



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



**AGENDA**

June 26, 2018 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. MEETING MINUTES:** June 12, 2018
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. City major subdivision. Zimmerman Home Place Subdivision, 2nd Filing, Amended Lts 1, Blocks 4 & 5.** Performance Engineering, LLC, agent for Billings Opportunities, LLC, owner. Dave Green, Planner II, presenting. (PZ\_18-00054)
  
8. **NEW BUSINESS:** (Agenda items new to this meeting).
  - a. **Update. Board Discussion. 2018 Transportation Plan, Transportation Project Updates.** Scott Walker, Transportation Coordinator, presenting.
  
9. **OTHER BUSINESS:**
  - a. (Standing Item) Long Range Strategic Issues and an overview of future City and County issues and projects.
  
10. **ADJOURNMENT**

**FUTURE AGENDA ITEMS FOR TUESDAY, JULY 10, 2018**

### **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:** 06/26/2018

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**Information**

**Subject**

**MOTION. MEETING MINUTES:** June 12, 2018

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**Attachments**

PlnBMinutes\_2018\_06\_12\_DRAFT

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# CITY/COUNTY PLANNING BOARD

*"Serving Billings, Broadview and Yellowstone County"*

**MAY 22, 2018**

*Approved by a motion on June, 12 2018*

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**Project Re:Code Kickoff "Meet & Greet" Session, *SAFEBuilt Studios*:** The City/County Planning Board and the Project Re:Code Steering Committee is invited to meet with members of the *SAFEBuilt Studios* Consultant Team and their project partners on **June 12th from 5:00 pm to 5:45 pm** in the Miller Building 1st Floor Conference Room, 2825 3rd Avenue North, Billings, Montana. The consultant team is scheduled to be in Billings, June 12, 13 and 14, 2018 to begin work on Project Re:Code, a major revision to the City/County zoning codes.

In the event a quorum of the Board is present during this informal session, no official business decisions will be made. **The Planning Board meeting will immediately follow and held as legally advertised and announced at 6:00 pm in the Miller Building Conference Room, Agenda Item (10a), "Project Re:Code, Presentation and Discussion", will be opened and conducted as denoted below.**

**Attending:** Mike Boyett; Woody Woods; Dennis L. Cook; Troy Boucher; Pat Davies; Randy Hafer; Mark Noennig; Jan Rehberg; Melissa Henderson; Greg McCall; Darell Tunncliff; John Thompson; Matt Macrow; Jerry Williams; Dave Goodridge; Elizabeth Garvin, *SAFEbuilt Studios*; Leslie Oberholtzer; Codametrics; Craig Dalton, Performance Engineering

## **Call the Meeting to Order**

President Tunncliff called the meeting to order at 6:00 p.m. on Tuesday, May 22, 2018, 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; Nicole Cromwell, Zoning Coordinator; Tammy Deines, Planning Clerk

## **Approval of the June 12, 2018 Agenda**

### **Motion:**

**Board member Cook made a motion and it was seconded by Board member Boucher to approve the June 12, 2018 meeting agenda as submitted. The agenda was approved with a unanimous voice vote.**

**Approval of Minutes: May 22, 2018.**

### **Motion**

**Board member Cook made a motion and Board member Woods seconded the motion to approve the May 22, 2018 meeting minutes as submitted. The motion carried with a unanimous voice vote.**

**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

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time, but could choose to add an item to the next meeting agenda for discussion. There were no public comments.

**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.

### NEW BUSINESS

**Plat Review. Board Discussion. Zimmerman Home Place Subdivision, 2nd filing. A 34.66 acre, 17-lot City major subdivision generally located west of the intersection of Zimmerman Trail and Grand Avenue. Performance Engineering, agent. Billings Opportunities, owner. Dave Green, Planner II presenting. (PZ-18-00054)**

### INTRODUCTION

On May 1, 2018, Performance Engineering, LLC, agent for Billings Opportunities, LLC, owner, applied for preliminary major plat approval for Zimmerman Home Place Subdivision, 2nd Filing, Amended Lots 1, Blocks 4 & 5. The proposed subdivision creates 16 new lots for commercial development. The subject property is generally located on the northwest corner of the intersection of Grand Avenue and Zimmerman Trail. The property is zoned Community Commercial (CC) and Neighborhood Commercial (NC). The Yellowstone County Board of Planning will review the plat at this meeting and conduct a public hearing on May 22, 2018.

### RECOMMENDATION

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Zimmerman Home Place Subdivision, 2nd Filing, Amended Lots 1, Blocks 4 & 5 to the City Council, and adopt the Findings of Fact as presented in the staff report.

### PROPOSED CONDITIONS OF APPROVAL

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably

minimize potential adverse impacts identified within the Findings of Fact.

1. To minimize effects on local services and enable more useable roadways, prior to final plat approval the applicants submitted TIS will be reviewed and approved by City of Billings Engineering Division outlining any additional requirements that developer needs to be responsible to construct. This review will also confirm or correct the contributions for street improvement from the developer listed in the SIA.
2. To minimize the effects on local services, prior to final plat approval the subdivider will provide a letter from the United States Postal Service acknowledging its agreement with the placement of mail delivery facilities in the subdivision.
3. To ensure the provision of easements for utilities, prior to final plat approval the subdivider shall provide utility easements on the final plat as requested by the private utility companies.

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4. 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.

5. 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.

### **Discussion**

President Tunnicliff asked the Board for questions or discussion. He asked if there is a full access/left turn from this parcel onto Zimmerman Lane. Dave Green referred to a posted plat map and pointed out the location of an existing opening and island near Ace Hardware. President Tunnicliff asked for presentation by the applicant.

