



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



**AGENDA**

November 13, 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:** SEPTEMBER 10, 2019; OCTOBER 8, 2019. (The October 22, 2019 meeting was canceled).

**Attachments**

PlnBMinutes\_2019\_09\_10\_DRAFT

PlnBMinutes\_2019\_10\_08\_DRAFT

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. Preliminary Plat Review. Discussion. **Grand Peaks Subdivision, 5th Filing.** City Major Subdivision. J&S Development Co, applicant. Sanderson Stewart, agent. Dave Green, Planner II, presenting.

**Attachments**

Findings of Fact

Proposed Plat

SIA

- b. Preliminary Plat Review. Discussion. **Grand Peaks Subdivision, 6th Filing.** J&S Development Co., applicant. Sanderson Stewart, agent. Dave Green, Planner II, presenting.

**Attachments**

Findings of Fact

Proposed Plat

SIA

- c. Preliminary Plat Review. Discussion. **Trails West Subdivision, 4th Filing,** City Preliminary Major Subdivision. Ronald Frank, Douglas Frank, Deborah Frank and Dorn Wilson Development, LLC, applicants. Dave Green Planner II, presenting.

**Attachments**

Findings of Fact

Proposed Plat

SIA

- d. Preliminary Plat Review. Discussion. **Trails West Subdivision, 5th Filing,** City Preliminary Major Subdivision. Ronald Frank, Douglas Frank, Deborah Frank and Dorn Wilson Development, LLC, applicants. Dave Green Planner II, presenting.

**Attachments**

Findings of Fact

Proposed Plat

SIA

- e. Preliminary Plat Review. Discussion. **Trails West Subdivision, 6th Filing,** City Preliminary Major Subdivision. Ronald Frank, Douglas Frank, Deborah Frank and Dorn Wilson Development, LLC, applicants. Dave Green Planner II, presenting.

**Attachments**

Findings of Fact

Proposed Plat

SIA

- f. Preliminary Plat Review. Discussion. **Sundance Subdivision**. County Major Subdivision. Dan Wells, Regal Land Development, applicant. Performance Engineering, agent. Dave Green, Planner II, presenting.

**Attachments**

Findings of Fact

Proposed Plat

SIA

9. **OTHER BUSINESS:**

- a. Motion. Creation of the Planning Board Nomination Committee for the 2020 Planning Board Officers. Planning Board Members. **Planning Board Bylaws Section. B. Nominating Committee** The President shall at the first regular meeting in November appoint three (3) members who will present their recommendations for new officers at the first meeting in December as the first order of business following the approval of the minutes. Nominations from the floor may be made at this time. The President shall not be a member of the Nominating Committee
- b. (Standing Item) Long Range Strategic Issues and an overview of future City and County issues and projects.
- c. Community Outreach and Educational Opportunities. Planning Staff

10. **ADJOURNMENT**

**FUTURE AGENDA ITEMS FOR TUESDAY, NOVEMBER 26, 2019**

- a. Public Hearing. Motion/Recommendation to City Council. **Grand Peaks Subdivision, 5th Filing**. City Major Subdivision. J&S Development Co, applicant. Sanderson Stewart, agent. Dave Green, Planner II, presenting.
- b. Public Hearing. Motion/Recommendation to City Council. **Grand Peaks Subdivision, 6th Filing**. J&S Development Co., applicant. Sanderson Stewart, agent. Dave Green, Planner II, presenting.
- c. Public Hearing. Motion/Recommendation to City Council. **Trails West Subdivision, 4th Filing**. City Preliminary Major Subdivision. Ronald Frank, Douglas Frank, Deborah Frank and Dorn Wilson Development, LLC, applicants. Dave Green Planner II, presenting.

- d. Public Hearing. Motion/Recommendation to City Council. **Trails West Subdivision, 5th Filing**, City Preliminary Major Subdivision. Ronald Frank, Douglas Frank, Deborah Frank and Dorn Wilson Development, LLC, applicants. Dave Green Planner II, presenting.
  
- e. Public Hearing. Motion/Recommendation to City Council. **Trails West Subdivision, 6th Filing**, City Preliminary Major Subdivision. Ronald Frank, Douglas Frank, Deborah Frank and Dorn Wilson Development, LLC, applicants. Dave Green Planner II, presenting.
  
- f. Public Hearing. Motion/Recommendation to BOCC. **Sundance Subdivision**. County Major Subdivision. Dan Wells, Regal Land Development, applicant. Performance Engineering, agent. Dave Green, Planner II, presenting.

**Planning Board Meeting I (Wednesday Meeting)**

**3.**

**Meeting Date:** 11/13/2019

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**Information**

**Subject**

**MEETING MINUTES:** SEPTEMBER 10, 2019; OCTOBER 8, 2019. (The October 22, 2019 meeting was canceled).

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**Attachments**

PlnBMinutes\_2019\_09\_10\_DRAFT

PlnBMinutes\_2019\_10\_08\_DRAFT

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# CITY/COUNTY PLANNING BOARD

## "Serving Billings, Broadview and Yellowstone County"

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

	Position	01/08/2019	01/22/2019	02/12/2019	02/26/2019	03/12/2019	03/26/2019	04/09/2019	04/23/2019	05/14/2019	** 05/29/2019	06/11/2019	06/25/2019	07/09/2019	07/23/2019	08/13/2019	08/27/2019	09/10/2019	09/29/2019	10/08/2019	10/22/2019	11/12/2019	11/26/2019	12/10/2019
Dave Goodridge	Mayor/Billings Ward I	E	1	1	1	E	E	E	E	E	-	-	E	-	E	1	-	E						
Matt Macrow	Mayor/Billings Ward II	1	1	1	1	1	E	1	E	1	-	-	1	-	E	E	-	1						
Eric Wallace	Mayor/Billings Ward III	1	1	1	E	E	E	1	1	1	-	-	E	-	1	1	-	1						
Darell Tunnickliff	Mayor/Billings Ward IV	1	1	1	E	1	1	E	1	1	-	-	1	-	1	1	-	1						
Jon Thompson	Mayor/Billings Ward V	1	E	1	E	1	1	1	1	E	-	-	1	-	1	E	-	1						
Troy Boucher	YC District 1	1	E	E	1	1	1	1	1	1	-	-	E	-	E	A	-	1						
Dennis Cook	YC District 2	1	1	1	1	1	1	1	E	E	-	-	1	-	1	1	-	1						
Vacant	YC District 3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Vacant	YC District 4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Woody Woods	YC District 5	1	1	1	1	1	1	1	E	1	-	-	E	-	1	1	-	1						
Vacant	YC District 6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Jarett Hillius	YC District 7	1	1	1	1	1	1	1	E	1	-	-	1	-	E	E	-	1						
Jerry Williams	Y County Cons. District	1	1		1	1	1	1	1	1	-	-	R	-	-	-	-	1						
Scott Reiter	Ex-Officio SD2	A	A	A	A	A	A	A	A	A	-	-	A	-	A	A	-	1						

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## CITY/COUNTY PLANNING BOARD

*“Serving Billings, Broadview and Yellowstone County”*

**September 10, 2019**

*DRAFT- To be approved by a motion on October 8, 2019*

### **Call the Meeting to Order**

President Tunnicliff called the meeting to order at 6:00 p.m. on Tuesday, September 10, 2019 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North, Billings, Montana.

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

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

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

### **In Attendance:**

**Approval of the August 13, 2019 Agenda – A motion was made by Board member Woods and seconded by Board member Hillius to approve the September 10, 2019 as submitted. The motion carried with a unanimous voice vote.**

**Approval of Minutes: August 13, 2019.** (The August 27, 2019 meeting was canceled). **A motion was made by Board member Woods and seconded by Board member Hillius to approve the minutes of August 13, 2019 as submitted. The motion carried with a unanimous voice vote.**

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

**Disclosure of Outside (Ex Parte) Communication– Board Members and Planning Staff.** The Ex Parte Communication Binder is available at the Sign-In and Agenda station. There were no declarations of ex parte communications or conflicts of interest.

# CITY/COUNTY PLANNING BOARD

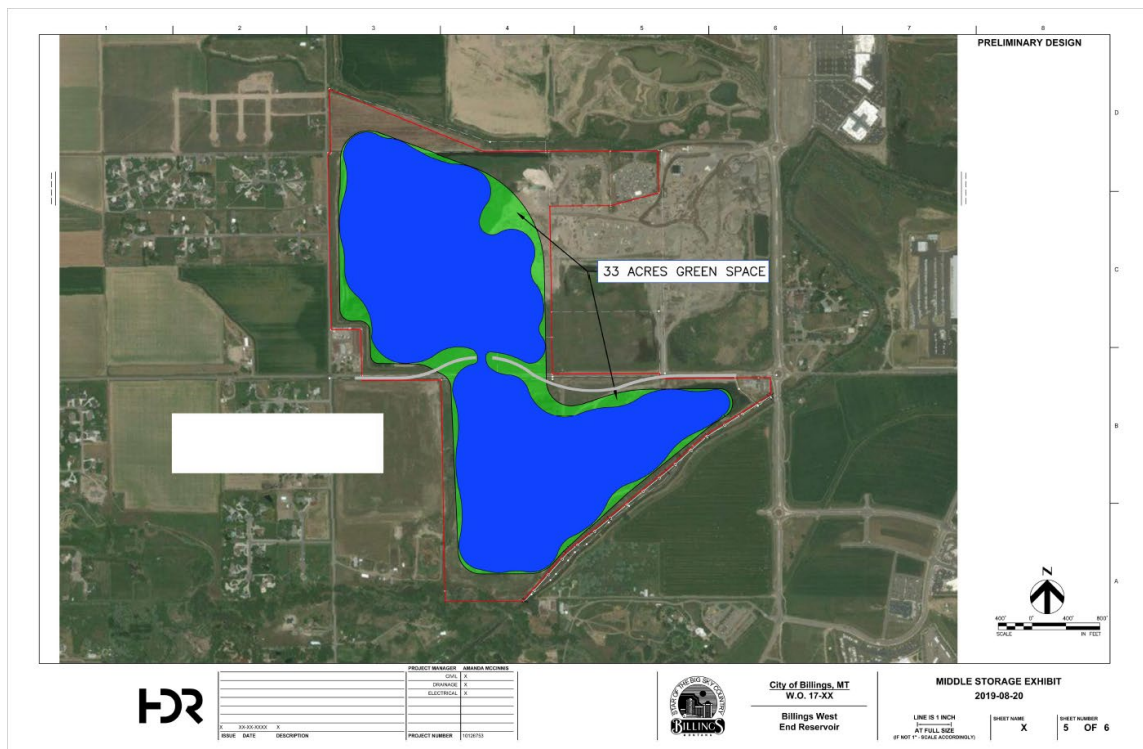
*“Serving Billings, Broadview and Yellowstone County”*

**7. OLD BUSINESS-There is no Old Business.**

**8. NEW BUSINESS:**

**8a. City West End Reservoir & Water Treatment Plant Project. Dave Mumford, Director, City of Billings Public Works Department.**

President Tunnick said he applauds staff for their coordination of this presentation. He thanked Director Mumford for attending this evening. Director Mumford gave a brief explanation of the need for a new water treatment system on the west end of Billings and pointed out the short window of time to address the City’s water supply if a similar situation takes place to the recent crude oil pipeline break in Laurel. Director Mumford presented the “City Lakes” video <https://youtu.be/HmI9xoYU34c> and explained the proposed site plan graphic below. The reservoir is targeted for completion in 2023, and in five years, the treatment plant will be on line and operational. Director Mumford said that the Public Works Department hired Land Design Inc. as part of the lead group to make this project something to be proud of in the next 100 years. He noted several of the proposed amenities including a science and recreational area outside the plant that is attached to the water. He stated this will be a very desirable area with the nearby Zoo Montana and Shiloh Conservation area.



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## CITY/COUNTY PLANNING BOARD

*“Serving Billings, Broadview and Yellowstone County”*

### **Discussion**

President Tunnicliff called for questions and discussion. Board member Woods asked about the property owners north of Hesper. Dave Mumford commented on property owners potentially interested in developing in the City. He said the lake is proposed to be about four to five times larger than Lake Elmo. Board member Thompson asked about the reasoning for updating the roundabouts on Shiloh Road. Director Mumford explained that the work is related to minimizing the cost of ongoing maintenance of the plants. The new design will be easier to maintain and the plants will be drip irrigated.

### **8b. Presentation/Discussion. County Growth Policy Update. Monica Plecker, Planning Division Manager, presenting.**

Ms. Plecker stated Yellowstone County last adopted a joint City-County Comprehensive Growth Policy in 2008. Since then, the City of Billings and Lockwood have adopted their own Growth Policies. This document will encompass the greater Billings area and surrounding rural town sites. She commented that the Division’s limited resources make this project challenging. Her observation is that the current political environment is not one which is looking for major changes and status quo is the expectation. Ms. Plecker stated public meetings were held August 26 and August 28 but were not well attended even though they were largely noticed. There will be additional opportunities for public input in the future.

### **Discussion**

Board member Woods asked if the Commissioners are looking towards future development. Ms. Plecker said staff has had candid conversations but they seem to feel the level of services currently provided is good, and there is not a lot of desire to use the document as a launching pad for future opportunities. Board member Woods cautioned against repeating the mistakes of the past and commented on the experiences with development in the Lockwood community. Ms. Plecker said the greatest opportunity is a discussion that focuses on the greater Billings area. She pointed out that there have been good strides with the approval of the Suburban Standards for developments. She said the current zoning boundary itself and the conflicts with growth pressures will bring forward the most meaningful conversations for this document. President Tunnicliff asked if it would be helpful for the Planning Board to draft a recommendation. Ms. Plecker stated the County Growth Policy will come before this Board for a recommendation but it would be helpful to prepare a comprehensive and concise draft recommendation in anticipation of that meeting. Members commented on their desire to see progress with

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## CITY/COUNTY PLANNING BOARD

*“Serving Billings, Broadview and Yellowstone County”*

addressing the jurisdictional zoning boundaries. Ms. Plecker engaged the members of the Board in several exercises to get their input on development in the County.

### **9. OTHER BUSINESS**

#### **A. Announcements and Invitations:**

**\*\*The TUESDAY, SEPTEMBER 24, 2019 Planning Board meeting is canceled due to a lack of agenda items. The next meeting will be held as legally announced and advertised on TUESDAY, OCTOBER 8, 2019, 6:00 PM.**

**ADJOURNMENT: 7:30 PM**

**DRAFT-TO BE APPROVED BY A MOTION ON OCTOBER 8, 2019**

*--Tamará L. Deinos, Planning Clerk*

# CITY/COUNTY PLANNING BOARD

## "Serving Billings, Broadview and Yellowstone County"

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

	Position	01/08/2019	01/22/2019	02/12/2019	02/26/2019	03/12/2019	03/26/2019	04/09/2019	04/23/2019	05/14/2019	** 05/29/2019	06/11/2019	06/25/2019	07/09/2019	07/23/2019	08/13/2019	08/27/2019	09/10/2019	09/24/2019	10/08/2019	10/22/2019	11/12/2019	11/26/2019	12/10/2019
Dave Goodridge	Mayor/Billings Ward I	E	1	1	1	E	E	E	E	E	-	-	E	-	E	1	-	E	-	1				
Matt Macrow	Mayor/Billings Ward II	1	1	1	1	1	E	1	E	1	-	-	1	-	E	E	-	1	-	1				
Eric Wallace	Mayor/Billings Ward III	1	1	1	E	E	E	1	1	1	-	-	E	-	1	1	-	1	-	A				
Darell Tunnickliff	Mayor/Billings Ward IV	1	1	1	E	1	1	E	1	1	-	-	1	-	1	1	-	1	-	E				
Jon Thompson	Mayor/Billings Ward V	1	E	1	E	1	1	1	1	E	-	-	1	-	1	E	-	1	-	E				
Troy Boucher	YC District 1	1	E	E	1	1	1	1	1	1	-	-	E	-	E	A	-	1	-	E				
Dennis Cook	YC District 2	1	1	1	1	1	1	1	E	E	-	-	1	-	1	1	-	1	-	1				
Vacant	YC District 3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Vacant	YC District 4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Woody Woods	YC District 5	1	1	1	1	1	1	1	E	1	-	-	E	-	1	1	-	1	-	1				
Vacant	YC District 6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Jarett Hillius	YC District 7	1	1	1	1	1	1	1	E	1	-	-	1	-	E	E	-	1	-	E				
Jerry Williams	Y County Cons. District	1	1		1	1	1	1	1	1	-	-	R	-	-	-	-	1	-	-				
Scott Reiter	Ex-Officio SD2	A	A	A	A	A	A	A	A	A	-	-	A	-	A	A	-	1	-	A				

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## CITY/COUNTY PLANNING BOARD

*“Serving Billings, Broadview and Yellowstone County”*

**October 8, 2019**

*DRAFT- To be approved by a motion on November 13, 2019*

### **Call the Meeting to Order**

Vice President Woods called the meeting to order at 6:00 p.m. on Tuesday, October 8, 2019 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North, Billings, Montana.

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

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

**Attending Planning staff members:** Monica Plecker, Planning Division Manager

**In Attendance:** Craig Dalton, Performance Engineering; Kevin Ploehn, Director, City of Billings Aviation and Transit

**Approval of the August 13, 2019 Agenda – A motion was made by Board member Woods and seconded by Board member Hillius to approve the September 10, 2019 as submitted. The motion carried with a unanimous voice vote.**

**Approval of Minutes: September 10, 2019.** Approval of the September 10, 2019 meeting minutes is delayed due to a lack of a quorum of Planning Board members.

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

**Disclosure of Outside (Ex Parte) Communication– Board Members and Planning Staff.** The Ex Parte Communication Binder is available at the Sign-In and Agenda station. There were no declarations of ex parte communications or conflicts of interest.

**7. OLD BUSINESS-There is no Old Business.**

**8. NEW BUSINESS:**

**8a. Presentation. Discussion. Airport Expansion/Remodel Project. Kevin Ploehn, City of Billings, Director of Aviation and Transit, presenting.** Kevin Ploehn opened this presentation with a brief introduction. He said they are doing a concourse rebuild at

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## CITY/COUNTY PLANNING BOARD

### *“Serving Billings, Broadview and Yellowstone County”*

the terminal building with approximately \$55,000,000 of new infrastructure. The current concourse was constructed in the 1970’s. A study was conducted five years ago to find out what is needed in terms of space and the forecast for Billings’ growth. He noted additional congestion at the gates with the additional services of Frontier and American airlines. He continued with a presentation that can be accessed at the following link: <https://www.flybillings.com/1899/Terminal-Expansion-Project>, then scroll down to July 2019 Update and just click on the “Fly Thru Video”.

### **Discussion**

He provided clarification on the proposed ticketing and baggage areas per request of Vice President Woods. He said they are considering updating the baggage carousel in the future. Board member Cook asked how this restaurant would compare to what was previously offered in the Sky View Terrace Restaurant. Director Ploehn said the main restaurant would not change much and there are more options for restaurants than there were in the 1970’s so that type of fare will not be offered. Board member Macrow asked if there are plans to expand the parking area. Director Ploehn stated the 2024-2025 CIP indicates construction of a parking structure. A credit card control will be added to the overflow parking on the west end, which will extend the parking for the time being. He said technology is changing that will influence parking needs. Board member Cook asked if there would be air shows scheduled in the future. Director Ploehn said there is limited space and the air traffic has increased which may make the ability to do air shows almost impossible. In response to question by Board member Goodridge regarding air traffic data on travelers from Montana traveling north. Director Ploehn explained that Billings does not hold a certificate for customs. Board member Cook asked about limitations for expansion on the east end. Director Ploehn said there is room for one additional building but they are considering the north end of the airport for expansion Vice President Woods thanked Director Ploehn for his presentation.

### **8b. Presentation/Discussion. The Meadows Subdivision. Monica Plecker, presenting.**

Ms. Plecker announced staff received written notice from applicant Regal Land Development requesting a 30-day delay, specifically requesting the plat be reviewed and heard during the November Planning Board meetings.

## **9. OTHER BUSINESS**

A. Division Manager Plecker stated staff has scheduled the first annexation to review the

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## CITY/COUNTY PLANNING BOARD

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Limits of Annexation Map and incoming requests. Meetings are continuing for Project ReCode.

**\*\*The TUESDAY, OCTOBER 22, 2019 Planning Board meeting is canceled due to a lack of agenda items. The next meeting will be held as legally announced and advertised on WEDNESDAY, NOVEMBER 13, 6:00 PM.**

**ADJOURNMENT: 7:30 PM**

**DRAFT-TO BE APPROVED BY A MOTION ON NOVEMBER 13, 2019**

*--Tawana L. Deinos, Planning Clerk*



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



**Planning Board Meeting I (Wednesday Meeting)**

**8. a.**

**Meeting Date:** 11/13/2019

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**Information**

**INTRODUCTION**

On October 1, 2019, Sanderson Stewart, agent for J&S Development Co., applied for preliminary major plat approval for Grand Peaks Subdivision, 5th Filing. The proposed subdivision creates 37 new lots for development. The subject property is generally located on the east side of 54th Street West and north of Grand Avenue. The property is zoned Residential 7000 (R70), Residential 5000 (R50) and Residential Multi-Family Restricted (RMF-R). The proposed lots will be developed in compliance with the zoning as the property is developed. The Yellowstone County Board of Planning will review the plat at this meeting and conduct a public hearing on November 26, 2019.

**RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Grand Peaks Subdivision, 5th Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

**PROPOSED CONDITIONS OF APPROVAL**

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

1. To protect public health and safety with increased area traffic, prior to final plat approval, the applicant will submit all necessary information required by the City of Billings Engineering Division for review and approval to finalize Traffic Impact Study information.
2. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
3. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

**VARIANCES REQUESTED**

No variances from the City Subdivision Regulations have been requested.

## **PROCEDURAL HISTORY**

- Pre-application meeting August 8, 2019
- Preliminary plat application submitted to Planning Division on October 1, 2019.
- Departmental review meeting October 17, 2019
- Preliminary plat resubmittal October 24, 2019
- Planning Board plat review November 13, 2019
- Planning Board public hearing November 26, 2019
- Preliminary plat to City Council December 16, 2019
- 60 working-day preliminary plat review period ends December 27, 2019

## **PLAT INFORMATION**

General location: East side of 54th Street West and north of Grand Avenue

Legal Description: L2B4, LT4, 5B2, LT1B5 of Grand Peaks Sub; L8B6 of Grand Peaks Sub 3rd

Owner/Subdivider: J&S Development Co.

Engineer and Surveyor: Sanderson Stewart

Existing Zoning: R70, R50 and RMF-R

Existing land use: Former Farm Land

Proposed land use: Residential

Gross and Net area: 24.693 acres / 21.189 acres

Proposed number of lots: 37

Lot size: Max: 9.3 acres  
Min.: 9,682 square feet

Parkland requirements: The applicant is proposing to provide 2.023 acres of parkland with this submittal. This is a parkland dedication requirement in connection with what is required for both Grand Peaks 5th and 6th Filings.

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## **Attachments**

Findings of Fact  
Proposed Plat  
SIA

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## FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Grand Peaks Subdivision, 5<sup>th</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 was formerly farmland. There are no existing irrigation facilities on the subject property. The proposed subdivision will not have an impact on existing agricultural areas because it was previously platted and this proposed subdivision will re-plat large lots from previous filings. There is no anticipated negative effect on agricultural irrigation facilities or agriculture from this proposal.

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

- a. **Utilities** – Water service will be provided by the City of Billings. The developer will connect to existing 8-inch water lines in West and East Thunder Mountain Roads. New water mains will be 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).

The water lines will create a looped system wherever possible to maintain equal water pressures throughout the development as the subdivision is constructed as outlined in the SIA under the heading VI Utilities A. Water.

Sanitary sewer service will be provided by the City of Billings. This filing of the subdivision will have 8-inch sewer mains connecting to existing 8 inch lines already in the subdivision in West and East Thunder Mountain Roads. 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 B. Sanitary Sewer.

Private utility companies will provide gas and electric services to the subdivision. Easements have been shown on the face of the plat that are acceptable to these utility providers.

- b. **Storm water** – Storm water drainage is 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 detention area located in a private

park, within the fifth filing. This will be maintained by the HOA for the fifth and sixth filings of this subdivision. These and all other drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the City Engineering Division.

In the SIA under the heading V. Storm Drainage, third paragraph the applicant will also be making a proportionate share toward the cost of a drainage system in Grand Avenue to convey storm water from the subdivision.

