constructed at a location at 62nd Street West and Rimrock Road. Discussion followed on the City Engineering Department’s efforts to develop a long term stormwater plan for the west end of the Billings to capture the storm water flows from the north towards Rimrock Road.

### **Gary Owen, Sanderson Stewart, 1300 North Transtech Way, Billings, Montana**

Mr. Owen commended Planner Dave Green for his presentation. He stated the developers dedicated and developed parkland with the previous filings of the subdivision and this project will provide a trail connection between the filings.

**\*\*A public hearing for Falcon Ridge Subdivision, 3<sup>rd</sup> Filing will be held during the next Planning Board meeting on November 28, 2017.**

## **9. OTHER BUSINESS/ANNOUNCEMENTS**

### **9a. Nomination Committee for the 2018 planning Board Officers.**

President Tunncliff stated he has enjoyed working as President of this Board and engaging with committees and the community. He has asked Board member Goodrich, Board member Woods, and Board member Cook to serve as members of the Nominating Committee. The Nominating Committee will forward their recommendation for the 2018 Planning Board officers during the December 12, 2017 meeting.

### **9b. Discussion. Community Outreach for Board Representatives.**

President Tunncliff stressed the importance of the Planning Board “telling our story” as an outreach to encourage citizens to participate in this process. Currently this Board has two City openings and 3 County openings. Division Manager Monica Plecker asked members of the Board to advocate to fill these openings and she offered her contact information for interested persons. She is working on using public outlets to notify the public of the need for applicants. Director Friday stated he has had discussions with Community 7 about potentially streaming Planning Board meetings in the future. Board member Bass asked staff to encourage City Council members to find people for the vacant wards. President Tunncliff suggested creating a PowerPoint presentation for Board members to take to Community service clubs and the Task Forces, and Division Manager Monica agreed to build the presentation. Board member Goodridge offered to attend a Heights Task Force meeting. Director Friday responded and said he will make the arrangements with Jason Lilly, the current Chairman. President Tunncliff offered to

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Reviewed by Planning Staff

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attend a West End Task Force meeting. Director Friday will send the Planning Board Task Force Meeting schedules.

### 9c. Updates and Announcements

- **Parks Department Master Plan:** City Council adopted the City Parks Master Plan at their meeting on November 13, 2017. The primary focus of the discussion was doing further analysis from a budget standpoint on implementation of the plan. Director Friday noted a portion of this plan ties into the subdivision regulations, and he said staff will address this in the future.
- **Recognition for MAP Award for the YC Subdivision Regulations Amendment project, Planning Division Manager Monica Plecker**  
Division Manager Plecker presented the award to the BOCC today and some of the committee members were presented. Staff also submitted a press release to announce this award.
- **Project Recode Meeting Wednesday, November 29, 2017:** The Ad Hoc Committee will meet to review the City and County Zoning Regulations. The focus will be on developing guiding principles. Consideration will be given to forming subcommittees and drafting a scope for this project and writing a request for proposal to hire a consultant. In response to a question by Board member Goodridge, staff stated they have received no feedback from the previous meeting. President Tunnicliff commended staff for this effort as it is a challenging task that involves a large committee with varied representation.
- **City of Billings City Administrator search:** Director Friday said there will be public opportunities to meet the candidates on November 30, 2017 and December 1, 2017. President Tunnicliff asked that a Planning Board member attend one of these opportunities to represent the Board. City Council will make a decision to fill this position during a December meeting. Director Friday mentioned that Planning staff will be conducting training with the newly elected City Council members and the mayor. He plans to call out this Board during the training session so they are aware of the Planning Board and its activities in the community as the MPO.

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- **November 29, 2017 Lockwood Community meeting:** Board member Woods said this is a community input meeting to assess what has happened in Lockwood in the last four years and discuss how to move Lockwood forward in the future. He will report the meeting results to this Board at a future meeting.

**ADJOURNMENT:** 7:05 p.m.

DRAFT- To be approved by a motion on November 28, 2017



**YELLOWSTONE COUNTY BOARD OF PLANNING**  
CITY OF BILLINGS AND  
YELLOWSTONE COUNTY, MONTANA



**Planning Board Meeting 2 (4th Tuesday)**

**Meeting Date:** 11/28/2017

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**Information**

**INTRODUCTION**

On October 2, 2017, Sanderson Stewart, agent for Falcon Ridge I, LLC, owners, applied for preliminary major plat approval for Falcon Ridge Subdivision, 3rd Filing. The proposed subdivision creates 35 new lots for residential development. The subject property is generally located on the south side of Masters Boulevard, east of Golden Acres Drive. The property is zoned Residential Multi-Family-Restricted (RMF-R). The Yellowstone County Board of Planning will review the plat at this meeting and conduct a public hearing on November 28, 2017.

**RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Falcon Ridge Estates Subdivision, 3rd Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

**PROPOSED CONDITIONS OF APPROVAL**

Planning staff recommends the following conditions of approval:

1. To minimize the effects on local services and ensure public safety, prior to final plat approval the applicant will submit a final stormwater report to City Engineering for review and approval.
2. To minimize the effects on local service, prior to final plat approval the applicant will coordinate with the USPS to determine what type of delivery system is preferred and to locate and provide the correct amount of space for safely delivering the mail to the residents.
3. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

**PROCEDURAL HISTORY**

- A pre-application meeting was held on August 17, 2017 to discuss the proposal.
- The preliminary plat application was submitted to the Planning Division on October 2, 2017.
- A departmental review meeting was conducted on October 19, 2017.

- The preliminary plat was resubmitted with revisions based on department reviews on October 26, 2017.
- The Planning Board reviewed the plat on November 14, 2017.
- The Planning Board will conduct a public hearing on November 28, 2017, and forward a recommendation to the City Council.
- The City Council will consider the preliminary plat on December 18, 2018.
- The 60 working-day preliminary plat review period ends December 29, 2017.

