



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



**AGENDA**

March 12, 2019 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. **MEETING MINUTES:** FEBRUARY 26, 2019
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** There is no Old Business.

8. **NEW BUSINESS:** (Agenda items new to this meeting).
- a. Plat Review. Board Discussion. Annafeld Subdivision, 2nd Filing. A City major 98-lot development. McCall Development, owner. Dave Green Presenting.

**Attachments**

Findings of Fact  
proposed plat  
Draft SIA

- b. Plat Review. Board Discussion. Annafeld Subdivision, 3rd Filing. A City major 100-lot subdivision. McCall Development, owner. Dave Green, Planner II, presenting.

**Attachments**

Findings of Fact  
Proposed Plat  
Draft SIA

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, MARCH 26, 2019**

- a. PUBLIC HEARING, MOTION/RECOMMENDATION TO CITY COUNCIL. ANNAFELD SUBDIVISION, 2ND FILING, CITY MAJOR, DAVE GREEN, PLANNER II, PRESENTING.
- b. PUBLIC HEARING, MOTION/RECOMMENDATION TO CITY COUNCIL. ANNAFELD SUBDIVISION, 3RD FILING, CITY MAJOR, DAVE GREEN, PLANNER II, PRESENTING.



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



**Planning Board Meeting I (2nd Tuesday)**

**8. a.**

**Meeting Date:** 03/12/2019

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## **Information**

### **INTRODUCTION**

On February 1, 2019, Sanderson Stewart, agent for McCall Development, Inc., applied for preliminary major plat approval for Annafeld Subdivision, 2nd Filing. The proposed subdivision creates 101 new lots for development. The subject property is generally located south of Elysian Road and west of the Hogan Slough. The property is in the process of annexation and that process will be completed when this application is acted upon by City Council. The property is zoned Planned Development (PD) and the proposed lots will be developed in substantial compliance with the approved Planned Development Master Plan. The Yellowstone County Board of Planning will review the plat at this meeting and conduct a public hearing on March 26, 2019.

### **RECOMMENDATION**

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

### **PROPOSED CONDITIONS OF APPROVAL**

Staff recommends the following conditions of approval:

1. To minimize impacts on storm water detention facilities and ensure proper maintenance of the proposed system, prior to final plat approval, the applicant will provide an HOA Storm Water Facility Maintenance Agreement for review by City of Billings Engineering Division. This agreement shall outline the maintenance responsibilities of the storm water facilities.
2. To minimize impact of future road infrastructure and to ensure any impacts the subdivision may have on the existing roads, prior to final plat approval the applicant, with input from City Engineering, will determine dollars amounts of the required contributions to the existing roads. The applicant will also have all of the streets named in the subdivision.
3. To ensure the public park associated with this subdivision can be constructed and maintained correctly, prior to final plat approval the applicant will replace the second and third paragraph wording in the SIA under the heading VII. Parks/Open Space with wording provided by the City of Billings PRPL Division:

In addition, the lots within Annafeld Subdivision, Second Filing (not already participating in the park SID 1404 from Annafeld Subdivision, First Filing) shall provide additional funding to complete the park improvements for the previously created public parkland by SID. The park improvements shall be in accordance with the Council approved Annafeld Parks Master Plan. The Subdivider shall prepare all SID

documents necessary for creation, and coordinate with the City of Billings Parks and Recreation Department for review and approval. If all park improvements as defined in the Annafeld Parks Master Plan have been completed prior to the creation of this park SID, then this park SID will no longer be required.

The current park maintenance district (PMD 4041) for Annafeld Subdivision, First Filing shall be expanded to include lots within Annafeld Subdivision, Second Filing for the perpetual maintenance of the public parkland. The Subdivider shall prepare all park maintenance district documents necessary for its expansion and coordinate with the City of Billings Parks and Recreation Department for review and approval.

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.

## **VARIANCES REQUESTED**

No variances from the City Subdivision Regulations have been requested.

## **PROCEDURAL HISTORY**

- Pre-application meeting January 10, 2019
- Preliminary plat application submitted to the Planning Division on February 1, 2019.
- Departmental review meeting February 14, 2019
- Preliminary plat resubmittal February 21, 2019
- Planning Board plat review March 12, 2019
- Planning Board public hearing March 26, 2019
- Preliminary plat to City Council April 22, 2019
- 60 working-day preliminary plat review period ends April 29, 2019

## **PLAT INFORMATION**

General location:	South of Elysian Road, east of East Road, west of the Hogan Slough.
Legal Description:	Lots 1-3, Block 1; Lots 1A1 and 4, Block 1; Lot 1A, Block 5; Lot 1, Block 6, Annafeld Subdivision, 1st Filing
Owner/Subdivider:	McCall Development, Inc.
Engineer and Surveyor:	Sanderson Stewart
Existing Zoning:	PD
Existing land use:	Farm Land
Proposed land use:	Residential and Commercial
Gross and Net area:	46.59 acres; 42.05 acres

Proposed number of lots: 101

Lot size: Max: 23.33 acres  
Min.: 1,905 square feet

Parkland requirements: In accordance with 76-3-621(6)(a), MCA the overall Planned Development Master Plan provides for land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who ultimately reside in the development and meets or exceeds the 11% net land area dedication requirement.

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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 Annafeld Subdivision, 2<sup>nd</sup> Filing. These findings are based on the preliminary plat application and supplemental documents; addressing 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 currently farmland that has been purchased, rezoned and will be annexed for this filing. Any irrigation facilities will continue to provide irrigation to the remaining farmed area to the west. Development of this filing of the subdivision will take about 46 acres of irrigated farmland out of production. However, this area of the community has been identified by the City for future urban development and there is currently no mechanism to mitigate loss of farmland in the City of Billings or Yellowstone County.

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

- a. **Utilities** – Water service will be provided by the City of Billings. The developer will install new water mains in all of the new local streets, new individual services to all of the lots, and new fire hydrants in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality (MDEQ).

This subdivision will be installing a 12-inch water line in Mollie Rose Lane with 8-inch water lines in the remaining new streets of this proposed filing. There will be connections provided for each lot within the subdivision. The main water lines will create a looped system to maintain equal water pressures throughout the development as the subdivision is constructed as outlined in the SIA under the heading VI Utilities.

Sanitary sewer service will be provided by the City of Billings. This filing of the subdivision will have 8-inch gravity sewer mains connecting to existing lines already in the subdivision. All of those lines will ultimately connect to an existing 24-inch gravity sewer trunk main that extends through the subdivision. The subdivider will install new sewer mains in the local streets and individual services for each lot in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department and MDEQ as outlined in the SIA under the heading VI Utilities.

MDU will provide gas services and Northwestern Energy will provide electric services to the subdivision. Easements have been shown on the face of the plat

that are acceptable to these utility providers. Many of the private utility lines will go in the alleys.

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

Storm water facilities within the subdivision will be maintained by the Home Owners Association (HOA) as outlined by the City of Billings Engineering Division regulations. The applicant will submit an Operating and Maintenance manual to be followed by the HOA. The HOA that was created with the first filing will be expanded to include the second filing. The applicant will have the HOA documents completed and reviewed by the Engineering Division for the maintenance of the storm water systems before final plat approval. **(Condition #1)**

- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City’s landfill has adequate capacity for this waste.
- d. **Streets** – All internal streets are proposed to be built to City standards providing the required road width, curb/gutters, and boulevard sidewalks. They will be built to meet the requirements of the City of Billings Engineering Division and receive their approval before any construction.

Future filings of Annafeld Subdivision require updates to the TIS to account for any roads or connections that will be built and may have an impact on existing roads systems. In the SIA under the heading, III Transportation it discusses needs of Elysian Road to be completed on the south side with the required storm water drainage with curb and gutter. There is also descriptions of impacts to the surrounding roads and the required contributions to those roads and intersections. The contribution dollar amounts will need to be determined before final plat and the roads all named on the final plat. **(Condition #2)**

- e. **Emergency services** – The Billings Police and Fire Department will respond to emergencies within the proposed subdivision. The fire station that services this area is located at 604 S. 24<sup>th</sup> St. West (Station #5). The Fire Department has reviewed the proposed subdivision and are satisfied with what is being proposed. The applicant will be installing fire hydrants at the required locations to meet regulations outlined in Fire Code. The Billings Police noted in comments that “continued development will eventually require additional resources to maintain

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

- f. **Schools** –School District #23, Elysian School provides educational services to elementary through middle school students. Elysian School has indicated that they currently are under capacity and have additional capacity for students. West High School would serve as the high school for this subdivision. A response from School District #2 indicates that West High School is currently over capacity.
- g. **Parks and Recreation** – Residential subdivisions creating lots with housing densities less than one dwelling unit per ½-acre are required by State and local laws to dedicate 11% of the net land area (or provide an equivalent cash contribution) for parkland. Additional provisions in subdivision regulations allow dedication of parkland to be waived. Options for waiving parkland dedication include if the subdivision provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and the land and any improvements set aside for park purpose equals or exceeds the area [otherwise required]. The applicant is proposing to have parkland throughout this Planned Development subdivision that will be installed with the development of each filing. It will be privately owned and maintained by the Homeowners’ Association for the subdivision. One public park was platted with the first filing. An SID was created with the first filing to provide funding to improve the public park. This filing of Annafeld Subdivision will participate in that SID. This is called out in the SIA under the heading VII Parks/Open Space. This subdivision will also be part of the Parks Maintenance District (PMD) created with the first filing. The wording of that requirement will be modified to meet the requirements of the City of Billings PRPL Division. **(Condition #3)**
- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision; they have indicated centralized mailbox units will be required. A paragraph in the SIA acknowledges this, and indicates the developer’s intent to coordinate mailbox locations with the postal service.

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

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

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

There are no known endangered or threatened species on the property. There is a paragraph in the SIA that notifies future lot owners of the presence of wildlife habitat in the area, and wildlife indigenous to the area may cause damage to their landscaping or interface with domestic animals, residents, and visitors. This subdivision should have a minimal effect on wildlife and wildlife habitat.

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

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

### **B. Was an Environmental Assessment required? [(MCA 76-3-616 and BMCC 23-302.H.1.)]**

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-210, MCA.

### **C. Does the subdivision conform to the Yellowstone County-City of Billings 2016 Growth Policy, the 2019 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan? [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:

**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. 2019 Urban Area Transportation Plan**

The proposed subdivision adheres to the goals and objectives of the 2019 Transportation Plan and preserves the street network and street hierarchy specified in the plan.