- 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 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; they shall be reviewed and approved by the City of Billings Engineering Division before any construction.

The applicant in the SIA under the heading III Transportation A. 2, third paragraph, stated that the TIS has identified the need for a westbound right-turn lane at the intersection of Grand Avenue and Brand Peaks Drive. The proposed turn lane will be reviewed and approved by City of Billings Engineering before construction.

A TIS has been submitted with each previous filing of the subdivision. As the filings get built out the number of trips change and the impacts of the surrounding roads and intersections change. The applicant will provide all TIS information and updates as needed by City of Billings Engineering division prior to final plat approval. **(Condition #1)**

- 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 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 #2 will provide educational services to elementary through high school students. Meadowlark Elementary, Ben Steele Middle School and West High School would serve students in this subdivision. A

response from School District #2 indicates that schools are currently over capacity.

- g. **Parks and Recreation** – Parkland for this subdivision is 2.02 acres, this is the total amount required for both the 5<sup>th</sup> and 6<sup>th</sup> Filings. It will be a private park maintained by the HOA. The subdivider will install turf and irrigation. Lot owners in this subdivision are also subject to inclusion in the PMD for the regional park, Cottonwood Park.
- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision; they have indicated centralized box units (CBU) will be required. The postal service has requested a CBU be installed on the corner of Iron Mountain Road and 54<sup>th</sup> Street West. The requested CBU location from the USPS is a location that will exist with the 6<sup>th</sup> filings but not the 5<sup>th</sup> filing. The applicant will work with the USPS to determine a satisfactory location for the CBU with this filing. (**Condition #2**)

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

The subject property was originally farmland and is not a significant habitat for wildlife. Montana Fish Wildlife and Parks indicates there is some antelope and deer grazing that takes place but not a significant amount. During development, storm water pollution prevention best management practices are required and monitored to prevent erosion on exposed ground. Overall, the effect on the natural environment should be minimal.

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

There are no known endangered or threatened species on the property. There is a paragraph in the SIA that 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 2018 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).

**Home Base (healthy, safe and diverse housing options)** Homes that are safe and sound support a healthy community

**Community Fabric (attractive, aesthetically pleasing, uniquely Billings)** Outdoor public spaces provide casual and relaxing gathering areas for people.

The 2001 West Billings Plan identifies this area as residential. The proposed subdivision is for residential development.

**2. 2018 Urban Area Transportation Plan**

The proposed subdivision adheres to the goals and objectives of the 2018 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 future bike lane identified on 54<sup>th</sup> Street West. That lane is to be added at a future date when the road is built out to its full width. There is currently a 10-foot wide trail constructed on the west side of 54<sup>th</sup> Street West along that subdivision frontage.

**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 complies with current zoning and further compliance requirements will be enforced with the construction of homes on lots.

**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 the private utility companies 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 East and West Thunder Mountain Roads, and the new proposed internal roads.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Grand Peaks Subdivision, 5<sup>th</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 Grand Peaks Subdivision, 5<sup>th</sup> Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

PRELIMINARY PLAT OF  
**GRAND PEAKS SUBDIVISION, 5TH FILING**

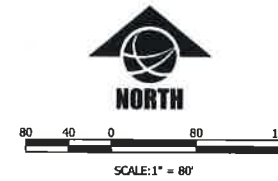
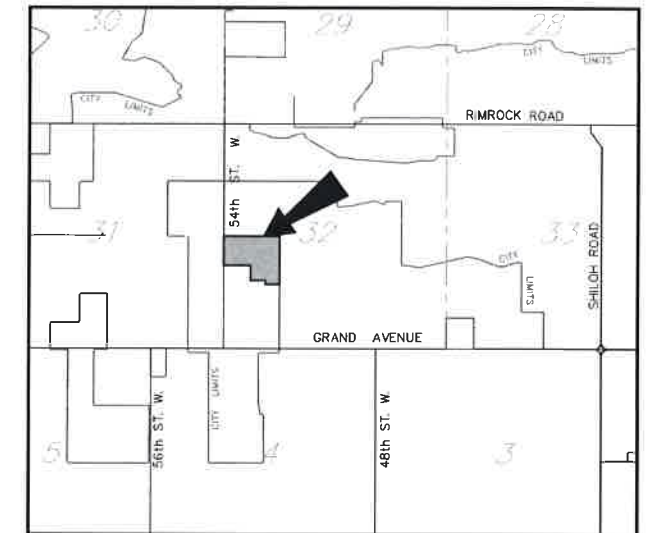
LOT 2, BLOCK 4, LOTS 4 & 5, BLOCK 2 & LOT 1, BLOCK 5 OF GRAND PEAKS SUBDIVISION  
 LOT 8, BLOCK 6, OF GRAND PEAKS SUBDIVISION, 3RD FILING & ADJACENT VACATED RIGHT-OF-WAY  
 SITUATED IN SW1/4 OF SECTION 32, T. 1 N., R. 25 E., P.M.M.  
 BILLINGS, MONTANAN

PREPARED FOR : JEFF JUNKERT CONSTRUCTION

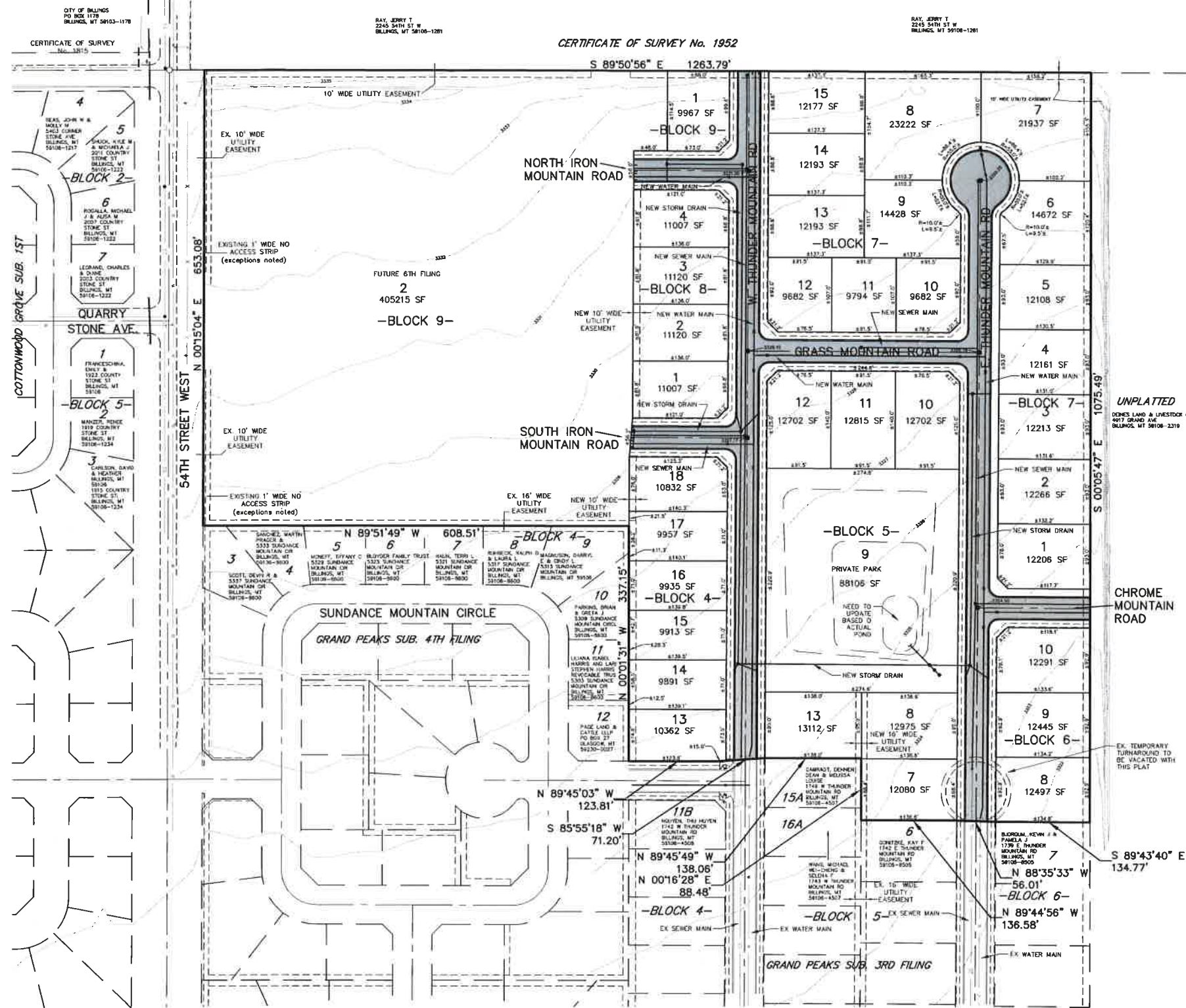
AUGUST, 2019

PREPARED BY : SANDERSON STEWART

BILLINGS, MONTANA



VICINITY MAP  
 NOT TO SCALE



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.xxxxxxxx; THE CONVERGENCE ANGLE IS -x'x"x"x". 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	=	24.693 AC.
NET AREA	=	21.189 AC.
NUMBER OF LOTS	=	37
MINIMUM LOT SIZE	=	9,682 S.F.
MAXIMUM LOT SIZE	=	405,215 S.F.
LINEAL FEET OF STREETS	=	2,643 L.F.
PARKLAND REQUIREMENT	=	1.085 AC.
PARKLAND DEDICATION	=	2.023 AC.
EXISTING ZONING	=	R-7000, R-5000 & RMF-R
SURROUNDING ZONING:		
NORTH	=	AG OPEN
SOUTH	=	R-7000 & RMF-R
EAST	=	AG OPEN
WEST	=	R-7000
EXISTING LAND USE	=	VACANT
PROPOSED LAND USE	=	SINGLE-FAMILY RESIDENTIAL

10-25-19

Return to:  
Sanderson Stewart  
1300 North Transtech Way  
Billings, MT 59101

**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST  
FUTURE SPECIAL IMPROVEMENT DISTRICTS  
GRAND PEAKS SUBDIVISION, FIFTH FILING**

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

**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST  
FUTURE SPECIAL IMPROVEMENT DISTRICTS  
GRAND PEAKS SUBDIVISION, FIFTH FILING**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between **J & S DEVELOPMENT CO.**, whose address for the purpose of this agreement is 1733 East Thunder Mountain Road, Billings, MT 59106, hereinafter referred to as "Subdivider," and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as "City."

**WITNESSETH:**

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

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, the City Council conditionally approved a preliminary plat of Grand Peaks Subdivision, Fifth 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 Grand Peaks Subdivision, Fifth Filing upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

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

**I. VARIANCES**

**A.** Subdivider has requested, and the City hereby grants, the following variances by the City Council from the strict interpretation of the City's Subdivision Regulations (Section 23.1401, BMCC):

1. No Variances are requested.

**II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS**

**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.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

**C.** Lot owners should be aware of soil characteristics within the area of this subdivision, as described in the "Geotechnical Investigation Report, Approximate 25 Acre Parcel North of Existing Grand Peaks Subdivision, Billings, Montana" by Geoscience, PLLP, dated March 10, 2016. Lot owners and homebuilders shall reference the report in its entirety, but a summary is as follows:

1. Over-excavation and structural fill are options. Settlement risk is estimated at 3/4 to 1-1/2 inches. The geotechnical engineer shall observe excavation and fill work. (Sections 5.1, 5.2, 5.15).
2. Structural fill shall be placed in maximum 6-inch lifts and compacted to 98-percent of maximum dry density per ASTM D 698. (Section 5.8.4)
3. Footings, foundation walls, retaining walls, interior slabs, and exterior slabs shall be designed by a structural engineer. (Sections 5.11 and 5.12)

4. Footings shall not be below 4 to 5 feet of existing grades. (Section 5.1)
  5. Exterior backfill in non-structural and landscape areas shall be compacted to a minimum of 92 percent of maximum dry density per ASTM D 698, and exterior backfill below concrete slabs, driveways, sidewalks, and all other paving shall be compacted to a minimum of 95 percent of maximum dry density per ASTM D 698. (Section 5.8.4)
  6. Site grading and surface water control is described in Section 5.9.
- D.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- E.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider, and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.
- F.** Lot owners are advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of the regional Cottonwood Park.
- G.** The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the City and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.
- H.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Chapter 28, BMCC and detailed in the Billings Stormwater Management Manual.

1. The lowest finish floor elevation (which includes the garage) shall be a minimum of 18-inches higher than the top of curb, measured from the highest location along the lot frontage. Home builder and lot owner may find it necessary to raise the finish floor elevation of house or garage above this minimum during on-site building design and/or during on-lot grading.
2. The stormwater runoff from individual lots shall be directed toward the public right-of-way wherever possible. However, due to the existing terrain of the subdivision this is not possible for every lot. Where runoff from lots cannot be directed to public right-of-way because existing terrain is falling away from the public right of way, the stormwater runoff shall be directed to flow to the same location as it has historically. Home builder and lot owners shall consider the effect of potential off-lot run-on waters from lots uphill of the subject lot, and grade around the home to provide positive drainage away from the home. Home builder and lot owners must take necessary measures to protect the house from surface stormwater flows. Lots shall allow, through on-site building design and on-lot grading, for stormwater to pass through each lot without negatively impacting adjacent lots. The lowest openings on each home (window wells) are to be located outside the designated drainage paths. If this is not possible, the builder and lot owners must take necessary measures to protect these openings from inundating from surface water flows. In any case, the homebuilder shall allow enough space between window wells and property lines to provide sufficient swales and proper storm water drainage away from window wells.
3. Each owner of a completed lot shall be a member of the Grand Peaks Fifth and Sixth Filing Homeowners Association (HOA). Membership shall be appurtenant to and may not be separated from ownership of a lot. The Home Owners Association will be set up to maintain the permanent stormwater detention facilities. The HOA Board of Directors shall have the power, in its discretion, to exclude costs of major repairs or approved capital improvements to the HOA Storm Water System from the regular monthly assessments and, instead, impose special assessments for these expenses, and for emergencies, as they are incurred.

### III. TRANSPORTATION

#### A. Streets

1. **54th Street West:** 54th Street West is designated as a Minor Arterial and is located within a 100-foot right-of-way, which conforms to right-of-way widths in adjacent subdivisions for 54th Street West. It is required that 54th Street West be constructed with a minimum standard width of 42-feet, back of curb to back of curb. That portion of 54th Street West adjacent to the subdivision has been partially constructed. The existing street includes approximately 26-feet of asphalt. The Subdivider will provide a cash-in-lieu contribution for the construction of approximately an additional 6-feet of asphalt surface with a satisfactory sub-base, base course, standard curb and gutter, and any necessary tapers on 54th Street West along the frontage of the subdivision due at the time of construction fronting 54th Street West (at the time of final plat approval of the anticipated Grand Peaks Sixth Filing). The cash-in-lieu contribution will also include engineering design and construction administration.
2. Subdivider will enter into a private contract for the construction of all required improvements for those streets within the subdivision, as follows:

North Iron Mountain Road, South Iron Mountain Road, Grass Mountain Road, Chrome Mountain Road, West Thunder Mountain Road, and East Thunder Mountain Road will be constructed within a 56-foot right-of-way using curb and gutter and full-width pavement (34-feet back of curb to back of curb). Curb and Gutter will be installed per the City of Billings Standards in place at time of construction.

Per the Traffic Impact Study (TIS), the warrant criteria for a westbound right-turn lane at the intersection of Grand Avenue and Grand Peaks Drive was found to be satisfied at the time of Fifth Filing build-out. The Subdivider agrees to install a west bound right-turn lane on Grand Avenue at the Grand Peaks Drive intersection. The turn lane shall be subject to review and approval by the City Engineering office.

**B. Sidewalks**

1. Sidewalk on the internal streets shall be installed at the time of individual lot development. The sidewalk shall consist of a 5-foot-wide boulevard type sidewalk with a minimum 5-foot-wide boulevard.
2. Subdivider will install accessible ramps at the intersections, which shall be completed with the subdivision improvements.

**C. Street Lighting**

Construction or installation of street lights within the public rights-of-way shall not be required at this time, but street lights are included in the Waiver referenced herein for construction of the same in the future. A maintenance district for street lights may be formed for future maintenance of any street lights installed in the future.

**D. Traffic Control Devices**

The Subdivider shall furnish and install all necessary traffic control devices within and adjacent to the Subdivision in accordance with the plans and specification submitted to and approved by the City Engineer. Traffic control devices shall include all necessary signing, striping, and channelization devices to properly complete the implementation of the proposed street construction.

Based on the Traffic Impact Study (TIS), the Fifth Filing development's portion of critical volumes for impacted intersections are as follows:

	54th St. W./ Grand Ave.	54th St. W./ Rimrock Road
Fifth Filing	0.53%	0.25%

City and Subdivider agree that the Subdivider will not be required to make cash contributions to these intersections.

**E. Access**

West Thunder Mountain Road and East Thunder Mountain Road will provide access to the subdivision through Grand Peaks Subdivision, Third Filing. The interior streets will be located within a 56-foot right-of-way and will have a width of 34-feet back of curb to back of curb.

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

54th Street West is a proposed short-term bike lane route. A 10-foot trail was recently constructed on the west side of 54th Street West along the Subdivision frontage, and as such, no other trail improvements are required as part of this subdivision.

**G. Public Transit**

The subdivision does not require improvements to ensure public transit service.

**IV. EMERGENCY SERVICE**

The City will provide emergency service. Fire hydrants shall be provided at each street intersection and at intermediate locations where distances exceed 500-feet. Appropriate turn-arounds will be located on any dead-end street in excess of 150-feet.

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and fire hydrant(s) in place to allow for fire suppression requirements. Prior to issuance of a building permit for construction using combustible materials (i.e. lumber, plywood, wood trusses, etc.), fire apparatus access roads, and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the City of Billings.

At a minimum, the following is required:

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

## **V. STORM DRAINAGE**

Storm drainage for the public streets shall be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains, and with discharge to a new detention facility that is located within the subdivision. This detention facility has been sized to accept additional runoff generated from the future Grand Peaks Subdivision, Sixth Filing. The detention facility on site will be sized to store the stormwater generated by Grand Peaks Subdivision, Fifth and Sixth Filing. Storm water will be pumped out of the detention facility and directed to the existing storm water detention facility in Grand Peaks Subdivision, Third Filing, located on Lot 1, Block 6. Stormwater management facilities for the subdivision must be able to pass flows generated outside the subdivision area without inundating existing and proposed home sites. All drainage improvements shall comply with the provisions of the *Stormwater Management Manual* and Section 23-706, BMCC, a stormwater management plan shall be submitted to and approved by the Engineering Division prior to filing of the final plat.

The stormwater detention area is to be located within a private park lot deeded to the Grand Peaks Subdivision, Fifth and Sixth Filing HOA and will be an integral part of the public street drainage system. The pumped discharge line from the HOA detention facility shall be located within the public right of way. The drainage system improvements will be in accordance with the recommendations of the stormwater analysis and report prepared and submitted with the improvement plans and specifications. Maintenance of the stormwater retention area and associated drainage facilities shall be by the Grand Peaks Subdivision, Fifth and Sixth Filing HOA. The developer shall submit a landscape plan to the City of Billings for review and provide approved landscape improvements for the lot. The landscape improvements shall be completed with the subdivision improvements.

Furthermore, as part of the storm water system improvements, Subdivider shall pay a cash contribution for twenty five percent (25%) of the cost of a City project (including construction cost, design, construction observation, and staking cost) to convey storm water from the storm water detention facility located on Lot 1, Block 6, Grand Peaks Third Filing to a City conveyance system located in Grand Avenue. The Developer is required to provide a monetary security prior to final plat approval, and the cash contribution is required once the City project has been bid and awarded.

## **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/connection of/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 Developer/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 subdivision will be served by making two connections to public water mains, one at West Thunder Mountain Road and one on East Thunder Mountain Road. A new 8-inch water main will be installed in the local interior streets of the subdivision which is subject to approval from the City of Billings. The water main within the subdivision will make looped connections whenever possible. Fire hydrants will be provided at all appropriate locations and are also subject to approval by the City of Billings.

**B. Sanitary Sewer**

The subdivision will be served by making a connection to existing sewer mains located in East and West Thunder Mountain Roads. The sanitary sewer located within Grand Peaks Subdivision, Fifth Filing will consist of 8-inch sanitary sewer main which is subject to approval from the City of Billings.

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

All telephone, gas, electrical power, and cable television lines shall be the responsibility of the Subdivider. Any line located within public right-of-way shall be subject to approval of the City Engineer.

**VII. PARKS/OPEN SPACE**

The park land for this subdivision (additionally including the proposed Grand Peaks Subdivision, Sixth Filing) is 2.02 acres. The Subdivider proposes to

dedicate land for a private park. The Subdivider will install turf and irrigation in the private park. The private park will be maintained by the Grand Peaks Subdivision, Fifth Filing and Sixth Filing Homeowners Association (HOA).

Lot owners are advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of the regional Cottonwood Park that is also covered in the Waiver.

#### **VIII. IRRIGATION**

No permanent irrigation ditches, field laterals, or irrigation easements exist on the subdivision.

#### **IX. SOILS/GEOTECHNICAL STUDY**

A geotechnical report was performed within the area of this subdivision and submitted with the preliminary plat. The recommendations are found in the “Geotechnical Investigation Report, Approximate 25 Acre Parcel North of Existing Grand Peaks Subdivision, Billings, Montana” by Geoscience, PLLP dated March 10, 2016. Lot owners and homebuilders shall reference the report in its entirety, but a summary is as follows:

1. Over-excavation and structural fill is an option. Settlement risk is estimated at 3/4 to 1 1/2 inches. The geotechnical engineer shall observe excavation and fill work. (Sections 5.1, 5.2, 5.15).
2. Structural fill shall be placed in maximum 6-inch lifts and compacted to 98-percent of maximum dry density per ASTM D 698. (Section 5.8.4)
3. Footings, foundation walls, retaining walls, interior slabs, and exterior slabs shall be designed by a structural engineer. (Sections 5.11 and 5.12)
4. Footings shall not be below 4 to 5 feet of existing grades. (Section 5.1)
5. Exterior backfill in non-structural and landscape areas shall be compacted to a minimum of 92 percent of maximum dry density per ASTM D 698, and exterior backfill below concrete slabs, driveways, sidewalks, and all other paving shall be compacted to a minimum of 95 percent of maximum dry density per ASTM D 698. (Section 5.8.4)
6. Site grading and surface water control is described in Section 5.9.

7. The assessment and mitigation of these soil conditions shall be the responsibility of the lot owner. The City may require the owner of each lot to include a geotechnical investigation with the building permit submittal.

**X. FINANCIAL GUARANTEES**

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a special improvement district or 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 special improvement district or private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

**XI. LEGAL PROVISIONS APPLYING TO SUBDIVIDER**

- 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.



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  
FUTURE SPECIAL IMPROVEMENT DISTRICTS**

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 is more particularly described as follows:

*Grand Peaks Subdivision, Fifth Filing*

Signed and dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

“SUBDIVIDER”

**J & S DEVELOPMENT CO.**

\_\_\_\_\_

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 **J & S DEVELOPMENT CO.**, the person who executed the forgoing instrument 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 (Wednesday Meeting)**

**8. b.**

**Meeting Date:** 11/13/2019

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**Information**

**INTRODUCTION**

On October 1, 2019, Sanderson Stewart, agent for J&S Development Co., applied for preliminary major plat approval for Grand Peaks Subdivision, 6th Filing. The proposed subdivision creates 30 new lots for development. The subject property is generally located on the east side of 54th Street West and north of Grand Avenue. The property is zoned Residential 7000 (R70). The proposed lots will be developed in compliance with the zoning as the property is developed.

**RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Grand Peaks Subdivision, 6th Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

**PROPOSED CONDITIONS OF APPROVAL**

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

1. To protect public health and safety with increased area traffic, prior to final plat approval, the applicant will submit all necessary information required by City of Billings Engineering Division for review and approval to update to finalize Traffic Impact Study information.
2. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
3. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

**VARIANCES REQUESTED**

No variances from the City Subdivision Regulations have been requested.