## **PLAT INFORMATION**

**General location:** South of Masters Boulevard, east of Golden Acres Drive

**Legal Description:** Being Lot 10A of Amended Plat of Lots 10 & 15, Block 4, Falcon Ridge Subdivision, 1st Filing, and Lot 11A of Amended Plat of Lots 11-14, Block 4, Falcon Ridge Subdivision, 1st Filing

**Owner/Subdivider:** Falcon Ridge I, LLC

**Engineer and Surveyor:** Sanderson Stewart

**Existing Zoning:** RMF-R

**Existing land use:** Vacant

**Proposed land use:** Residential

**Gross and Net area:** 10.44 acres; 7.43 acres

**Proposed number of lots:** 35

**Lot size:** Max: 15,450 square feet Min: 6,033 square feet

**Parkland requirements:** Parkland dedication requirements for this proposed plat have been met with previous filings.

## **VARIANCES REQUESTED**

No variance has been requested.

## **DISCUSSION/STAKEHOLDERS**

Staff gave a brief presentation about the proposed Falcon Ridge Estates Subdivision, 3rd Filing. Board President Darell Tunncliff asked staff if this subdivision would be required to drain storm water into the future proposed detention facility on the corner of 62nd Street and Rimrock Road. Staff responded that engineering did not make any mention of that requirement but the purpose of the detention facility is to serve the area, so this subdivision may sometime in the future make use of the facility. There were no other questions for staff from the Planning Board.

Gary Owen from Sanderson Stewart, representing the owners, stood to answer any questions from the board. There were no additional questions from the board for Mr. Owen.

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## **Attachments**

Findings of Fact

Proposed Plat

Draft SIA

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## **FINDINGS OF FACT**

The Planning staff has prepared the Findings of Fact for the preliminary plat of Falcon Ridge Estates Subdivision, 3<sup>rd</sup> Filing. 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 23-302.H.2.]**

#### **1. Effect on agriculture and agricultural water user facilities**

The subject property is not currently used for agricultural purposes but is vacant land within the subdivision. Cove Ditch runs along the southern border of the land and there is City Park Land along its length. Ditches and drains shall remain in place and not be altered by the subdivider or subsequent owners. The subdivision should not affect agricultural water users' facilities and will not take any agricultural land out of production.

#### **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, a single service to single family home lots and two services to lots proposed to have twin homes built on them. All new water lines and fire hydrants will be installed 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). The water service will be provided by an existing 8-inch water line that is in Southern Bluffs Lane and from an existing 8-inch water line in Masters Boulevard. The extension of these lines will provide a looped system in the new filing.

Sanitary sewer service will be provided by connecting to the existing City of Billings' sewer mains. There is an existing 8-inch sanitary sewer stub located in Southern Bluffs Lane and one in Masters Boulevard. The subdivider will install new sewer mains in the local streets and individual services for each lot, or two services to a single lot where a twin home is proposed to be constructed, 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 Yellowstone Valley Electric Cooperative will provide electric services to the subdivision. Easements have been shown on the face of the plat that are acceptable to these utility providers.

**Stormwater** – Stormwater drainage for the public streets is proposed to be provided by curb and gutters that discharge into storm water pipes and eventually

to a detention pond in the southwest corner of this filing. The storm detention facility was put in place with the 2<sup>nd</sup> Filing of Falcon Ridge Estates and was designed to handle storm runoff from both the 2<sup>nd</sup> and 3<sup>rd</sup> Filings. All 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. A Home Owners Association (HOA) will be created and will be responsible for maintenance of the proposed storm water drainage system. The applicant will place an easement over the storm water drainage system that will allow City Engineering to repair and maintain the system and create an SID to cover costs should the HOA fail to do so. An updated Stormwater Report will be submitted and approved by City Engineering before final plat. **(Condition #1)**

- b. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City’s landfill has adequate capacity for this waste.
- c. **Streets** – The applicant will be installing new roads in this filing. Southern Bluffs Lane and Falcon Ridge Circle, both will have a 56 foot right of way width. Southern Bluffs Lane and Falcon Ridge Circle shall all be 34 feet back of curb to back of curb and shall be built to City of Billings street standards. They shall be built to grade with a satisfactory subbase, base course, curb and gutter with asphalt surface. The applicant will be installing sidewalks along park land frontages and will install handicap accessibility ramps at the time of private contract for construction of roads. All sidewalks will be boulevard type sidewalks as outlined in subdivision regulations. Each home owner will be required to install the sidewalk with lot development.

There is a section of Southern Bluffs Lane that was platted with Falcon Ridge Estates 2<sup>nd</sup> Filing, that the applicant is proposing to connect to with the 3<sup>rd</sup> Filing. To make this connection the applicant will be putting a road through a strip of parkland that was dedicated to the City of Billings with the 1<sup>st</sup> Filing. In this staff report under the heading Parks and Recreation there is an explanation of what is proposed.

A Traffic Impact Study (TIS) has been submitted with previous filings that included the proposed 3<sup>rd</sup> filing. Updates to the TIS have been provided to City Engineering. Intersection improvements identified in the TIS will provide a cash contribution as outlined in the SIA under III Transportatoin D. 1. 3 prior to final plat approval.

- d. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 54<sup>th</sup> St. West and Grand Ave. (Station #7). The subdivision is located within the ambulance service area of American Medical Response (AMR).

- e. **Schools** –School District #2 provides educational services to elementary through high school students. Schools serving these students are Boulder Elementary, Ben Steele Middle School, and West High School. At the time of the writing of this staff report there was no response from the schools or district. From previous subdivisions in the area Arrowhead Elementary was over capacity, while the other schools were below, but near capacity. Also, the subdivision is currently on a bus route.
  
- f. **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. With 35 residential lots being created with this filing the required parkland acreage would be 0.808 acres. In the previous two filings of Falcon Ridge Estates Subdivision they have provided 8.12 acres of park land, the previous two filings were required to provide 4.92 acres. The subdivision has provided 3.2 acres more parkland than required by subdivision regulations. With the third filing there will not be any additional parkland required from the developer.