### **Craig Dalton, Performance Engineering, 7100 Commercial Ave, Ste 4, Billings, Montana**

Mr. Dalton had no further comments.

A public hearing for Zimmerman Home Place Subdivision, 2nd Filing will be held during the next Planning Board meeting on Tuesday, June 26, 2018. City Council action on July 23, 2018.

**OLD BUSINESS:** There is no Old Business.

### **OTHER BUSINESS/ANNOUNCEMENTS**

#### **Presentation: Project Re:Code Kickoff. Nicole Cromwell, Zoning Coordinator. SAFEbuilt Studios, presenting.**

Zoning Coordinator Nicole Cromwell introduced the consultant team for Project Re: Code: Elizabeth Garvin, SAFEbuilt Studios; Leslie Oberholtzer, Codeametrics; and Randy Hafer, High Plains Architects. They are here in an introductory capacity to glean information from the governing bodies and various city and county community groups. The estimated timeline for this project is approximately 18 months. Elizabeth Garvin, gave a brief biography and stated she is an attorney and has about 25 years of experience in rewriting zoning code. Leslie Oberholtzer introduced herself and stated she worked with staff to develop the EBURD code and is excited to return to Billings for this project. Randy Hafer stated he is serving as the local representative of this team and initially worked with staff to put together the consultant team to consider the zoning in a comprehensive way. He stated he is excited about this opportunity for the community.

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Elizabeth Garvin began with a on overview of the project task sequencing:

1. Project Overview- Kickoff: document review, organization meetings, public outreach.
2. Code Audit; Analyze current regulations, identify best practices, prepare Code Audit.
3. Drafting: Districts and Uses, Development Standards, Procedural Regulations.
4. Adoption: Full draft updated regulations, public review process.

Board member Thompson asked about the timeline for phases. Ms. Garvin said typically it is her practice to start slowly with a code update of this scale. She acknowledged the preliminary work staff has done with the steering committees. Her best guess is another week in the kickoff phase; 3 months for the code audit, and 3 months in drafting. A project calendar will be drafted with adoption prior to the end of the project. Time is built into the schedule in anticipation of road blocks and need for discussion. The public outreach is done to obtain input from a cross section of the community, and the Open House is an informal gathering to share thoughts. Ms. Garvin opened the discussion session with the questions below, requesting participation from all in attendance.

### **1. What is your favorite place in Billings? Is this place an example of Billings' unique character? Comments:**

- The rim rocks-defining natural feature that ties us to Billings. Physical sense of place.
- Yellowstone River, Rose Park, Pioneer Park, views of the Beartooth and Pryor mountains
- Downtown, area retail draws such as larger stores, (“Costco”, “Scheels”), Medical Corridor community, oil and gas industries, farming, banking, universities, airport location
- Proximity to agricultural uses; refinery lights at night; older parts of town-tree lined streets;
- Location. Triangulated location between Seattle, Denver, Minneapolis.

### **2. What is a place or area you have visited that you liked and think would fit in Billings or Yellowstone County? Comments:**

- Jon Thompson-Fort Collins street shapes, urban planning, good sense of place.
- Melissa Henderson-Tucson, Arizona-distinct entry ways to build neighborhood character and sense of place.

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Reviewed by Planning Staff

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- Nicole Cromwell-markets with diverse wares from small retailers. Street Fare. "Hay Market" in Boston
- Vancouver-ability to be up on Grouse Mountain or able to access mountains.
- Jon Thompson-Calgary-ties to parks and trails within the community. Open space preserved. Ability to catch large trout downtown.
- Wyeth Friday: Missoula-walkability. Energy and activity level downtown. Allentown Pennsylvania
- Jan Rehberg-Old European city squares-vehicles outside the square and are pedestrian oriented projecting the feeling of wanting to sit and watch.
- Santa Fe-feeling of being.
- Wyeth: Expanded on the need for sense of safety, shade, architecture, separation from cars, and comfortable, inviting spaces. Need to bring this to the commercial areas.
- Oak Park, Chicago. Ability to walk year round.
- Other Cities: Salt Lake City Utah; Boise, Idaho; Burlington Vermont; Bozeman, Montana-good Building design standards and character. San Antonio, Texas-river walk; Denver, Colorado-16th Street Mall; Farmington City, Utah-town square with parking on the outside.

### **What do you think is the biggest barrier to development projects that help the City and County achieve their current goals? Comments:**

- Railroad tracts blocking the north and south of Billings
- Zoning Code rigidity with no room for discretion in the districts, making it difficult to be innovative. The current zoning code is reflective of the community attitude at the time it was written, "Keep it simple--we are doing fine". "We don't need that fancy stuff".
- The need to show investment in the community in a lot of different ways. Currently the community is overly cautious in some areas, i.e. parks, streetscape, transit, and the airport. Need to be moving forward with the economic and internal investment visible. In the past, Billings was lacking or slow in investment. "It's more than just the building".