## PROCEDURAL HISTORY

- Pre-application meeting August 8, 2019
- Preliminary plat application submitted to Planning Division on October 1, 2019.
- Departmental review meeting October 17, 2019
- Preliminary plat resubmittal October 24, 2019
- Planning Board plat review November 13, 2019
- Planning Board public hearing November 26, 2019
- Preliminary plat to City Council December 16, 2019
- 60 working-day preliminary plat review period ends December 27, 2019

## PLAT INFORMATION

General location:	East side of 54th Street West and north of Grand Avenue
Legal Description:	L2, B9 of Grand Peaks Sub 5th Filing
Owner/Subdivider:	J&S Development Co.
Engineer and Surveyor:	Sanderson Stewart
Existing Zoning:	R70
Existing land use:	Former Farm Land
Proposed land use:	Residential
Gross and Net area:	9.3 acres / 7.5 acres
Proposed number of lots:	30
Lot size:	Max: 13,214 square feet Min.: 9,668 square feet
Parkland requirements:	The applicant provided 2.023 acres of parkland with the 5th Filing. This parkland dedication fulfills the requirement for the 5th and 6th Filing.

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### Attachments

Findings of Fact  
Proposed Plat  
SIA

---

## FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Grand Peaks Subdivision, 6<sup>th</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 was formerly farmland. There are no existing irrigation facilities on the subject property. The proposed subdivision will not have an impact on existing agricultural areas because it was previously platted and this proposed subdivision will re-plat large lots from previous filings. There is no anticipated negative effect on agricultural irrigation facilities or agriculture from this proposal.

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

- a. **Utilities** – Water service will be provided by the City of Billings. The developer will connect to existing 8-inch water lines in North and South Iron Mountain Roads. They will also be connecting to the public water main in 54<sup>th</sup> Street West. New water mains will be 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).

The 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 A. Water.

Sanitary sewer service will be provided by the City of Billings. This filing of the subdivision will have 8-inch sewer mains connecting to existing 8 inch lines already in the subdivision in North and South Iron Mountain Roads. 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 B. Sanitary Sewer.

Private utility companies will provide gas and electric services to the subdivision. Easements have been shown on the face of the plat that are acceptable to these utility providers.

- b. **Storm water** – Storm water drainage is 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 detention area located in a private park, located in the fifth filing, which will be maintained by the HOA for the fifth and sixth filings of this subdivision. The private park that will be maintained by the HOA for the fifth and sixth filings of this subdivision.

These and all other drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the City Engineering Division.

- 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 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; they shall be reviewed and approved by the City of Billings Engineering Division before any construction.

The applicant will provide a cash in lieu contribution to widening 54<sup>th</sup> Street west along the frontage of this filing of Grand Peaks subdivision. This is identified in the SIA under the heading III Transportation A. Streets 1.

A TIS has been submitted with each previous filing of the subdivision. As the filings get built out the number of trips change and the impacts of the surrounding roads and intersections change. The applicant will provide all TIS information and updates as needed by City of Billings Engineering division prior to final plat approval. **(Condition #1)**

- 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 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 #2 will provide educational services to elementary through high school students. Meadowlark Elementary, Ben Steele Middle School and West High School would serve students in this subdivision. A response from School District #2 indicates that schools are currently over capacity.

- g. **Parks and Recreation** – Parkland for this subdivision was met with the 5<sup>th</sup> Filing. With the 5<sup>th</sup> Filing 2.02 acres of parkland was dedicated. It is a private park maintained by the HOA. The subdivider will install turf and irrigation. Lot owners in this subdivision are also subject to inclusion in the PMD for the regional park, Cottonwood Park.
- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision; they have indicated centralized box units (CBU) will be required. The postal service has requested a CBU be installed on the corner of Iron Mountain Road and 54<sup>th</sup> Street West. The applicant will work with the USPS to determine a satisfactory location for the CBU with this filing. (**Condition #2**)

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

The subject property was originally farmland and is not a significant habitat for wildlife. Montana Fish Wildlife and Parks indicates there is some antelope and deer grazing that takes place but not a significant amount. During development, storm water pollution prevention best management practices are required and monitored to prevent erosion on exposed ground. Overall, the effect on the natural environment should be minimal.

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

There are no known endangered or threatened species on the property. There is a paragraph in the SIA that 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 2018 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).

**Home Base (healthy, safe and diverse housing options)** Homes that are safe and sound support a healthy community

**Community Fabric (attractive, aesthetically pleasing, uniquely Billings)** Outdoor public spaces provide casual and relaxing gathering areas for people.

The 2001 West Billings Plan identifies this area as residential. The proposed subdivision is for residential development.

**2. 2018 Urban Area Transportation Plan**

The proposed subdivision adheres to the goals and objectives of the 2018 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 future bike lane identified on 54<sup>th</sup> Street West. That lane is to be added at a future date when the road is built out to its full width. There is currently a 10-foot wide trail constructed on the west side of 54<sup>th</sup> Street West along that subdivision frontage.

**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 complies with current zoning and further compliance requirements will be enforced with the construction of homes on lots.

**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 the private utility companies 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 East and West Thunder Mountain Roads, and the new proposed internal roads.

### **CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Grand Peaks Subdivision, 6<sup>th</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 Grand Peaks Subdivision, 6<sup>th</sup> Filing to the City Council, and adopt the Findings of Fact as presented in the staff report.

PRELIMINARY PLAT OF  
**GRAND PEAKS SUBDIVISION, 6TH FILING**

LOT 2, BLOCK 9 OF GRAND PEAKS SUBDIVISION, 5TH FILING  
 SITUATED IN SW1/4 OF SECTION 32, T. 1 N., R. 25 E., P.M.M.  
 BILLINGS, MONTANA

PREPARED FOR : JEFF JUNKERT CONSTRUCTION

AUGUST, 2019

PREPARED BY : SANDERSON STEWART

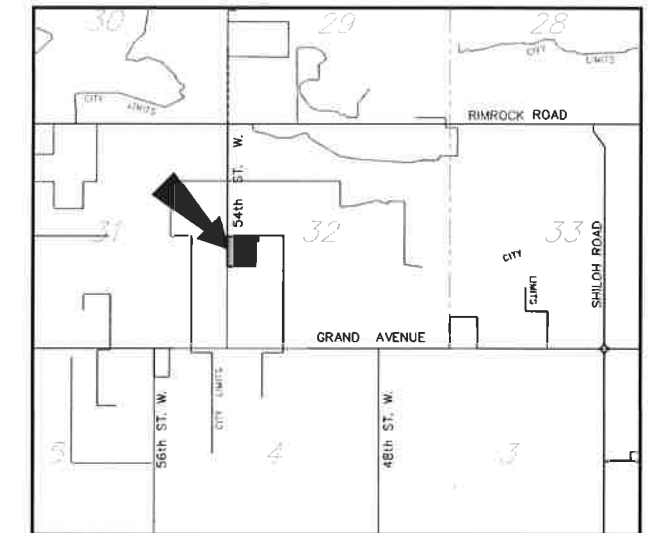
BILLINGS, MONTANA

CERTIFICATE OF SURVEY No. 1815

CITY OF BILLINGS  
 PO BOX 1178  
 BILLINGS, MT 59103-1178

RAY, JERRY T  
 BILLINGS, MT 59106  
 2245 54TH ST W  
 COS Parcel: 2B  
 BILLINGS, MT 59106-1261

CERTIFICATE OF SURVEY No. 1952



VICINITY MAP  
 NOT TO SCALE



SCALE: 1:50 XREF

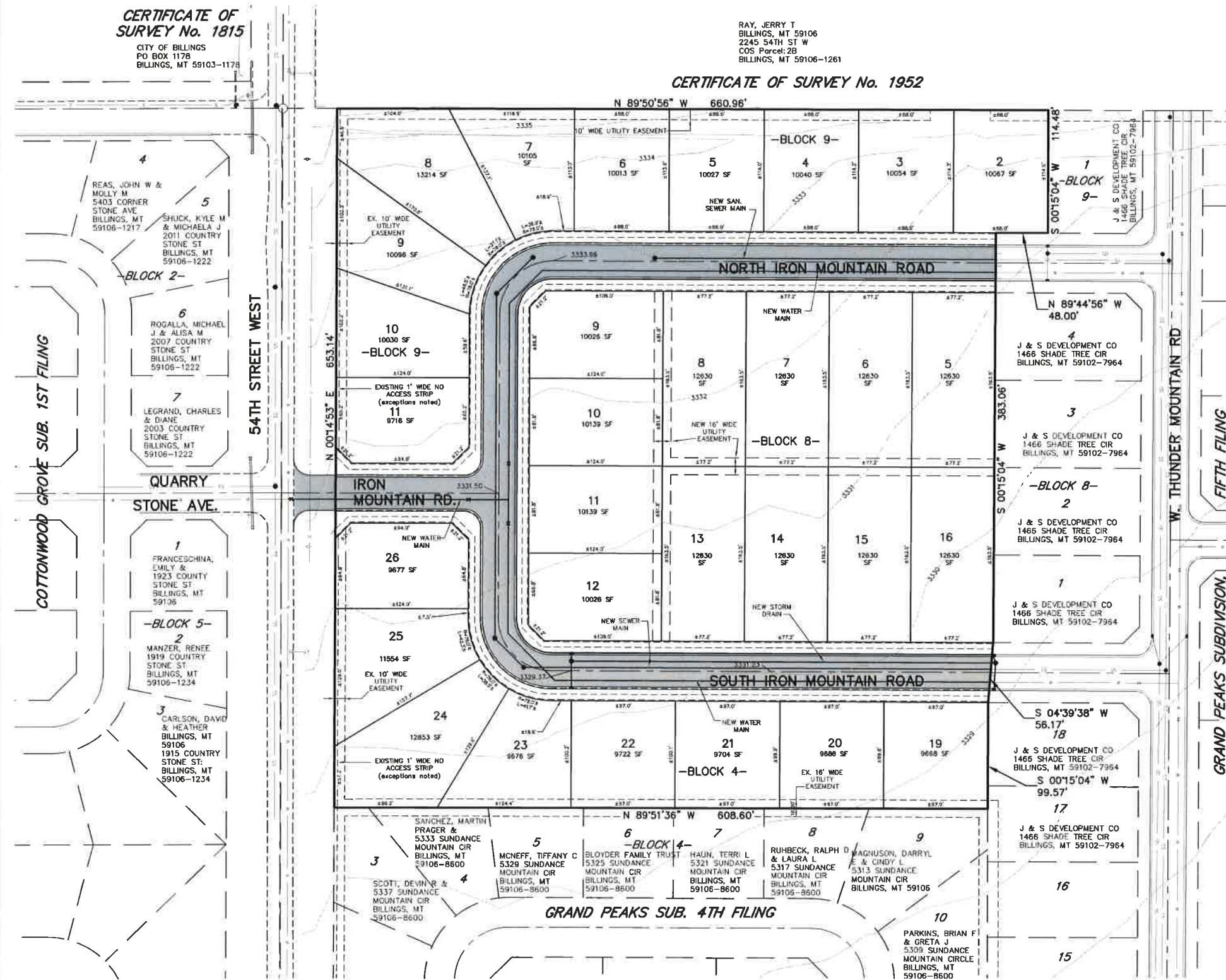
BASIS OF BEARING: (ORIGINAL PLAT/C.O.S.) ON THE BASIS OF BEARINGS FOR THIS SURVEY HAS BEEN DERIVED FROM GPS OBSERVATIONS AND IS BASED ON A NAD 83, LAMBERT CONFORMAL CONIC, SINGLE PARALLEL, LOW DISTORTION PROJECTION FOR THE CITY OF BILLINGS; HAVING A POINT OF ORIGIN AT 45°47'00"N LATITUDE AND 108°25'00"W LONGITUDE WITH A SCALE FACTOR OF 1.0001515. THE GRID TO GROUND COMBINED SCALE FACTOR AT [monument description] IS x.xxxxxxxxxxxxx; 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	= 9.30 AC.
NET AREA	= 7.51 AC.
NUMBER OF LOTS	= 30
MINIMUM LOT SIZE	= 9,668 S.F.
MAXIMUM LOT SIZE	= 13,214 S.F.
LINIAL FEET OF STREETS	= 1,412 L.F.
PARKLAND REQUIREMENT	= 0.826 AC.
PARKLAND DEDICATION	= MET THROUGH DEDICATION IN PREVIOUS FILING
EXISTING ZONING	= R-7000
SURROUNDING ZONING:	
NORTH	= AG OPEN
SOUTH	= R-7000
EAST	= R-7000 & R-5000
WEST	= R-7000
EXISTING LAND USE	= VACANT
PROPOSED LAND USE	= SINGLE-FAMILY RESIDENTIAL



Return to:  
Sanderson Stewart  
1300 North Transtech Way  
Billings, MT 59101

10-25-19

**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST  
FUTURE SPECIAL IMPROVEMENT DISTRICTS  
GRAND PEAKS SUBDIVISION, SIXTH FILING**

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

**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST  
FUTURE SPECIAL IMPROVEMENT DISTRICTS  
GRAND PEAKS SUBDIVISION, SIXTH FILING**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **J & S DEVELOPMENT CO.**, whose address for the purpose of this agreement is 1733 East Thunder Mountain Road, Billings, MT 59106, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Billings, Montana, hereinafter referred to as “City.”

**WITNESSETH:**

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

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the City Council conditionally approved a preliminary plat of Grand Peaks Subdivision, Sixth 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 Grand Peaks Subdivision, Sixth Filing upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

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

**I. VARIANCES**

**A.** Subdivider has requested, and the City hereby grants, the following variances by the City Council from the strict interpretation of the City's Subdivision Regulations (Section 23.1401, BMCC):

1. No Variances are requested.

**II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS**

**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.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.

**C.** Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the "Geotechnical Investigation Report, Approximate 25 Acre Parcel North of Existing Grand Peaks Subdivision, Billings, Montana" by Geoscience, PLLP dated March 10, 2016. Lot owners and homebuilders shall reference the report in its entirety, but a summary is as follows:

1. Over-excavation and structural fill is an option. Settlement risk is estimated at 3/4 to 1 1/2 inches. The geotechnical engineer shall observe excavation and fill work. (Sections 5.1, 5.2, 5.15).
2. Structural fill shall be placed in maximum 6-inch lifts and compacted to 98-percent of maximum dry density per ASTM D 698. (Section 5.8.4)
3. Footings, foundation walls, retaining walls, interior slabs, and exterior slabs shall be designed by a structural engineer. (Sections 5.11 and 5.12)

4. Footings shall not be below 4 to 5 feet of existing grades. (Section 5.1)
  5. Exterior backfill in non-structural and landscape areas shall be compacted to a minimum of 92 percent of maximum dry density per ASTM D 698, and exterior backfill below concrete slabs, driveways, sidewalks, and all other paving shall be compacted to a minimum of 95 percent of maximum dry density per ASTM D 698. (Section 5.8.4)
  6. Site grading and surface water control is described in Section 5.9.
- D.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- E.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider, and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.
- F.** Lot owners are advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of the regional Cottonwood Park.
- G.** The Subdivider and subsequent contractors/builders acknowledge that there is a Stormwater Pollution and Prevention Plan (SWPPP) filed with the City and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.
- H.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best Management Practices are defined within Chapter 28, BMCC and detailed in the Billings Stormwater Management Manual.

1. The lowest finish floor elevation (which includes the garage) shall be a minimum of 18-inches higher than the top of curb, measured from the highest location along the lot frontage. Home builder and lot owner may find it necessary to raise the finish floor elevation of house or garage above this minimum during on-site building design and/or during on-lot grading.
2. The stormwater runoff from individual lots shall be directed toward the public right-of-way wherever possible. However, due to the existing terrain of the subdivision this is not possible for every lot. Where runoff from lots cannot be directed to public right-of-way because existing terrain is falling away from the public right of way, the stormwater runoff shall be directed to flow to the same location as it has historically. Home builder and lot owners shall consider the effect of potential off-lot run-on waters from lots uphill of the subject lot, and grade around the home to provide positive drainage away from the home. Home builder and lot owners must take necessary measures to protect the house from surface stormwater flows. Lots shall allow, through on-site building design and on-lot grading, for stormwater to pass through each lot without negatively impacting adjacent lots. The lowest openings on each home (window wells) are to be located outside the designated drainage paths. If this is not possible, the builder and lot owners must take necessary measures to protect these openings from inundating from surface water flows. In any case, the homebuilder shall allow enough space between window wells and property lines to provide sufficient swales and proper storm water drainage away from window wells.
3. Each owner of a completed lot shall be a member of the Grand Peaks Sixth and Sixth Filing Homeowners Association (HOA). Membership shall be appurtenant to and may not be separated from ownership of a lot. The Home Owners Association will be set up to maintain the permanent stormwater detention facilities. The HOA Board of Directors shall have the power, in its discretion, to exclude costs of major repairs or approved capital improvements to the HOA Storm Water System from the regular monthly assessments and, instead, impose special assessments for these expenses, and for emergencies, as they are incurred.
4. Lot owners should be aware that portion(s) of this property lie within a portion of the Cove Creek and Little Cove Creek drainages (0.2 percent chance of flood hazard) as shown in the attached Exhibit A—Excerpted from the PBS&J West Billings Flood Hazard Study

(May 2007). Lots affected by the flood hazard shall have minimum finished floor elevations a minimum of 2 feet above the base flood elevation.

### **III. TRANSPORTATION**

#### **A. Streets**

1. **54th Street West:** 54th Street West is designated as a Minor Arterial and is located within a 100-foot right-of-way, which conforms to right-of-way widths in adjacent subdivisions for 54th Street West. It is required that 54th Street West be constructed with a minimum standard width of 42-feet, back of curb to back of curb. That portion of 54th Street West adjacent to the subdivision has been partially constructed. The existing street includes approximately 26-feet of asphalt. The Subdivider will provide a cash-in-lieu contribution for the construction of approximately an additional 6-feet of asphalt surface with a satisfactory sub-base, base course, standard curb and gutter, and any necessary tapers on 54th Street West along the frontage of the subdivision due prior to final plat approval of Sixth Filing. The cash-in-lieu contribution will also include engineering design and construction administration.
2. Subdivider will enter into a private contract for the construction of all required improvements for those streets within the subdivision, as follows:

North Iron Mountain Road, South Iron Mountain Road, and Iron Mountain Road will be constructed within a 56-foot right-of-way using curb and gutter and full-width pavement (34-feet back of curb to back of curb). Curb and Gutter will be installed per the City of Billings Standards in place at time of construction.

#### **B. Sidewalks**

Sidewalk on the internal streets shall be installed at the time of individual lot development. The sidewalk shall consist of a 5-foot-wide boulevard type sidewalk with a minimum 5-foot-wide boulevard.

Subdivider will install accessible ramps at the intersections, which shall be completed with the subdivision improvements.

Subdivider will install a 5-foot wide sidewalk along the west side of 54<sup>th</sup> Street West adjacent to the subdivision, which shall be completed with the subdivision improvements.

**C. Street Lighting**

Construction or installation of street lights within the public rights-of-way shall not be required at this time, but street lights are included in the Waiver referenced herein for construction of the same in the future. A maintenance district for street lights may be formed for future maintenance of any street lights installed in the future.

**D. Traffic Control Devices**

The Subdivider shall furnish and install all necessary traffic control devices within and adjacent to the Subdivision in accordance with the plans and specification submitted to and approved by the City Engineer. Traffic control devices shall include all necessary signing, striping, and channelization devices to properly complete the implementation of the proposed street construction.

Based on the Traffic Impact Study (TIS), the Sixth Filing development's portion of critical volumes for impacted intersections are as follows:

	54th St. W./ Grand Ave.	54th St. W./ Rimrock Road
Sixth Filing	0.44%	0.17%

City and Subdivider agree that the Subdivider will not be required to make cash contributions to these intersections.

**E. Access**

North and South Iron Mountain Roads will provide access to the subdivision through Grand Peaks Subdivision, Fifth Filing. 54th Street West will also provide access to the subdivision. The interior streets will be located within a 56-foot right-of-way and will have a width of 34-foot back of curb to back of curb.

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

54th Street West is a proposed short-term bike lane route. A 10-foot trail was recently constructed on the west side of 54th Street West along the

Subdivision frontage, and as such, no other trail improvements are required as part of this subdivision.

**G. Public Transit**

The subdivision does not require improvements to ensure public transit service.

**IV. EMERGENCY SERVICE**

The City will provide emergency service. Fire hydrants shall be provided at each street intersection and at intermediate locations where distances exceed 500-feet. Appropriate turn-arounds will be located on any dead-end street in excess of 150-feet.

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and fire hydrant(s) in place to allow for fire suppression requirements. Prior to issuance of a building permit for construction using combustible materials (i.e. lumber, plywood, wood trusses, etc.), fire apparatus access roads, and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the City of Billings.

At a minimum, the following is required:

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

**V. STORM DRAINAGE**

Storm drainage for the public streets shall be provided by a combination of surface drainage and curbs and gutters, drained to underground storm drains, and with discharge to a detention facility that is located within Grand Peaks Subdivision, Fifth Filing. The detention facility located within Grand Peaks Subdivision, Fifth Filing has been sized to accept runoff generated from Grand

Peaks Subdivision, Sixth Filing. The detention previously constructed with Grand Peaks Subdivision, Fifth Filing was sized to store the stormwater generated by both Grand Peaks Subdivision, Fifth and Sixth Filing.

Stormwater management facilities for the subdivision must be able to pass flows generated outside the subdivision area without inundating existing and proposed home sites. All drainage improvements shall comply with the provisions of the *Stormwater Management Manual* and Section 23-706, BMCC, a stormwater management plan shall be submitted to and approved by the Engineering Division prior to filing of the final plat.

The drainage system improvements will be in accordance with the recommendations of the stormwater analysis and report prepared and submitted with the improvement plans and specifications. Maintenance of the previously constructed stormwater detention area and associated drainage facilities shall be by the Grand Peaks Subdivision, Sixth and Sixth Filing HOA.

## **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/connection of/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 Developer/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 subdivision will be served by making three connections to public water mains, one at 54th Street West, one at North Iron Mountain Road and one at South Iron Mountain Road. A new 8-inch water main will be installed in the local interior streets of the subdivision which is subject to

approval from the City of Billings. The water main within the subdivision will make looped connections whenever possible. Fire hydrants will be provided at all appropriate locations and are also subject to approval by the City of Billings.

**B. Sanitary Sewer**

The subdivision will be served by making a connection to existing sewer mains located in North and South Iron Mountain Roads. The sanitary sewer located within Grand Peaks Subdivision, Sixth Filing will consist of 8-inch sanitary sewer main which is subject to approval from the City of Billings.

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

All telephone, gas, electrical power, and cable television lines shall be the responsibility of the Subdivider. Any line located within public right-of-way shall be subject to approval of the City Engineer.

**VII. PARKS/OPEN SPACE**

The park land for this subdivision was previously dedicated as part of Grand Peaks Subdivision, Fifth Filing and no further dedication is required with this subdivision the previously dedicated private park is maintained by the Grand Peaks Subdivision, Sixth Filing and Sixth Filing Homeowners Association (HOA).

Lot owners are advised they will be subject to inclusion in a Parks Maintenance District (PMD) for the operation and maintenance of the regional Cottonwood Park that is also covered in the Waiver.

**VIII. IRRIGATION**

No permanent irrigation ditches, field laterals, or irrigation easements exist on the subdivision.

**IX. SOILS/GEOTECHNICAL STUDY**

A geotechnical report was performed within the area of this subdivision and submitted with the preliminary plat. The recommendations are found in the "Geotechnical Investigation Report, Approximate 25 Acre Parcel North of Existing Grand Peaks Subdivision, Billings, Montana" by Geoscience, PLLP dated March 10, 2016. Lot owners and homebuilders shall reference the report in its entirety, but a summary is as follows:

1. Over-excavation and structural fill is an option. Settlement risk is estimated at 3/4 to 1 1/2 inches. The geotechnical engineer shall observe excavation and fill work. (Sections 5.1, 5.2, 5.15).
2. Structural fill shall be placed in maximum 6-inch lifts and compacted to 98-percent of maximum dry density per ASTM D 698. (Section 5.8.4)
3. Footings, foundation walls, retaining walls, interior slabs, and exterior slabs shall be designed by a structural engineer. (Sections 5.11 and 5.12)
4. Footings shall not be below 4 to 5 feet of existing grades. (Section 5.1)
5. Exterior backfill in non-structural and landscape areas shall be compacted to a minimum of 92 percent of maximum dry density per ASTM D 698, and exterior backfill below concrete slabs, driveways, sidewalks, and all other paving shall be compacted to a minimum of 95 percent of maximum dry density per ASTM D 698. (Section 5.8.4)
6. Site grading and surface water control is described in Section 5.9.
7. The assessment and mitigation of these soil conditions shall be the responsibility of the lot owner. The City may require the owner of each lot to include a geotechnical investigation with the building permit submittal.