Outlined earlier in this staff report it was pointed out that there is a section of Southern Bluffs Lane that was platted with Falcon Ridge Estates 2<sup>nd</sup> Filing, the applicant is proposing to make a connection to that road with the 3<sup>rd</sup> Filing. To make this connection the applicant will be putting a road through a strip of parkland that was dedicated to the City of Billings Parks Department with the 1<sup>st</sup> Filing. In the SIA it is proposed that there will be a land swap to get the road through the existing park land. The applicant is proposing to provide a 4,846 square foot parcel of land in exchange for the new right of way through the existing parkland. The amount of land that will be used to provide a new right of way to connect Southern Bluffs Lane is 3,794 square feet. The proposed land exchange has been reviewed and approved by the City Parks Department.

- g. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision and has indicated that centralized mailbox units will be required. They have requested the centralized mailbox be placed on the corner of Masters Boulevard and Southern Bluffs Lane. It needs to be placed a safe distance from the intersection to not create a traffic issue with the intersection. It will also need to provide enough space for the mail delivery person to be able to safely stop along the road edge. The developer will need to coordinate mailbox location with the postal service. **(Condition #2)**

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

The subject property is vacant property that has been planned for urban development. The property generally slopes to the south toward the Cove Ditch.

There is geotechnical study information outlined in the SIA under the heading IX. Soils/Geotechnical Study.

During development, storm water pollution prevention best management practices are required to be used and monitored to prevent erosion on exposed ground. Overall, the effect on the natural environment should be minimal.

**4. Effect on wildlife and wildlife habitat**

There are no known endangered or threatened species on the property. There is a paragraph in the SIA that warns future lot owners of the presence of wildlife 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**

There will 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 76-3-616, MCA.

**C. Does the subdivision conform to the City of Billings 2016 Growth Policy, the 2014 Transportation Plan, and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-302.H.4.]**

**1. Yellowstone County-City of Billings 2016 Growth Policy**

The proposed subdivision is consistent with the following goals of the Growth Policy:

**Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods):** Neighborhoods that are safe and attractive and provide essential services are much desired (p.8). Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels. (p.8)

**Home Base (healthy, safe and diverse housing options)** A mix of housing types that meet the needs of a diverse population is important. (p.9) Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings.

**2. Urban Area Transportation Plan 2014 Update**

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**

The proposed subdivision lies within the jurisdiction of the Billings Area Bikeways and Trail Master Plan. A trail corridor exists within parkland dedicated to the City in the previous filings of this subdivision. This trail network will connect the subdivision to a 10-foot-wide trail (sidewalk) identified on the preliminary plat along Cove Ditch to the

south and east. This subdivision will construct the section of the 10-foot-wide trail along the Cove Ditch that runs along the east and south boundary of the subdivision. This will complete the trail in this area that runs along Cove Ditch from Falcon Ridge Subdivision into the Copper Ridge Subdivision filings to the west. There is a short term bike lane identified along Rimrock Road but this subdivision is not required to construct any trails on Rimrock Road.

**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 RMF-R zoning. The lot sizes conform to the requirements of this zone. Other building setbacks and structure specific requirements will be reviewed for compliance at the time of building permit review.

**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 YVEC 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 Southern Bluffs Lane, and Masters Boulevard.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Falcon Ridge Estates Subdivision, 3<sup>rd</sup> 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 2016 Growth Policy and does not conflict with the Transportation or Bikeway/Trail Plans.
- 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**

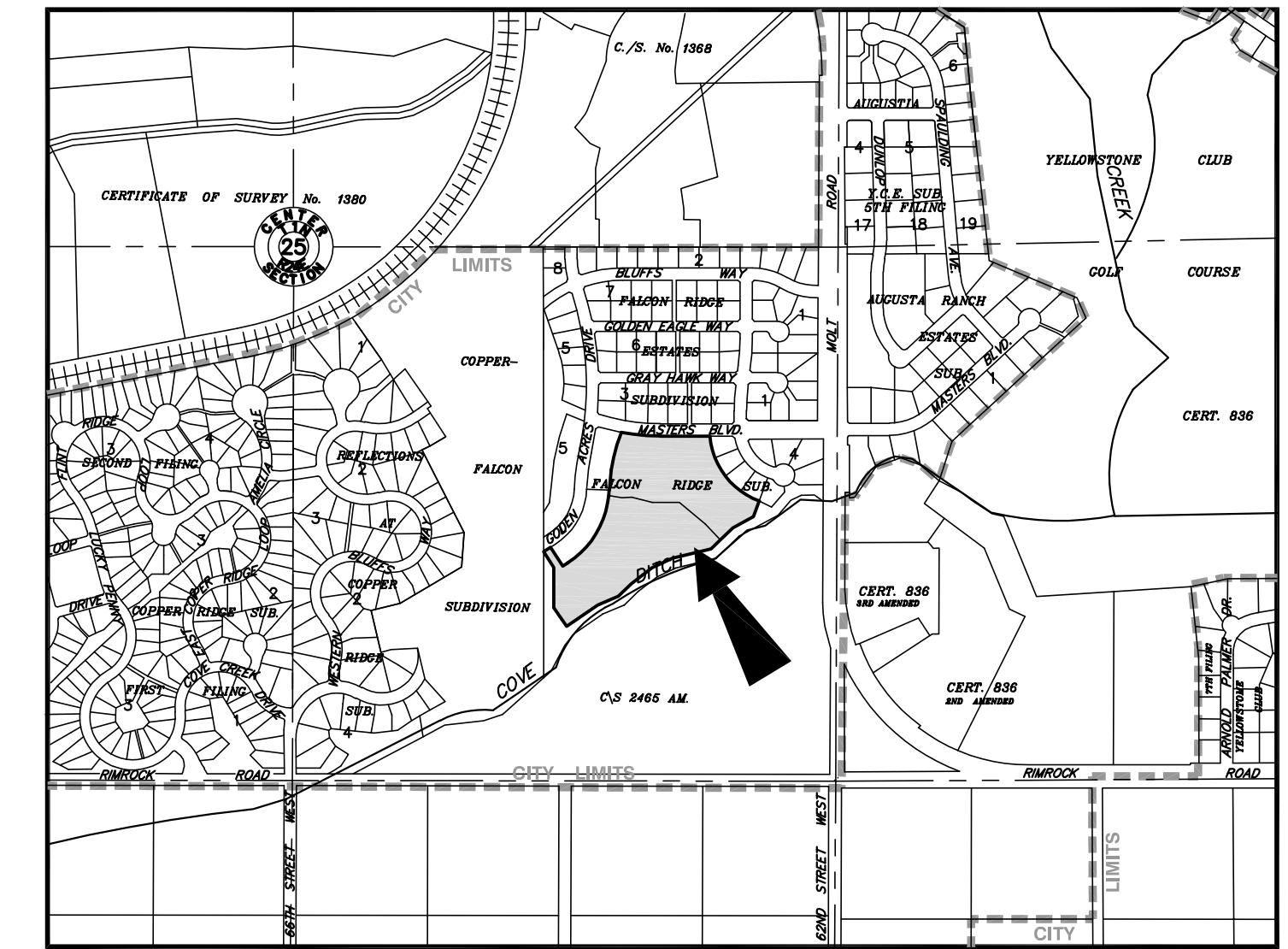
Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Falcon Ridge Estates Subdivision, 3<sup>rd</sup> Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