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- Existing zoning does provide the right devices to push forward the development needed.
- The current code starts the decision making process with a list of things you cannot do, and encourages battles. Need to change focus to what *can* we do? Staff noted the zoning process was changed to address this with a requirement for a pre-application meeting prior to submittal for a zone change application.
- The current zoning code puts neighborhoods in a reactive position. There is a lack of planning in development and the review process is not at the global neighborhood level.
- There is a need for collective leadership and vision as a community working together in consensus. There are enclaves of passionate people, and masses of people that do not get engaged unless there is a large issue. Community fragmentation with similar goals. The code should be written to “make the good, easy”. Need for community based conversation and consensus.
- A more level playing field is needed in the fringe areas with requirements and expectations closer to being the same across jurisdictions. More interface is needed between the City and the County. The current zoning boundary line should be address as the City is moving towards the zoning boundary limits. The boundary line should be redrawn to solve problems with development standards between the County and the City and promote coordination between jurisdictions.
- Address Public Health and safety. Balance impacts on growth as it moves towards the County.
- Focus on ways to get the same look with reasonable cost factors. Provide clear expectations to developers, giving them the ability to cost out what the City and County is looking for.
- Need to “raise the bar” with developments such as Shiloh Crossing and the redevelopment of the West Park Promenade.
- Developers are surprised how easy the development process is in Billings. Need to be careful not to make the process difficult and onerous due to the development standards. Currently developers are local but there is national interest coming to the radar due to the national economy.

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### **Do you have any comments about how the development review and approval process works in Billings/Yellowstone County? Comments:**

- The current Planning staff and review process is really good; much better than other places. There are some hurdles presented by other departments that may catch an applicant by surprised
- Notification to the public to ensure people are notified. Use quality notification process versus quantity. Billings is a "Big Small Town" with an expectation of personal notifications. The current notification system is antiquated and uses traditional practices.
- Funding for neighborhood planning and a planner? Should there be more neighborhood groups? This can be grown organically but neighborhood planner updates neighborhoods prior to the public hearing process.
- There is concern from the development with loss of institutional knowledge due to long term staff retiring.
- More interdepartmental communication is needed within the process.
- The review process should be standardized- "mechanical not working off of opinions".
- Education: constant attempt to educate the community on the review process. Expectations are set early in the project. How are educational documents and information distributed? Need to start thinking of Billings in a way that *is* Billings. How to scale up Billings to reflect where you are going?

### **What do you hear about development-good or bad-in Billings or Yellowstone County? Comments:**

- Older citizens prefer quieter neighborhoods with less traffic and millennials wish to live downtown.
- Good Development with a need to "raise the bar". Examples of good development: Shiloh Crossing, West Park Promenade, Brosovich Park.
- The current code allows for "bad" development. There are some cheaply built buildings.
- Need the ability to meet the affordable housing niche. A recent downtown study pointed challenges for those in the \$30-000: 60,000 income range.

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Reviewed by Planning Staff

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- Recently, several big box stores have emptied in key retail areas of the City: “Sears”, “Sports Authority”, “Kmart”, “Herbergers”, “Toys R Us”, and “Big Bear”. Disruption in brick and mortar retail. The code needs to provide the tools to help with redevelopment with the disruption in brick and mortar retail developments. Possibly creation of a zone for horizontal and mixed use development.

### **The zoning code must \_\_\_\_\_ : Comments:**

- Be simplified.
- “Make the good easy”. “Black and white”.
- Historical knowledge written into the code.
- Not too wide open. Suggestion was made to create an online decision tree. “Choose your own adventure”.
- Code needs to be more visual using diagrams and charts.
- User friendly with plain language.
- Must be adoptable.
- Improve quality life in the community economically, socially. Catalyst to be a better place.
- Forward looking with a vision for what may come forward in 5-10 years.
- Be adaptable and empower the community to make changes when appropriate.

### **What does a successful zoning code update project look like to you? Comments:**

- Important to interface and tie into the County. Cannot be Linear based.
- Consider context based.
- Grassroots interest in the code update working with the consultant. Need for both elements. Expectation for outside perspective. Expectation for best practices.
- Need to be adoptable.
- Local ownership is critical.
- Something that can be updated "without waiting forty years" without going through a cumbersome process.

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Ms. Garvin thanked the attendees for their input and patience with the meeting duration. The next steps include summarizing the input and creating a feedback report. The code auditing phase will follow to look into big picture issues; character area analysis; and a best practices study to create a code audit draft and revised study draft.

Discussion sessions will be held on Wednesday, June 13. The Project Re: Code Kickoff Open House will be held Wednesday, June 13, 2018, 5:00 with an open invitation to the community. Thursday is scheduled with discussion meetings with local community groups and City departmental staff.

### **9b. Standing Item. Long Range Strategic Issues and an overview of future City and County issues and projects.**

There were no items announced by staff or members of the Board.

**ADJOURNMENT:** 7:55 p.m.

DRAFT. To be approved by a motion on June 24, 2018



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



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

**Meeting Date:** 06/26/2018

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## **Information**

### **INTRODUCTION**

On May 1, 2018, Performance Engineering, LLC, agent for Billings Opportunities, LLC, owner, applied for preliminary major plat approval for Zimmerman Home Place Subdivision, 2nd Filing, Amended Lots 1, Blocks 4 & 5. The proposed subdivision creates 16 new lots for commercial development. The subject property is generally located on the northwest corner of the intersection of Grand Avenue and Zimmerman Trail. The property is zoned Community Commercial (CC) and Neighborhood Commercial (NC). The Yellowstone County Board of Planning will conduct a public hearing at this meeting and make a recommendation to the City Council for action on this preliminary major plat.

### **RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Zimmerman Home Place Subdivision, 2nd Filing, Amended Lots 1, Blocks 4 & 5 to the City Council, and adopt the Findings of Fact as presented in the staff report.

### **PROPOSED CONDITIONS OF APPROVAL**

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact.