#### **X. FINANCIAL GUARANTEES**

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a special improvement district or 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 special improvement district or private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

#### **XI. LEGAL PROVISIONS APPLYING TO SUBDIVIDER**

- 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 first above written.

“SUBDIVIDER”

**J & S DEVELOPMENT CO.**

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

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

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the person who executed the foregoing instrument as the \_\_\_\_\_ of **J & S DEVELOPMENT CO.**, 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  
FUTURE SPECIAL IMPROVEMENT DISTRICTS**

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 is more particularly described as follows:

*Grand Peaks Subdivision, Sixth Filing*

Signed and dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

“SUBDIVIDER”

**J & S DEVELOPMENT CO.**

\_\_\_\_\_

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 **J & S DEVELOPMENT CO.**, the person who executed the forgoing instrument 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 (Wednesday Meeting)**

**8. c.**

**Meeting Date:** 11/13/2019

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## **Information**

### **INTRODUCTION**

On October 1, 2019, Ronald Frank, Douglas Frank, Deborah Frank and Dorn Wilson Development, LLC, applied for preliminary major plat approval for Trails West Subdivision, 4th Filing. The proposed subdivision would create 28 lots for single-family residences and one large remaining lot for future development. The first filing of this subdivision and a master plan of the entire development was first submitted and reviewed by the Planning Board in 2009. The subject property is generally located on the north side of Grand Avenue, just east of 56th Street West. The property is zoned Residential-6,000-Restricted (R-60-R) and Residential-9,600 (R-96). The Yellowstone County Board of Planning will review the plat at this meeting and conduct a public hearing on November 26, 2019.

### **RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Trails West Subdivision, 4th Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

### **PROPOSED CONDITIONS OF APPROVAL**

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

1. To protect public health and safety with increased area traffic, prior to final plat approval, the applicant will submit all necessary information required by City of Billings Engineering Division to update Traffic Impact Study information for this filing for review and approval.
2. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
3. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

### **VARIANCES REQUESTED**

No variance has been requested

## PROCEDURAL HISTORY

- Pre-application meeting August 22, 2019
- Preliminary plat application submitted to Planning Division on October 1, 2019.
- Departmental review meeting October 17, 2019
- Preliminary plat resubmittal October 24, 2019
- Planning Board plat review November 13, 2019
- Planning Board public hearing November 26, 2019
- Preliminary plat to City Council December 23, 2019
- 60 working-day preliminary plat review period ends December 27, 2019

## PLAT INFORMATION

General location:	South side of Grand Ave., west of 56th St. West
Legal Description:	Lot 1, Block 17 and Lot 1, Block 16 Trails West 3rd Filing
Subdivider/Owner: Dorn Wilson Development LLC	Ronald Frank, Douglas Frank and Deborah Frank and
Engineer and Surveyor:	Sanderson Stewart
Existing Zoning:	R-96 and R-60-R
Existing land use:	Former Irrigated agricultural land
Proposed land use:	Single-Family Residential
Gross area:	23.613 acres
Net area:	21.84 acres
Proposed number of lots:	28
Lot size:	Max: 13.66 acres Min.: 6,067 square feet
Parkland requirements: parks instead of land dedication.	The applicant is proposing a cash in lieu contribution to

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## Attachments

Findings of Fact  
Proposed Plat  
SIA

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## **FINDINGS OF FACT**

The Planning staff has prepared the Findings of Fact for the preliminary plat of Trails West, 4<sup>th</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**

There is currently no farm activity on the land for the proposed subdivision. The Birely Drain runs along the west side of the property. With previous filings, a dedicated right-of-way around the Birely Drain was made to the City of Billings. The Birely Drain District is amenable to having the City of Billings take over ownership of the drain at some point in the future. Currently other existing subdivisions and streets are using it for stormwater drainage as well as this subdivision. No water rights are being transferred to subsequent owners of this property.

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

- a. Utilities** – Public water will be provided by the City of Billings. This filing will connect to existing waterlines in Grouse Berry Street, Phantom Creek Avenue and Stockman Avenue. These connections will provide a looped system for equalized pressure in the subdivision. Each lot will have a connection to the water system for the individual homes to be built. All water construction improvement shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings and MDEQ with a review and approval before installation.

Sanitary sewer services will be provided to the future lots through lines within the internal subdivision streets extended from an existing line in Grouse Berry Street. Sanitary sewer lines will be low-pressure mains, the subdivider will install low-pressure sanitary sewer mains this will require the installation grinder pumps in each household. A paragraph regarding this requirement is found in the SIA under the heading II Property Conditions and Information for Lot Purchasers K.

Private utility providers shall use the provided easement outside the public right of way, these easement are shown on the face of the plat.

- b. Storm water** – Stormwater management for the proposed subdivision will be provided by directing water through a network of curb and gutters, inlets and piping. It will also pass through an existing mechanical stormwater filtration manhole to an existing stormwater detention facility built with the 3<sup>rd</sup> Filing. From the detention basin, storm water is discharged into the Birely Drain. A storm drain

report was submitted to City Public Works with the preliminary plat submittal. All drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and are subject to review and approval by the City Engineering Department.

The SIA, under the heading V. Storm Drainage B., outlines the maintenance of the ponds and all appurtenances associated with them is the responsibility of the HOA. There is an existing HOA with the subdivision and this filing will be included in the same HOA.

- 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** – Access to the lots in the 4<sup>th</sup> Filing will be via extension of roads built with the previous filings of this subdivision. The internal subdivision streets will be constructed to 34-foot pavement widths, with curb, gutter, and 5-foot wide boulevard style sidewalks within 56-foot wide rights-of-way. The one exception is Stockman Avenue. Stockman Avenue will function as a Collector street; it will be built to a width of 39 feet within a 74-foot wide right-of-way. The sidewalks will be built at the time of lot development with the exception of the ADA ramps at the street intersections. Those will be built by the developer at the time of street construction. Proposed street names for the internal streets are extensions of existing streets within the subdivision.

The subdivider will be required to make off-site contributions toward the design and installation of future intersection traffic controls at the intersections of Grand Avenue and 54th Street West, at Grand Avenue and 56th Street West, and if determined necessary, at Central Avenue and 56<sup>th</sup> St. West. These intersections were identified in the Traffic Impact Study as being affected by the proposed subdivision. The required contributions are based on the estimated volume of subdivision traffic using these intersections and an estimated cost of the intersection for the design and construction of a solution to control traffic at the intersection. The final contribution amounts shall be approved by the City Traffic Engineer prior to final plat approval. **(Condition #1)**

A TIS has been submitted with each previous filing of the subdivision. As the filings get built out the number of trips change and the impacts of the surrounding roads and intersections change. The applicant will provide all TIS information and updates as needed by City of Billings Engineering division prior to final plat approval. **(Condition #1)**

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station that provides fire suppression service for this area is at 1501, 54<sup>th</sup> St. West (Station #7). The Fire Department finds the proposed layout will provide adequate emergency access. Comments from the Police department state that continued expansion of

subdivisions will require additional resources to maintain acceptable levels of service.

- e. **Schools** – The subdivision is located within School District #2. Students from the subdivision will attend Meadowlark Elementary School, Ben Steele Middle School, and West High School. Comments from School District #2 state that all of the mentioned schools are over maximum capacity.
- f. **Parks and Recreation** – In accordance with State and City laws, the subdivider is required to provide a minimum of 0.432 acres of parkland. The subdivider has proposed to meet this requirement by providing cash in lieu of land dedication.
- g. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision. They have requested the installation of centralized mailbox unit (CBUs). The USPS has requested a box on the corner of Phantom and Blackberry. This intersection will not be constructed until the 6<sup>th</sup> Filing. The developer will work with the USPS to provide a satisfactory location for a CBU for this filing. **(Condition #2)**

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

The subject property is vacant property that has been planned for urban development since the original Master Plan review in 2009. The property is generally flat, with the exception of the Birely Drain on the western edge, which is being protected in a dedicated right-of-way.

The geotechnical study was performed for the subdivision a summary of the information from that study is included in the SIA. The subdivision should have a minimal effect on the natural environment.

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

There are no known endangered or threatened species on the property. Future property owners should be aware that the proposed subdivision is located near prime wildlife habitat and adjacent to open agricultural areas, therefore conflicts with wildlife may occur. Any damage caused by wildlife is the responsibility of the owner. This notice is in the SIA.

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

Fire hydrants will be installed to meet fire department requirements. Sidewalks and trails will offer a safe place for pedestrians to walk. The effects on public health and safety should be minimal.

Comments received from the police state that continued growth of the city would require additional resources to be able to maintain expected levels of service.

**B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-302.H.1.)]**

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616, MCA.

**C. Does the subdivision conform to the City of Billings 2016 Growth Policy, the 2018 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-(8)]**

**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.

The 2001 West Billings Plan identifies this area as residential. The proposed subdivision is for residential development.

**2. 2018 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 Bikeway and Trail Master Plan (BABTMP)**

The proposed subdivision lies within the jurisdiction of the BABTMP. There is no trail identified within the proposed subdivision. There are connections to the Ben Steele middle school from the subdivision.

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

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

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

The subject property is located within the R-60-R and R-96 zoning districts. All development shall comply with the standards set forth in Section 27-308, BMCC.

**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 private utility easements as required by private utility providers 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 Grouse Berry Street, Phantom Creek Avenue and Stockman Avenue. The internal streets take access from Grand Avenue and 56<sup>th</sup> Street West.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Trails West Subdivision, 4<sup>th</sup> Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2016 Growth Policy Update and does not conflict with the Transportation or Bikeway and Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

**RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Trails West Subdivision, 4<sup>th</sup> Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

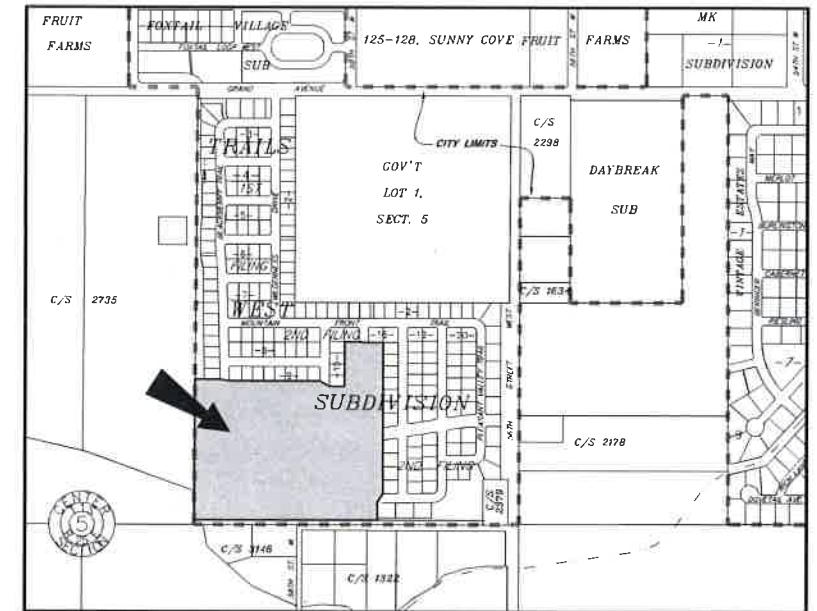
PRELIMINARY PLAT OF  
**TRAILS WEST SUBDIVISION, FOURTH FILING**  
 BEING LOT 1, BLOCK 16 & LOT 1, BLOCK 17 OF TRAILS WEST SUBDIVISION, THIRD FILING  
 SITUATED IN THE N.E. 1/4 OF SECTION 5, T.1S., R.25E., P.M.M.  
 BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : DORN-WILSON DEVELOPMENT, LLC

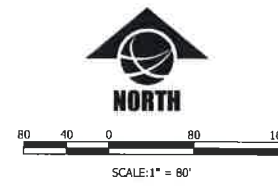
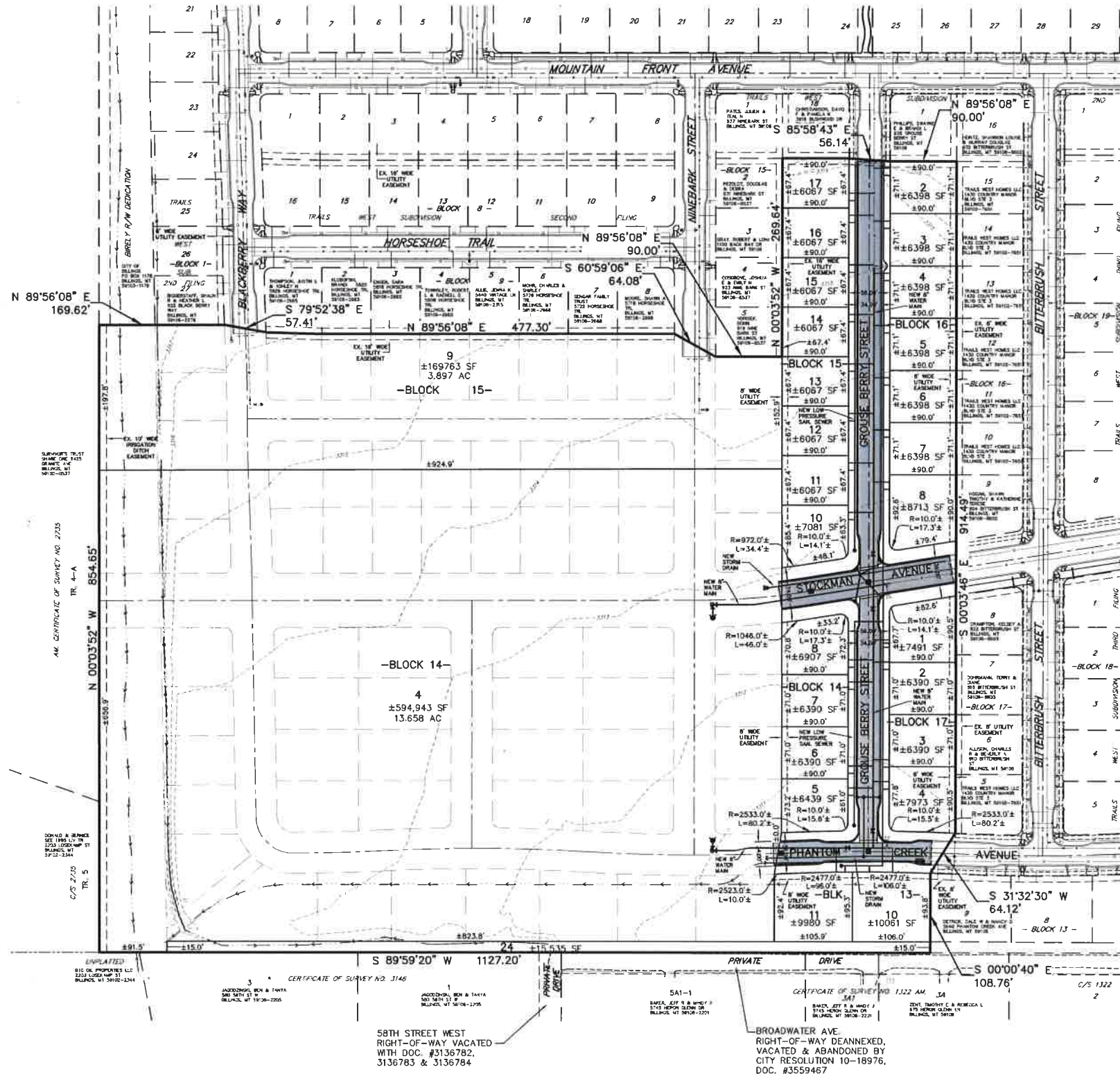
AUGUST, 2019

PREPARED BY : SANDERSON STEWART 

BILLINGS, MONTANA



VICINITY MAP  
 NOT TO SCALE



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 xxxxxxxxxxxx; THE CONVERGENCE ANGLE IS -x'x'x'x'. 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	= 23.61 AC.
NET AREA	= 21.84 AC.
NUMBER OF LOTS	= 28
MINIMUM LOT SIZE	= 6,067 S.F.
MAXIMUM LOT SIZE	= 594,943 S.F.
LINEAL FEET OF STREETS	= 1,400 L.F.
PARKLAND REQUIREMENT	= 0.432 AC.
PARKLAND DEDICATION	= CASH-IN-LIEU
EXISTING ZONING	= R-9600 & R-6000R
SURROUNDING ZONING:	
NORTH	= R-6000R
SOUTH	= AG SUBURBAN & AG OPEN
EAST	= R-6000R & R-9600
WEST	= AG SUBURBAN & AG OPEN
EXISTING LAND USE	= VACANT
PROPOSED LAND USE	= RESIDENTIAL

Return to:  
Sanderson Stewart  
1300 North Transtech Way  
Billings, MT 59101

**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL  
IMPROVEMENT DISTRICTS  
TRAILS WEST SUBDIVISION, FOURTH FILING**

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

**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL  
IMPROVEMENT DISTRICTS  
TRAILS WEST SUBDIVISION, FOURTH FILING**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **DORN-WILSON DEVELOPMENT, LLC**, whose address for the purpose of this agreement is 100 Emerald Drive, Billings, Montana 59105, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Montana, hereinafter referred to as “City.”

**WITNESSETH:**

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

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

**WHEREAS**, at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the City Council approved, subject to certain conditions, a preliminary plat of Trails West Subdivision, Fourth Filing, and

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

**WHEREAS**, the provisions of this agreement shall be effective and applicable to the plat of Trails West Subdivision, Fourth Filing, upon filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The subdivision

shall comply with all requirements of the City of Billings subdivision regulations; the rules, regulations, policies, and resolutions of the City of Billings; and the laws and administrative rules of the State of Montana.

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

**I. VARIANCES**

Subdivider requests no variances.

**II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS**

- 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.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.
- C.** Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.
- D.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- E.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The

Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

- F.** Lot owners should be aware that a geotechnical investigation and report was completed on August 11, 2008, for the property which identified the following recommendations for individual lots prior to house construction:
1. For structures with foundations constructed within five feet of natural grade, prior to building permit approval, written verification from a geotechnical engineer shall be obtained that foundation preparation and fill material are in compliance with Section 5.3 and Appendix B of the report. Foundations within 3.5 feet of original grade require over excavation by two feet in width and depth plus installation of geo-grid fabric. The new fill requires compaction to 98 percent.
  2. For structures with foundations constructed deeper than five feet of natural grade, prior to building permit approval, an engineered design will be required for a deep foundation system

A copy of the entire geotechnical report is available for review at the City Building and/or Planning Division offices.

- G.** Lot owners should be aware that the United States Postal Service mail delivery will be made only to centralized delivery locations. Such locations shall consist of from 8 to 16 mailboxes per location. The location of each centralized mailbox setting is shown on the overall development plan and the private contract construction plans. Subdivider shall install the mailboxes within the private contract for Fourth Filing.
- H.** Lot owners should be aware that agricultural activities could be present on surrounding properties. Any impacts associated with agricultural activities and any issue arising therefrom is the responsibility of the lot owners.
- I.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for any construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.
- J.** The developer and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and State Department of Environmental Quality (DEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as

required by DEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.

- K.** Lot owners should be aware that the installation of a Barnes Grinder Pump (or hydraulically comparable grinder pump) will be required at each home at time of lot development. Lot owners should be aware that there is the possibility of periodic maintenance and replacement of the grinder pumps.
- L.** Lot 24, Block 13 to be owned and maintained by the Trails West Subdivision Homeowners Association (HOA). The Developers of Trails West Subdivision and the adjacent lot owners to the south previously agreed on a 15-foot buffer between Trails West Subdivision and the existing County properties. Access to Lot 24, Block 13 will be provided from the east by Lot 4, Block 13, which is also a Trails West Subdivision HOA owned lot, and from the west from future Birely Drain right of way.
- M.** The lowest finished floor elevation (which includes the garage) shall be a minimum of 18-inches higher than the top of curb measured from the highest location along the lot frontage.
- N.** The lowest openings on each home (window well, walk-out basement doors, and equivalent openings) shall be located outside drainage paths. If this is not possible, the homebuilder and lot owners must take necessary measures to protect these openings from being inundated from surface water flows. Allow enough space between window wells and property lines to provide sufficient swales and drainage away from window wells and meet applicable building codes for drainage requirements.

### **III. TRANSPORTATION**

#### **A. Streets**

- 1. Grouse Berry Street and Phantom Creek Avenue shall be 34 feet back of curb to back of curb within 56-foot right-of-ways. These internal access roads shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings site development ordinance, subdivision regulations, and Uniform Zoning Code.
- 2. Stockman Avenue shall be 39 feet back of curb to back of curb within a 74-foot right-of-way. This road shall be built to grade with

a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings site development ordinance, subdivision regulations, and Uniform Zoning Code.

**B. Sidewalks**

City and Subdivider agree that the developer will install handicap accessibility ramps at the time of private contract construction. No other sidewalks will be installed by the developer as part of construction improvements. Individual lot owners will be responsible for the construction of the sidewalks adjacent to their lot at the time of lot construction. Sidewalks shall be 5-foot wide boulevard sidewalks.

**C. Street Lighting**

Construction or installation of street lights shall not be required at this time. If street lights are installed in the future, a street light maintenance district will be formed for the entire subdivision to accommodate maintenance of the street lights.

**D. Traffic Control Devices**

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

All off-site contributions and improvements shall be paid as required by the Traffic Impact Study (TIS) before final plat approval.

City and Subdivider agree that Subdivider will make cash contributions to improvements at the following intersections:

56th Street West and Grand Avenue  
54th Street West and Grand Avenue  
56th Street West and Central Avenue

The amount and timing of these contributions shall be as outlined below. These contributions represent a fair and equitable amount based on subdivision traffic using these intersections and may be used by the City for

design and construction of geometric improvements, auxiliary turn lanes, or intersection controls such as traffic signals or roundabouts, at these intersections. Improvements will not be constructed until the City determines they are needed, and the timing and extent of the improvements shall be at the City's sole discretion.

The amount of the contributions for the 54th Street West/Grand Avenue, 56th Street West/Grand Avenue and 56th Street West/Central Avenue intersections shall be as follows:

	54th St. W./ Grand Ave.	56th St. W./ Grand Ave.	56th St. W./ Central Ave.
Fourth Filing	\$4,765.59	\$3,032.65	\$911.21
Lot 4, Block 14 and Lot 9, Block 15	\$12,390.54	\$7,884.89	\$2,369.15

The contributions for Trails West Subdivision, Fourth Filing shall be made prior to final plat approval. No building permits or private contract permits will be issued until Subdivider has made the cash contribution to the City.

It is anticipated that Lot 4, Block 14 and Lot 9, Block 15 will be developed in separate subdivision filings. The total cash contribution attributable to Lot 4, Block 14 and Lot 9, Block 15 shall be as stated above; however, the contribution may be apportioned over the various filings based on the amount of traffic each is expected to generate. No building permits or private contract permits shall be issued for Lot 4, Block 14 and Lot 9, Block 15 until payment has been made for the filing being developed at that time.

**E. Access**

1. Access will be provided for the subdivision by extending Grouse Berry Street, Phantom Creek Avenue, and Stockman Avenue. These street connections will connect to the existing subdivision accesses to Grand Avenue and 56th Street West. The streets within the subdivision shall be subject to review and approval by the City Engineering office.

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

The Billings Area Bikeway and Trail Master Plan identifies Grand Avenue, adjacent to the site, as an arterial bikeway. The developer will construct a 10-foot wide multi-use path on the south side of Stockman Avenue at the time of private contract construction. Therefore, City and Subdivider agree that trail requirements are being met for the subdivision.

**G. Public Transit**

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

**IV. EMERGENCY SERVICES**

Access is provided to this subdivision from Grouse Berry Street, Phantom Creek Avenue and Stockman Avenue. Fire hydrants shall be provided at each street intersection, and at intermediate locations where distances exceed 500 feet. Appropriate turn arounds will be located on any street in excess of 150 feet.

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and fire hydrant(s) in place to allow for fire suppression requirements. Prior to the issuance of a building permit for construction using combustible materials (i.e. lumber, plywood, wood trusses, etc.), fire apparatus access roads and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the City of Billings.