# PRELIMINARY PLAT OF FALCON RIDGE ESTATES SUBDIVISION, 3RD FILING

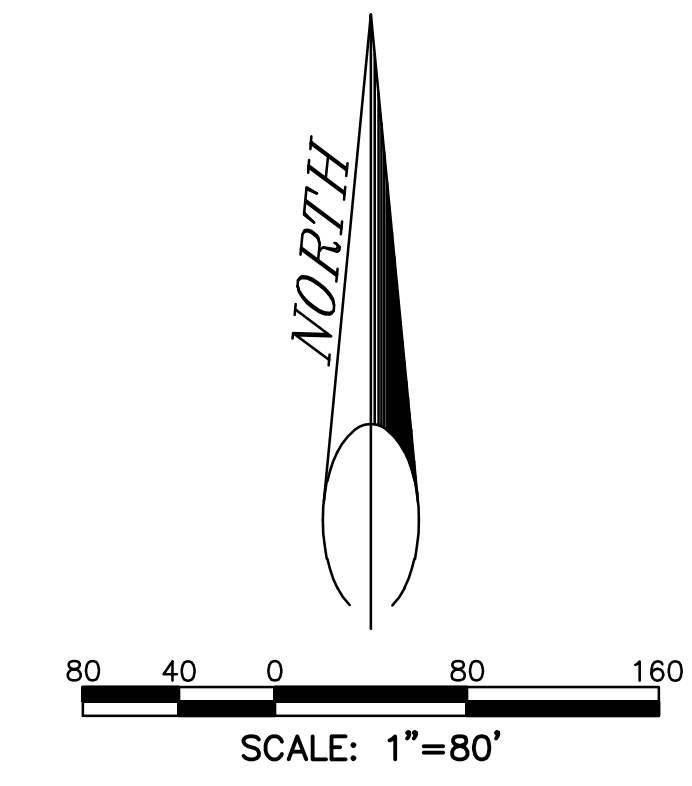
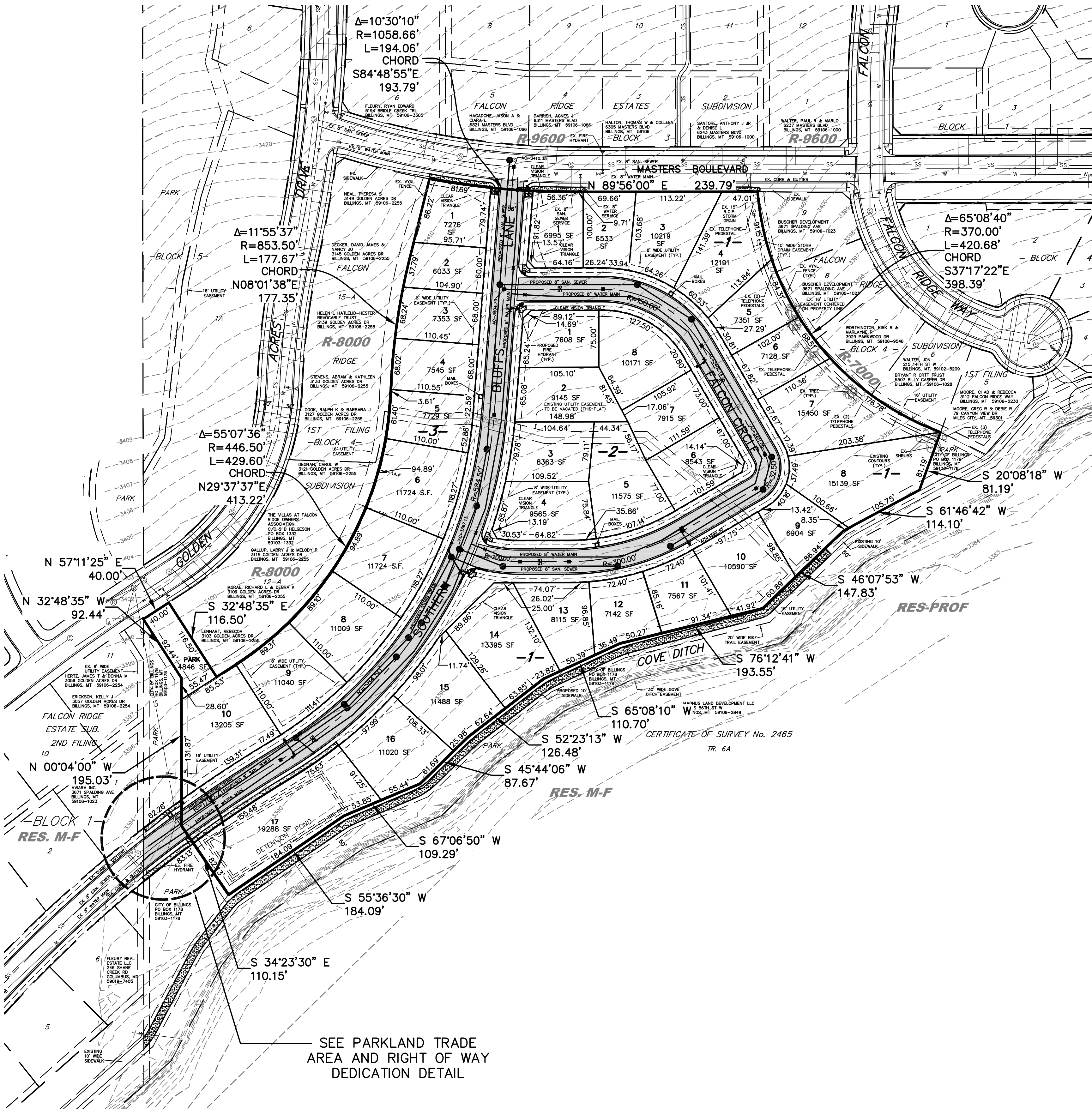
BEING LOT 10A OF AMENDED PLAT OF LOTS 10 & 15, BLOCK 4, FALCON RIDGE SUBDIVISION, FIRST FILING  
AND LOT 11A OF AMENDED PLAT OF LOTS 11-14, BLOCK 4, FALCON RIDGE SUBDIVISION, 1ST FILING  
SITUATED IN THE SE1/4 OF SECTION 25, T. 1 N., R. 24 E., P.M.M.,  
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : FALCON RIDGE I, LLC  
PREPARED BY : SANDERSON STEWART