1. To minimize effects on local services and enable more useable roadways, prior to final plat approval the applicants submitted TIS will be reviewed and approved by City of Billings Engineering Division outlining any additional requirements the developer needs to be responsible to construct. This review will also confirm or correct the contributions for street improvements from the developer listed in the SIA.
2. To minimize the effects on local services, prior to final plat approval the subdivider will provide a letter from the United States Postal Service acknowledging its agreement with the placement of mail delivery facilities in the subdivision.
3. To ensure the provision of easements for utilities, prior to final plat approval the subdivider shall provide utility easements on the final plat as requested by the private utility companies.
4. 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.
5. 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.

### **DISCUSSION/STAKEHOLDERS**

Staff gave a brief presentation about the proposed subdivision to the Planning Board at the plat review

meeting. After the presentation, Planning Board Chair Tunnicliff asked if there were any questions from the Board for staff. There was one question concerning the proposed access off of Zimmerman Trail into the site and whether it would be a full access or a 3/4 access. It was pointed out that the proposed access is directly across Zimmerman Trail from the ACE Hardware store access, which is a full access onto Zimmerman Trail. There were no other questions from the board and the applicants agent had no further comments.

## **VARIANCES REQUESTED**

No variances from the City Subdivision Regulations have been requested.

## **PROCEDURAL HISTORY**

- A pre-application meeting was held on March 22, 2018 to discuss the proposal.
- The preliminary plat application was submitted to the Planning Division on May 1, 2018.
- A departmental review meeting was conducted on May 17, 2018.
- The preliminary plat was resubmitted with revisions based on department reviews on May 24, 2018.
- The Planning Board reviewed the plat on June 12, 2018.
- The Planning Board will conduct a public hearing on June 26, 2018, and forward a recommendation to the City Council.
- The City Council will consider the preliminary plat on July 23, 2018.
- The 60 working-day preliminary plat review period ends July 26, 2018.

## **PLAT INFORMATION**

General location:	Northwest corner of the intersection of Grand Avenue and Zimmerman Trail
Legal Description:	Lots 1, Blocks 4 & 5, Zimmerman Home Place Subdivision
Owner/Subdivider:	Billings Opportunities, LLC
Engineer and Surveyor:	Performance Engineering, LLC
Existing Zoning:	Community Commercial and Neighborhood Commercial
Existing land use:	Vacant/Farming
Proposed land use:	Commercial development
Gross:	34.66 acres
Proposed number of lots:	16
Lot size:	Max: 3.69 acres Min.: 0.79 acres
Parkland requirements:	There are no parkland requirements for this proposed subdivision because it is a commercial subdivision.

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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 Zimmerman Home Place Subdivision, 2nd Filing, Amended Lots 1, Blocks 4 & 5. 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 land to be subdivided has been historically used for farming. The 34.66-acre parcel is located at the north west corner of the intersection of Grand Avenue and Zimmerman Trail. The property was annexed into the City limits on May 14, 2018. The agricultural land in this area have become more valuable as residential and commercial properties, and their development may possibly alleviate some development pressure on irrigated agricultural lands farther to the west. The development of the subject property should have minimal effects on agriculture and agricultural water user facilities in the area.

#### **2. Effect on local services**

- a. **Utilities** – All lots will be served by city water lines in the area. A new 12-inch water main will be installed in Green Valley Drive from a 12-inch water main connection to an existing stub that terminates at the subdivision boundary on Grand Avenue. There will be a 12-inch water main in Avenue E connected to an existing 12-inch water main from existing Avenue E. Avenue D will have an 8-inch water main installed in it to the subdivision boundary for future connections. The lot owners will be responsible to connect to the water lines at the time of lot development.

All water line installation shall meet City of Billings Public Works Department and Montana DEQ standards, rules, and regulations. This requirement is called out in the SIA under the heading VI. Utilities.

- b. **Sanitary Sewer** – All lots will be served by city sewer lines in the area. A new 12-inch sewer main will be installed in Green Valley Drive from a 12-inch sewer main connection to an existing stub that terminates at the subdivision boundary on Grand Avenue. There will be a 12-inch sewer main in Avenue E connected to an existing 12-inch sewer main from existing Avenue E. Avenue D will have an 8-inch sewer main installed in it to the subdivision boundary for future connections. The lot owners will be responsible to connect to the sewer lines at the time of lot development.

Sewer main installation and placement will meet City of Billings Public Works Department and Montana DEQ Standards, rules, and regulations. This requirement is called out in the SIA under the heading VI. Utilities.

Power, natural gas, telephone, and cable will all be located within the right-of-way and utility easements shown on the plat.

- c. **Storm water** – Storm drainage shall be provided by a combination of surface drainage, curb and gutters, and storm drain piping and detention pond. The detention pond will be released into the City of Billings storm drains located in Grand Avenue at a rate allowed by City Engineering standards. An HOA will be created to maintain all storm drainage systems. Those responsibilities will be outlined in an Operation and Maintenance Manual. All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the *Stormwater Management Manual* in place at the time of development. A complete stormwater management plan shall be submitted to the City Engineering Division and Montana Department of Environmental Quality for review and approval at the time of development. This requirement is called out in the SIA under the heading V. Storm Drainage.
- d. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City’s landfill has adequate capacity for this waste. Location of solid waste receptacles will be reviewed and approved by City of Billings Solid Waste division at the time of site development.
- e. **Streets** –All roads within the subdivision were dedicated to the public at the time of the original subdivision, Zimmerman Home Place Subdivision, document number 3811344. All streets shall be built in accordance with the City of Billings Engineering site development standards. Roads within the subdivision, Green Valley Drive and Avenue E, shall be built to commercial road standards having a minimum width of 45 feet back-of-curb to back-of-curb. Green Valley Drive is an 80-foot-wide right of way; Avenue E is a 70-foot-wide right of way. The applicant will be required to build Avenue E to a minimum of 30 feet of asphalt surface with curb and gutter on the south edge. The applicant notes this in the SIA under III Transportation A. Streets, at the fourth bullet point. Future development to the north will be required to complete the full width to 45 feet back-of-curb to back-of-curb road surface. Avenue D will be constructed to a 34 foot back of curb to back of curb width to the property edge.