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

The proposed subdivision lies within the jurisdiction of the BABTMP. There is a long-range bike lane identified on Elysian Road and on East Lane. The applicant has constructed a multi-use pathway along the entire frontage of the property along the south side of Elysian Road and a pedestrian bridge has been constructed over Hogan Slough. The developer to the east also constructed a pathway along the south side of Elysian Road so there will be a pathway constructed from Mallowney Lane to East Lane for multi modal users and youth to get to Elysian School. The applicant has also provided public parkland along the southern boundary of Annafeld, 1<sup>st</sup> Filing. This will provide an

opportunity for another pathway, the Marathon Loop, along the southern end of the subdivision. The subdivider to the east is also providing parkland along the southern portion of its subdivision that will continue this trail to the east.

**D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMCC 23-302.H.3.a.]**

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

**E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302.H.3.e.]**

The subject property will be located within the Annafeld Planned Development zoning district. A Master Plan and Planned Development Agreement (PDA) were established in 2016 specifying land use allowances and restrictions. This proposed subdivision will be added to the PDA, which substantially complies with the Master Plan and PDA.

**F. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-302.H.3.b.]**

The subdivider has provided utility easements as requested by MDU and NWE on the face of the plat.

**G. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-302.H.3.c.]**

Legal and physical access is provided to the proposed lots from Elysian Road, the new proposed internal roads and connections to the other road within Annafeld Subdivision, 1<sup>st</sup> Filing.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Annafeld Subdivision, 2<sup>nd</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 Plan or Billings Area Bikeways and Trail Master Plan.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.

- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

**RECOMMENDATION**

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

# PRELIMINARY PLAT OF ANNAFELD SUBDIVISION, SECOND FILING

BEING LOTS 1-3, BLOCK 1; LOT 1A1 & 4, BLOCK 4; LOT 1, BLOCK 3; LOT 1A, BLOCK 5  
& LOT 1, BLOCK 6 OF ANNAFELD SUBDIVISION, FIRST FILING

SITUATED IN THE NW1/4 OF SECTION 19, T. 1 S., R. 26 E., P.M.M.  
YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : McCALL DEVELOPMENT, INC  
PREPARED BY : SANDERSON STEWART

DECEMBER, 2018  
BILLINGS, MONTANA

BASIS OF BEARING: (ORIGINAL PLAT/C.O.S.) OR THE BASIS OF BEARINGS FOR THIS SURVEY HAS BEEN DERIVED FROM GPS OBSERVATIONS AND IS BASED ON A NAD 83, LAMBERT CONFORMAL CONIC, SINGLE PARALLEL, LOW DISTORTION PROJECTION FOR THE CITY OF BILLINGS; HAVING A POINT OF ORIGIN AT 44°47'00"N LATITUDE AND 108°25'00"W LONGITUDE WITH A SCALE FACTOR OF 1.0001515. THE GRID TO GROUND COMBINED SCALE FACTOR AT [monument description] IS x.xxxxxxxxxx; THE CONVERGENCE ANGLE IS -x'xx'xx". DISTANCES ARE INTERNATIONAL FEET. FOR THIS SURVEY, GRID DISTANCE IS ESSENTIALLY EQUAL TO GROUND DISTANCE.

- FOUND SURVEY MONUMENT, AS NOTED
- SET 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "SANDERSON STEWART"
- SET INTERSECTION MONUMENT, 5/8"x18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "SANDERSON STEWART BILLINGS MT.". WILL BE REPLACED WITH BRASS CAP MONUMENT BOX UPON COMPLETION OF STREET IMPROVEMENTS.

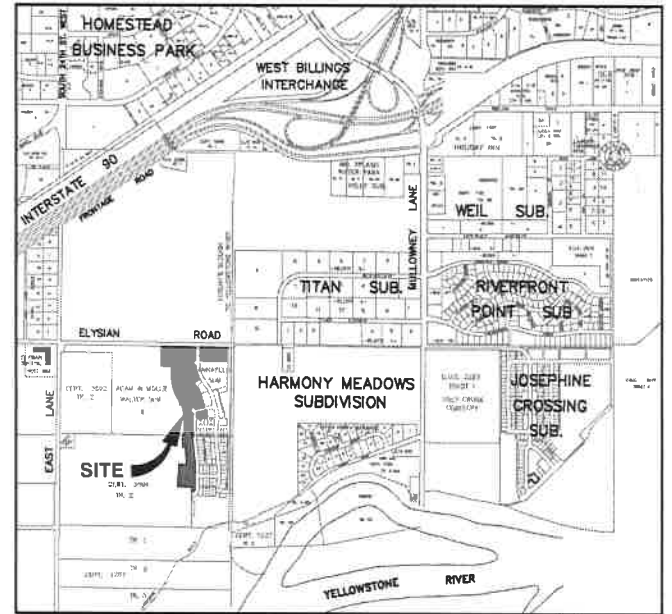
NOTE: ALL CURVES ARE TANGENT AND ALL PROPERTY LINES INTERSECTING CURVES ARE RADIAL UNLESS OTHERWISE NOTED.

### PLAT DATA

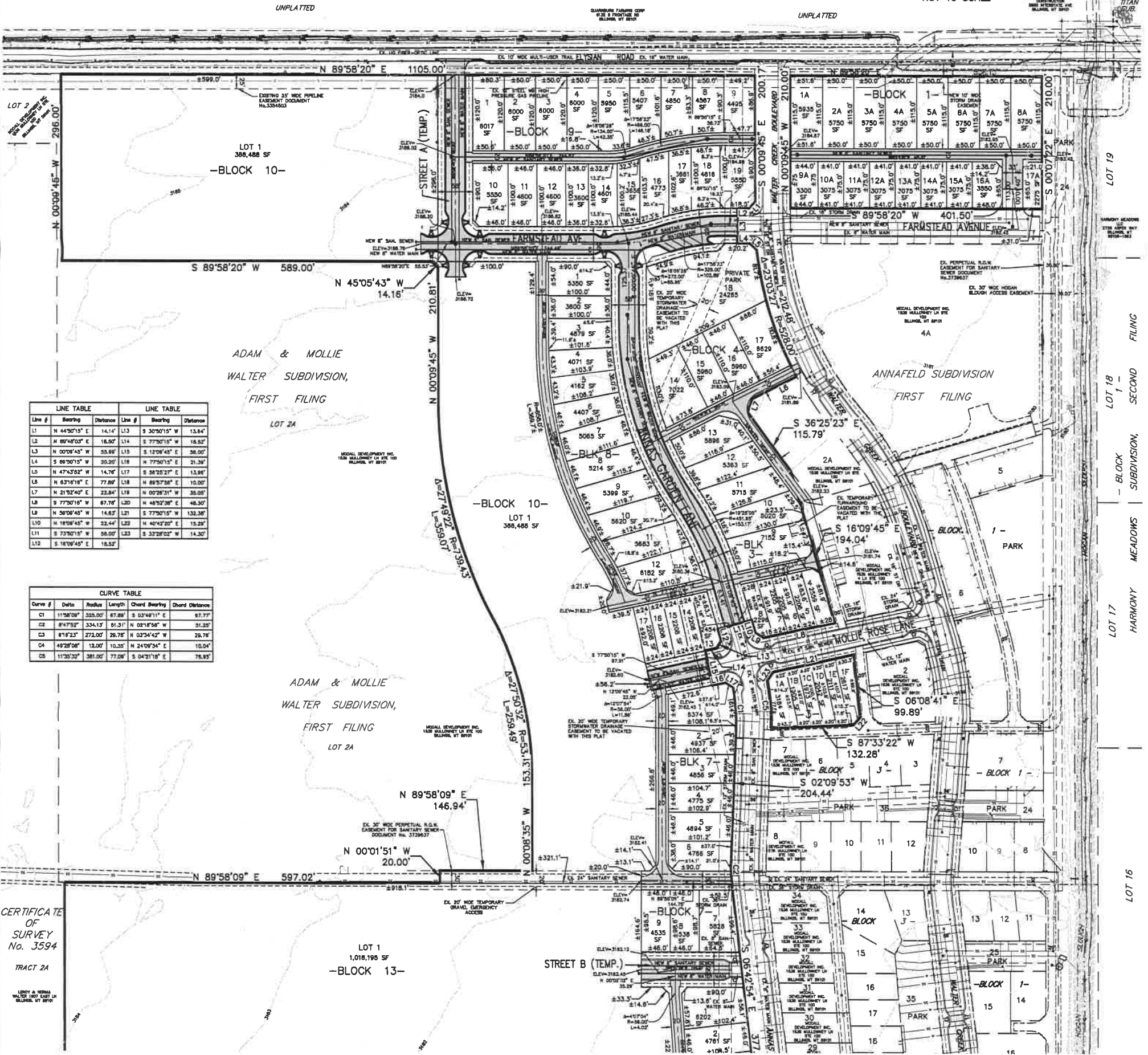
GROSS AREA	=	46.59 AC
NET AREA	=	42.05 AC
NUMBER OF LOTS	=	101
MINIMUM LOT SIZE	=	1,905 SF
MAXIMUM LOT SIZE	=	1,016,195 SF
LINEAL FEET OF STREETS	=	5,191 LF
PARKLAND REQUIREMENT	=	1.133 AC
PARKLAND DEDICATION	=	0.557 AC & THROUGH DEDICATION WITH PREVIOUS FILING
EXISTING ZONING	=	PLANNED UNIT DEVELOPMENT
SURROUNDING ZONING:		
NORTH	=	NEIGHBORHOOD COMMERCIAL
SOUTH	=	PLANNED UNIT DEVELOPMENT
EAST	=	PLANNED UNIT DEVELOPMENT
WEST	=	PLANNED UNIT DEVELOPMENT
EXISTING LAND USE	=	VACANT
PROPOSED LAND USE	=	RESIDENTIAL



SCALE: 1" = 80'



VICINITY MAP  
NOT TO SCALE



LINE #	Bearing	Distance	LINE #	Bearing	Distance
L1	N 44°30'15" E	14.14'	L13	S 30°50'15" W	13.64'
L2	N 89°48'03" E	18.50'	L14	S 77°30'15" W	18.52'
L3	N 00°09'45" W	55.89'	L15	S 12°08'48" E	56.00'
L4	S 86°30'15" W	30.20'	L16	N 77°30'15" E	21.39'
L5	N 47°43'02" W	14.76'	L17	S 58°25'27" E	13.96'
L6	N 63°16'18" E	77.89'	L18	N 89°57'58" E	10.00'
L7	N 21°32'40" E	22.84'	L19	N 00°28'31" W	35.00'
L8	S 77°30'16" W	87.78'	L20	N 48°32'38" E	48.30'
L9	N 58°09'40" W	14.62'	L21	S 77°30'15" W	132.38'
L10	N 18°08'45" W	22.44'	L22	N 40°42'20" E	15.28'
L11	S 73°30'15" W	58.00'	L23	S 32°28'02" W	14.30'
L12	S 16°09'45" E	18.52'			