AUGUST, 2017  
BILLINGS, MONTANA

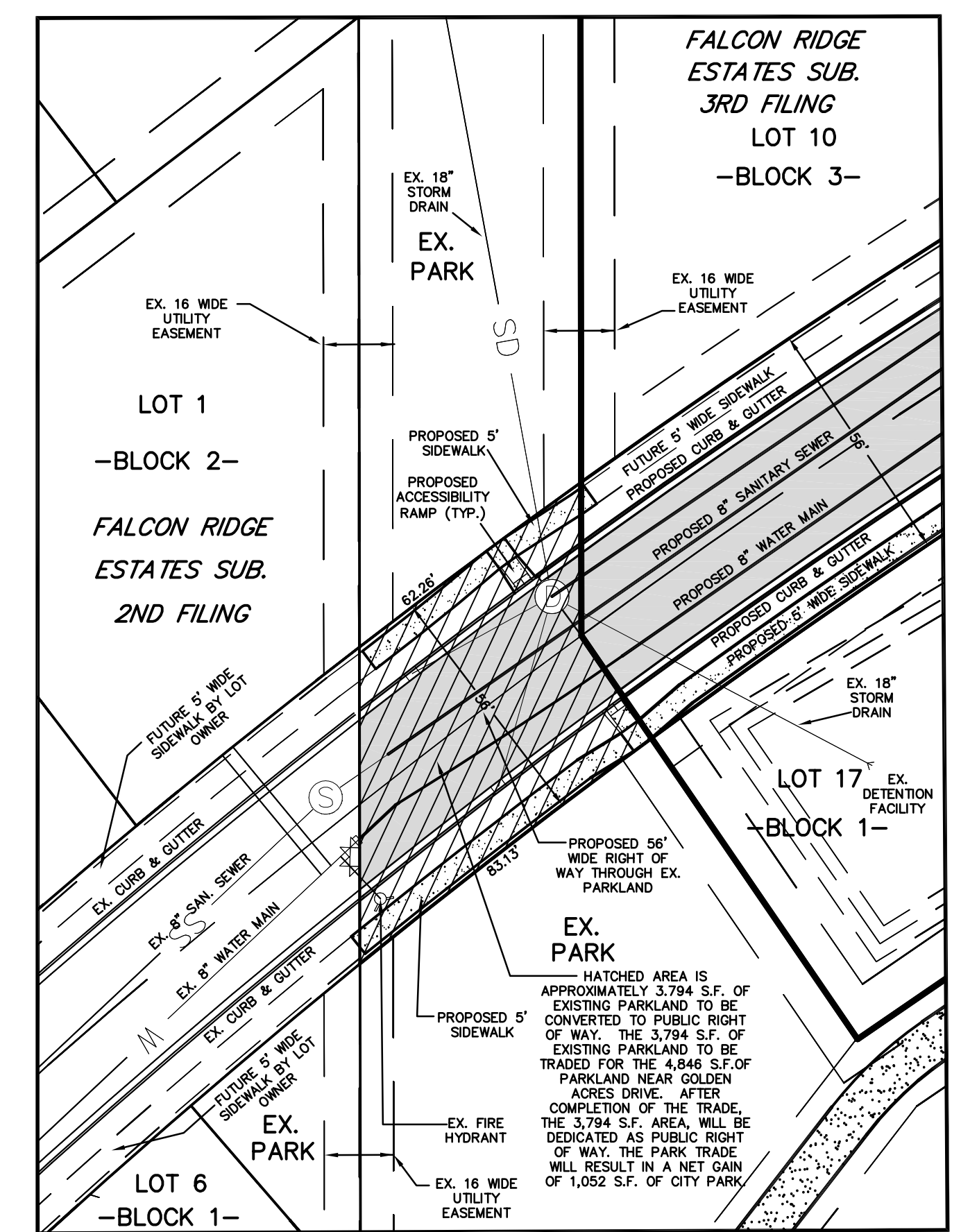


**VICINITY MAP**  
NOT TO SCALE



**PLAT DATA**

GROSS AREA	=	10.444 AC
NET AREA	=	±7.436 AC
NUMBER OF LOTS	=	35
MINIMUM LOT SIZE	=	±6,033 SF
MAXIMUM LOT SIZE	=	±19,288 SF
LINEAL FEET OF STREETS	=	±1,914 LF
PARKLAND REQUIREMENT	=	0.818 AC.
PARKLAND DEDICATION	=	±0.111 AC + MET THROUGH PREVIOUS FILINGS PARKLAND DEDICATION
EXISTING ZONING	=	RESIDENTIAL MULTI-FAMILY RESTRICTED
SURROUNDING ZONING:		
NORTH	=	RESIDENTIAL 9600
SOUTH	=	RESIDENTIAL MULTI-FAMILY & RESIDENTIAL PROFESSIONAL
EAST	=	RESIDENTIAL 7000
WEST	=	RESIDENTIAL 8000
EXISTING LAND USE	=	VACANT
PROPOSED LAND USE	=	RESIDENTIAL DEVELOPMENT