At a minimum, the following is required:

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

**V. STORM DRAINAGE**

- A.** The storm drainage system for Trails West Subdivision, Fourth 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, and to an existing stormwater detention facility located on Lot 4, Block 13 Trails West Subdivision, 3rd Filing, with a discharge to the Birely Drain. The existing mechanical stormwater filtration manhole and stormwater storage volume were designed to include Trails West Subdivision, Fourth Filing. All drainage improvements shall comply with the provisions of the City of Billings *Stormwater Management Manual* and Chapter 28, BMCC.
- B.** The stormwater detention area is located on a private lot (Lot 4, Block 13 of Trails West Subdivision, Third Filing) and will be maintained by the homeowners' association (HOA) established for this subdivision. The mechanical stormwater filtration manhole is existing, and associated improvements are also privately owned and maintained by the HOA. Trails West Subdivision, Fourth 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 Trails West Subdivision, Third O&M Manual.
- C.** The elevation of residential dwellings 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/connection of/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 Developer/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**

Service to the subdivision will be provided from the existing water main stubs in Grouse Berry Street, Phantom Creek Avenue, and Stockman Avenue. Connecting these mains will provide a looped system for the subdivision. Appropriately sized mains and services in the internal streets will provide service to the individual lots within the subdivision. It is anticipated that each lot shall be provided with its own separate water service. All water construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality and will be approved by the Public Works Department.

### **B. Sanitary Sewer**

Service to the subdivision will be provided from an existing sanitary sewer main stubs in Grouse Berry Street. City and Subdivider agree that sanitary sewer service to the Fourth Filing of the subdivision will be provided through low-pressure sanitary sewer mains. Appropriately sized mains and services in the internal streets will provide service to the individual lots within the subdivision. It is anticipated that each lot shall be provided with

its own separate low-pressure sanitary sewer service and each lot will need to use a Barnes Grinder Pump (or hydraulically comparable grinder pump). 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**

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

**VII. PARKS/OPEN SPACE**

Section 76-3-621 of the Montana Code Annotated covers the park dedication requirement. Additionally, Section 23-1002. B.1 of the City of Billings municipal code covers parkland dedication of major subdivisions. The Fourth Filing has a total of 28 lots, requiring a parkland dedication of 0.432 acres. The Subdivider and City agree that this parkland dedication will be met through a cash-in-lieu payment to the development of Cottonwood Park. City and Subdivider agree the cash payment in lieu of parkland dedication shall be made prior to final plat approval. A comparative market analysis, or other approved method to determine raw land value, shall be used to determine the parkland dedication amount in accordance with Section 23-1006, BMCC.

**VIII. SOILS/GEOTECHNICAL STUDY**

The Subdivider has performed a geotechnical analysis for this property (dated August 11, 2008).

Recommendations from the report include:

1. Approximately six inches of surface soils should be stripped and removed from the site or stockpiled for use in non-structural areas.
2. Site and lot grading can be accomplished using conventional earthmoving equipment.

3. Fill across lot grading should be placed and compacted to a minimum of 95 percent relative compaction in accordance with the ASTM D698 compaction test method.
4. If trenches are extended deeper than five feet or are allowed to dry out, the excavations may become unstable and should be evaluated to verify the stability prior to occupation by construction personnel.
5. Street subgrade outside of utility trenches should be placed at 95 percent of ASTM D698 and utility trench backfill should be placed at 97 percent of ASTM D698.
6. The street section for the property shall include three inches of asphaltic concrete over a 10-inch base course.
7. The potential for sulfate attack from existing soils appears to be negligible, and conventional Type II cement may be used according to Table 1904.3 of the 2000 International Building Code.
8. For home construction, over-excavation will likely be required. It is recommended that a more comprehensive geotechnical study be completed prior to installing foundations so lot-specific site conditions can be determined.

#### **IX. FINANCIAL GUARANTEES**

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a special improvement district or 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 special improvement district or private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

#### **X. LEGAL PROVISIONS APPLYING TO SUBDIVIDER**

- 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.



“OWNER”

**DOUGLAS D. FRANK**

\_\_\_\_\_

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public for the State of Montana, personally appeared **Douglas D. Frank**, known to me to be the persons who signed the foregoing instrument and who acknowledged to me that they executed the same. Witness my hand and seal the day and year herein above written.

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



“OWNER”

**RONALD E. FRANK**

\_\_\_\_\_

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, before me, the undersigned Notary Public for the State of Montana, personally appeared **Ronald E. Frank**, known to me to be the person who signed the foregoing instrument and who acknowledged to me that they executed the same. Witness my hand and seal the day and year herein above written.

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







“OWNER”

**DEBORAH FAYE FRANK**

\_\_\_\_\_

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned Notary Public for the State of Montana, personally appeared **Deborah Faye Frank**, known to me to be the persons who signed the foregoing instrument and who acknowledged to me that they executed the same. Witness my hand and seal the day and year herein above 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 (Wednesday Meeting)**

**8. d.**

**Meeting Date:** 11/13/2019

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## **Information**

### **INTRODUCTION**

On October 1, 2019, Ronald Frank, Douglas Frank, Deborah Frank and Dorn Wilson Development, LLC, applied for preliminary major plat approval for Trails West Subdivision, 5th Filing. The proposed subdivision would create 36 lots for single-family residences and one large remaining lot for future development. The first filing of this subdivision and a master plan of the entire development was first submitted and reviewed by the Planning Board in 2009. The subject property is generally located on the south side of Grand Avenue, just west of 56th Street West. The property is zoned Residential-6,000-Restricted (R-60-R) and Residential-9,600 (R-96).

### **RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Trails West Subdivision, 5th Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

### **PROPOSED CONDITIONS OF APPROVAL**

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

1. To protect public health and safety with increased area traffic, prior to final plat approval, the applicant will submit all necessary information required by City of Billings Engineering Division to update Traffic Impact Study information for this filing for review and approval.
2. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
3. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

### **VARIANCES REQUESTED**

No Variance has been requested.

## PROCEDURAL HISTORY

- Pre-application meeting August 22, 2019
- Preliminary plat application submitted to Planning Division on October 1, 2019
- Departmental review meeting October 17, 2019
- Preliminary plat resubmittal October 24, 2019
- Planning Board plat review November 13, 2019
- Planning Board public hearing November 26, 2019
- Preliminary plat to City Council December 23, 2019
- 60 working-day preliminary plat review period ends December 27, 2019

## PLAT INFORMATION

General location:	South side of Grand Ave., west of 56th St. West
Legal Description:	Lot 9, Block 15 and Lot 4, Block 14 Trails West 4th Filing
Subdivider/Owner: Wilson Development LLC	Ronald Frank, Douglas Frank and Deborah Frank and Dorn
Engineer and Surveyor:	Sanderson Stewart
Existing Zoning:	R-96 and R-60-R
Existing land use:	Former Irrigated agricultural land
Proposed land use:	Single-Family Residential
Gross area:	17.55 acres
Net area:	14.559 acres
Proposed number of lots:	36
Lot size:	Max: 9.14 acres Min.: 6,007 square feet
Parkland requirements: parks instead of land dedication.	The applicant is proposing a cash in lieu contribution to

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## Attachments

Findings of Fact  
Proposed Plat  
SIA

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## **FINDINGS OF FACT**

The Planning staff has prepared the Findings of Fact for the preliminary plat of Trails West, 5<sup>th</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**

There is currently no farm activity on the land for the proposed subdivision. The Birely Drain runs along the west side of the property. With previous filings, a dedicated right-of-way around the Birely Drain was made to the City of Billings. The Birely Drain District is amenable to having the City of Billings take over ownership of the drain at some point in the future. Currently other existing subdivisions and streets are using the Birely Drain for stormwater drainage as well as this subdivision. No water rights are being transferred to future owners of this property.

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

- a. Utilities** – Public water will be provided by the City of Billings. This filing will connect to existing waterlines in Ninebark Street, Blackberry Way, Phantom Creek Avenue and Stockman Avenue. These connections will provide a looped system for equalized pressure in the subdivision. Each lot will have a connection to the water system for the individual homes to be built. All water construction improvement shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings and MDEQ with a review and approval before installation.

Sanitary sewer services will be provided to the future lots through lines within the internal subdivision streets extended from an existing line in Ninebark Street and Blackberry Way. Sanitary sewer lines will be low-pressure mains, the subdivider will install low-pressure sanitary sewer mains this will require the installation grinder pumps in each household. A paragraph regarding this requirement is found in the SIA under the heading II Property Conditions and Information for Lot Purchasers K.

Private utility providers shall use the provided easement outside the public right of way, these easement are shown on the face of the plat.

- b. Storm water** – Stormwater management for the proposed subdivision will be provided by directing water through a network of curb and gutters, inlets and piping. It will also pass through an existing mechanical stormwater filtration manhole to an existing stormwater detention facility built with the 3<sup>rd</sup> Filing. A

storm drain report was submitted to City Public Works with the preliminary plat submittal. All drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and are subject to review and approval by the City Engineering Department.

The SIA, under the heading V. Storm Drainage B., outlines the maintenance of the ponds and all appurtenances associated with them is the responsibility of the HOA. There is an existing HOA with the subdivision and this filing will be included in the same HOA.

- 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** – Access to the lots in the 5<sup>th</sup> Filing will be via extension of roads built with the previous filings of this subdivision. The internal subdivision streets will be constructed to 34-foot pavement widths, with curb, gutter, and 5-foot wide boulevard style sidewalks within 56-foot wide rights-of-way. The one exception is Stockman Avenue. Stockman Avenue will function as a Collector street; it will be built to a width of 39 feet within a 74-foot wide right-of-way. The sidewalks will be built at the time of lot development with the exception of the ADA ramps at the street intersections. Those will be built by the developer at the time of street construction. Proposed street names for the internal streets are extensions of existing streets within the subdivision.

The subdivider will be required to make off-site contributions toward the design and installation of future intersection traffic controls at the intersections of Grand Avenue and 54th Street West, at Grand Avenue and 56th Street West, and if determined necessary, at Central Avenue and 56<sup>th</sup> St. West. These intersections were identified in the Traffic Impact Study as being affected by the proposed subdivision. The required contributions are based on the estimated volume of subdivision traffic using these intersections and an estimated cost of the intersection for the design and construction of a traffic signal at the intersection. The final contribution amounts shall be approved by the City Traffic Engineer prior to final plat approval. **(Condition #1)**

A TIS has been submitted with each previous filing of the subdivision. As the filings get built out the number of trips change and the impacts of the surrounding roads and intersections change. The applicant will provide all TIS information and updates as needed by City of Billings Engineering division prior to final plat approval. **(Condition #1)**

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station that provides fire suppression service for this area is at 1501, 54<sup>th</sup> St. West (Station #7). The Fire Department finds the proposed layout will provide adequate emergency access. Comments from the Police department state that continued expansion of

subdivisions will require additional resources to maintain acceptable levels of service.

- f. Schools** – The subdivision is located within School District #2. Students from the subdivision will attend Meadowlark Elementary School, Ben Steele Middle School, and West High School. Comments from School District #2 state that all of the mentioned schools are over maximum capacity.
- g. Parks and Recreation** – In accordance with State and City laws, the subdivider is required to provide a minimum of 0.597 acres of parkland. The subdivider has proposed to meet this requirement by providing cash in lieu of land dedication.
- h. Mail Delivery** - The United States Postal Service will provide postal service to the subdivision. They have requested the installation of centralized mailbox unit (CBUs). The USPS has requested a box on the corner of Phantom Creek Way and Blackberry. This intersection will not be constructed until the 6<sup>th</sup> Filing. The developer will work with the USPS to provide a satisfactory location for a CBU for this filing. **(Condition #2)**

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

The subject property is vacant property that has been planned for urban development since the original Master Plan review in 2009. The property is generally flat, with the exception of the Birely Drain on the western edge, which is being protected in a dedicated right-of-way.

The geotechnical study was performed for the subdivision a summary of the information from that study is included in the SIA. The subdivision should have a minimal effect on the natural environment.

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

There are no known endangered or threatened species on the property. Future property owners should be aware that the proposed subdivision is located near prime wildlife habitat and adjacent to open agricultural areas, therefore conflicts with wildlife may occur. Any damage caused by wildlife is the responsibility of the owner. This notice is in the SIA.

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

Fire hydrants will be installed to meet fire department requirements. Sidewalks and trails will offer a safe place for pedestrians to walk. The effects on public health and safety should be minimal.

Comments received from the police state that continued growth of the city would require additional resources to be able to maintain expected levels of service.

**B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-302.H.1.)]**

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616, MCA.

**C. Does the subdivision conform to the City of Billings 2016 Growth Policy, the 2018 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-(8)]**

**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.

The 2001 West Billings Plan identifies this area as residential. The proposed subdivision is for residential development.

**2. 2018 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 Bikeway and Trail Master Plan (BABTMP)**

The proposed subdivision lies within the jurisdiction of the BABTMP. There is no trail identified within the proposed subdivision. There are connections to the Ben Steele middle school from the subdivision.

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

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

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

The subject property is located within the R-60-R and R-96 zoning districts. All development shall comply with the standards set forth in Section 27-308, BMCC.

**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 private utility easements as required by private utility providers 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 Grouse Berry Street, Phantom Creek Avenue and Stockman Avenue. The internal streets take access from Grand Avenue and 56<sup>th</sup> Street West.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Trails West Subdivision, 5<sup>th</sup> Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2016 Growth Policy Update and does not conflict with the Transportation or Bikeway and Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

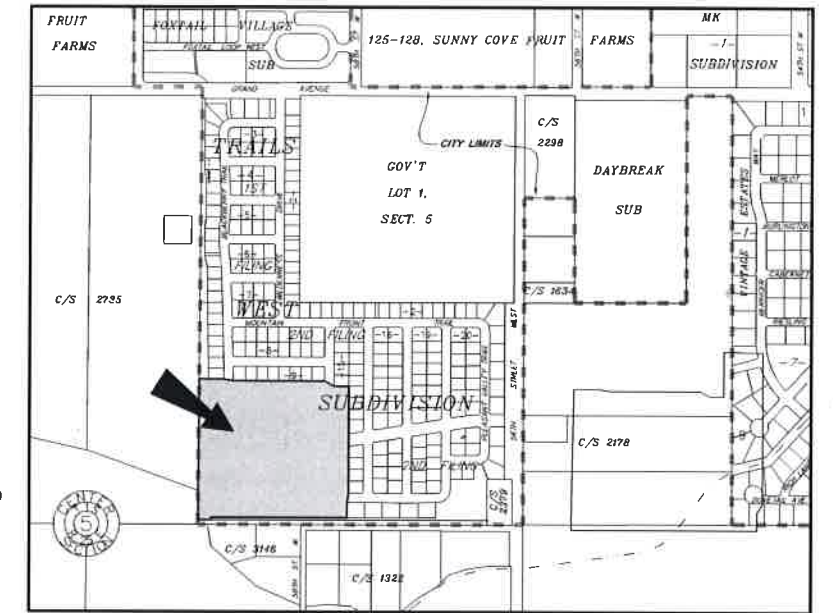
**RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Trails West Subdivision, 5<sup>th</sup> Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

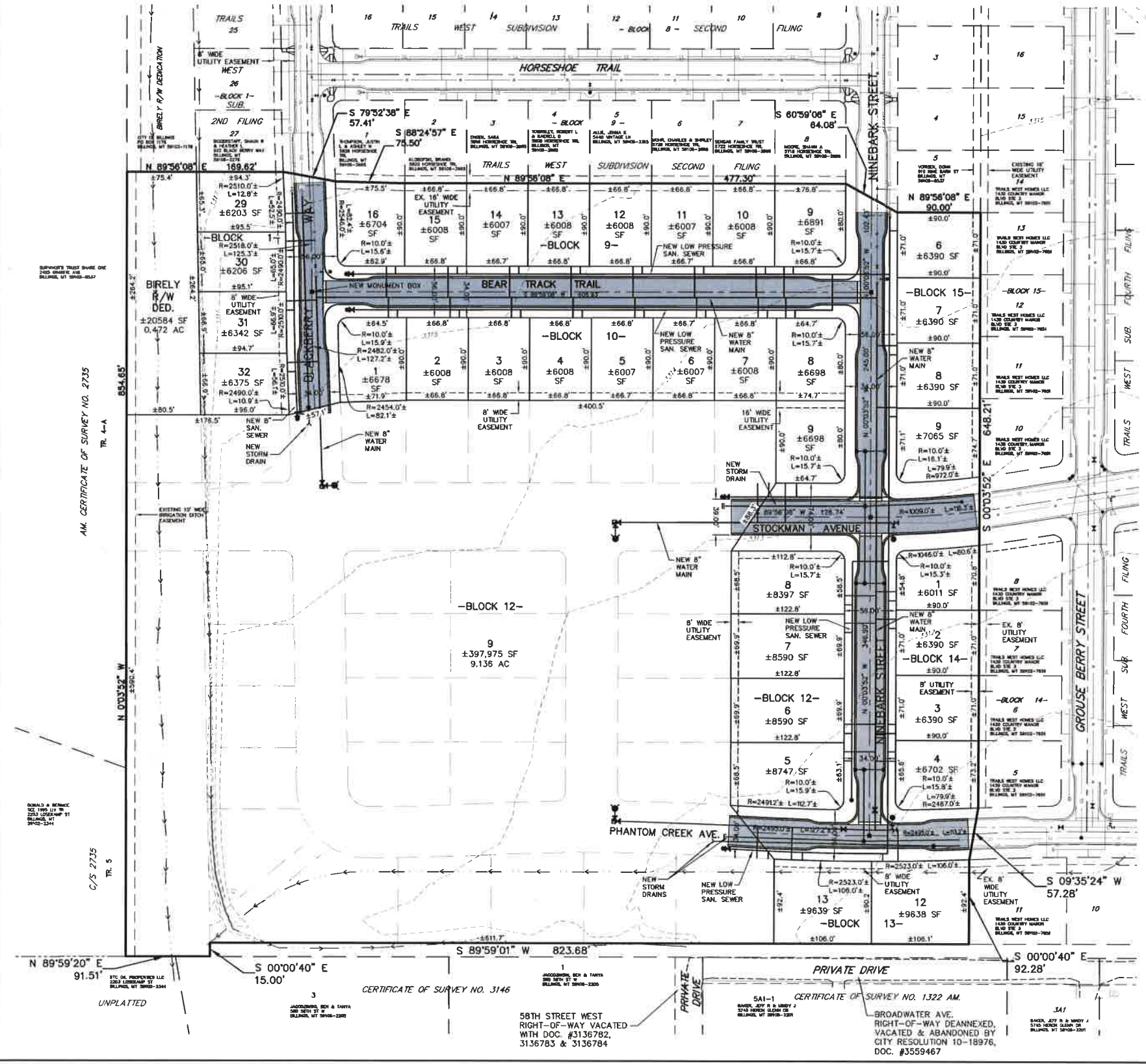
PRELIMINARY PLAT OF  
**TRAILS WEST SUBDIVISION, FIFTH FILING**  
 BEING LOT 4, BLOCK 14 & LOT 9, BLOCK 15 OF TRAILS WEST SUBDIVISION, FOURTH FILING  
 SITUATED IN THE N.E. 1/4 OF SECTION 5, T.1S., R.25E., P.M.M.  
 BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : DORN-WILSON DEVELOPMENT, LLC  
 PREPARED BY : SANDERSON STEWART

AUGUST, 2019  
 BILLINGS, MONTANA



VICINITY MAP  
 NOT TO SCALE



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.xxxxxxxx; 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	= 17.555 AC.
NET AREA	= 14.559 AC.
NUMBER OF LOTS	= 36
MINIMUM LOT SIZE	= 6,007 S.F.
MAXIMUM LOT SIZE	= 397,975 S.F.
LINEAL FEET OF STREETS	= 2,038 L.F.
PARKLAND REQUIREMENT	= 0.649 AC.
PARKLAND DEDICATION	= CASH-IN-LIEU
EXISTING ZONING	= R-9600 & R-6000R
SURROUNDING ZONING:	
NORTH	= R-6000R
SOUTH	= AG SUBURBAN & AG OPEN
EAST	= R-6000R & R-9600
WEST	= AG SUBURBAN & AG OPEN
EXISTING LAND USE	= VACANT
PROPOSED LAND USE	= RESIDENTIAL

Return to:  
Sanderson Stewart  
1300 North Transtech Way  
Billings, MT 59101

**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL  
IMPROVEMENT DISTRICTS  
TRAILS WEST SUBDIVISION, FIFTH FILING**

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

**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL  
IMPROVEMENT DISTRICTS  
TRAILS WEST SUBDIVISION, FIFTH FILING**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **DORN-WILSON DEVELOPMENT, LLC**, whose address for the purpose of this agreement is 100 Emerald Drive, Billings, Montana 59105, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Montana, hereinafter referred to as “City.”

**WITNESSETH:**

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

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

**WHEREAS**, at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the City Council approved, subject to certain conditions, a preliminary plat of Trails West Subdivision, Fifth Filing, and

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

**WHEREAS**, the provisions of this agreement shall be effective and applicable to the plat of Trails West Subdivision, Fifth Filing, upon filing of the final plat thereof in the

office of the Clerk and Recorder of Yellowstone County, Montana. The subdivision shall comply with all requirements of the City of Billings subdivision regulations; the rules, regulations, policies, and resolutions of the City of Billings; and the laws and administrative rules of the State of Montana.

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

**I. VARIANCES**

Subdivider requests no variances.

**II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS**

- 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.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.
- C.** Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.
- D.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- E.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider, and property owner or owners of the developments

described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement.

The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

**F.** Lot owners should be aware that a geotechnical investigation and report was completed on August 11, 2008, for the property which identified the following recommendations for individual lots prior to house construction:

1. For structures with foundations constructed within five feet of natural grade, prior to building permit approval, written verification from a geotechnical engineer shall be obtained that foundation preparation and fill material are in compliance with Section 5.3 and Appendix B of the report. Foundations within 3.5 feet of original grade require over excavation by two feet in width and depth plus installation of geo-grid fabric. The new fill requires compaction to 98 percent.
2. For structures with foundations constructed deeper than five feet of natural grade, prior to building permit approval, an engineered design will be required for a deep foundation system

A copy of the entire geotechnical report is available for review at the City Building and/or Planning Division offices.

**G.** Lot owners should be aware that the United States Postal Service mail delivery will be made only to centralized delivery locations. Such locations shall consist of from 8 to 16 mailboxes per location. The location of each centralized mailbox setting is shown on the overall development plan and the private contract construction plans. Subdivider shall install the mailboxes within the private contract for Fifth Filing.

**H.** Lot owners should be aware that agricultural activities could be present on surrounding properties. Any impacts associated with agricultural activities and any issue arising therefrom is the responsibility of the lot owners.

**I.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for any construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

- J.** The developer and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and State Department of Environmental Quality (DEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by DEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.
- K.** Lot owners should be aware that the installation of a Barnes Grinder Pump (or hydraulically comparable grinder pump) will be required at each home at time of lot development. Lot owners should be aware that there is the possibility of periodic maintenance and replacement of the grinder pumps.
- L.** The lowest finished floor elevation (which includes the garage) shall be a minimum of 18-inches higher than the top of curb measured from the highest location along the lot frontage.
- M.** The lowest openings on each home (window well, walk-out basement doors, and equivalent openings) shall be located outside drainage paths. If this is not possible, the homebuilder and lot owners must take necessary measures to protect these openings from being inundated from surface water flows. Allow enough space between window wells and property lines to provide sufficient swales and drainage away from window wells and meet applicable building codes for drainage requirements.

### **III. TRANSPORTATION**

#### **A. Streets**

1. Ninebark Street, Bear Track Trail, Blackberry Way and Phantom Creek Avenue shall be 34 feet back of curb to back of curb within 56-foot right-of-ways. These internal access roads shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings site development ordinance, subdivision regulations, and Uniform Zoning Code.
2. Stockman Avenue shall be 39 feet back of curb to back of curb within a 74-foot right-of-way. This road shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings site development ordinance, subdivision regulations, and Uniform Zoning Code.

**B. Sidewalks**

City and Subdivider agree that the developer will install handicap accessibility ramps at the time of private contract construction. No other sidewalks will be installed by the developer as part of construction improvements. Individual lot owners will be responsible for the construction of the sidewalks adjacent to their lot at the time of lot construction. Sidewalks shall be 5-foot wide boulevard sidewalks.