CURVE #	Delta	Radius	Length	Chord Bearing	Chord Distance
C1	11°58'08"	335.00'	67.89'	S 03°48'11" E	67.77'
C2	8°47'32"	334.13'	61.31'	N 02°18'58" W	51.25'
C3	8°18'23"	272.00'	29.78'	N 03°34'42" W	26.78'
C4	49°28'08"	12.00'	10.35'	N 24°09'34" E	10.04'
C5	11°38'32"	381.00'	77.08'	S 04°21'18" E	76.82'

CERTIFICATE OF SURVEY No. 3594 TRACT 2A

PRELIMINARY PLAT OF  
**ANNAFELD SUBDIVISION, SECOND FILING**  
 BEING LOTS 1-3, BLOCK 1; LOT 1A1 & 4, BLOCK 4; LOT 1, BLOCK 3; LOT 1A, BLOCK 5  
 & LOT 1, BLOCK 6 OF ANNAFELD SUBDIVISION, FIRST FILING

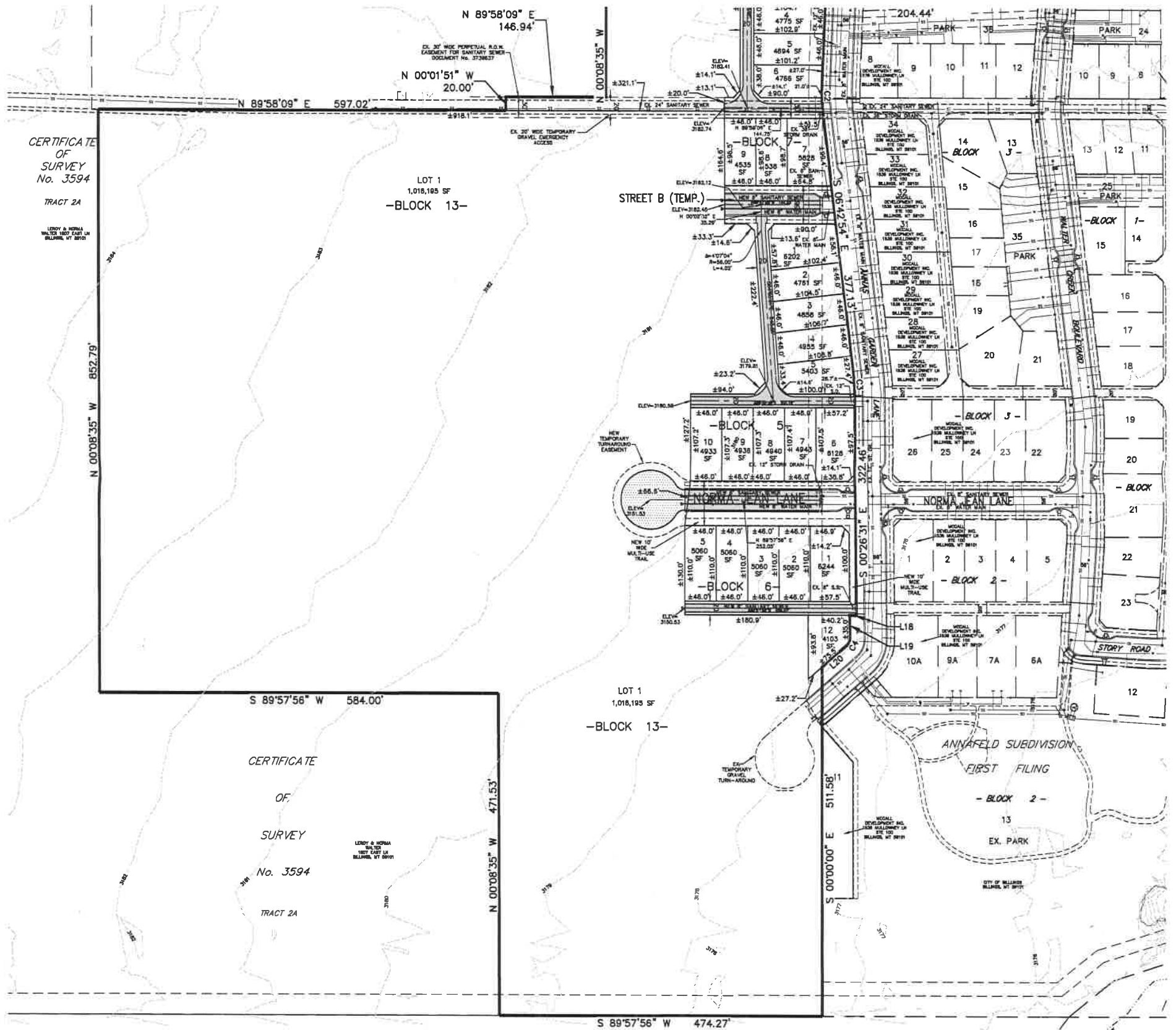
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 YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : McCALL DEVELOPMENT, INC.

DECEMBER, 2018

PREPARED BY : SANDERSON STEWART 

BILLINGS, MONTANA



CERTIFICATE  
 OF  
 SURVEY  
 No. 3594  
 TRACT 2A

CERTIFICATE  
 OF  
 SURVEY  
 No. 3594  
 TRACT 2A

CERT. of SURVEY No. 1287  
 JEAN L. NELSON  
 REGISTERED SURVEYOR  
 STATE OF MONTANA  
 BILLINGS, MT 59102-6888

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

**SUBDIVISION IMPROVEMENTS AGREEMENT  
ANNAFELD SUBDIVISION, SECOND FILING  
CITY OF BILLINGS  
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Return to:  
Sanderson Stewart  
1300 North Transtech Way  
Billings, MT 59102

## **SUBDIVISION IMPROVEMENTS AGREEMENT ANNAFELD SUBDIVISION, SECOND FILING**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **MCCALL DEVELOPMENT, INC.**, whose address for the purpose of this agreement is 1536 Mallowney Lane, Suite 100; Billings, Montana 59101, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

### **WITNESSETH:**

**WHEREAS**, the plat of Annafeld Subdivision, Second Filing located in Yellowstone County, Montana was submitted to the Yellowstone County Board of Planning; and

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

**WHEREAS**, at a regular meeting conducted on the \_\_ day of \_\_\_\_\_, 20\_\_, the City Council conditionally approved a preliminary plat of Annafeld 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 Annafeld 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**

None requested

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

- A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development.
- B.** 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.
- C.** Lot owners should be aware that this subdivision is built with a “traditional neighborhood” design. The single-family dwellings will have the garage set in the rear of the lots. The access will be provided to the garages by means of a paved alley.
- D.** Lot owners should be aware that this subdivision is zoned “Planned Development” (PD). Special zoning regulations regarding lot development will be enforced in accordance to the Amended Planned Development Agreement recorded at the Yellowstone County Clerk and Records Office under Document No. 3826023.
- E.** Lot owners should be aware that this subdivision is adjacent to wildlife habitat. Consequently, owners are advised that wildlife indigenous to the area is 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 there from is the responsibility of the lot owners.

- F. No water rights have been transferred to the individual lot owners but may be held by the Subdivider and/or the homeowners association. 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 without the permission of the controlling ditch company.
- G. Lot owners should be aware they may be required to participate in a park maintenance district administered by the homeowners association for Annafeld Subdivision, Second Filing.
- H. 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 Chapter 28-201, BMCC and detailed in the City of Billings *Stormwater Management Manual*.
- I. Lot owners should be aware that the Yellowstone River Channel Migration Study sponsored by the Yellowstone River Conservation District Council and the U.S. Army Corp of Engineers has identified areas which may be susceptible to erosion by the Yellowstone River. Owners are encouraged to review the extent to which bank erosion may pose a threat to structures built in this subdivision.
- J. Lot owners should be aware that Hogan's Slough adjacent to the subdivision is a major stormwater outfall for Billings west end. There is a possibility that the slough could overtop during a major storm event. Based upon the existing topography near Hogan's Slough and the Elysian Road Bridge, it is anticipated that the channel would overtop northeast of Elysian Road and flow east prior to overtopping Elysian Road. There is the possibility however that Elysian Road could be overtopped during a major storm event. If that occurs, flows not carried within the Hogan's Slough channel would be carried within the subdivision streets. The elevation of residential dwellings and commercial structures must be established in recognition of the City's policy that storm runoff flows are allowed to a depth of 18-inches in the gutter flowline of adjacent streets during the major storm. Higher house finished floor elevations may be required on a lot by lot basis.
- K. The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and the 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 City of Billings *Stormwater Management Manual*.

### III. TRANSPORTATION

#### A. Streets

1. All internal access roads and site improvements within the subdivision will be in accordance with the City of Billings Site Development Ordinance, City Zoning Ordinance, International Building Code, the *Stormwater Management Manual*, and other applicable City codes, rules, and regulations.
2. All internal streets within the subdivision shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All public roads will be built to provide a 34-foot back-to-back curb street width. The design cross-sections of said streets shall be submitted to, and approved by, the City of Billings Public Works Department.
3. Elysian Road is designated as a collector on the Billings/Yellowstone County Functional Classification Map. Curb and gutter will be constructed on the south side of Elysian Road adjacent to the Second Filing and any necessary pavement widening to construct a parking lane and an eastbound and westbound travel lane. Storm drain shall be installed as necessary, draining to existing storm drain constructed with Annafeld Subdivision, First Filing. The improvements for Elysian Road improvements will be completed by private contract or by SID.

A westbound left-turn bay is not required with Second Filing, but will be required with future filings of the Annafeld Planned Development. The curb and gutter installed with Second filing will be designed such that it will accommodate a future turn bay. These additional Elysian Road improvements (including additional widening, median and turn lane improvements) will be installed by private contract or SID.

4. At the time of this Filing, Phase IV of Harmony Meadows Subdivision, Second Filing has not been constructed. Therefore, a physical connection between Annafeld Subdivision and Harmony Meadows Subdivision cannot be made. Furthermore, even if the Story Road connection were constructed, the traffic generated from Annafeld Subdivision, Second Filing would be unlikely to utilize

Story Road based on proximity to Elysian Road and the land uses that are currently in Harmony Meadows Subdivision. Therefore, a detailed traffic impact analysis of the Story Road connection to Harmony Meadows Subdivision is not required for this Filing of Annafeld Subdivision. A traffic impact analysis of the Story Road connection to Harmony Meadows Subdivision will be required with a future filing.