**EX. PARKLAND TRADE AREA AND RIGHT OF WAY DEDICATION DETAIL**  
SCALE: 1"=30'

SEE PARKLAND TRADE AREA AND RIGHT OF WAY DEDICATION DETAIL

Return to:  
Sanderson Stewart  
1300 North Transtech Way  
Billings, MT 59102

## **SUBDIVISION IMPROVEMENTS AGREEMENT FALCON RIDGE ESTATES SUBDIVISION, THIRD FILING**

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Return to:  
Sanderson Stewart  
1300 North Transtech Way  
Billings, MT 59102

## **SUBDIVISION IMPROVEMENTS AGREEMENT FALCON RIDGE ESTATES SUBDIVISION, THIRD FILING**

**THIS AGREEMENT** is made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between **FALCON RIDGE I, LLC**, whose address for the purpose of this agreement is 3671 Spalding Avenue, Billings, Montana 59106, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Montana, hereinafter referred to as “City.”

### **WITNESSETH:**

**WHEREAS**, the preliminary plat of Falcon Ridge Estates Subdivision, Third Filing, located in the City of Billings, Yellowstone County, Montana, was submitted to the Planning and Community Services Department which recommended its approval to the Yellowstone County Board of Planning; and

**WHEREAS**, at a meeting held on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by the Yellowstone County Board of Planning, the Board recommended for approval, subject to certain conditions, an area known as Falcon Ridge Estates Subdivision, Third Filing, and

**WHEREAS**, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, the City Council approved, subject to certain conditions, a preliminary plat of Falcon Ridge Estates Subdivision, Third Filing, and

**WHEREAS**, a Subdivision Improvements Agreement is required by the City prior to approval of the final plat; and

**WHEREAS**, the provisions of this agreement shall be effective and applicable to the plat of Falcon Ridge Estates Subdivision, Third Filing, upon filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The subdivision shall comply with all requirements of the City of Billings subdivision regulations; the rules, regulations, policies, and resolutions of the City of Billings; and the laws and administrative rules of the State of Montana.

**THEREFORE, THE PARTIES TO THIS AGREEMENT**, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows.

**I. VARIANCES**

Subdivider requests no variances.

**II. CONDITIONS THAT RUN WITH THE LAND**

- A.** Lot owners should be aware that this subdivision could contain wildlife migratory routes. Consequently, owners are advised that wildlife indigenous to this area could be found on the property and may impact the developed property and interface with domestic animals, residents, and visitors. Owners may also experience problems with damage to landscaped shrubs, flowers, and gardens. Any impacts associated with wildlife and any damage arising therefrom is the responsibility of the lot owners.
- B.** Lot owners should be aware that there is a Declaration of Restrictions and Protective Covenants recorded in conjunction with this subdivision, which outlines additional requirements specific to this subdivision design.
- C.** Lot owners should be aware that the United States Postal Service mail delivery will be made only to centralized delivery locations. Such locations shall consist of 8 to 16 mailboxes per location. The location of each centralized mailbox setting is shown on the overall development plan and the private contract construction plans. Subdivider shall install the mailboxes within the private contract for the Third Filing.
- D.** Lot owners shall be advised that land is in proximity to right-of-way owned by the Burlington Northern Santa Fe Railroad, upon which they actively operate a transportation business. The noise from moving trains is clearly audible in the subdivision. This activity is protected by state law and can be expected to continue indefinitely. Subdivider, for itself and all successor owners of property within the subdivision, hereby waives any right to object and/or protest the noise created by normal operation of trains running along the railway, acknowledges that the railroad right-of-way is private property, and further acknowledges that the subdivision and successor owners of lots within the subdivision have an affirmative duty to stay off the Burlington Northern Santa Fe Railroad property and to keep children, guests, and invitees off the property.

- E.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts, which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this agreement. The Subdivider and owner specifically agree that they are waiving valuable rights, and do so voluntarily.
- F.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for any construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.
- G.** The lowest finished floor elevation (which includes the garage) shall be a minimum of 18-inches higher than the top of curb measured from the highest location along the lot frontage. Higher finished floor elevations shall be required on a lot by lot basis, as noted on the final plat.
- H.** The lowest openings on each home (window well, walk-out basement doors, and equivalent openings) shall be located outside drainage paths. If this is not possible, the homebuilder and lot owners must take necessary measures to protect these openings from being inundated from surface water flows; allow enough space between window wells and property lines to provide sufficient swales and drainage away from window wells; and meet applicable building codes for drainage requirements.
- I.** The developer and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and State Department of Environmental Quality (DEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by DEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.
- J.** Lots within Falcon Ridge Estates Subdivision, Third Filing are subject to the \$25.00 per lot per year fee for the existing stormwater connection to the Cove Ditch.

### **III. TRANSPORTATION**

#### **A. Streets**

*Right-of-way widths.* Southern Bluffs Lane and Falcon Circle shall be 56-foot rights-of-way. These internal access roads shall be 34 feet back of curb to back of curb. These roads shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings site development ordinance, city subdivision regulations, and Uniform Building Code.

#### **B. Sidewalks**

City and Subdivider agree that developer will install handicap accessibility ramps at time of private contract construction. The developer will install 5-foot boulevard sidewalk along Masters Boulevard with the private contract construction. The developer will also install 5-foot boulevard sidewalk in the right of way along the parkland frontage with the private contract. The developer will also install 5-foot boulevard sidewalk in the right of way along Lot 17, Block 1 with the private contract. No additional boulevard sidewalks will be installed by the developer as part of construction improvements.