A Traffic Impact Study (TIS) was submitted for this subdivision and will be reviewed and approved by the City of Billings Engineering Division to determine if all the accesses are acceptable and the type of accesses they will be. (**Condition #1**)

- f. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. This property is in the coverage

area of fire station #7 located at 1501 54<sup>th</sup> St. West. The subdivision is located within the ambulance service area of American Medical Response (AMR).

- g. **Schools** –School District #2 provides educational services to elementary through high school students. Because this is a commercial subdivision there will be no students added to the schools in the area.
- h. **Parks and Recreation** – Commercial subdivisions are not required to provide parkland.
- i. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision and has indicated that centralized mailbox units will be required. The centralized mailbox unit needs to be located in an area with a safe pull off area for the postal vehicle and worker. **(Condition #2)**

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

The subject property consists of approximately 34.7 acres of irrigated farm land gently sloping to the south, southeast. A preliminary Geotechnical Investigation Report was performed and submitted for review. This report acknowledged the need for additional site-specific reports prior to construction, which will be required when an applicant submits drawings for a building permit. A paragraph in the SIA under the heading Conditions that Run with the Land notify future lot owners of the need for future geotechnical studies based on proposed specific site development.

### **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 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.

## **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 Billings Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan Update? [BMCC 23-302.H.4.]**

### **1. City of Billings 2016 Growth Policy**

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

- a. **Essential Investments (relating public and private expenditures to public values):** Neighborhoods that are safe and attractive and provide essential services are much desired.
- b. **Essential Investments (relating public and private expenditures to public values):** Infill development and development near existing City infrastructure may be the most cost effective.
- c. **Prosperity (promoting equal opportunity and economic advancement)**  
A diversity of available jobs can ensure a strong Billings' economy. Successful businesses that provide local jobs benefit the community.

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

The proposed subdivision adheres to the goals and objectives of the 2014 Functional Class Map and preserves the street network and street hierarchy specified in the plan. It also meets some of the goals of the 2016 City of Billings Growth Policy.

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

The proposed subdivision lies within the jurisdiction of the Billings Area Bikeways and Trail Master Plan. There is a trail along the east side of Zimmerman Trail that is already constructed. There is a boulevard sidewalk constructed on the west side of Zimmerman Trail for public use also. It is encouraged that the applicant provides pedestrian/bike routes out of the commercial areas of this proposed development to the future residential zoned area to the north.

**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 CC and NC zoning. The lot sizes conform to the requirements of these zones. 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 will coordinate and provided utility easements as requested by MDU and NWE on the face of the plat. **(Condition #3)**