The Subdivider agrees to contribute up to 50 percent of the cost for design, permitting, and construction of the Hogan’s Slough crossing on Story Road. If the cash contribution is not sufficient to cover 50 percent of the crossing costs at the time of construction, the City retains the right to create a SID to recover additional design and construction costs.

The timing of the contribution for the Hogan’s Slough crossing on Story Road shall be made at the earlier of the following:

- I. At the time an Annafeld Subdivision Traffic Impact Study recommends the Story Road connection be completed.
  - II. At the commencement of construction of Phase IV improvements for Harmony Meadows Subdivision, 2nd Filing.
  - III. Prior to final plat approval of the final filing of Annafeld Subdivision.
5. A traffic accessibility study has been completed for the Annafeld Subdivision, Second Filing. All required intersection improvement contributions identified therein shall be completed by the Subdivider at the Subdivider’s expense. Based on the additional lots created with Annafeld Subdivision, Second Filing, the percent of traffic contribution and associated costs to these intersections is as follows:

South Frontage Road/Midland Road & Mallowney Lane	2.63%	\$TBD
Mallowney Lane/Elysian Road	2.50%	\$TBD
Elysian Road/East Lane	3.25%	\$TBD
Elysian Road/South Frontage Road	1.67%	\$TBD
East Lane/South Frontage Road	1.75%	\$TBD

These cash contributions for the intersection improvements will be made prior to final plat approval. The percentage contributions and dollar amounts are as outlined within the Traffic Impacts Study for

Annafeld Subdivision, Second Filing as submitted with the preliminary plat.

6. Subdivider shall install an all-way stop at the intersection of Elysian Road and Mallowney Lane. These improvements shall be installed by private contract or SID.

**B. Alleys**

All alleys within the subdivision shall be built to grade with a satisfactory subbase, base course, and asphalt surface or concrete surface. All alley approaches constructed with asphalt shall be replaced with concrete by the Subdivider at the time when home construction is complete. In the event asphalt approaches within the subdivision are not replaced with concrete within three years of the date of recording of the final plat, the City may construct the concrete approaches and assess the Subdivider for the costs associated with the approach construction. Alley pavement widths shall be 12-feet. The design cross-sections of said alleys shall be submitted to, and approved by, the City of Billings Public Works Department. No trees are allowed to be planted in the alley. In addition, no shrubs taller than two feet are allowed to be planted in alleys.

**C. Sidewalks**

Subdivider shall install handicap access ramps, where necessary, during street construction. Construction of sidewalks along frontage of the lots shall be installed by the lot owner at the time of lot development. Sidewalks along the street frontage shall be minimum 5-foot-wide and separated with a boulevard width not less than five feet. Developer shall construct the 5-foot wide boulevard sidewalk adjacent to private park (Lot 18, Block 4) at the time of private park development.

In the event that portions of the required sidewalks within the subdivision are not constructed within three years of the date of recording of the final plat, the City may construct the remaining sidewalks and assess the individual lot owners for the costs associated with the sidewalk construction.

A sidewalk shall not be required along the south side of Elysian Road, due to the proximity of the proposed multi-use path, as allowed by 23-406 (B) (13), BMCC.

**D. Street Lighting**

Street lighting is not required for this subdivision; however, it is anticipated that street lighting will be installed for Second Filing by private contract or SID. A Street Light Maintenance District will be created for operation and maintenance of the lighting at a future date and is included in the waiver of right to protest.

**E. Traffic Control Devices**

1. Street name signs for streets within the subdivision, or located immediately adjacent thereto, shall be furnished and installed in accordance with the specifications of the City of Billings Public Works and Fire Departments.
2. No traffic signals are required within this subdivision.
3. Subdivider shall install an all-way stop at the intersection of Elysian Road and Muldowney Lane. These improvements shall be installed by private contract or SID.
4. 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.

**F. Access**

Access to the subdivision will be provided by Elysian Road, Street A (temporary name), Street B (temporary name), Farmstead Avenue, Mollie Rose Lane, Annas Garden Lane and Norma Jean Lane. An additional existing emergency access will remain along the existing City trunk sanitary sewer easement to East Lane. Alley access is also provided to all residential lots within the subdivision.

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

The Billings Area Bikeway and Trail Master Plan and the Zoo Montana to Riverfront Park Trail Feasibility Study both recommend a multi-use trail along the southern boundary of the Annafeld Planned Development. A public park on the upper bench area north of the Yellowstone River interface was dedicated with Annafeld Subdivision, First Filing, which provides an opportunity for a future extension of the trail to the east and

west along Yellowstone River.

A multi-use trail has been constructed along the south boundary of Elysian Road. Said multi-use trail shall extend from the east boundary of the subdivision to the easterly right-of-way line of East Lane.

In addition, a 10-foot wide multi-use path will be provided on the west side of Annas Garden Lane, adjacent to Lots 1 and 12, Block 6, and on the south side of Norma Jean Lane, adjacent to Lots 1-5, Block 6. This multi-use path will ultimately provide a connection to a private park located in the center of the subdivision that will be created with a future filing.

#### **H. Public Transit**

There are no MET Transit routes that service this subdivision at this time. The nearest established route is at the intersection of Midland Road and Muldowney Lane. No improvements with regard to MET Transit vehicles are anticipated at this time.

### **IV. EMERGENCY SERVICE**

#### **A. Fire Hydrants**

Emergency service will be provided by the City. Placement of fire hydrants will be as required by the City of Billings Fire Department.

#### **B. Construction of Buildings**

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply (fire hydrants) in place to allow for 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-foot of the furthest portion of a building under construction as measured along the 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-foot-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.

**C. Building Location**

All buildings shall be located on each lot so that the furthest portion of each building is within 150-feet from an approved fire department access road over an approved route excluding all carriage lanes and alleyways.

**V. STORM DRAINAGE**

- A.** A stormwater management plan shall be submitted to the Engineering Division prior to final plat approval. The storm drainage system for Annafeld Subdivision, Second Filing will consist of a curb and gutter surface collection and curb inlets that drain into storm drainage piping, as well as surface conveyance. The storm drain piping will discharge into existing storm drain piping and to an existing mechanical stormwater filtration manholes, then into Hogan’s Slough. All drainage improvements shall comply with the provisions of the City of Billings *Stormwater Management Manual* and Chapter 28, BMCC.
- B.** The mechanical stormwater filtration manholes are existing, and associated improvements are privately owned and maintained by the HOA. Annafeld Subdivision, Second Filing will be included in the HOA that is responsible to maintain these facilities. O&M requirements and HOA maintenance and fiscal responsibilities have been outlined within the Annafeld Subdivision, First Filing I O&M Manual.
- C.** Hogan’s Slough adjacent to the subdivision is a major stormwater outfall for Billings west end. There is a possibility that the slough could overtop during a major storm event. Based upon the existing topography near Hogan’s Slough and the Elysian Road Bridge, it is anticipated that the channel would overtop northeast of Elysian Road and flow east prior to overtopping Elysian Road. There is the possibility however that Elysian Road could be overtopped during a major storm event. If that occurs, flows not carried within the Hogan’s Slough channel would be carried within the

subdivision streets. The elevation of residential dwellings and commercial structures must be established in recognition of the City's policy that storm runoff flows are allowed to a depth of 18-inches in the gutter flowline of adjacent streets during the major storm.

- D. 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 Chapter 28, BMCC and detailed in the City of Billings *Stormwater Management Manual*.
- E. The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and the 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 City of Billings *Stormwater Management 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 Public Works Department - Engineering Division. The extension of/connection to water mains and sanitary sewers is 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 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.

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 Annafeld Subdivision water system consists of a series of looped water mains located in each of the local streets. The subdivision water system will

consist of new 12-inch water mains in Mollie Rose Lane, and 8-inch water mains in Anna's Garden Lane, Street A (temporary name), Street B (temporary name) and Norma Jean Lane. Future filings of the Annafeld Planned Development will provide the opportunity to make additional connections to the trunk main in Elysian Road providing water main looping.

**B. Sanitary Sewer**

Sanitary sewer service to Annafeld Subdivision, Second Filing will be provided by connecting to the existing 8-inch gravity sewer main located in Farmstead Avenue, Mollie Rose Lane, Annas Garden Lane and Norma Jean Lane. An existing 24-inch trunk sanitary sewer main extends through the subdivision. 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, Distribution, and Collection Division.

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

Private utility facilities currently exist to serve the subdivision. The private utility facilities will be installed within the alley right-of-way and by easements included on the plat, as requested by the utility companies, to provide routes to the alleys.

**VII. PARKS/OPEN SPACE**

The subdivision lies within a planned unit development that provides for land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development, per 76-3-621(6)(a) of the Montana Code Annotated. The park and open space within the Annafeld Planned Unit Development Master Plan meets or exceeds the area of dedication required under section 76-3-621(1), MCA. The Subdivider and City agree that the parkland dedication has been met through the dedication of private park area within Annafeld Subdivision, Second Filing and the remainder was met with additional public park dedication with Annafeld Subdivision, First Filing.

In addition, the lots within Annafeld Subdivision, Second Filing (not already participating in the park SID 1404 from Annafeld Subdivision, First Filing) shall provide additional funding, up to \$1.00 per square foot of lot area, for park improvements for a previously created public park (Lot 13, Block 2 Annafeld Subdivision, First Filing) by SID. The park improvements shall be in accordance

with the previously approved Annafeld Parks Master Plan – Phase I. The Subdivider shall prepare all SID documents necessary for creation, and coordinate with the City of Billings Parks and Recreation Department for review and approval. If the park improvements as defined in the Annafeld Parks Master Plan – Phase I have been completed prior to the creation of this park SID, then this park SID will no longer be required.

The current park maintenance district for Annafeld Subdivision, First Filing shall be expanded to include lots with Annafeld Subdivision, Second Filing. The Subdivider shall prepare all park maintenance district documents necessary for its expansion and coordinate with the City of Billings Parks and Recreation Department for review and approval.

#### **VIII. HOMEOWNER'S ASSOCIATIONS**

A homeowner's association (HOA) will be established for this subdivision. 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 maintenance of the mechanical filtration stormwater manholes. The HOA shall share the cost of maintenance of the community stormwater facilities.

#### **IX. POSTAL DELIVERY**

The Subdivider shall provide centralized delivery boxes with sufficient pullout to accommodate a mail carrier vehicle. The location of the boxes shall be reviewed and approved by the United States Postal Service.

#### **X. SOILS/GEOTECHNICAL STUDY**

A soils/geotechnical study has been performed for the subdivision. The report dated January 19, 2019, 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.