Individual lot owners will be responsible for the construction of the sidewalks adjacent to their lot at the time of lot construction. Sidewalks shall be 5-foot-wide boulevard sidewalks.

#### **C. Street Lighting**

Construction or installation of streetlights in subdivision shall not be required at this time, but streetlights are included in the Waiver, which also includes a maintenance district for street light energy and maintenance.

#### **D. Traffic Control Devices**

1. The Subdivider shall furnish and install all necessary traffic control devices adjacent to the subdivision. Traffic control devices shall include all necessary signing, striping, and channelization devices to properly complete the implementation of the proposed street construction. All traffic control devices shall be subject to review and approval by the City Engineering office.

2. Street name signs shall be installed at all intersections.
3. The City and Subdivider agree that the Subdivider will make cash contributions to improvements at the intersection of Rimrock Road and 62nd Street West. The calculated contribution percentage for this development is 1.33 percent. The developer will be required to make a cash contribution for this intersection improvements in the amount of \$3,325.00 prior to final plat approval.

**E. Access**

Access will be provided in two locations for the subdivision. One will be an extension of Southern Bluffs Lane and the other a connection to Masters Boulevard.

**F. Billings Area Bikeway and Trail Master Plan**

The Billings Bikeway and Trail Plan identifies the Cove Ditch as a connection linking other greenway corridors. Subdivider will install a 10-foot-wide pedestrian and bikeway path in the existing 20-foot-wide bike trail easement, located adjacent to the Cove Ditch easement. The Subdivider shall only be responsible for installing the path within the limits of the subdivision boundary.

**G. Public Transit**

There are no MET Transit routes that service this subdivision at this time. No improvements with regard to MET Transit vehicles are anticipated at this time.

**IV. EMERGENCY SERVICES**

Access is provided to this subdivision from two locations. The Falcon Ridge Estates Subdivision, Third Filing, will complete an extension of Southern Bluffs Lane and make a connection to Masters Boulevard. In addition, fire hydrants will be installed at the required locations as reviewed and approved by the City of Billings Fire Department.

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and fire hydrant(s) in place to allow for fire suppression requirements. Prior to the issuance of a building permit for construction using combustible materials (i.e. lumber, plywood, wood trusses, etc.), fire apparatus

access roads and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the City of Billings.

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150 feet of the furthest portion of a building under construction as measured along an approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of 20-feet-wide.
- An operational fire hydrant shall be located within 600 feet of the furthest portion of a residence under construction or within 400 feet of the furthest portion of a commercial building under construction as measured along the access roads to the site.
- The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.

#### **V. STORM DRAINAGE**

All storm drainage improvements shall comply with the provisions of Chapter 28, BMCC, and shall be in accordance with the recommendations of an approved storm drain study to be submitted to the City of Billings Engineering Department by the Subdivider. The stormwater in the subdivision will be managed on-site through surface flow on the streets, inlets, piping, and an existing stormwater detention facility located in the southwest corner of the subdivision. The stormwater detention facility was constructed with Falcon Ridge Estates Subdivision, Second Filing and is located within Lot 17, Block 1. The detention facility will be located on Home Owner's Association (HOA) owned lot and shall be operated and maintained by the HOA. The detention facility was designed to account for drainage from both Falcon Ridge Estates Subdivision, Second Filing and Falcon Ridge Estates Subdivision, Third Filing. The stormwater detention facility has an existing outlet to Cove Ditch. The Subdivision will be required to retain, or provide treatment, of the water quality volume/flow on-site in accordance with the City of Billings Stormwater Management Manual (SWMM). The stormwater design for Falcon Ridge Estates Subdivision, Third Filing, will conform to the current SWMM and be reviewed by the City of Billings Public Works Department.

#### **VI. UTILITIES**

Water and sanitary sewer lines shall be sized and installed in conformance with the City design standards and specifications, and the rules and regulations of the City of Billings.

The Subdivision Improvements Agreement does not constitute an approval for extension of or connection to water mains and sanitary sewers. The property owner shall make application for extension/connection of/to water mains and sanitary sewers to the Public Works Department, Engineering Division. The extension/connection of/to water mains and sanitary sewers are subject to the approval of the applications and the conditions of approval. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any project plans and specifications.

The developer/owner acknowledges that the subdivision shall be subject to the applicable system development fees and franchise fee in effect at the time new water and/or sanitary sewer service connections are made.

The design/installation of sanitary sewers and appurtenances, and water mains and appurtenances (fire hydrants, etc.) shall be in accordance with design standards, specifications, rules and regulations of, and as approved by, the City of Billings Public Works Department, Fire Department, and the Montana Department of Environmental Quality.

**A. Water**

Service to the subdivision will be provided from the existing 8-inch water main stub in Southern Bluffs Lane and from an existing 8-inch water main located in Masters Boulevard. Extension of the water mains will provide a looped system for the subdivision. Appropriately sized mains and services in the internal streets will provide service to the individual lots within the subdivision. It is anticipated that each lot shall be provided with its own separate water service and twin home lots will receive two individual water services. 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 will be approved by the Public Works Department.

**B. Sanitary Sewer**

Service to the subdivision will be from the existing 8-inch sanitary sewer stub located in Southern Bluffs Lane and from an existing 8-inch sanitary sewer main located in Masters Boulevard. Appropriately sized mains and services in the internal streets will provide service to the individual lots within the subdivision. Each lot shall be provided with its own service and twin home lots will receive two individual sewer services. All sanitary sewer 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 will be approved by the Public Works Department.

**C. Power, Telephone, Gas, and Cable Television**

All telephone, gas, electrical power, and cable television lines shall be placed in designated easements outside of the right-of-way and shall be installed underground prior to surface improvements. The location of all such facilities shall be subject to approval of the City Engineer.

**VII. PARKS/OPEN SPACE**

Section 76-3-621 of the Montana Subdivision and Platting Act covers the park dedication requirement. Additionally, Section 23-1002.B.1 of the City of Billings municipal code covers parkland dedication of major subdivisions. The subdivision has 34 residential lots and parkland dedication has been met through parkland dedication from previous filings.