**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 Grand Avenue, Zimmerman Trail, Green Valley Drive and Avenue E.

**CONCLUSIONS OF FINDINGS OF FACT**

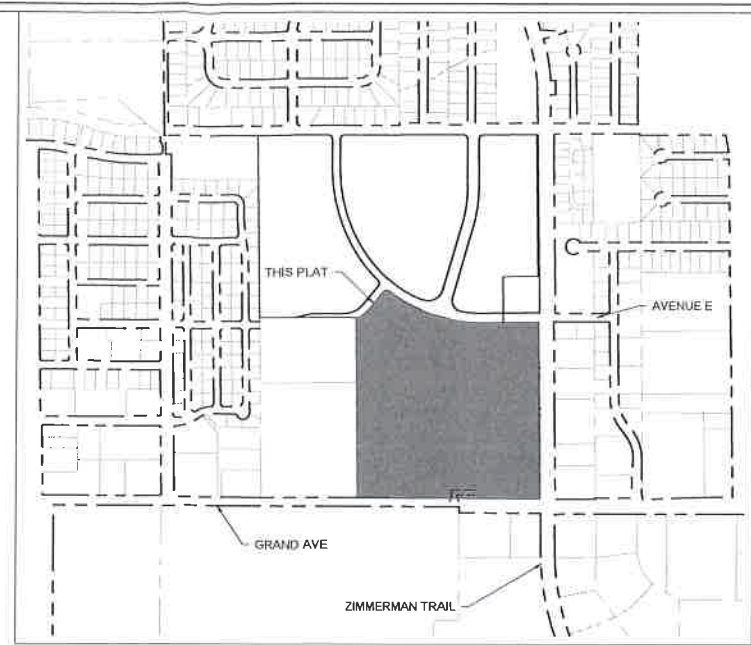
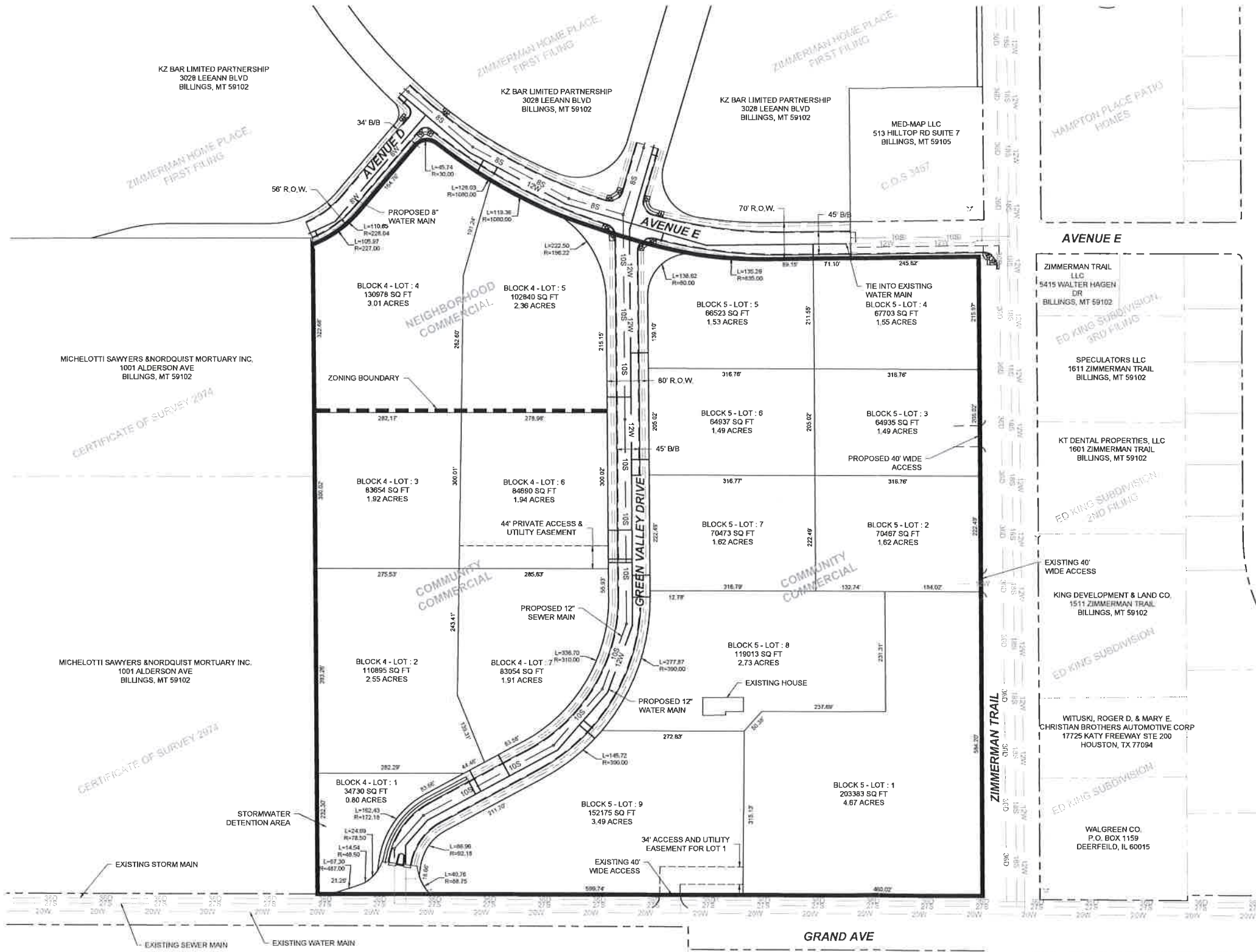
- The preliminary plat of Zimmerman Home Place Subdivision, 2<sup>nd</sup> Filing, Amended Lots 1, Blocks 4 & 5, does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several of the goals and policies of the 2016 Growth Policy and does not conflict with the Transportation or Bikeway and 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 Zimmerman Home Place Subdivision, 2<sup>nd</sup> Filing, Amended Lots 1, Blocks 4 & 5 to the City Council, and adopt the Findings of Fact as presented in the staff report.

PRELIMINARY PLAT OF  
**ZIMMERMAN HOME PLACE, SECOND FILING**

BEING LOT 1, BLOCK 4 AND LOT 1, BLOCK 5 OF ZIMMERMAN HOME PLACE, FIRST FILING  
 SITUATED IN THE SW 1/4 OF SECTION 34, T 01 N, R 25 E, P.M.M.  
 CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA



**VICINITY MAP**

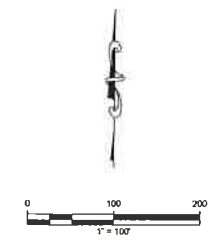
SITE DATA	
# OF LOTS	16
MAXIMUM LOT AREA	± 4.67 AC
MINIMUM LOT AREA	± 0.80 AC
PARKLAND AREA	N/A
LINEAL FEET OF STREETS	± 1,580 LF
NET ACREAGE	± 34.66 AC
GROSS ACREAGE	± 34.66 AC

PREPARED FOR: BILLINGS OPPORTUNITIES, LLC  
 PREPARED BY: PERFORMANCE ENGINEERING, LLC  
 PRELIMINARY PLAT DATE: MAY 2018

EXISTING LAND USE: AGRICULTURAL  
 EXISTING ZONING: NEIGHBORHOOD COMMERCIAL  
 COMMUNITY COMMERCIAL

PROPOSED LAND USE: COMMERCIAL  
 PROPOSED ZONING: NEIGHBORHOOD COMMERCIAL  
 COMMUNITY COMMERCIAL

PROPERTY OWNER: BILLINGS OPPORTUNITIES, LLC



7100 COMMERCIAL AVE., SUITE 4  
 BILLINGS, MT 59101  
 OFFICE - 406-384-0080  
 www.performance-ec.com

**PERFORMANCE ENGINEERING**

SHEET  
**1 OF 1**

DRAWN BY: JAS    CHECKED BY: CPD    DATE: MARCH 2017    COPYRIGHT 2018 ©

PEL SJ/ANDRUK BW, CTB  
 5/27/2018 9:54:22 AM  
 D:\Users\Craig\Desktop\PEC\_Billings\_Town\_Folder\Town\_Plan\3016-071\_Grand\_Ave\_ZimmermanCAD\DWG\Plat\Plat.dwg    Plot: 16-071\_ZUP\_Prelim\_Plat.dwg

**SUBDIVISION IMPROVEMENTS AGREEMENT**  
**Zimmerman Home Place Subdivision, Second Filing**  
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**City of Billings**

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## SUBDIVISION IMPROVEMENTS AGREEMENT

### Zimmerman Home Place Subdivision, Second Filing

This agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between *BILLINGS OPPORTUNITIES, LLC*, whose address for the purpose of this agreement is **P.O. Box 6000; Butte, Montana 59702**, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as “City.”