**XI. FINANCIAL GUARANTEES**

Except as otherwise provided, Subdivider shall install and construct said required improvements by private contracts 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, 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 Second above written.

“SUBDIVIDER”

**MCCALL DEVELOPMENT, INC.**

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 \_\_\_\_\_ of **MCCALL DEVELOPMENT, INC.** who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

**WAIVER OF RIGHT TO PROTEST**

**FOR VALUABLE CONSIDERATION**, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more special improvement district(s) for a period of no more than twenty years from the recording of this waiver, 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 is supported by sufficient independent consideration to which the undersigned are parties, and shall run with the land and shall be binding upon the undersigned, their 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 that is the subject of this waiver is more particularly described as follows:

ANNAFELD SUBDIVISION, SECOND FILING

SUBDIVIDER/OWNER

**MCCALL DEVELOPMENT, INC.**

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 \_\_\_\_\_, personally appeared \_\_\_\_\_, known to me to be the person who executed the foregoing instrument as the \_\_\_\_\_ of **MCCALL DEVELOPMENT, INC.** and acknowledged to me that he/she 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: \_\_\_\_\_





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



**Planning Board Meeting I (2nd Tuesday)**

**8. b.**

**Meeting Date:** 03/12/2019

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## **Information**

### **INTRODUCTION**

On February 1, 2019, Sanderson Stewart, agent for McCall Development, Inc., applied for preliminary major plat approval for Annafeld Subdivision, 3rd Filing. The proposed subdivision creates 100 new lots for development. The subject property is generally located south of Elysian Road and west of the Hogan Slough. The property is currently proceeding through the annexation process. The annexation will be completed when this application is acted upon by City Council. The property is zoned Planned Development (PD) and the proposed lots will be developed in substantial compliance with the approved Planned Development Master Plan. The Yellowstone County Board of Planning will review the plat at this meeting and conduct a public hearing on March 26, 2019.

### **RECOMMENDATION**

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

1. To minimize impacts on storm water detention facilities and ensure proper maintenance of the proposed system, prior to final plat approval, the applicant will provide an HOA Storm Water Facility Maintenance Agreement for review by City of Billings Engineering Division. This agreement shall outline the maintenance responsibilities of the storm water facilities.
2. To minimize impact of future road infrastructure and to ensure any impacts the subdivision may have on the existing roads, prior to final plat approval the applicant will determine dollars amounts of the required contributions to the existing roads. The applicant will also have all of the streets named in the subdivision.
3. To ensure the public park associated with this subdivision can be constructed and maintained correctly, prior to final plat approval the applicant will replace the second and third paragraph wording in the SIA under the heading VII. Parks/Open Space with wording provided as follows by the City of Billings PRPL Division:

In addition, the lots within Annafeld Subdivision, Second Filing (not already participating in the park SID 1404 from Annafeld Subdivision, First Filing) shall provide additional funding to complete the park improvements for the previously created public parkland by SID. The park improvements shall be in accordance with the Council approved Annafeld Parks Master Plan. The Subdivider shall prepare all SID documents necessary for creation, and coordinate with the City of Billings Parks and Recreation Department for review and approval. If all park improvements as defined in the Annafeld Parks Master

Plan have been completed prior to the creation of this park SID, then this park SID will no longer be required.

The current park maintenance district (PMD 4041) for Annafeld Subdivision, First Filing shall be expanded to include lots within Annafeld Subdivision, Second Filing for the perpetual maintenance of the public parkland. The Subdivider shall prepare all park maintenance district documents necessary for its expansion and coordinate with the City of Billings Parks and Recreation Department for review and approval.

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.

## **VARIANCES REQUESTED**

No variance has been requested.

## **PROCEDURAL HISTORY**

- Pre-application meeting January 10, 2019
- Preliminary plat application submitted to the Planning Division on February 1, 2019.
- Departmental review meeting February 14, 2019
- Preliminary plat resubmittal February 21, 2019
- Planning Board plat review March 12, 2019
- Planning Board public hearing March 26, 2019
- Preliminary plat to City Council April 22, 2019
- 60 working-day preliminary plat review period ends April 29, 2019

## **PLAT INFORMATION**

General location:	South of Elysian Road, east of East Road, west of the Hogan Slough.
Legal Description: Filing	Lots 1, Block 10 and Lot 1, Block 12 of Annafeld Subdivision, 2nd Filing
Owner/Subdivider:	McCall Development, Inc.
Engineer and Surveyor:	Sanderson Stewart
Existing Zoning:	PD
Existing land use:	Farm Land
Proposed land use:	Residential and Commercial
Gross and Net area:	32.05 acres; 24.85 acres
Proposed number of lots:	100

Lot size: Max: 12.01 acres  
Min.: 2,025 square feet

Parkland requirements: In accordance with 76-3-621(6)(a), MCA, the overall Planned Development Master Plan provides for land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who ultimately reside in the development and meets or exceeds the 11% net land area dedication requirement.

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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 Annafeld Subdivision, 3<sup>rd</sup> Filing. These findings are based on the preliminary plat application and supplemental documents; addressing 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 currently farmland that has been purchased, rezoned and will be annexed for this filing. Any irrigation facilities will continue to provide irrigation to the remaining farmed area to the west. Development of this filing of the subdivision will take about 32 acres of irrigated farmland out of production. However, this area of the community has been identified by the City for future urban development and there is currently no mechanism to mitigate loss of farmland in the City of Billings or Yellowstone County.

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

- a. **Utilities** – Water service will be provided by the City of Billings. The developer will install new water mains in all of the new local streets, new individual services to all of the lots, and new fire hydrants in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality (MDEQ).

This subdivision will be installing a 12-inch water line in Mollie Rose Lane with 8-inch water lines in the remaining new streets of this proposed filing. There will be connections provided for each lot within the subdivision. The main water lines will create a looped system to maintain equal water pressures throughout the development as the subdivision is constructed as outlined in the SIA under the heading VI Utilities.

Sanitary sewer service will be provided by the City of Billings. This filing of the subdivision will have 8-inch gravity sewer mains connecting to existing lines already in the subdivision. All of those lines will ultimately connect to an existing 24-inch gravity sewer trunk main that extends through the subdivision. The subdivider will install new sewer mains in the local streets and individual services for each lot in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department and MDEQ as outlined in the SIA under the heading VI Utilities.

MDU will provide gas services and Northwestern Energy will provide electric services to the subdivision. Easements have been shown on the face of the plat

that are acceptable to these utility providers. Many of the private utility lines will go in the alleys.

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

Storm water facilities within the subdivision will be maintained by the Home Owners Association (HOA) as outlined by the City of Billings Engineering Division regulations. The applicant will submit an Operating and Maintenance manual to be followed by the HOA. The HOA that was created with the first filing will be expanded to include the second filing. The applicant will have the HOA documents completed and reviewed by the Engineering Division for the maintenance of the storm water systems before final plat approval. **(Condition #1)**

- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City’s landfill has adequate capacity for this waste.
- d. **Streets** – All internal streets are proposed to be built to City standards providing the required road width, curb/gutters, and boulevard sidewalks. They will be built to meet the requirements of the City of Billings Engineering Division and receive their approval before any construction.

Future filings of Annafeld Subdivision require updates to the TIS to account for any roads or connections that will be built and may have an impact on existing roads systems. In the SIA under the heading, III Transportation it discusses needs of Elysian Road to be completed on the south side with the required storm water drainage with curb and gutter. There is also descriptions of impacts to the surrounding roads and the required contributions to those roads and intersections. The contribution dollar amounts will need to be determined before final plat and the roads all named on the final plat. **(Condition #2)**

- e. **Emergency services** – The Billings Police and Fire Department will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 S. 24<sup>th</sup> St. West (Station #5). The Fire Department has reviewed the proposed subdivision and is satisfied with what is being proposed. The applicant will be installing fire hydrants at the required locations to meet regulations outlined in Fire Code. The Billings Police noted in comments that “continued development will eventually require additional resources to maintain current

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

- f. **Schools** – School District #23, Elysian School provides educational services to elementary through middle school students. Elysian School has indicated that they currently are under capacity and have additional capacity for students. West High School would serve as the high school for this subdivision. A response from School District #2 indicates that West High School is currently over capacity.
- g. **Parks and Recreation** – Residential subdivisions creating lots with housing densities less than one dwelling unit per ½-acre are required by State and local laws to dedicate 11% of the net land area (or provide an equivalent cash contribution) for parkland. Additional provisions in subdivision regulations allow dedication of parkland to be waived. Consideration for waiving dedication of park land occurs if the subdivision provides for a planned unit development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development. Consideration for waiving dedication of park land occurs if the land and any improvements set aside for park purpose equals or exceeds the area [otherwise required].

The applicant is proposing to have parkland throughout this Planned Development subdivision that will be installed with the development of each filing. It will be privately owned and maintained by the Homeowners’ Association for the subdivision. One public park was platted with the first filing. An SID was created with the first filing to provide funding to improve the public park. This filing of Annafeld Subdivision will participate in that SID. This is called out in the SIA under the heading VII Parks/Open Space. This subdivision will also be part of the Parks Maintenance District (PMD) created with the first filing. The wording of that requirement will be modified to meet the requirements of the City of Billings PRPL Division. **(Condition #3)**

- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision; they have indicated centralized mailbox units will be required. A note in the SIA acknowledges this, and indicates the developer’s intent to coordinate mailbox locations with the postal service.

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

The subject property is currently farmed and slopes to the south toward the Yellowstone River. In the SIA under Conditions That Run with the Land (I), the subdivider has notified future lot owners that the Yellowstone River Channel Migration Study sponsored by the Yellowstone River Conservation District Council and the U.S. Army Corp of Engineers, had identified areas which may be susceptible to erosion by the Yellowstone River. Prospective lot owners are encouraged to review the study and see what considerations they should take with structures and location of structures. This

subdivision is not in the 100-year flood plain as identified on the Yellowstone County Current Floodplain Maps.

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

There are no known endangered or threatened species on the property. There is a note in the SIA that warns future lot owners of the presence of wildlife habitat in the area, and wildlife indigenous to the area may cause damage to their landscaping or interface with domestic animals, residents, and visitors. This subdivision should have a minimal effect on wildlife and wildlife habitat.

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

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

**B. Was an Environmental Assessment required? [(MCA 76-3-616 and BMCC 23-302.H.1.)]**

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-210, MCA.