**C. Street Lighting**

Construction or installation of street lights shall not be required at this time. If street lights are installed in the future, a street light maintenance district will be formed for the entire subdivision to accommodate maintenance of the street lights.

**D. Traffic Control Devices**

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

All off-site contributions and improvements shall be paid as required by the Traffic Impact Study (TIS) before final plat approval.

City and Subdivider agree that Subdivider will make cash contributions to improvements at the following intersections:

56th Street West and Grand Avenue  
54th Street West and Grand Avenue  
56th Street West and Central Avenue

The amount and timing of these contributions shall be as outlined below. These contributions represent a fair and equitable amount based on subdivision traffic using these intersections and may be used by the City for design and construction of geometric improvements, auxiliary turn lanes, or intersection controls such as traffic signals or roundabouts, at these intersections. Improvements will not be constructed until the City determines they are needed, and the timing and extent of the improvements shall be at the City's sole discretion.

The amount of the contributions for the 54th Street West/Grand Avenue, 56th Street West/Grand Avenue and 56th Street West/Central Avenue intersections shall be as follows:

	54th St. W./ Grand Ave.	56th St. W./ Grand Ave.	56th St. W./ Central Ave.
Fifth Filing	\$6,671.83	\$4,245.71	\$1,275.70
Lot 9, Block 12	\$5,718.71	\$3,639.18	\$1,093.45

The contributions for Trails West Subdivision, Fifth Filing shall be made prior to final plat approval. No building permits or private contract permits will be issued until Subdivider has made the cash contribution to the City.

It is anticipated that Lot 9, Block 12 will be developed in separate subdivision filing. The total cash contribution attributable to Lot 9, Block 12 shall be as stated above. No building permits or private contract permits shall be issued for Lot 9, Block 12 until payment has been made for the filing being developed at that time.

**E. Access**

Access will be provided for the subdivision by extending Ninebark Street, Blackberry Way, Phantom Creek Avenue, and Stockman Avenue. These street connections will connect to the existing subdivision accesses to Grand Avenue and 56th Street West. The streets within the subdivision shall be subject to review and approval by the City Engineering office.

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

The Billings Area Bikeway and Trail Master Plan identifies Grand Avenue, adjacent to the site, as an arterial bikeway. The developer will construct a 10-foot wide multi-use path on the south side of Stockman Avenue at the time of private contract construction. Therefore, City and Subdivider agree that trail requirements are being met for the subdivision.

**G. Public Transit**

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

#### IV. EMERGENCY SERVICES

Access is provided to this subdivision from Ninebark Street, Blackberry Way, Phantom Creek Avenue and Stockman Avenue. Fire hydrants shall be provided at each street intersection, and at intermediate locations where distances exceed 500 feet. Appropriate turn arounds will be located on any street in excess of 150 feet.

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and fire hydrant(s) in place to allow for fire suppression requirements. Prior to the issuance of a building permit for construction using combustible materials (i.e. lumber, plywood, wood trusses, etc.), fire apparatus access roads and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the City of Billings.

At a minimum, the following is required:

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

#### V. STORM DRAINAGE

- A. The storm drainage system for Trails West Subdivision, Fifth 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, and to an existing stormwater detention facility located on Lot 4, Block 13 Trails West Subdivision, 3rd Filing, with a discharge to the Birely Drain. The existing mechanical stormwater filtration manhole and stormwater storage volume were designed to include Trails West Subdivision, Fifth Filing. All drainage improvements shall comply with the provisions of the City of Billings *Stormwater Management Manual* and Chapter 28, BMCC.

- B.** The stormwater detention area is located on a private lot (Lot 4, Block 13 of Trails West Subdivision, Third Filing) and will be maintained by the homeowners' association (HOA) established for this subdivision. The mechanical stormwater filtration manhole is existing, and associated improvements are also privately owned and maintained by the HOA. Trails West Subdivision, Fifth 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 Trails West Subdivision, Third O&M Manual.
- C.** The elevation of residential dwellings 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/connection of/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 Developer/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**

Service to the subdivision will be provided from the existing water main stubs in Ninebark Street, Blackberry Way, Phantom Creek Avenue, and Stockman Avenue. Connecting these mains will provide a looped system for the subdivision. Appropriately sized mains and services in the internal streets will provide service to the individual lots within the subdivision. It is anticipated that each lot shall be provided with its own separate water service. All water construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality and will be approved by the Public Works Department.

**B. Sanitary Sewer**

Service to the subdivision will be provided from an existing sanitary sewer main stubs in Ninebark Street and Blackberry Way. City and Subdivider agree that sanitary sewer service to the Fifth Filing of the subdivision will be provided through low-pressure sanitary sewer mains. Appropriately sized mains and services in the internal streets will provide service to the individual lots within the subdivision. It is anticipated that each lot shall be provided with its own separate low-pressure sanitary sewer service and each lot will need to use a Barnes Grinder Pump (or hydraulically comparable grinder pump). 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**

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

## **VII. PARKS/OPEN SPACE**

Section 76-3-621 of the Montana Code Annotated covers the park dedication requirement. Additionally, Section 23-1002. B.1 of the City of Billings municipal code covers parkland dedication of major subdivisions. The Fifth Filing has a total of 36 lots, requiring a parkland dedication of 0.597 acres. The Subdivider and City agree that this parkland dedication will be met through a cash-in-lieu payment to the development of Cottonwood Park. City and Subdivider agree the cash payment in lieu of parkland dedication shall be made prior to final plat approval. A comparative market analysis, or other approved method to determine raw land value, shall be used to determine the parkland dedication amount in accordance with Section 23-1006, BMCC.

## **VIII. SOILS/GEOTECHNICAL STUDY**

The Subdivider has performed a geotechnical analysis for this property (dated August 11, 2008).

Recommendations from the report include:

1. Approximately six inches of surface soils should be stripped and removed from the site or stockpiled for use in non-structural areas.
2. Site and lot grading can be accomplished using conventional earthmoving equipment.
3. Fill across lot grading should be placed and compacted to a minimum of 95 percent relative compaction in accordance with the ASTM D698 compaction test method.
4. If trenches are extended deeper than five feet or are allowed to dry out, the excavations may become unstable and should be evaluated to verify the stability prior to occupation by construction personnel.
5. Street subgrade outside of utility trenches should be placed at 95 percent of ASTM D698 and utility trench backfill should be placed at 97 percent of ASTM D698.
6. The street section for the property shall include three inches of asphaltic concrete over a 10-inch base course.

7. The potential for sulfate attack from existing soils appears to be negligible, and conventional Type II cement may be used according to Table 1904.3 of the 2000 International Building Code.
8. For home construction, over-excavation will likely be required. It is recommended that a more comprehensive geotechnical study be completed prior to installing foundations so lot-specific site conditions can be determined.

**IX. FINANCIAL GUARANTEES**

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a special improvement district or 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 special improvement district or private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

**X. LEGAL PROVISIONS APPLYING TO SUBDIVIDER**

- 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 first above written.

“SUBDIVIDER”

**DORN-WILSON DEVELOPMENT, LLC**

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

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

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

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

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

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

“OWNER”

**DOUGLAS D. FRANK**

\_\_\_\_\_

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public for the State of Montana, personally appeared **Douglas D. Frank**, known to me to be the persons who signed the foregoing instrument and who acknowledged to me that they executed the same. Witness my hand and seal the day and year herein above written.

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



“OWNER”

**RONALD E. FRANK**

\_\_\_\_\_

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, before me, the undersigned Notary Public for the State of Montana, personally appeared **Ronald E. Frank**, known to me to be the person who signed the foregoing instrument and who acknowledged to me that they executed the same. Witness my hand and seal the day and year herein above written.

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

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

“CITY”

**CITY OF BILLINGS, MONTANA**

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

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

STATE OF MONTANA     )  
  :SS  
County of Yellowstone     )

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

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

Approved as to Form:

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

**WAIVER OF RIGHT TO PROTEST  
FUTURE SPECIAL IMPROVEMENT DISTRICTS**

**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 is more particularly described as follows:

*Trails West Subdivision, Fifth Filing*

Signed and dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

“SUBDIVIDER”

**DORN-WILSON DEVELOPMENT, LLC**

\_\_\_\_\_

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 \_\_\_\_\_ of Dorn-Wilson Development LLC, the person who executed the forgoing instrument and acknowledged to me that said company executed the same.

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

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





“OWNER”

**RONALD E. FRANK**

\_\_\_\_\_

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, before me, the undersigned Notary Public for the State of Montana, personally appeared **Ronald E. Frank**, known to me to be the person who signed the foregoing instrument and who acknowledged to me that they executed the same. Witness my hand and seal the day and year herein above 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 (Wednesday Meeting)**

**8. e.**

**Meeting Date:** 11/13/2019

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## **Information**

### **INTRODUCTION**

On October 1, 2019, Ronald Frank, Douglas Frank, Deborah Frank and Dorn Wilson Development, LLC, applied for preliminary major plat approval for Trails West Subdivision, 6th Filing. The proposed subdivision would create 30 lots for single-family residences. The first filing of this subdivision and a master plan of the entire development was first submitted and reviewed by the Planning Board in 2009. The subject property is generally located on the south side of Grand Avenue, just west of 56th Street West. The property is zoned Residential-6,000-Restricted (R-60-R) and Residential-9,600 (R-96).

### **RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Trails West Subdivision, 6th Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

### **PROPOSED CONDITIONS OF APPROVAL**

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

1. To protect public health and safety with increased area traffic, prior to final plat approval, the applicant will submit all necessary information required by City of Billings Engineering Division to update Traffic Impact Study information for this filing for review and approval.
2. To minimize the effects on local service, prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
3. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

### **VARIANCES REQUESTED**

No variance has been requested.

## PROCEDURAL HISTORY

- Pre-application meeting August 22, 2019
- Preliminary plat application submitted to Planning Division on October 1, 2019
- Departmental review meeting October 17, 2019
- Preliminary plat resubmittal October 24, 2019
- Planning Board plat review November 13, 2019
- Planning Board public hearing November 26, 2019
- Preliminary plat to City Council December 23, 2019
- 60 working-day preliminary plat review period ends December 27, 2019

## PLAT INFORMATION

General location:	South side of Grand Ave., west of 56th St. West
Legal Description:	Lot 9, Block 12 Trails West 5th Filing
Subdivider/Owner: Wilson Development LLC	Ronald Frank, Douglas Frank and Deborah Frank and Dorn
Engineer and Surveyor:	Sanderson Stewart
Existing Zoning:	R-96 and R-60-R
Existing land use:	Former Irrigated agricultural land
Proposed land use:	Single-Family Residential
Gross area:	9.14 acres
Net area:	5.76 acres
Proposed number of lots:	30
Lot size:	Max: 13,496 square feet Min.: 6,007 square feet
Parkland requirements: parks instead of land dedication.	The applicant is proposing a cash in lieu contribution to

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## Attachments

Findings of Fact  
Proposed Plat  
SIA

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## **FINDINGS OF FACT**

The Planning staff has prepared the Findings of Fact for the preliminary plat of Trails West, 6<sup>th</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**

There is currently no farm activity on the land for the proposed subdivision. The Birely Drain runs along the west side of the property. With previous filings, a dedicated right-of-way around the Birely Drain was made to the City of Billings. The Birely Drain District is amenable to having the City of Billings take over ownership of the drain at some point in the future. Currently other existing subdivisions and streets are using the Birely Drain for stormwater drainage, this subdivision will be included as a user of the drain. No water rights are being transferred to future owners of this property.

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

- a. Utilities** – Public water will be provided by the City of Billings. This filing will connect to existing waterlines in Blackberry Way, Phantom Creek Avenue and Stockman Avenue. These connections will provide a looped system for equalized pressure in the subdivision. Each lot will have a connection to the water system for the individual homes to be built. All water construction improvement shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings and MDEQ with a review and approval before installation.

Sanitary sewer services will be provided to the future lots through lines within the internal subdivision streets extended from an existing line in Blackberry Way and Phantom Creek Avenue. Sanitary sewer lines will be low-pressure mains, the subdivider will install low-pressure sanitary sewer mains this will require the installation grinder pumps in each household. A paragraph regarding this requirement is found in the SIA under the heading II Property Conditions and Information for Lot Purchasers K.

Private utility providers shall use the provided easement outside the public right of way, these easement are shown on the face of the plat.

- b. Storm water** – Stormwater management for the proposed subdivision will be provided by directing water through a network of curb and gutters, inlets and piping. It will also pass through an existing mechanical stormwater filtration manhole to an existing stormwater detention facility built with the 3<sup>rd</sup> Filing. A

storm drain report was submitted to City Public Works with the preliminary plat submittal. All drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and are subject to review and approval by the City Engineering Department.

The SIA, under the heading V. Storm Drainage B., outlines the maintenance of the pond and all appurtenances associated with it as the responsibility of the HOA. There is an existing HOA with the subdivision and this filing will be included in the same HOA.

- 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** – Access to the lots in the 6<sup>th</sup> Filing will be via extension of roads built with the previous filings of this subdivision. The internal subdivision streets will be constructed to 34-foot pavement widths, with curb, gutter, and 5-foot wide boulevard style sidewalks within 56-foot wide rights-of-way. The one exception is Stockman Avenue. Stockman Avenue will function as a Collector street; it will be built to a width of 39 feet within a 74-foot wide right-of-way. Sidewalks will be built at the time of lot development with the exception of the ADA ramps at the street intersections. The developer will also be installing a 10-foot wide hard surface trail between Lots 18 and 19, Block 13 to connect the Birely Drain trail to the internal sidewalks of the subdivision. These above mentioned items will be built by the developer at the time of street construction. Proposed street names for the internal streets are extensions of existing streets within the subdivision.

The subdivider will be required to make off-site contributions toward the design and installation of future intersection traffic controls at the intersections of Grand Avenue and 54th Street West, at Grand Avenue and 56th Street West, and if determined necessary, at Central Avenue and 56<sup>th</sup> St. West. These intersections were identified in the Traffic Impact Study as being affected by the proposed subdivision. The required contributions are based on the estimated volume of subdivision traffic using these intersections and an estimated cost of the intersection for the design and construction of a traffic signal at the intersection. The final contribution amounts shall be approved by the City Traffic Engineer prior to final plat approval. **(Condition #1)**

A TIS has been submitted with each previous filing of the subdivision. As the filings get built out the number of trips change and the impacts of the surrounding roads and intersections change. The applicant will provide all TIS information and updates as needed by City of Billings Engineering division prior to final plat approval. **(Condition #1)**

The 6<sup>th</sup> Filing is the final filing of this subdivision, at this filing Stockman Avenue will be at the edge of the Birely Drain. This subdivider will provide a cash contribution of 50 percent of the cost for design, permitting and construction of the

Birely Drain Crossing on Stockman Avenue or construct 50 percent of the improvement for the crossing. This is outlined in the SIA under the heading III Transportation A. Streets, 4.

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station that provides fire suppression service for this area is at 1501, 54<sup>th</sup> St. West (Station #7). The Fire Department finds the proposed layout will provide adequate emergency access. Comments from the Police department state that continued expansion of subdivisions will require additional resources to maintain acceptable levels of service.
- f. **Schools** – The subdivision is located within School District #2. Students from the subdivision will attend Meadowlark Elementary School, Ben Steele Middle School, and West High School. Comments from School District #2 state that all of the mentioned schools are over maximum capacity.
- g. **Parks and Recreation** – In accordance with State and City laws, the subdivider is required to provide a minimum of 0.6 acres of parkland. The subdivider has proposed to meet this requirement by providing cash in lieu of land dedication. In addition to cash, the developer is proposing to continue the 5-foot wide multi-use trail on the western property line within the Birely Drain right-of-way tract. This trail is proposed to be for public use, and maintained by the homeowners' association.
- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision. They have requested the installation of centralized mailbox unit (CBUs). The USPS has requested a box on the corner of Phantom Creek Way and Blackberry. The developer will work with the USPS to provide the correct location and a safe amount of space for postal delivery. (**Condition #2**)

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

The subject property is vacant property that has been planned for urban development since the original Master Plan review in 2009. The property is generally flat, with the exception of the Birely Drain on the western edge, which is being protected in a dedicated right-of-way.

The geotechnical study was performed for the subdivision a summary of the information from that study is included in the SIA. The subdivision should have a minimal effect on the natural environment.

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

There are no known endangered or threatened species on the property. Future property owners should be aware that the proposed subdivision is located near prime wildlife habitat and adjacent to open agricultural areas, therefore conflicts with wildlife may

occur. Any damage caused by wildlife is the responsibility of the owner. This notice is in the SIA.

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

Fire hydrants will be installed to meet fire department requirements. Sidewalks and trails will offer a safe place for pedestrians to walk. The effects on public health and safety should be minimal.

Comments received from the police state that continued growth of the city would require additional resources to be able to maintain expected levels of service.

**B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-302.H.1.)]**

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-616, MCA.

**C. Does the subdivision conform to the City of Billings 2016 Growth Policy, the 2018 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan? [BMCC 23-(8)]**

**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.

The 2001 West Billings Plan identifies this area as residential. The proposed subdivision is for residential development.

**2. 2018 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 Bikeway and Trail Master Plan (BABTMP)**

The proposed subdivision lies within the jurisdiction of the BABTMP. There is no trail identified within the proposed subdivision. There are connections to the Ben Steele middle school from the subdivision.

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

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

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

The subject property is located within the R-60-R and R-96 zoning districts. All development shall comply with the standards set forth in Section 27-308, BMCC.

**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 private utility easements as required by private utility providers 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 Grouse Berry Street, Phantom Creek Avenue and Stockman Avenue. The internal streets take access from Grand Avenue and 56<sup>th</sup> Street West.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Trails West Subdivision, 6<sup>th</sup> Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2016 Growth Policy Update and does not conflict with the Transportation or Bikeway and Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

**RECOMMENDATION**

Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Trails West Subdivision, 6<sup>th</sup> Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

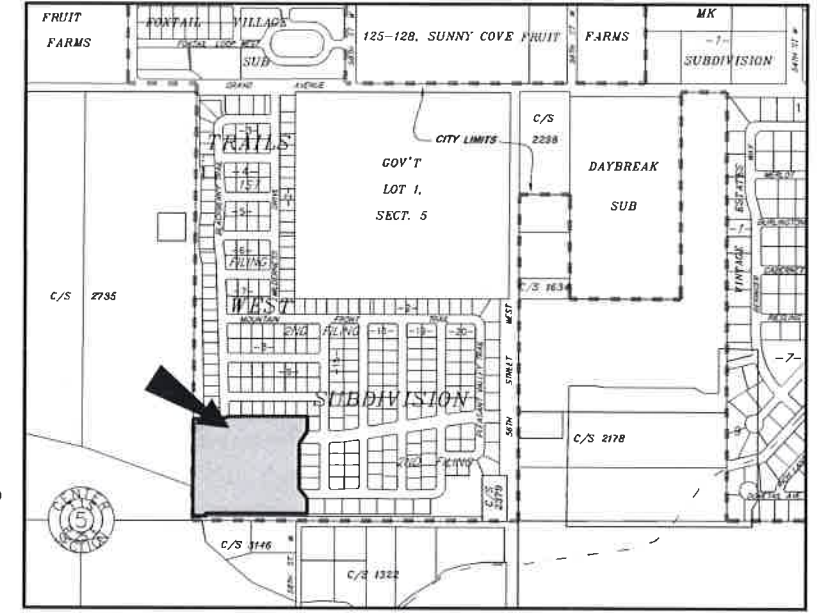
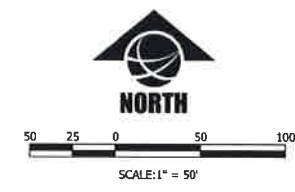
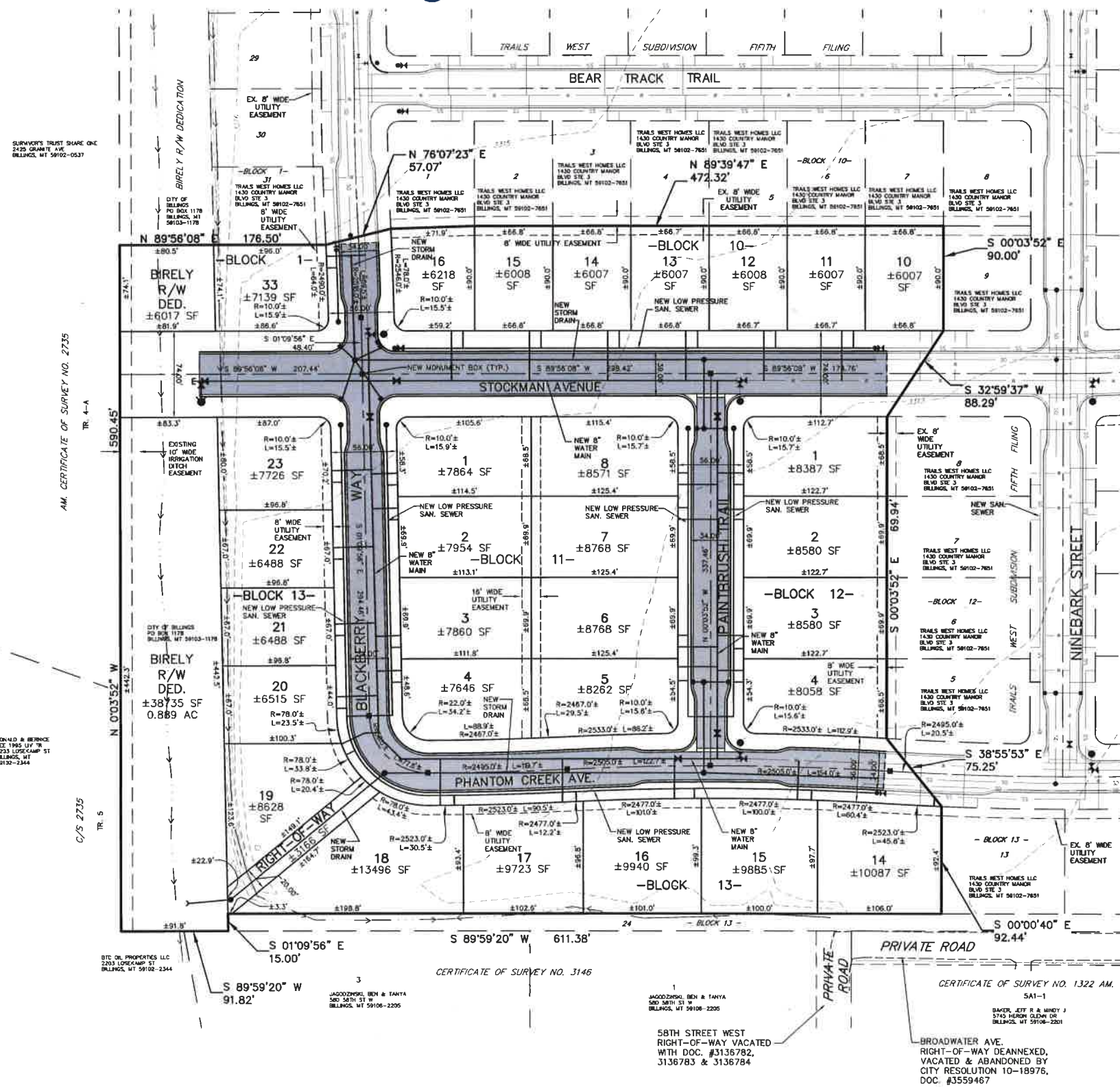
PRELIMINARY PLAT OF  
**TRAILS WEST SUBDIVISION, SIXTH FILING**  
 BEING LOT 9, BLOCK 12 OF TRAILS WEST SUBDIVISION, FIFTH FILING  
 SITUATED IN THE N.E. 1/4 OF SECTION 5, T.1S., R.25E., P.M.M.  
 BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : DORN-WILSON DEVELOPMENT, LLC

AUGUST, 2019

PREPARED BY : SANDERSON STEWART

BILLINGS, MONTANA



VICINITY MAP  
 NOT TO SCALE

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.xxxxxxxx; 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" X 18" 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	= 9.14 AC.
NET AREA	= 5.76 AC.
NUMBER OF LOTS	= 30
MINIMUM LOT SIZE	= 6,007 S.F.
MAXIMUM LOT SIZE	= 13,496 S.F.
LINEAL FEET OF STREETS	= 2,038 L.F.
PARKLAND REQUIREMENT	=
PARKLAND DEDICATION	= CASH-IN-LIEU
EXISTING ZONING	= R-9600, R-6000R
SURROUNDING ZONING:	
NORTH	= R-6000R
SOUTH	= AG SUBURBAN & AG OPEN
EAST	= R-6000R & R9600
WEST	= AG SUBURBAN & AG OPEN
EXISTING LAND USE	= VACANT
PROPOSED LAND USE	= RESIDENTIAL

Return to:  
Sanderson Stewart  
1300 North Transtech Way  
Billings, MT 59101

**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL  
IMPROVEMENT DISTRICTS  
TRAILS WEST SUBDIVISION, SIXTH FILING**

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

**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL  
IMPROVEMENT DISTRICTS  
TRAILS WEST SUBDIVISION, SIXTH FILING**

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **DORN-WILSON DEVELOPMENT, LLC**, whose address for the purpose of this agreement is 100 Emerald Drive, Billings, Montana 59105, hereinafter referred to as “Subdivider,” and the **CITY OF BILLINGS**, Montana, hereinafter referred to as “City.”