#### WITNESSETH:

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Board of Planning recommended conditional approval of a preliminary plat of *Zimmerman Home Place Subdivision, Second Filing*; and

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the City Council conditionally approved a preliminary plat of *Zimmerman Home Place Subdivision, Second Filing*; and

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

**WHEREAS**, the provisions of this agreement shall be effective and applicable to *Zimmerman Home Place Subdivision, Second Filing* upon the 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

A. No variance request is being made as part of this development.

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

A. Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction. Currently all permitted structures within city limits are required by the City of Billings to obtain and follow a geotechnical report prior to construction.

- B. Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners may need to protect young landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.
- C. No water shares have been transferred to the individual lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners unless otherwise noted herein. All water shares associated with the property will be transferred to the Owner's Association.
- D. There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts (SID) 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.
- E. The Subdivider and subsequent contractors/builders acknowledge that a Stormwater Pollution and Prevention Plan (SWPPP) may be required to be filed with the City and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.
- F. Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.
- G. Lots 1 and 10, Block 5 of Zimmerman Home Place Subdivision, Second Filing will be responsible for landscaping the boulevard along Grand Avenue at the time of lot development in accordance with the City of Billings' Unified Zoning Regulations.

### III. TRANSPORTATION

#### A. Streets

- Right-of-Way widths of 56 feet, 70 feet and 80 feet have already been dedicated for Avenue D, Avenue E and Green Valley Drive as part of Zimmerman Home Place Subdivision, 1<sup>st</sup> Filing (Document No. 3811344). No additional right-of-way is being dedicated as part of this filing.

- The Subdivider will execute a private contract to construct the public streets within the Subdivision.
  - Avenue D shall be 34 feet back-of-curb to back-of-curb;
  - Avenue E shall be 45 feet back-of-curb to back-of-curb west of Green Valley Drive. Subdivider shall complete the construction of the southern half of the existing road surface of Avenue E contained within Certificate of Survey 3457;
  - Green Valley Drive shall be 45 feet back-of-curb to back-of-curb.
- These internal access 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 and City Subdivision regulations.
- Grand Avenue is designated by the City as a Principal Arterial and has been built to these standards including utilities. Zimmerman Trail is designated by the City as a Principal Arterial and has been built to these standards including utilities. Widening of Zimmerman Trail is not required at the time of this agreement, however, future widening is included in the waiver of right to protest.

No other off-site street widening will be required by the Subdivider.

#### **B. Sidewalks**

- The Subdivider will install, within the private contract, corner intersection handicap ramps and aprons and sidewalk adjacent to the stormwater detention property. Subdivider will grade all street frontages for sidewalk finished grades.
- Individual lot owners will be responsible for the construction of the sidewalks within the public right-of-way adjacent to their lot at the time of lot development and shall be included in each building permit. Sidewalks shall be 5-foot wide with a 5-foot boulevard planting strip between the sidewalk and the curb.

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

- No street lighting is proposed for the internal roads within the development, however, street lighting is included in the waiver of right to protest.

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

- The Subdivider shall furnish and install street name signs for streets within the subdivision or located immediately adjacent thereto in accordance with the specifications of the City of Billings Public Works and Fire Department.

- No traffic signals are required within this subdivision at the time of development. However, future intersection improvements are include with the waiver of right to protest.
- The Subdivider shall furnish and install all necessary traffic control devices in accordance with the Manual of Uniform Traffic Control Devices and approved by the City of Billings Public Works Department.
- A traffic accessibility study has been completed for Zimmerman Home Place Subdivision and submitted as part of this filing. Based on the additional lots created with Zimmerman Home Place Subdivision, Second Filing, the percent of traffic contribution and associated costs to these intersections is as follows:

Rimrock Road/Zimmerman Trail	6.69%	\$16,736.00
Poly Drive/Zimmerman Trail	10.37%	\$25,924.00
Grand Avenue/Zimmerman Trail	10.04%	\$25,104.00
Broadwater Avenue/Zimmerman Trail	6.69%	\$16,736.00
Poly Drive/Rehberg Lane	2.56%	\$6,399.00
Grand Avenue/Rehberg Lane	2.30%	\$5,743.00
<u>Grand Avenue/Shiloh Road</u>	<u>5.51%</u>	<u>\$13,783.00</u>
	<b>Total</b>	<b>\$110,425.00</b>

It has been assumed that improvements at each intersection will cost \$250,000.00. The Subdivider shall contribute \$110,425.00 to these intersections. These cash contributions for the intersection improvements will be made prior to final plat approval.

- Impacts at the internal intersection of Green Valley Drive and Avenue E are unknown at the time of this agreement. However, if at a future date intersection improvements at Green Valley Drive and Avenue E are warranted, each lot will be required to participate in their proportionate share of improvement costs as part of the waiver of right to protest.