**C. Does the subdivision conform to the Yellowstone County-City of Billings 2016 Growth Policy, the 2019 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan? [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:

**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. 2019 Urban Area Transportation Plan**

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

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

The proposed subdivision lies within the jurisdiction of the BABTMP. There is a long-range bike lane identified on Elysian Road and on East Lane. The applicant has constructed a multi-use pathway along the entire frontage of the property along the south side of Elysian Road and a pedestrian bridge has been constructed over Hogan Slough. The developer to the east also constructed a pathway along the south side of Elysian

Road so there will be a multi-use pathway constructed from Mallowney Lane to East Lane for multi modal users and youth to get to Elysian School. The applicant has also provided public parkland along the southern boundary of Annafeld, 1<sup>st</sup> Filing. This will provide an opportunity for another trail, the Marathon Loop, along the southern end of the subdivision. The subdivider to the east is also providing parkland along the southern portion of its subdivision that will continue this trail to the east.

**D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608 (3) (b) and BMCC 23-302.H.3.a.]**

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

**E. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-302.H.3.e.]**

The subject property will be located within the Annafeld Planned Development zoning district. A Master Plan and Planned Development Agreement (PDA) were established in 2016 specifying land use allowances and restrictions. This proposed subdivision will be added to the PDA, which substantially complies with the Master Plan and PDA.

**F. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-302.H.3.b.]**

The subdivider has provided utility easements as requested by MDU and NWE on the face of the plat.

**G. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-302.H.3.c.]**

Legal and physical access is provided to the proposed lots from Elysian Road, the new proposed internal roads and connections to the other road within Annafeld Subdivision, 1<sup>st</sup> and 2<sup>nd</sup> Filing.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Annafeld 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 Plan or Billings Area Bikeways and Trail Master Plan.

- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

**RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Annafeld 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 ANNAFELD SUBDIVISION, THIRD FILING

BEING LOT 1, BLOCK 10 AND LOT 1, BLOCK 13 OF ANNAFELD SUBDIVISION, SECOND FILING  
SITUATED IN THE NW1/4 OF SECTION 19, T. 1 S., R. 26 E., P.M.M.  
YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : McCALL DEVELOPMENT, INC.

JANUARY, 2019

PREPARED BY : SANDERSON STEWART

BILLINGS, MONTANA

BASIS OF BEARING: (ORIGINAL PLAT/C.O.S.) OR THE BASIS OF BEARINGS FOR THIS SURVEY HAS BEEN DERIVED FROM GPS OBSERVATIONS AND IS BASED ON A NAD 83, LAMBERT CONFORMAL CONIC, SINGLE PARALLEL, LOW DISTORTION PROJECTION FOR THE CITY OF BILLINGS; HAVING A POINT OF ORIGIN AT 45°47'00"N LATITUDE AND 108°25'00"W LONGITUDE WITH A SCALE FACTOR OF 1.0001515. THE GRID TO GROUND COMBINED SCALE FACTOR AT [monument description] IS x.xxxxxxxxxx; THE CONVERGENCE ANGLE IS -x'x'xx". DISTANCES ARE INTERNATIONAL FEET. FOR THIS SURVEY, GRID DISTANCE IS ESSENTIALLY EQUAL TO GROUND DISTANCE.

FOUND SURVEY MONUMENT, AS NOTED

SET 5/8" X 18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "SANDERSON STEWART"

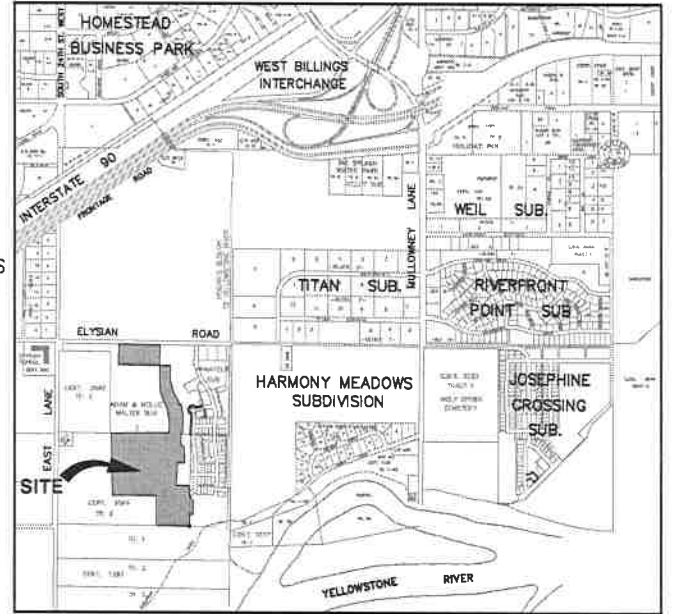
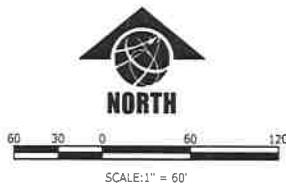
SET INTERSECTION MONUMENT, 5/8"x18" REBAR WITH CAP MARKED WITH THE LICENSE NUMBER OF THE UNDERSIGNED LAND SURVEYOR AND "SANDERSON STEWART BILLINGS MT". WILL BE REPLACED WITH BRASS CAP MONUMENT BOX UPON COMPLETION OF STREET IMPROVEMENTS.

NOTE: ALL CURVES ARE TANGENT AND ALL PROPERTY LINES INTERSECTING CURVES ARE RADIAL UNLESS OTHERWISE NOTED.

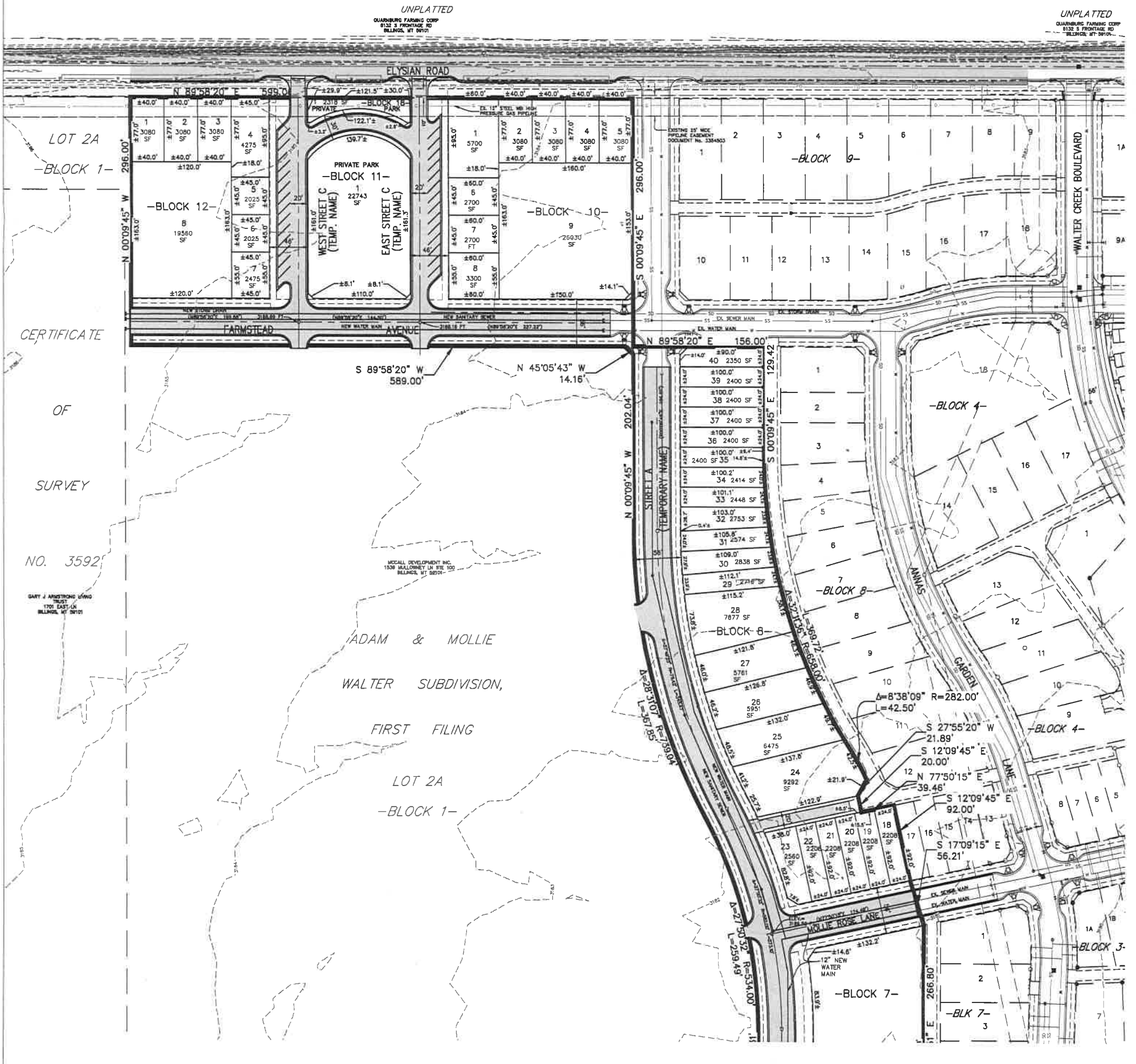
NOTE: LOTS 1, 10-12, BLOCK 9, LOTS 1-11, 16, BLOCK 8, LOTS 1-6, 9, BLOCK 7, LOTS 1-5, 8-10, BLOCK 5, LOTS 1-5, BLOCK 6 OF ANNAFELD SUBDIVISION 2ND FILING ARE ALL OWNED BY MCCALL DEVELOPMENT INC. 1536 MULLOWNEY LN STE 100 BILLINGS, MT 59101

### PLAT DATA

GROSS AREA	=	32.05 ACRES
NET AREA	=	24.85 ACRES
NUMBER OF LOTS	=	100
MINIMUM LOT SIZE	=	2025 SF
MAXIMUM LOT SIZE	=	523541 SF
LINEAL FEET OF STREETS	=	5955 FT
PARKLAND REQUIREMENT	=	1.319 ACRES
PARKLAND DEDICATION	=	0.779 ACRES THROUGH DEDICATIONS WITH PREVIOUS FILINGS
EXISTING ZONING	=	P.U.D.
SURROUNDING ZONING:		
NORTH	=	NEIGHBORHOOD COMMERCIAL
SOUTH	=	AG OPEN
EAST	=	P.U.D.
WEST	=	P.U.D.
EXISTING LAND USE	=	VACANT
PROPOSED LAND USE	=	RESIDENTIAL / COMMERCIAL