**WITNESSETH:**

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

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

**WHEREAS**, at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the City Council approved, subject to certain conditions, a preliminary plat of Trails West Subdivision, Sixth Filing, and

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

**WHEREAS**, the provisions of this agreement shall be effective and applicable to the plat of Trails West Subdivision, Sixth Filing, upon filing of the final plat thereof in the

office of the Clerk and Recorder of Yellowstone County, Montana. The subdivision shall comply with all requirements of the City of Billings subdivision regulations; the rules, regulations, policies, and resolutions of the City of Billings; and the laws and administrative rules of the State of Montana.

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

**I. VARIANCES**

Subdivider requests no variances.

**II. PROPERTY CONDITIONS AND INFORMATION FOR LOT PURCHASERS**

- 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.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.
- C.** Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.
- D.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- E.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned

on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

- F.** Lot owners should be aware that a geotechnical investigation and report was completed on August 11, 2008, for the property which identified the following recommendations for individual lots prior to house construction:
1. For structures with foundations constructed within five feet of natural grade, prior to building permit approval, written verification from a geotechnical engineer shall be obtained that foundation preparation and fill material are in compliance with Section 5.3 and Appendix B of the report. Foundations within 3.5 feet of original grade require over excavation by two feet in width and depth plus installation of geo-grid fabric. The new fill requires compaction to 98 percent.
  2. For structures with foundations constructed deeper than five feet of natural grade, prior to building permit approval, an engineered design will be required for a deep foundation system

A copy of the entire geotechnical report is available for review at the City Building and/or Planning Division offices.

- G.** Lot owners should be aware that the United States Postal Service mail delivery will be made only to centralized delivery locations. Such locations shall consist of from 8 to 16 mailboxes per location. The location of each centralized mailbox setting is shown on the overall development plan and the private contract construction plans. Subdivider shall install the mailboxes within the private contract for Sixth Filing.
- H.** Lot owners should be aware that agricultural activities could be present on surrounding properties. Any impacts associated with agricultural activities and any issue arising therefrom is the responsibility of the lot owners.
- I.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for any construction on lots. Best Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.
- J.** The developer and subsequent contractors/builders acknowledge that there is a Stormwater Pollution Prevention Plan (SWPPP) filed with the City and State Department of Environmental Quality (DEQ). This SWPPP shall be

adhered to during all phases of construction and shall be updated as required by DEQ under the General Permit for Stormwater Discharges Associated with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.

- K.** Lot owners should be aware that the installation of a Barnes Grinder Pump (or hydraulically comparable grinder pump) will be required at each home at time of lot development. Lot owners should be aware that there is the possibility of periodic maintenance and replacement of the grinder pumps.
- L.** The lowest finished floor elevation (which includes the garage) shall be a minimum of 18-inches higher than the top of curb measured from the highest location along the lot frontage.
- M.** The lowest openings on each home (window well, walk-out basement doors, and equivalent openings) shall be located outside drainage paths. If this is not possible, the homebuilder and lot owners must take necessary measures to protect these openings from being inundated from surface water flows. Allow enough space between window wells and property lines to provide sufficient swales and drainage away from window wells and meet applicable building codes for drainage requirements.

### **III. TRANSPORTATION**

#### **A. Streets**

1. Blackberry Way, Paintbrush Trail and Phantom Creek Avenue shall be 34 feet back of curb to back of curb within 56-foot right-of-ways. These internal access roads shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings site development ordinance, subdivision regulations, and Uniform Zoning Code.
2. Stockman Avenue shall be 39 feet back of curb to back of curb within a 74-foot right-of-way. This road shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings site development ordinance, subdivision regulations, and Uniform Zoning Code.
3. Per the Traffic Impact Study (TIS), the warrant criteria for a northbound left-turn lane at the intersection of Stockman Trail and

56th Street West was found to be satisfied by a narrow margin at the time of Sixth Filing build-out. The Subdivider agrees to install a north bound left-turn lane on 56th Street West at the Stockman Trail intersection if additional analysis performed at the time of development verifies that the improvements meet the warrant criteria. The turn lane shall be subject to review and approval by the City Engineering office.

4. The Subdivider agrees to provide a cash contribution for 50 percent of the cost for design, permitting, and construction of the Birely Drain crossing on Stockman Avenue, or construct 50 percent of the improvements for the Birely Drain crossing on Stockman Avenue.

If the Subdivider elects to provide a cash contribution for the Birely Drain crossing, and 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. If the Subdivider elects to provide a cash contribution, the timing of the cash contribution for the Birely Drain crossing on Stockman Avenue shall be made prior to final plat approval.

If the Subdivider elects to construct 50 percent of the improvement for the Birely Drain crossing it is agreed that this would satisfy the Subdividers requirement for the crossing, and no future SID assessment would be required for any additional costs for the remaining crossing improvements. If selected, the construction of 50% of the Birely Drain crossing would occur at the time of private contract construction.

## **B. Sidewalks**

City and Subdivider agree that the developer will install handicap accessibility ramps at the time of private contract construction. The City and the Subdivider also agree that the developer will install a 5-wide sidewalk along the west boundary of the subdivision in the proposed Birely Drain right of way at the time of private contract construction. The developer will also install a 10-foot wide sidewalk, or asphalt path, between lots 18 and 19, Block 13 of Trails West Subdivision, 6th Filing at the time of private contract construction. No other sidewalks will be installed by the developer as part of construction improvements.

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

**C. Street Lighting**

Construction or installation of street lights shall not be required at this time. If street lights are installed in the future, a street light maintenance district will be formed for the entire subdivision to accommodate maintenance of the street lights.

**D. Traffic Control Devices**

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

All off-site contributions and improvements shall be paid as required by the Traffic Impact Study (TIS) before Trails West Subdivision, Sixth Filing final plat approval.

City and Subdivider agree that Subdivider will make cash contributions to improvements to three intersections. The amount and location of these contributions are as follows:

56th Street West and Grand Avenue	\$3,639.18
54th Street West and Grand Avenue	\$5,718.71
56th Street West and Central Avenue	\$1,093.45

These contributions represent a fair and equitable amount based on subdivision traffic using these intersections and may be used by the City for design and construction of geometric improvements, auxiliary turn lanes, or intersection controls such as traffic signals or roundabouts, at these intersections. Improvements will not be constructed until the City determines they are needed, and the timing and extent of the improvements shall be at the City's sole discretion.

**E. Access**

Access will be provided for the subdivision by extending Blackberry Way, Phantom Creek Avenue, and Stockman Avenue. These street connections will connect to the existing subdivision accesses to Grand Avenue and 56th Street West. The streets within the subdivision shall be subject to review and approval by the City Engineering office.

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

The Billings Area Bikeway and Trail Master Plan identifies Grand Avenue, adjacent to the site, as an arterial bikeway. The developer will construct a 10-foot wide multi-use path on the south side of Stockman Avenue at the time of private contract construction. Therefore, City and Subdivider agree that trail requirements are being met for the subdivision.

**G. Public Transit**

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

**IV. EMERGENCY SERVICES**

Access is provided to this subdivision from Blackberry Way, Phantom Creek Avenue and Stockman Avenue. Fire hydrants shall be provided at each street intersection, and at intermediate locations where distances exceed 500 feet. Appropriate turn arounds will be located on any street in excess of 150 feet.

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and fire hydrant(s) in place to allow for fire suppression requirements. Prior to the issuance of a building permit for construction using combustible materials (i.e. lumber, plywood, wood trusses, etc.), fire apparatus access roads and water supply requirements shall be provided in accordance with the International Fire Code as adopted by the City of Billings.

At a minimum, the following is required:

- An unobstructed gravel road or gravel road base must be within 150 feet of the furthest portion of a building under construction as measured along an approved route.
- The access roads are required to support fire apparatus vehicle loading (40 tons) during all weather conditions and shall be a minimum of 20 feet wide.

- An operational fire hydrant shall be located within 600 feet of the furthest portion of a residence under construction or within 400 feet of the furthest portion of a commercial building under construction as measured along the access roads to the site.
- The above requirements do not alter or effect the current minimum subdivision requirements for fire apparatus access and water supply.

## V. STORM DRAINAGE

- A. The storm drainage system for Trails West Subdivision, Sixth 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, and to an existing stormwater detention facility located on Lot 4, Block 13 Trails West Subdivision, 3rd Filing, with a discharge to the Birely Drain. The existing mechanical stormwater filtration manhole and stormwater storage volume were designed to include Trails West Subdivision, Sixth Filing. All drainage improvements shall comply with the provisions of the City of Billings *Stormwater Management Manual* and Chapter 28, BMCC.
- B. The stormwater detention area is located on a private lot (Lot 4, Block 13 of Trails West Subdivision, Third Filing) and will be maintained by the homeowners' association (HOA) established for this subdivision. The mechanical stormwater filtration manhole is existing, and associated improvements are also privately owned and maintained by the HOA. Trails West Subdivision, Sixth 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 Trails West Subdivision, Third O&M Manual.
- C. The elevation of residential dwellings 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/connection of/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 Developer/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**

Service to the subdivision will be provided from the existing water main stubs in Blackberry Way, Phantom Creek Avenue, and Stockman Avenue. Connecting these mains will provide a looped system for the subdivision. Appropriately sized mains and services in the internal streets will provide service to the individual lots within the subdivision. It is anticipated that each lot shall be provided with its own separate water service. All water construction improvements shall be installed in conformance with the design standards, specifications, and rules and regulations of the City of Billings and Montana Department of Environmental Quality and will be approved by the Public Works Department.

### **B. Sanitary Sewer**

Service to the subdivision will be provided from an existing sanitary sewer main stubs in Blackberry Way and Phantom Creek Avenue. City and

Subdivider agree that sanitary sewer service to the Sixth Filing of the subdivision will be provided through low-pressure sanitary sewer mains. Appropriately sized mains and services in the internal streets will provide service to the individual lots within the subdivision. It is anticipated that each lot shall be provided with its own separate low-pressure sanitary sewer service and each lot will need to use a Barnes Grinder Pump (or hydraulically comparable grinder pump). 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**

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

**VII. PARKS/OPEN SPACE**

Section 76-3-621 of the Montana Code Annotated covers the park dedication requirement. Additionally, Section 23-1002. B.1 of the City of Billings municipal code covers parkland dedication of major subdivisions. The Sixth Filing has a total of 30 lots, requiring a parkland dedication of 0.600 acres. The Subdivider and City agree that this parkland dedication will be met through a cash-in-lieu payment to the development of Cottonwood Park. City and Subdivider agree the cash payment in lieu of parkland dedication shall be made prior to final plat approval. A comparative market analysis, or other approved method to determine raw land value, shall be used to determine the parkland dedication amount in accordance with Section 23-1006, BMCC.

**VIII. SOILS/GEOTECHNICAL STUDY**

The Subdivider has performed a geotechnical analysis for this property (dated August 11, 2008).

Recommendations from the report include:

1. Approximately six inches of surface soils should be stripped and removed from the site or stockpiled for use in non-structural areas.

2. Site and lot grading can be accomplished using conventional earthmoving equipment.
3. Fill across lot grading should be placed and compacted to a minimum of 95 percent relative compaction in accordance with the ASTM D698 compaction test method.
4. If trenches are extended deeper than five feet or are allowed to dry out, the excavations may become unstable and should be evaluated to verify the stability prior to occupation by construction personnel.
5. Street subgrade outside of utility trenches should be placed at 95 percent of ASTM D698 and utility trench backfill should be placed at 97 percent of ASTM D698.
6. The street section for the property shall include three inches of asphaltic concrete over a 10-inch base course.
7. The potential for sulfate attack from existing soils appears to be negligible, and conventional Type II cement may be used according to Table 1904.3 of the 2000 International Building Code.
8. For home construction, over-excavation will likely be required. It is recommended that a more comprehensive geotechnical study be completed prior to installing foundations so lot-specific site conditions can be determined.

**IX. FINANCIAL GUARANTEES**

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a special improvement district or 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 special improvement district or private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

**X. LEGAL PROVISIONS APPLYING TO SUBDIVIDER**

- 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.















“OWNER”

**DEBORAH FAYE FRANK**

\_\_\_\_\_

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public for the State of Montana, personally appeared **Deborah Faye Frank**, known to me to be the persons who signed the foregoing instrument and who acknowledged to me that they executed the same. Witness my hand and seal the day and year herein above written.

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

“OWNER”

**RONALD E. FRANK**

\_\_\_\_\_

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, before me, the undersigned Notary Public for the State of Montana, personally appeared **Ronald E. Frank**, known to me to be the person who signed the foregoing instrument and who acknowledged to me that they executed the same. Witness my hand and seal the day and year herein above 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 (Wednesday Meeting)**

**8. f.**

**Meeting Date:** 11/13/2019

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**Information**

**INTRODUCTION**

September 3, 2019, the Planning Division received an application for major plat approval for the proposed Sundance Subdivision. The property is generally located on the northeast corner of the intersection of Central Avenue and 48th Street West. This subdivision would create 127 lots from a 78.809-acre parcel of land. The applicant is proposing to develop residential subdivision, the land is zoned Residential 15,000 (R-150). One lot, Lot 1 of Block 4, the lot on the east side of Sundance Ridge Road off Central Avenue is zoned Neighborhood Commercial (NC). The land is currently farmland.

At the October 8, 2019 Planning Board meeting, the applicant requested a 30-day delay. That delay request placed the plat on the November 13 Planning Board for the plat review.

**RECOMMENDATION**

Staff recommends that the Yellowstone County Planning Board recommend the Board of County Commissioners to conditionally approve the preliminary plat of Sundance Subdivision and adopt the Findings of Fact as presented in the staff report.

**PROPOSED CONDITIONS OF APPROVAL**

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

1. To protect public health and safety, prior to final plat approval, the applicant will receive approval from the MDEQ for the proposed water systems, septic systems and the proposed storm water management.
2. To ensure public health and safety, prior to final plat approval, the applicant will provide Home Owner Association documents that specifically outline what systems in the subdivision the owners are responsible for and how those fees will be collected.
3. To protect public health and safety and to reduce traffic conflicts, prior to final plat approval, the applicant will show a one foot no access strip on the lots along the western edge of the right of way of Light Stream Lane, with one exception. Lot 14, Block 7 shall remain as depicted on the submitted preliminary plat.
4. To protect public health and safety and keep public roads without obstructions, prior to final plat approval, the applicant will obtain written permission from County Public Works for any type of obstruction in the public right of way. This requirement will be included in the SIA under the heading III Transportation, A. Streets.
5. To protect public health and safety and provide for future road maintenance, prior to final plat approval, the applicant will create an RSID for the new public roads within the subdivision with the ability to

expand with each new phase.

6. To protect public health and safety and to comply with Yellowstone County Road regulations, prior to final plat approval, the applicant will provide copies of access permits for any access off 48th Street West or Central Avenue or any driveway accesses within the new subdivision.

7. To protect public health and safety and to provide accurate traffic information, prior to final plat approval, the applicant will submit an updated Traffic Impact Study for this subdivision to County Public Works for review and acceptance.

8. To protect public health and safety and provide continuous sidewalks throughout the proposed subdivision, prior to final plat approval, the applicant will add a sentence in section III Transportation A. Streets. It will clarify that the construction of the uncompleted sidewalks shall begin a minimum of one month prior to the two-year mark of the opening of each phase or the applicant will provide a bond that is in force for 2.5 years from the opening of each phase.

9. To protect public health and safety with proper fire suppression, prior to final plat approval, the applicant will submit construction drawings for the dry hydrant system to BUFSA for review and approval. Once installed the applicant will request BUFSA test the system to ensure it works correctly and get a final approval from BUFSA.

10. To ensure correct cash in lieu contribution for parkland, prior to final plat approval, the applicant will submit an estimate of land value following Section 10.6 in Yellowstone County Subdivision Regulations (YCSR) to County Parks Board for review and approval.

11. To minimize the effects on local services prior to final plat approval, the applicant will coordinate with the USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.

12. To ensure proper documentation for the proposed phasing of the subdivision, prior to final plat approval, the applicant will include the Exhibit and Declaration of Restriction on Transfer documents for future phases.

13. To minimize effects on the natural environment, prior to final plat approval a weed management plan and property inspection shall be completed by the County Weed Department.

14. Minor changes may be made in the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.

15. The final plat shall comply with all requirements of the County Subdivision Regulations, rules, regulations, policies, and resolutions of the Yellowstone County, including laws regarding moving houses onto or off the property, and the laws and Administrative Rules of the State of Montana.

## **VARIANCES REQUESTED**

No variances are requested for this subdivision.

## **PROCEDURAL HISTORY**

- Pre-application meeting February 14, 2019
- Preliminary plat application submitted to Planning Division September 3, 2019
- Departmental review meeting September 19, 2019
- Preliminary plat resubmitted September 26, 2019
- Planning Board plat review October 8, 2019
- Applicant requested a 30 day delay, that request was granted.
- Planning Board Plat review November 13, 2019
- Planning Board public hearing November 26, 2019
- Preliminary plat to Yellowstone County Board of County Commissioners December 17, 2019
- 60 working-day preliminary plat review period ends November 27, 2019, 30-day extension requests puts review period ending at December 27, 2019.

## **PLAT INFORMATION**

General location: Northeast corner of the intersection of Central Avenue and 48th Street West

Legal Description: S03, T01 S, R25 E, S2SWSW (LESS C/S 2221): S03, T01 S, R25 E, N2SWSW: S03, T01 S, R25 E, S2NWSW (LESS COS 3053): S03, T01 S, R25 E, N2NWSW

Owner/Subdivider: Regal Land Development

Engineer/Surveyor: Performance Engineering

Existing Zoning: Residential 15,000 (R150) and Neighborhood Commercial (NC)

Existing land use: Farmland

Proposed land use: Residential

Gross and Net area: 78.809 acres / 55.622 acres

Proposed number of lots: 127

Max. lot size: 3.81 acres

Min. lot size: 0.34 acres

Parkland requirements: The required parkland dedication is 5.076 acres; the applicant is proposing to dedicate 3.258 acres of parkland and provide the remaining amount as a cash in lieu contribution.

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## **Attachments**

Findings of Fact  
Proposed Plat  
SIA

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**PROPOSED YELLOWSTONE COUNTY PLANNING BOARD**  
**FINDINGS OF FACT**

The City-County Planning Division Staff has prepared the Findings of Fact for Sundance Subdivision. 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 Yellowstone County Subdivision Regulations (YCSR).

**A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health and safety (76-3-608 (3) (a) MCA) (Section 3.2 (H) (2) YCSR)**

**1. Effect on agriculture and agricultural water users' facilities**

The subject property is used for agricultural purposes. There are agricultural water users' facilities near the subject property. On the north of the property, there is the Snow Ditch. This ditch will be within a 36-foot wide easement. A drainage ditch runs along the western edge of the proposed subdivision. This ditch is within the 60-foot road right of way that is part of 48<sup>th</sup> Street West. In the SIA under the heading Irrigation, it states no water rights or shares are being transferred to the property owners within the proposed subdivision. There will be impacts from this subdivision on agriculture use; it will be taking 78.809 acres of ag land out of production.

**2. Effect on local services**

a. **Water and Septic** – The proposed subdivision is located within the City's Long Range Urban Planning Area on its Limits of Annexation Map as an area the City is considering for future annexation. The City's adopted Capital Improvement Plan (CIP) shows a trunk water main project planned for the 48th St West corridor starting in FY21 (June 30, 2020) and under construction the following year in 2021. However, the applicant is pursuing a county development and does not intend to request annexation, request an annexation map amendment for future annexation, or request extension of city utilities to the property. Given the long term expectation of this area being annexed into the City of Billings and the desire for coordinated urban development, the City Engineering Division has agreed, at least in concept, to install - at no expense to the property owner - an extension of water and sewer mains in Central Avenue from the current terminus at Twin Pines Townhomes approximately 1/2 mile east of the subject property. The West Billings Plan (2001) supports development of both county and city subdivisions but recommends that County subdivisions within areas that could be annexed (the Urban Expansion Area) should have a development plan that allows for efficient and effective conversion to city utilities and services. The West Billings Plan also shows a neighborhood services center at the intersection of Central and 48th St. West. Urban residential subdivisions with municipal utilities are 1/2-mile to the east and about 1 mile to the north and west. The established pattern in this area is for new urban growth in areas designated for annexation. This land is within the Long Range Urban Planning Area on the limits of annexation map. The owner has not applied to amend the map to include this property within the "red" petition area for annexation within the next

5 years. In 2001, and then again in 2006, the City and County engaged in area planning efforts for Billings West End. Both plans, the West Billings Neighborhood Plan and the Northwest Shiloh Area Plan, emphasize the need to differentiate between County low-density subdivisions, and to plan for subdivisions that may eventually be annexed to the city.

This subdivision will be served by a community water system from wells located within the proposed County Park. The proposed water system will need to be reviewed and installed in accordance with Section 4.9 of the Yellowstone County Subdivision Regulations and will need to have MDEQ approval. The applicant will provide a copy of the MDEQ approval for the water system at the time of final plat. **(Condition #1)** The maintenance and operation of the proposed system will be the responsibility of the Home Owners Association (HOA). The HOA will be filed with the final plat of the subdivision. **(Condition #2)**

It is proposed that each homeowner will have a septic system on their property within the proposed subdivision. The proposed septic systems will need to be reviewed and installed in accordance with Section 4.9 of the Yellowstone County Subdivision Regulations and will need to have MDEQ approval. The applicant will provide a copy of the MDEQ approval for the septic systems at the time of final plat. **(Condition #1)**

b. **Streets and roads** – There will be several new roads within the proposed subdivision. This subdivision is proposed to be a phased subdivision. Phase 1 will include the construction of Leading Light Lane, Sun Basin Road, Sunbeam Circle and Light Street Lane and a portion of Broadwater Avenue. It will also include the construction of the western ends of Liahona Lane, Sunburst Lane, Shining Light Lane and Broadwater Avenue. Broadwater Avenue is identified as a collector and is wider than the other roads within the subdivision. These roads will be public roads and will be built to Yellowstone County road standards.

County Public works has requested a one (1) foot no access strip be placed along the western lots lines along Light Stream Lane with one exception, Lot 14, Block 7. County Public Works is satisfied with the 1 foot no access as it is depicted on the plat submitted for preliminary approval. This is to limit traffic conflicts as much as possible with all the lots on the west side of this same road. **(Condition #3)** County Public Works is satisfied with the other 1 foot no access strips as depicted on the plat submitted for preliminary plat with the noted exception above.