Southern Bluffs Lane will be extended from Falcon Ridge Estates Subdivision, Second Filing and through this development. To accomplish this extension an existing portion of parkland will need to be converted from parkland to public right of way. This will be achieved by trading a new portion of parkland for the existing parkland area. With this development, a new 4,846 square feet of parkland will be dedicated and is located adjacent to the existing parkland near Golden Acres Drive. The 4,846 square feet of new parkland is currently landscaped, irrigated and maintained by the Parks Department. The 4,846 square feet of new park will be traded for 3,794 square feet of existing parkland. The 3,794 square feet will then be dedicated as public right at the completion of the trade. The park trade will result in a net gain of 1,052 square feet of City Park.

**VIII. HOMEOWNER'S ASSOCIATION**

A homeowner's association (HOA) will be established for this subdivision to maintain the water quality features constructed of Falcon Ridge Estates Subdivision, Third Filing. The HOA will have the following responsibilities:

**A. Contact Information**

HOA shall provide contact information of the senior board official to the City Engineering Department upon the establishment of the HOA and/or changing of board members.

**B. Stormwater Drainage Facilities**

The HOA shall be responsible for the operation and maintenance of the water quality features that will be constructed for Falcon Ridge Estates Subdivision, Third Filing. The HOA shall also be responsible for the maintenance of the on-site drainage facility located on Lot 17, Block 1. The HOA documents and operations and maintenance manual will be created with the private contract plans.

**IX. SOILS/GEOTECHNICAL STUDY**

The Subdivider has retained an engineering firm to prepare a geotechnical analysis for this property. A copy of the entire geotechnical report prepared by Rimrock Engineering, Inc., dated October 25, 2017, is available for review at the City Building and/or Planning Division offices. There are variable soil conditions throughout the subdivision, and the potential exists for collapsible soils within the subdivision.

A lot specific geotechnical report shall be the responsibility of the lot owner. The Subdivider has contracted with Rimrock Engineering, Inc. to perform a preliminary geotechnical analysis for this property dated October 25, 2017.

Recommendations from the report include:

1. Approximately 6-inches of surface soils should be stripped and removed from the site, or stockpiled for use in non-structural areas.
2. Fill should be placed and compacted to a minimum of 97 percent relative compaction, in accordance with the ASTM D698 compaction test method.
3. Provide positive drainage away from residences.
4. Street subgrade, utility trenches, parking areas and concrete flatwork subgrade should be placed at a minimum of 97 percent of ASTM D698.
5. A large track hoe or specialized equipment may be required during foundation excavations, depending on the location and depth of the excavation. The boring logs should be reviewed for conditions across the site.
6. Due to the hydro-collapse and settlement potential of native soils on this site, plants should not be placed within three feet of foundations. Care should be taken with the landscaping not to create drainage obstructions,

such as concrete curbing, which will collect and retain water near the foundations.

7. As noted in the Rimrock Engineering, Inc. October 25, 2017 report, and in accordance with the International Residential Code, downspouts with 6-foot extensions should be used. Positive drainage away from all foundations should have six inches of fall in the first ten feet away from the foundations. If sufficient room is not available to construct the 10-foot slope, drainage swales should be constructed as far from the foundations as possible.

## **X. FINANCIAL GUARANTEES**

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a private contract secured by letters of credit or a letter of commitment to lend funds from a commercial lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said private contract, and the improvements shall be installed as approved by the City Engineering Department and Public Works Department, Distribution and Collection Division.

## **XI. LEGAL PROVISIONS**

- A. Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by the City of Billings.
- B. The owners of the properties involved in this proposed subdivision, by signature subscribed herein below, agree, consent, and shall be bound by the provision of the agreement.
- C. The covenants, agreements, and all statements in this agreement apply to and shall be binding on the heirs, personal representatives, successors, and assigns of the respective parties.
- D. In the event it becomes necessary for either party to this agreement to retain an attorney to enforce any of the terms or conditions of this agreement or to give any notice required herein, then the prevailing party giving notice shall be entitled to reasonable attorney fees and costs.
- E. Any amendments or modifications of this agreement or any provisions herein shall be made in writing and executed in the same manner as this original document, and shall after execution become a part of this agreement.

- F.** Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and official seals on the date first above written.

“SUBDIVIDER”

**FALCON RIDGE I, LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the person who signed the foregoing instrument as the \_\_\_\_\_ of **FALCON RIDGE I, LLC**, and who acknowledged to me that said company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

This Agreement is hereby approved and accepted by City of Billings, this \_\_\_ day of \_\_\_\_\_, 20\_\_.

“CITY”

**CITY OF BILLINGS, MONTANA**

By: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk

STATE OF MONTANA     )  
  :SS  
County of Yellowstone     )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, and \_\_\_\_\_, known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of the City of Billings, Montana.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
City Attorney

## WAIVER OF RIGHTS TO PROTEST

**FOR VALUABLE CONSIDERATION**, the undersigned, being the Subdivider and sole owner of the hereinafter described real property, do hereby waive for a period of 20 years after the date that the final subdivision plat is filed, the right to protest the formation of one or more special improvement district(s) for street light maintenance and energy, and for the construction of streets, street widening, sidewalks, survey monuments, street name signs, curb and gutter, street lights, driveways, traffic signals and traffic control devices, parks and park maintenance, trails, sanitary sewer lines, water lines, storm drains (either within or outside the area), and other improvements incident to the above which the City of Billings may require.

This Waiver and Agreement is independent from all other agreements and are supported by sufficient independent consideration to which the undersigned is a party, and shall run with the land and shall be binding upon the undersigned, its successors and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

Falcon Ridge Estates Subdivision, Third Filing

“SUBDIVIDER”

**FALCON RIDGE I, LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MONTANA        )  
  : ss  
County of Yellowstone    )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the person who signed the foregoing instrument as the \_\_\_\_\_ of **FALCON RIDGE I, LLC**, and who acknowledged to me that said company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_