**VICINITY MAP**  
NOT TO SCALE



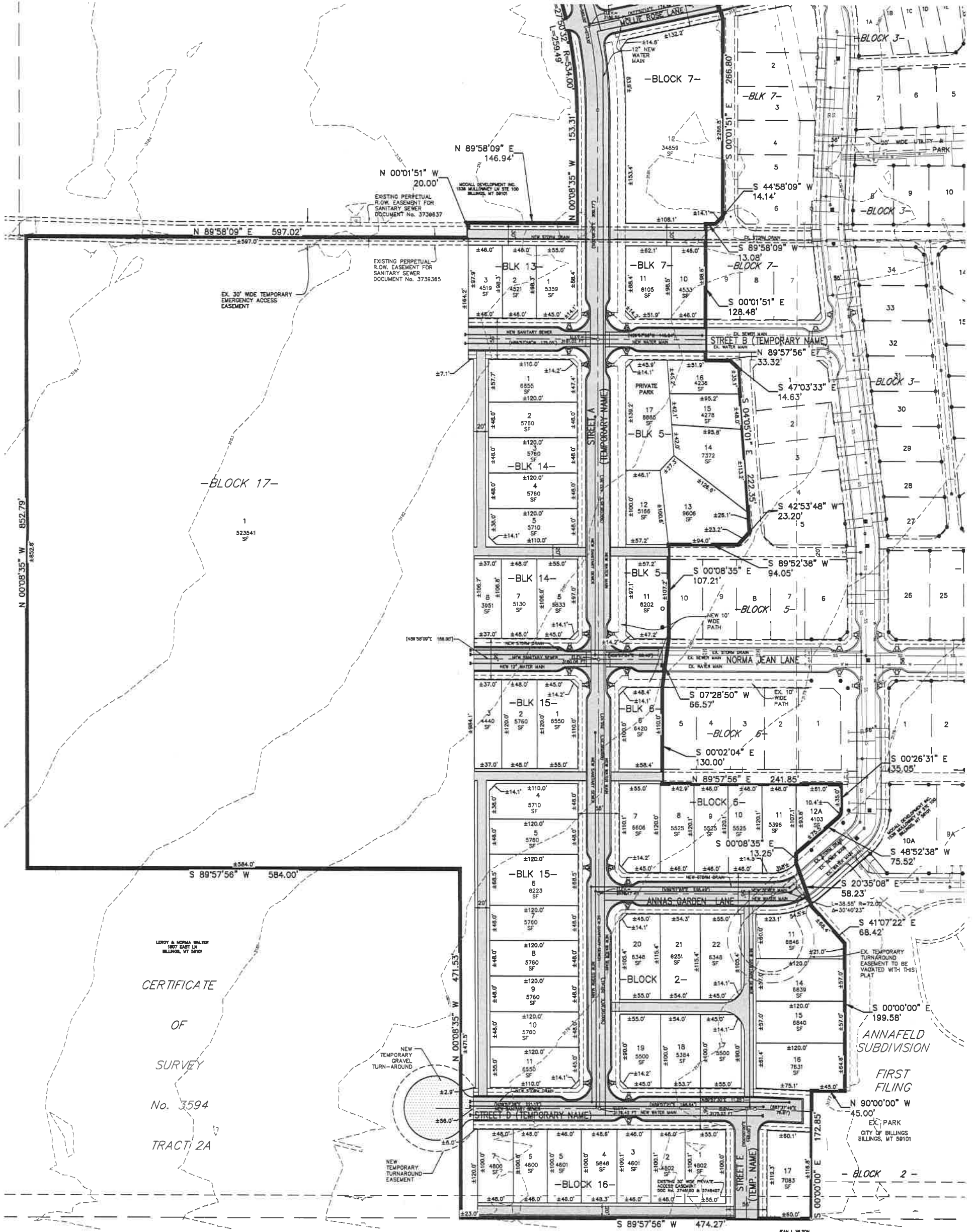
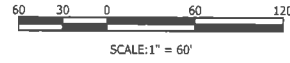
PRELIMINARY PLAT OF  
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 YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : McCALL DEVELOPMENT, INC.  
 PREPARED BY : SANDERSON STEWART



JANUARY, 2019  
 BILLINGS, MONTANA



CERTIFICATE  
 OF  
 SURVEY  
 No. 3594  
 TRACT 2A

CERT. of SURVEY No. 1287

JEAN L NELSON  
 REVOCABLE TRUST  
 1015 OPERSTONE DR  
 BILLINGS, MT 59101

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

**SUBDIVISION IMPROVEMENTS AGREEMENT**  
**ANNAFELD SUBDIVISION, THIRD FILING**  
**CITY OF BILLINGS**  
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Return to:  
Sanderson Stewart  
1300 North Transtech Way  
Billings, MT 59102

## **SUBDIVISION IMPROVEMENTS AGREEMENT ANNAFELD SUBDIVISION, THIRD FILING**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **MCCALL DEVELOPMENT, INC.**, whose address for the purpose of this agreement is 1536 Mullowney Lane, Suite 100; Billings, Montana 59101, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

### **WITNESSETH:**

**WHEREAS**, the plat of Annafeld Subdivision, Third Filing located in Yellowstone County, Montana was submitted to the Yellowstone County Board of Planning; and

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

**WHEREAS**, at a regular meeting conducted on the \_\_ day of \_\_\_\_\_, 20\_\_, the City Council conditionally approved a preliminary plat of Annafeld Subdivision, Third 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 Annafeld Subdivision, Third 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**

None requested

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

- A.** Lot owners will be required to construct that segment of the required sidewalk that fronts their property at the time of lot development.
- B.** 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.
- C.** Lot owners should be aware that this subdivision is built with a “traditional neighborhood” design. The single-family dwellings will have the garage set in the rear of the lots. The access will be provided to the garages by means of a paved alley.
- D.** Lot owners should be aware that this subdivision is zoned “Planned Development” (PD). Special zoning regulations regarding lot development will be enforced in accordance to the Amended Planned Development Agreement recorded at the Yellowstone County Clerk and Records Office under Document No. 3826023.
- E.** Lot owners should be aware that this subdivision is adjacent to wildlife habitat. Consequently, owners are advised that wildlife indigenous to the area is 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 there from is the responsibility of the lot owners.

- F. No water rights have been transferred to the individual lot owners but may be held by the Subdivider and/or the homeowners association. 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 without the permission of the controlling ditch company.
- G. Lot owners should be aware they may be required to participate in a park maintenance district administered by the homeowners association for Annafeld Subdivision, Third Filing.
- H. 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 Chapter 28-201, BMCC and detailed in the City of Billings *Stormwater Management Manual*.
- I. Lot owners should be aware that the Yellowstone River Channel Migration Study sponsored by the Yellowstone River Conservation District Council and the U.S. Army Corp of Engineers has identified areas which may be susceptible to erosion by the Yellowstone River. Owners are encouraged to review the extent to which bank erosion may pose a threat to structures built in this subdivision.
- J. Lot owners should be aware that Hogan's Slough adjacent to the subdivision is a major stormwater outfall for Billings west end. There is a possibility that the slough could overtop during a major storm event. Based upon the existing topography near Hogan's Slough and the Elysian Road Bridge, it is anticipated that the channel would overtop northeast of Elysian Road and flow east prior to overtopping Elysian Road. There is the possibility however that Elysian Road could be overtopped during a major storm event. If that occurs, flows not carried within the Hogan's Slough channel would be carried within the subdivision streets. The elevation of residential dwellings and commercial structures must be established in recognition of the City's policy that storm runoff flows are allowed to a depth of 18-inches in the gutter flowline of adjacent streets during the major storm. Higher house finished floor elevations may be required on a lot by lot basis.
- K. The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and the 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 City of Billings *Stormwater Management Manual*.

### III. TRANSPORTATION

#### A. Streets

1. All internal access roads and site improvements within the subdivision will be in accordance with the City of Billings Site Development Ordinance, City Zoning Ordinance, International Building Code, the *Stormwater Management Manual*, and other applicable City codes, rules, and regulations.
2. All internal streets (excluding Street C (temporary name)) within the subdivision shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All public roads will be built to provide a 34-foot back-to-back curb street width. The design cross-sections of said streets shall be submitted to, and approved by, the City of Billings Public Works Department. The street improvements will be completed by private contract or SID.
3. Street C (temporary name) will be designed for one-way traffic with 45 degree turn parking. The street shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. The design cross-section of said street shall be submitted to, and approved by, the City of Billings Public Works Department. The street improvements will be completed by private contract or SID.
4. Elysian Road is designated as a collector on the Billings/Yellowstone County Functional Classification Map. Curb and gutter and any necessary pavement widening will be constructed on the south side of Elysian Road frontage adjacent to the Third Filing. Improvements will also include widening of Elysian Road to construct a turn lane from Street C (temporary name) to the east to the bridge at Hogan Sough. Full access will be provided at Walter Creek Boulevard and at Street B (temporary name). A restricted access will be provided at Street C (temporary name). West Street C (temporary name) is to be a one way with the travel direction to the south. The access for West Street C (temporary name) at Elysian Road shall allow left-turn in and right-turn in only. East Street C (temporary name) is to be a one way with the travel direction to the north. The access for East Street C (temporary name) at Elysian Road shall allow right-turn out only. No left-turns out or through

movements will be allowed on East Street C (temporary name). Storm drain shall be installed as necessary, draining directly to Hogan's Slough and/or routed internally through the subdivision. The design cross-section of said street shall be submitted to, and approved by, the City of Billings Public Works Department. Elysian Road improvements will be completed by private contract or SID.

5. At the time of this Filing, Phase IV of Harmony Meadows Subdivision, Second Filing has not been constructed. Therefore, a physical connection between Annafeld Subdivision and Harmony Meadows Subdivision cannot be made. Furthermore, even if the Story Road connection were constructed, the traffic generated from Annafeld Subdivision, Third Filing would be unlikely to utilize Story Road based on proximity to Elysian Road and the land uses that are currently in Harmony Meadows Subdivision. Therefore, a detailed traffic impact analysis of the Story Road connection to Harmony Meadows Subdivision is not required for this Filing of Annafeld Subdivision. A traffic impact analysis of the Story Road connection to Harmony Meadows Subdivision is required with future filings.

The Subdivider agrees to contribute up to 50 percent of the cost for design, permitting, and construction of the Hogan's Slough crossing on Story Road. If the cash contribution is not sufficient to cover 50 percent of the crossing costs at the time of construction, the City retains the right to create a SID to recover additional design and construction costs.