#### **E. Access**

- Access to the subdivision is provided by Grand Avenue, Zimmerman Trail, Avenue E, Green Valley Drive and a potential future connection to Avenue D.
- A no access strip shall be provided along Grand Avenue, with an opening at the existing approach location, as indicated on the final plat.
- A controlled access strip will be provided along the frontage of Zimmerman Trail, with openings at the approach locations as indicated on the final plat.

#### **F. Billings Area Bikeway and Trails Master Plan (BABTMP)**

- This subdivision is located within the jurisdictional area of the BABTMP. There is an existing multi-use trail along the east side of Zimmerman Trail. No improvements are required at this time for the subdivision.

#### **G. Public Transit**

- This subdivision does not require improvements to ensure public transit service. The nearest transit stop is at the intersection of Grand Avenue and Golden Valley Circle.

### **IV. EMERGENCY SERVICES**

The Billings Fire Department currently provides fire protection services for the subdivision.

At the time of future lot development construction of buildings made of combustible materials shall have adequate fire apparatus access roads and fire hydrant(s) in place to meet fire suppression requirements. Prior to 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 twenty (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 apparatus access and water supply.

Private fire hydrants may be required to satisfy the distance requirements as stated above. Should private fire hydrants be required, the subdivision HOA will be responsible for the maintenance of the hydrants.

**V. STORM DRAINAGE**

A complete stormwater management plan shall be submitted to the City Engineering Division for review and approval at the time of development. The storm drainage system shall consist of a curb and gutter surface collection and curb inlets that drain into storm drainage piping. The storm drain piping will discharge into a detention facility located in Lot 1, Block 4 located in the southwest corner of the subdivision. The stormwater will be released from the detention facility into existing City storm drains located in Grand Avenue. All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the Stormwater Management Manual in place at the time of development.

A Home Owners Associations (HOA) shall be responsible for the operation and maintenance of any flow-based treatment device and the detention facility. Operation and maintenance requirements and HOA maintenance and fiscal responsibilities shall be outlined within the Zimmerman Home Place Subdivision, Second Filing Operation and Maintenance Manual.

**VI. UTILITIES**

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 water mains and sanitary sewers to the City of Billings Public Works Department – Engineering Division. The extension of/connection to water mains and sanitary sewers is subject to the approval conditions of the applications. Applications shall be submitted for processing prior to the start of any construction and prior to review and approval of any plans and specifications. The appropriate water and wastewater construction fees and franchise fee in effect shall be submitted with the applications.

The Subdivider/Owner acknowledges that the subdivision shall be subject to the applicable System Development Fees in effect at the time new water and/or sanitary sewer service connections are made or when a building permit is issued for new construction.

It is acknowledged that all fees stated above are subject to the Franchise Fee in effect at the time of payment.

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, regulations of and as approved by the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality.

**A. Water**

The subdivision water system will consist of new 12-inch water mains in Green Valley Drive, Avenue E and an 8-inch water main in Avenue D. The 12-inch water mains will connect to existing stubs that terminate at the subdivision boundaries. New water services will be installed to the public right-of-way boundary for all lots in Block 4 and Lots 6-10 (inclusive) of Block 5. Individual lot owners will be responsible for extending these services to their properties/buildings at the time of development. Lot 4 of Block 5 will connect to the water main located in Zimmerman Trail and will be constructed by the individual lot owner at the time of development. Lots 1 and 3 of Block 5 will connect to the existing service stub outs along Grand Avenue and Zimmerman Trail.

**B. Sanitary Sewer**

Sanitary Sewer service to the subdivision will be provided by connecting to the existing 12-inch inch sanitary sewer main stub out at the intersection of Grand Avenue and Green Valley Drive. The subdivision sanitary sewer system will consist of new 10-inch sanitary sewer main in Green Valley Drive to the intersection of Avenue E and Green Valley Drive, and new 8-inch sanitary sewer mains in Avenue E and Avenue D. The 10-inch sanitary sewer main will connect to an existing 12-inch sanitary sewer main stub out located in Green Valley Drive that currently terminates at the southern edge of the proposed subdivision. New sanitary sewer services will be installed to the public right-of-way boundary for all lots in Block 4 and Lots 6-10 (inclusive) of Block 5. Individual lot owners will be responsible for extending these services to their properties/buildings at the time of development. Lots 4 and 5 of Block 5 will connect to the existing sewer main located in Zimmerman Trail or Avenue E and will be constructed by the individual lot owners at the time of development. Lots 1 and 3 of Block 5 will connect to the existing service stub outs along Grand Avenue and Zimmerman Trail.

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

Private utility facilities currently exist to serve the subdivision. Power, natural gas, telephone, and cable will all be located within the right-of-way and utility easements shown on the plat.

**VII. PARKS/OPEN SPACE**

A parkland dedication is not required for this subdivision per 76-3-621(3)(b) MCA as all the parcels are nonresidential.

**VIII. IRRIGATION**

Irrigation laterals exist on the subdivision for use on the site. No water shares have been transferred to the individual lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners unless otherwise

noted herein. All water shares associated with the property will be transferred to the Owner's Association.

**IX. SOILS/GEOTECHNICAL STUDY**

A soils/geotechnical study has been performed for the subdivision. The report dated July 7, 2017 is available for review at the City of Billings Planning Department. Lot owners and contractors/builders are encouraged to review the report and its recommendations.

**X. PHASING IMPROVEMENTS**

There are no intended phasing improvements.

**XI. 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 Engineer and Utility Department Manager.

**XII. 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 provisions of this 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 or the 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,