The timing of the contribution for the Hogan's Slough crossing on Story Road shall be made at the earlier of the following:

- I. At the time an Annafeld Subdivision Traffic Impact Study recommends the Story Road connection be completed.
  - II. At the commencement of construction of Phase IV improvements for Harmony Meadows Subdivision, 2nd Filing.
  - III. Prior to final plat approval of the final filing of Annafeld Subdivision.
6. A traffic accessibility study has been completed for the Annafeld Subdivision, Third Filing. All required intersection improvement contributions identified therein shall be completed by the Subdivider at the Subdivider's expense. Based on the additional lots created

with Annafeld Subdivision, Third Filing, the percent of traffic contribution and associated costs to these intersections is as follows:

South Frontage Road/Midland Road & Mullooney Lane	2.54%	\$TBD
South Frontage Road/East Lane	2.02%	\$TBD
Mullooney Lane/Elysian Road	2.08%	\$TBD
Elysian Road/East Lane	4.25%	\$TBD
Elysian Road/South Frontage Road	2.02%	\$TBD

These cash contributions for the intersection improvements will be made prior to final plat approval. The percentage contributions and dollar amounts are as outlined within the Traffic Impacts Study for Annafeld Subdivision, Third Filing as submitted with the preliminary plat.

**B. Alleys**

All alleys within the subdivision shall be built to grade with a satisfactory subbase, base course, and asphalt surface or concrete surface. All alley approaches constructed with asphalt shall be replaced with concrete by the Subdivider at the time when home construction is complete. In the event asphalt approaches within the subdivision are not replaced with concrete within three years of the date of recording of the final plat, the City may construct the concrete approaches and assess the Subdivider for the costs associated with the approach construction. Alley pavement widths shall be 12-feet. The design cross-sections of said alleys shall be submitted to, and approved by, the City of Billings Public Works Department. No trees are allowed to be planted in the alley. In addition, no shrubs taller than two feet are allowed to be planted in alleys.

**C. Sidewalks**

Subdivider shall install handicap access ramps, where necessary, during street construction. Construction of sidewalks along frontage of the lots shall be installed by the lot owner at the time of lot development. Sidewalks along the street frontage shall be minimum 5-foot-wide and separated with a boulevard width not less than five feet. Developer shall construct the 5-foot wide boulevard sidewalk adjacent to private parks (Lot 1, Block 18; Lot 1, Block 11; north side of Lot 17, Block 5) at the time of private park development.

In the event that portions of the required sidewalks within the subdivision are not constructed within three years of the date of recording of the final plat, the City may construct the remaining sidewalks and assess the individual lot owners for the costs associated with the sidewalk construction.

A sidewalk shall not be required along the south side of Elysian Road, due to the proximity of the proposed multi-use path, as allowed by 23-406 (B) (13), BMCC.

**D. Street Lighting**

Street lighting is not required for this subdivision; however, it is anticipated that street lighting will be installed for Third Filing by private contract or SID. A Street Light Maintenance District will be created for operation and maintenance of the lighting at a future date and is included in the waiver of right to protest.

**E. Traffic Control Devices**

1. Street name signs for streets within the subdivision, or located immediately adjacent thereto, shall be furnished and installed in accordance with the specifications of the City of Billings Public Works and Fire Departments.
2. No traffic signals are required within this subdivision.
3. 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.

**F. Access**

Access to the subdivision will be provided by Elysian Road, Farmstead Avenue, Mollie Rose Lane, Annas Garden Lane and Norma Jean Lane. An additional existing emergency access will remain along the existing City trunk sanitary sewer easement to East Lane. Alley access is also provided to all residential lots within the subdivision.

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

A multi-use trail has been constructed along the south boundary of Elysian

Road. Said multi-use trail shall extend from the east boundary of the subdivision to the easterly right-of-way line of East Lane.

In addition, a 10-foot wide multi-use path will be provided on the east side of Street A (temporary name), adjacent to Lots 11, 12, and 17, Block 5; Lots 11 and 12, Block 7; and on the south side of Norma Jean Lane, adjacent to Lots 6, Block 6. This multi-use path will ultimately provide a connection to a private park located in the center of the subdivision that will be created with a future filing.

#### **H. Public Transit**

There are no MET Transit routes that service this subdivision at this time. The nearest established route is at the intersection of Midland Road and Mallowney Lane. No improvements with regard to MET Transit vehicles are anticipated at this time.

### **IV. EMERGENCY SERVICE**

#### **A. Fire Hydrants**

Emergency service will be provided by the City. Placement of fire hydrants will be as required by the City of Billings Fire Department.

#### **B. Construction of Buildings**

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply (fire hydrants) in place to allow for 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 the 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-foot-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.

**C. Building Location**

All buildings shall be located on each lot so that the furthest portion of each building is within 150-feet from an approved fire department access road over an approved route excluding all carriage lanes and alleyways.

**V. STORM DRAINAGE**

- A.** A stormwater management plan shall be submitted to the Engineering Division prior to final plat approval. The storm drainage system for Annafeld Subdivision, Third Filing will consist of a curb and gutter surface collection and curb inlets that drain into storm drainage piping, as well as surface conveyance. The storm drain piping will discharge into existing storm drain piping and to an existing mechanical stormwater filtration manhole, then into Hogan's Slough. All drainage improvements shall comply with the provisions of the City of Billings *Stormwater Management Manual* and Chapter 28, BMCC.
- B.** The mechanical stormwater filtration manholes are existing, and associated improvements are privately owned and maintained by the HOA. Annafeld Subdivision, Third Filing will be included in the HOA that is responsible to maintain these facilities. O&M requirements and HOA maintenance and fiscal responsibilities have been outlined within the Annafeld Subdivision, First Filing I O&M Manual.
- C.** Hogan's Slough adjacent to the subdivision is a major stormwater outfall for Billings west end. There is a possibility that the slough could overtop during a major storm event. Based upon the existing topography near Hogan's Slough and the Elysian Road Bridge, it is anticipated that the channel would overtop northeast of Elysian Road and flow east prior to overtopping Elysian Road. There is the possibility however that Elysian Road could be overtopped during a major storm event. If that occurs, flows not carried within the Hogan's Slough channel would be carried within the subdivision streets. The elevation of residential dwellings and commercial structures must be established in recognition of the City's policy that storm

runoff flows are allowed to a depth of 18-inches in the gutter flowline of adjacent streets during the major storm.

- D. 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 Chapter 28, BMCC and detailed in the City of Billings *Stormwater Management Manual*.
- E. The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and the 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 City of Billings *Stormwater Management 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 Public Works Department - Engineering Division. The extension of/connection to water mains and sanitary sewers is 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 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.

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 Annafeld Subdivision water system consists of a series of looped water mains located in each of the local streets. The subdivision water system will consist of new 12-inch water mains in Mollie Rose Lane and Street A (temporary name) from Mollie Rose Lane to Norma Jean Lane, and Norma

Jean Lane east of Street A (temporary name). 8-inch water mains in the remaining portion of Street A (temporary name), Street B (temporary name), Street C (temporary name), Street D (temporary name), and Street E (temporary name). Future filings of the Annafeld Planned Development will provide the opportunity to make additional connections to the trunk main in Elysian Road providing water main looping.

**B. Sanitary Sewer**

Sanitary sewer service to Annafeld Subdivision, Third Filing will be provided by connecting to the existing 8-inch gravity sewer main located in Farmstead Avenue, Mollie Rose Lane, Annas Garden Lane and Norma Jean Lane. An existing 24-inch trunk sanitary sewer main extends through the subdivision. 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, Distribution, and Collection Division.

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

Private utility facilities currently exist to serve the subdivision. The private utility facilities will be installed within the alley right-of-way and by easements included on the plat, as requested by the utility companies, to provide routes to the alleys.

**VII. PARKS/OPEN SPACE**

The subdivision lies within a planned unit development that provides for land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development, per 76-3-621(6)(a) of the Montana Code Annotated. The park and open space within the Annafeld Planned Unit Development Master Plan meets or exceeds the area of dedication required under section 76-3-621(1), MCA. The Subdivider and City agree that the parkland dedication has been met through the dedication of private park area within Annafeld Subdivision, Third Filing and the remainder was met with additional public park dedication with Annafeld Subdivision, First Filing.

In addition, the lots within Annafeld Subdivision, Third Filing (not already participating in the park SID's from previous filings of Annafeld Subdivision) shall provide additional funding, up to \$1.00 per square foot of lot area, for park improvements for a previously created public park (Lot 13, Block 2 Annafeld Subdivision, First Filing) by SID. The park improvements shall be in accordance

with the previously approved Annafeld Parks Master Plan – Phase I. The Subdivider shall prepare all SID documents necessary for creation, and coordinate with the City of Billings Parks and Recreation Department for review and approval. If the park improvements as defined in the Annafeld Parks Master Plan – Phase I have been completed prior to the creation of this park SID, then this park SID will no longer be required.

The current park maintenance district for the previous filings of Annafeld Subdivision shall be expanded to include lots with Annafeld Subdivision, Third Filing. The Subdivider shall prepare all park maintenance district documents necessary for its expansion and coordinate with the City of Billings Parks and Recreation Department for review and approval.

#### **VIII. HOMEOWNER'S ASSOCIATIONS**

A homeowner's association (HOA) will be established for this subdivision. 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 maintenance of the mechanical filtration stormwater manholes. The HOA shall share the cost of maintenance of the community stormwater facilities.

#### **IX. POSTAL DELIVERY**

The Subdivider shall provide centralized delivery boxes with sufficient pullout to accommodate a mail carrier vehicle. The location of the boxes shall be reviewed and approved by the United States Postal Service.

#### **X. SOILS/GEOTECHNICAL STUDY**

A soils/geotechnical study has been performed for the subdivision. The report dated January 19, 2019, 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.

## **XI. FINANCIAL GUARANTEES**

Except as otherwise provided, Subdivider shall install and construct said required improvements by SID or by private contract secured by letters of credit or a letter of commitment to lend funds from a commercial lender or by SID. 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, 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 Third above written.

“SUBDIVIDER”

**MCCALL DEVELOPMENT, INC.**

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 \_\_\_\_\_ of **MCCALL DEVELOPMENT, INC.** who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

This agreement is hereby approved and accepted by the 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 in and 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: \_\_\_\_\_

**WAIVER OF RIGHT TO PROTEST**

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more special improvement district(s) for a period of no more than twenty years from the recording of this waiver, 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 is supported by sufficient independent consideration to which the undersigned are parties, and shall run with the land and shall be binding upon the undersigned, their 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 that is the subject of this waiver is more particularly described as follows:

ANNAFELD SUBDIVISION, THIRD FILING

SUBDIVIDER/OWNER

MCCALL DEVELOPMENT, INC.

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 \_\_\_\_\_, personally appeared \_\_\_\_\_, known to me to be the person who executed the foregoing instrument as the \_\_\_\_\_ of **MCCALL DEVELOPMENT, INC.** and acknowledged to me that he/she 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: \_\_\_\_\_