No road within the subdivision is to have any sign or planter built within the right of way or any other item that would be an obstacle in the road without specific written permission from Yellowstone County Public Works. **(Condition #4)**

An RSID will have to be created for the new roads. **(Condition #5)** Before construction of the new road, the applicant will have to obtain an access permit from the County and any future accesses off the new internal roads will be required to obtain an access permit before construction of a residence. This requirement is mentioned in the SIA under the heading Conditions That Run with the Land, I. At final plat, the applicant will include a

copy of all access permits obtained from the county for this subdivision and any homes built before final plat. **(Condition #6)**

A TIS was submitted with the originally submitted subdivision. Since there have been changes to the proposed subdivision the TIS is no longer addressing the layout of the subdivision or the number of lots within the subdivision. A new TIS will be submitted and reviewed and accepted by County Public Works prior to final plat approval. **(Condition #7)**

Sidewalks will be built to meet the requirements of the subdivision regulations. The applicant, in the SIA, states that the developer will install sidewalks along the frontages of the parkland areas and corner intersection handicap ramps with aprons. Individual lot owners will be required to build sidewalk with construction of the homes. This requirement is noted in the SIA under Conditions that run with the Land A. The developer will provide a bond for a 2-year period for the construction of the sidewalks in each phase. One month prior to the expiration of the bond, the applicant will either begin installation of the remaining sections of sidewalk within the open phase or the county will call the bond and install remaining sections of sidewalk within the open phase. **(Condition #8)**

c. **Fire and Police services** – The property is within the Billings Urban Service Area (BUFSA). The developer will be installing a 30,000-gallon dry hydrant system with Phase 1 construction located on Lot 22 and a small portion of Lot 23, Block 1 along the west side of Light Stream Lane. The tank shall be built to BUFSA standards. BUFSA will review and approve drawings of the tank before installation. It will be tested to ensure it is in working order before final plat. **(Condition #9)**

The Yellowstone County Sheriff's Department will provide law enforcement services to this subdivision.

d. **Solid Waste disposal** – The Billings Landfill has capacity for solid waste disposal. Solid waste will be collected and disposed of by a private garbage collection company. Each lot owner will be responsible for arranging for collection.

e. **Storm water drainage** – Storm water drainage shall satisfy Yellowstone County Storm Water Management requirements and DEQ. A storm water plan will have to be reviewed and approved by the DEQ to ensure the proposed stormwater management is feasible and will work satisfactorily. **(Condition #1)**

f. **School facilities** – The proposed subdivision is located within School District #2 boundaries. School District #2 will provide educational services for Elementary, Middle and High School students. Meadowlark for elementary, Ben Steele for middle and West for high school. School District #2 responded to the request for information indicating all three of the mentioned schools are over maximum capacity.

g. **Parks and recreation** – This proposed subdivision is required to provide parkland. The applicant in the SIA under the heading VIII. Parks/Open Space has outlined the

requirements of parkland. The total required parkland dedication is 5.076 acres. The applicant is proposing to dedicate 3.258 acres. The applicant is proposing to do a cash in lieu contribution for the difference, which is 1.818 acres. The applicant will follow the requirements of Section 10.6 YCSR. The estimated contribution will be submitted to the County Park Board for review and approval. **(Condition #10)** Within the parkland dedication, a community well for the subdivision will be installed, this proposal has been reviewed by the County Park Board and they raised no concerns with the wells in the park.

**h. Postal Service** – The applicant will be required to coordinate the location of the delivery boxes and provide enough space for the delivery vehicle to pull out of traffic for safety. **(Condition #11)**

**i. Historic features** – No known historic or cultural assets exist on the site.

**j. Phasing of Development** - The applicant is proposing to develop this subdivision in phases. Specifics of the proposed phasing and what improvements will be installed with each phase is identified in the SIA under the heading X. Phasing of Improvements.

Montana subdivision regulations require developers proposing to do phasing in the subdivision to set a date when they plan to proceed with each phase. This developer has provided proposed dates for phase 2 and 3 to begin by June 1, 2030.

At or before this date the applicant is required to go through a public hearing to open the phases. At that public hearing, there is the possibility of additional conditions of approval being added to the original conditions of approval. Should the applicant not meet these dates they must propose new dates, at a public hearing, for the phases to begin.

Each phase will need to have a Certificate and Release for the phases to be submitted with the final plat, these documents need to be included at final plat. **(Condition #12)**

**k. Preliminary Plat Restrictions** – Subdivision regulations outline the option of building in a preliminarily approved subdivision. State law 76-3-303 MCA and in Yellowstone County Subdivision Regulations (YCSR) Section 1.7, the procedure allowing construction before final plat is outlined. The applicant is required to follow those regulations if there is an intent to build homes before final plat. The requirement to follow all legal requirements of subdivision is noted in the SIA under XIII, Legal Provisions, F.

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

The development will use noxious weed control measures to prevent the spread of noxious weeds to adjacent developed or agricultural land. Prior to final plat approval, the applicant will apply for and obtain a weed management plan with the County Weed Department. That plan will be submitted with final plat approval. **(Condition #13)**

There are no apparent or known natural hazards on the property.

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

There are no known endangered or threatened species on the property. A paragraph in the 'Conditions that Run with the Land' section of the SIA warns future lot owners of the likely presence of wildlife in the area and their potential to damage residential landscaping.

#### **5. Effects on public health and safety**

Plans and designs for the water and septic system will be reviewed and approved by MDEQ prior to final plat approval to ensure public health and safety.

Fire and emergency services are provided for this proposed subdivision from BUFSA and the Yellowstone County Sheriff's department.

#### **B. Was an environmental assessment required? If yes, what, if any, significant adverse impacts were identified? (76-3-603 MCA) (Chapter 9, YCSR)**

An environmental assessment was not required for this subdivision pursuant Section 9.2 C of the County Subdivision Regulations.

#### **C. Does the subdivision conform to the Yellowstone County 2008 Growth Policy, the 2018 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan Update? [BMCC 23-302.H.4.]**

##### **1. Yellowstone County - 2008 Growth Policy**

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

- Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns. (p. 6)

*The subdivision is consistent with the type of residential development in the surrounding area.*

- Goal: New developments that are sensitive and compatible with the character of adjacent County town sites. (p. 6)

*There is residential development directly adjacent to the subject property.*

- Goal: Controlled weed populations. (p. 9)

*The developer shall complete a weed management plan, and shall provide a re-vegetation plan for any ground disturbed by development.*

##### **2. 2018 Urban Area Transportation Plan**

The subject property maintains the road the study area of the Transportation Plan. As proposed, there are only neighborhood streets associated with this subdivision.

##### **3. Billings Area Bikeway and Trail Master Plan Update (BBTMP)**

The subject property is within the study area of the Transportation Plan. The proposed street layout is conforming to that plan. Broadwater Avenue is identified as a collector and the subdivision will be providing the required 80-foot right of way for the collector

road width.

**D. Does the subdivision conform to the Montana Subdivision and Platting Act (MSPA) and to local subdivision regulations? [MCA 76-3-608 (3) (b) and Section 3.2 (3) (a) YCSR]**

The proposed subdivision meets the requirements of the MSPA and the YCSR. The subdivider and the local government have complied with the subdivision review and approval procedures that are set forth by local and state subdivision regulations.

**E. Does the subdivision conform to sanitary requirements? [Section 4.8 (C) and 4.9 (C), YCSR]**

The subdivider must receive approval from the MDEQ prior to final approval. New parcels are subject to DEQ review.

**F. Does the proposed subdivision meet any applicable Zoning Requirements? [Section 3.2 (H) (3) (e), YCSR]**

The proposed subdivision is within Residential 15,000 zoning with one lot zoned Neighborhood Commercial.

**G. Does the subdivision provide for necessary planned utilities? [MCA 76-3-608 (3) (c) and Section 3.2 (H) (3) (b), YCSR]**

Private utilities are to be installed in the public road right-of-way by Yellowstone Valley Electric Cooperative and MDU. Should the private utility companies require easements the applicant will be required to coordinate the easements needed with the private utility companies.

**H. Does the proposed subdivision provide for Legal and Physical Access to all lots? [MCA 76-3-608 (3) (d) and Section 3.2 (H) (3) (c) (d), YCSR]**

Legal and physical access will be provided for the new proposed lots from Central Avenue and 48<sup>th</sup> Street West for all lots. The internal streets will provide access to individual lots.

**CONCLUSIONS OF FINDINGS OF FACT**

- This subdivision does not create adverse impacts that warrant denial of the subdivision.
- Impacts to agriculture, agriculture water user facilities, local services, public health and safety, the natural environment, and wildlife should be minimal, and can be mitigated by reasonable conditions of final plat approval.
- The subdivision conforms to some of the goals of the Growth Policy.
- The applicant has complied with the MSPA and YCSR processes and the subdivision conforms to the law requirements.

**RECOMMENDATION**

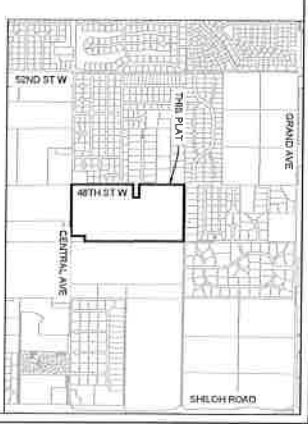
Staff recommends that the Planning Board recommend conditional approval of the preliminary plat of Sundance Subdivision, to the Board of County Commissioners, and adopt the Findings of Fact as presented in the staff report.

PRELIMINARY PLAT OF  
**SUNDANCE SUBDIVISION**  
 BEING LOCATED IN THE W $\frac{1}{2}$  OF THE SW $\frac{1}{4}$  OF SECTION 01 SOUTH,  
 RANGE 25 EAST, P.M.M., YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: REGAL LAND DEVELOPMENT, INC



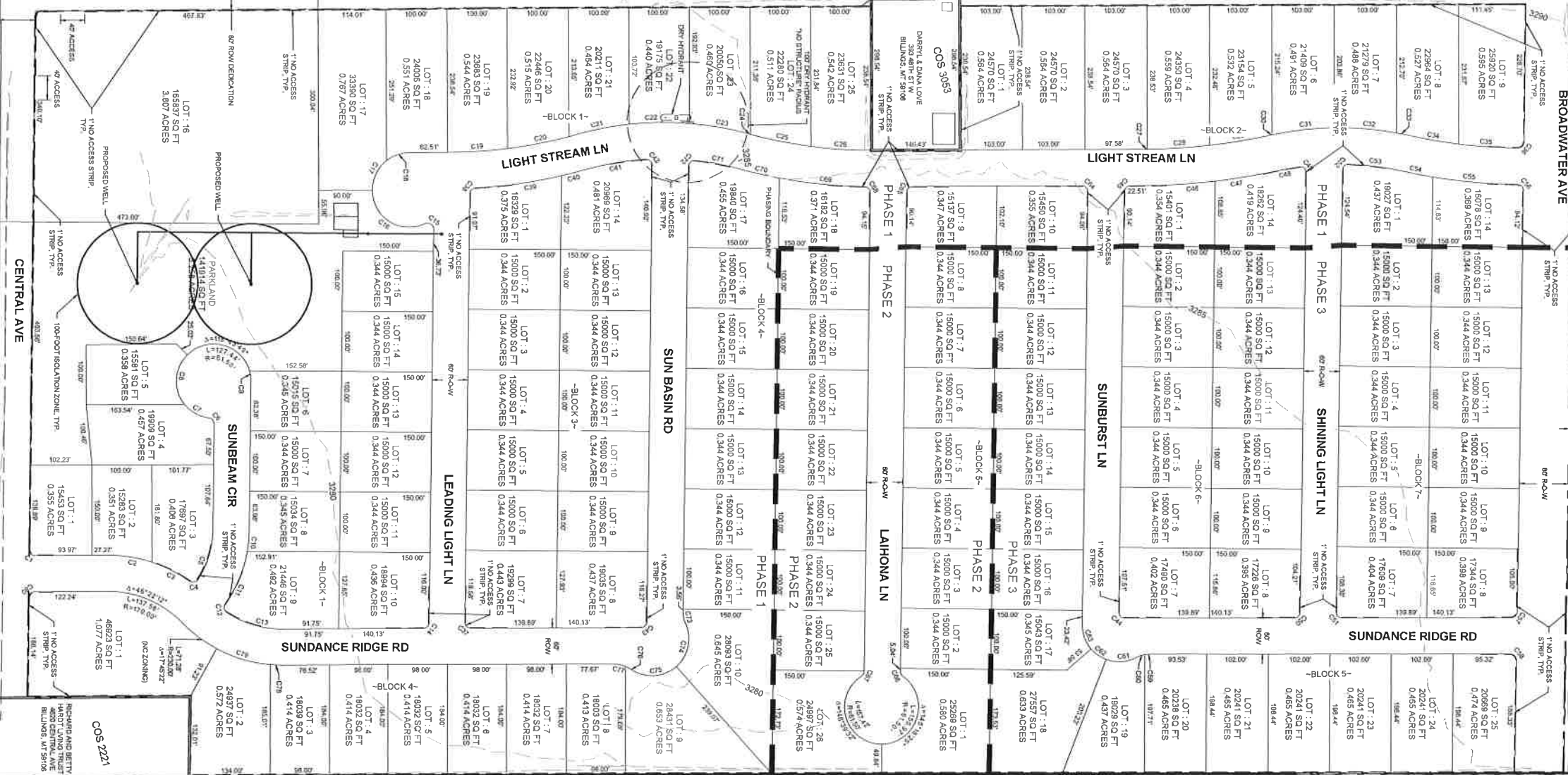
PREPARED BY: PERFORMANCE ENGINEERING, LLC



VICINITY MAP

SITE DATA

EXISTING LAND USE: AGRICULTURAL  
 EXISTING ZONING: A-1  
 PROPOSED LAND USE: RESIDENTIAL  
 PROPOSED ZONING: R-15.000  
 NEIGHBORHOOD COMMERCIAL  
 TOTAL LOTS IN SUBDIVISION: 127  
 GROSS AREA: 78,809 AC  
 RIGHT-OF-WAY: 18,874 AC  
 LINEAL FEET OF STREETS: 9,478 LF  
 NET AREA OF LOTS: 56,822 AC  
 PARKLAND: 3,258 AC  
 REC. PARKLAND: 5,292 AC



COS 2001

DONNA WARR & DONNA LYNN BARBER  
 4811 CENTRAL AVE  
 BILLINGS, MT 59106

Curve Table				Curve Table			
Curve #	Length	Radius	Delta	Curve #	Length	Radius	Delta
C1	15.50	10.00	00°42'50"	C41	101.89	470.00	01°22'21"
C2	74.00	230.00	01°32'59"	C42	16.42	10.50	094°03'20"
C3	60.80	230.00	01°27'23"	C43	15.59	10.50	089°11'53"
C4	18.34	10.00	00°30'09"	C44	15.83	10.50	00°40'33"
C5	87.70	156.00	03°14'00"	C45	15.57	10.50	089°11'53"
C6	14.52	10.00	08°10'21"	C46	117.86	1030.00	00°33'46"
C7	40.56	61.50	04°34'43"	C47	104.04	1030.00	00°47'15"
C8	50.22	61.50	08°43'25"	C48	36.63	470.00	00°29'28"
C9	17.87	61.50	01°53'44"	C49	17.22	10.50	094°30'47"
C10	35.18	218.00	00°30'56"	C50	15.59	10.00	089°18'27"
C11	95.45	218.00	02°50'12"	C51	15.83	10.50	089°10'33"
C12	16.03	10.00	09°15'01"	C52	15.04	10.00	091°20'05"
C13	88.70	170.00	03°17'50"	C53	88.26	470.00	01°04'24"
C14	12.59	10.00	08°19'27"	C54	53.16	507.00	00°21'25"
C15	29.04	10.00	11°42'08"	C55	140.51	607.00	008°29'34"
C16	122.36	61.50	11°42'08"	C56	15.73	10.50	00°08'32"
C17	58.29	61.50	05°26'19"	C57	15.59	10.50	089°18'27"
C18	40.31	61.50	03°33'23"	C58	15.83	10.50	09°40'33"
C19	91.96	750.00	00°10'04"	C59	8.51	50.00	00°45'20"
C20	101.92	750.00	00°74'23"	C60	15.24	50.00	01°27'39"
C21	90.71	500.00	00°54'23"	C61	51.46	61.50	04°55'47"
C22	100.15	530.00	01°04'07"	C62	30.31	61.50	008°14'02"
C23	68.12	530.00	01°04'25"	C63	44.77	61.50	041°42'50"
C24	2.73	750.00	00°12'30"	C64	15.85	10.00	089°48'07"
C25	102.15	750.00	00°74'41"	C65	15.57	10.50	089°11'53"
C26	100.30	750.00	00°39'44"	C66	8.77	10.00	055°38'58"
C27	5.42	970.00	00°19'12"	C67	9.77	10.50	055°38'58"
C28	108.23	970.00	00°59'51"	C68	15.69	10.50	089°55'31"
C29	100.46	970.00	00°56'01"	C69	140.74	810.00	00°52'18"
C30	4.02	530.00	00°28'09"	C70	68.46	810.00	004°50'34"
C31	100.79	530.00	01°11'31"	C71	73.43	470.00	008°58'59"
C32	100.54	530.00	01°11'37"	C72	16.74	10.00	096°55'22"
C33	22.16	530.00	00°23'43"	C73	21.36	50.00	024°21'04"
C34	62.62	847.00	00°53'19"	C74	77.56	61.50	07°15'08"
C35	58.40	847.00	00°39'29"	C75	83.00	61.50	07°28'53"
C36	15.63	10.00	08°02'15"	C76	20.54	50.00	023°59'42"
C37	15.83	10.00	08°04'03"	C77	20.54	50.00	023°59'42"
C38	15.09	10.00	08°52'07"	C78	21.52	230.00	005°21'30"
C39	142.30	810.00	01°04'18"	C79	63.35	230.00	023°51'14"
C40	40.63	810.00	02°52'26"	C80	15.56	10.00	089°17'10"

**SUBDIVISION IMPROVEMENTS AGREEMENT**  
**Sundance Subdivision**

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**(Yellowstone County)**

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P Z-19-00120

# SUBDIVISION IMPROVEMENTS AGREEMENT

## Sundance Subdivision

**This agreement** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between *REGAL LAND DEVELOPMENT, INC*, whose address for the purpose of this agreement is **P.O. Box 80445, Billings, MT 59108**, hereinafter referred to as "Subdivider," and **YELLOWSTONE COUNTY**, Montana, hereinafter referred to as "County."

### WITNESSETH:

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

**WHEREAS**, at a regular meeting conducted on \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Board of County Commissioners (BOCC) conditionally approved a preliminary plat of *Sundance Subdivision*; and

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

**WHEREAS**, the provisions of this agreement shall be effective and applicable to *Sundance Subdivision* 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 Yellowstone County Subdivision Regulations, the rules, regulations, policies, and resolutions of the County, and the laws and administrative rules of the State of Montana.

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

### **I. VARIANCES**

Subdivider has requested, and the County hereby grants, the following variances by the BOCC from the strict interpretation of the County's Subdivision Regulations.

1. No variances requested.

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

- A.** Lot owners will be required to construct segments of the required sidewalk that fronts their property at the time of lot development.
- B.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.
- C.** Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.
- D.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- E.** There is attached hereto a Waiver waiving the right to protest the creation of the Rural Special Improvement District (RSID) or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.
- F.** Culverts and associated drainage swales shall not be filled in or altered by the Subdivider or subsequent lot owners.
- G.** When required by road improvements, all fences and irrigation ditches in the public right-of-way adjacent to this subdivision shall be removed or relocated outside of the public right-of-way and any relocation outside of the public right-of-way shall be subject to securing and recording easements.
- H.** Future maintenance of all public (or common) improvements shall be done through one (1) or more RSID(s) created as part of the SIA for this subdivision.

- I. Lot owners or their agent will obtain an Access Permit from County Public Works prior to any construction on any lot within the subdivision. The application will include a site plan showing the desired location of the access and show that it meets the requirements outlined by the DEQ storm water requirements for the subdivision. Failure to do so will result in the lot owner or their agent removing what has been installed and locating the access in an approved location at the lot owner's expense.
- J. It is the obligation of the property owners within this subdivision to pay for the maintenance of the community water system whether it is handled by a third party contractor or through the HOA.

### III. TRANSPORTATION

#### A. Streets

- Broadwater Avenue is a public roadway and is classified as a collector road and shall have minimum right-of-way width of 80 feet.
- Sundance Ridge Road, Sunbeam Circle, Light Stream Lane, Laihona Lane, Sunburst Lane, Shining Light Lane, Leading Light Lane, Sun Basin Road are public roadways and shall have minimum right-of-way widths of 60 feet.
- Broadwater Avenue shall have a minimum pavement width of 32 feet with 2-foot gravel shoulders. Street shall include pavement markings for 4-foot bike lanes adjacent to each 12-foot travel lane.
- All other internal roads shall have a minimum pavement width of 24 feet with 2-foot gravel shoulders.
- Drainage ditches shall be constructed adjacent to the roadways in accordance to Yellowstone County Public Works standards and DEQ requirements.
- Sundance Ridge Road, Sunbeam Circle, Light Stream Lane, and portions of Broadwater Avenue will be constructed as part of Phase I to provide a second point of ingress/egress. Roads shall be built to the County Public Works standards for paved roads.

#### B. Sidewalks

- 5-foot minimum width sidewalks are required along all right-of-way frontages.
- The Subdivider shall be responsible for the installation of sidewalks along the frontages of the parkland areas and corner intersection handicap ramps and aprons.

Individual lot owners will be responsible for the construction of the sidewalks adjacent to their lot at the time of lot construction. Sidewalks shall be 5-foot boulevard walk style and constructed along the property line or as indicated on

the plat. Developer will bond for all sidewalks in each phase at the time of opening. Should sidewalks not be built within 2 years of the opening of each phase, the developer will complete them or the county will complete them using the bond.

**D. Traffic Control Devices**

- Subdivider shall furnish the necessary traffic control devices within and adjacent to the subdivision as required by the County. Traffic control devices shall comply with the Manual on Uniform Traffic Control Devices (MUTCD) and County standards.
- Subdivider shall furnish and install street name signs for streets within the subdivision, or located immediately adjacent thereto, in accordance with the specifications of the County Publics Works and Fire Departments.

**E. Access**

- Access to Sundance Ridge Road will be provided off of Central Avenue
- Access to Broadwater Avenue will be provided off of 48<sup>th</sup> Street West
- Lot 16, Block 1 shall take access off of 48<sup>th</sup> Street West and Central Avenue via 40-foot accesses at the locations shown on the plat.
- A 1-foot no access strip shall run along the lot frontages for 48<sup>th</sup> Street West and Central Avenue with openings at the locations shown on the plat.

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

The subdivision is located within the planning area of the Billings Area Bikeway and Trail Master Plan. The plan identifies a long range bike lane along Broadwater Avenue, Central Avenue, and a separate bike path along 48<sup>th</sup> Street West.

**IV. EMERGENCY SERVICE**

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply in place to allow for fire suppression requirements. Prior to the 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 Billings Urban Fire Service Area (BUFSA).

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 twenty (20) feet wide.
- The subdivision shall install a 30,000-gallon water storage tank with dry hydrant according to the specification of the BUFSA. No structure is to be constructed within 100 feet of the Fire Department Connection (FDC)

point at the dry hydrant. The system design shall be reviewed and approved by the BUFSA prior to construction of the system. Tank and dry hydrant are to be inspected, acceptance tested, and approved by the BUFSA prior to any building construction occurring on the lots served by the system. The tank and dry hydrant require the formation of a new RSID for maintenance thereof. The new RSID will consist of all proposed lots within the Sundance Subdivision.

## **V. STORM DRAINAGE**

All drainage improvements shall comply with the provisions of the Section 4.7, Yellowstone County Subdivision Regulations, and a stormwater management plan shall be submitted to and approved by the Montana Department of Environmental Quality (MDEQ), or its designee.

## **VI. UTILITIES**

The design/installation of sanitary systems, wells and water distribution systems shall be in accordance with design standards, specifications, rules, regulations of and as approved by the Yellowstone City-County Health Department and the Montana Department of Environmental Quality.

### **A. Water**

In accordance with Section 4.9 Yellowstone County Subdivision Regulations, all proposed water systems must obtain approval by the MDEQ, or its designee.

- The Subdivision shall be supplied by community wells. Water will be conveyed to the individual lots utilizing a water distribution system.
- The community water supply system shall conform to the standards set forth by the Yellowstone City-County Health Department and MDEQ.
- The operation and maintenance of the community water system shall be contracted by the Subdivision Home Owners Association(s) or Subdivider.
- A MDEQ approval letter will be submitted with the final plat.

### **B. Sanitary Sewer**

In accordance with Section 4.8 Yellowstone County Subdivision Regulations, all sanitary sewer systems must obtain approval by the MDEQ, or its designee.

- The Subdivision will utilize individual sanitary systems composed of septic tanks and drainfields for management and disposal of sanitary waste.
- The sanitary systems shall conform to the standards set forth by the Yellowstone City-County Health Department and MDEQ.
- Maintenance of individual septic systems shall be contracted through the Subdivision's Home Owners Association(s) or Subdivider.
- A MDEQ approval letter will be submitted with the final plat.

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

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

### **VII. PARKS/OPEN SPACE**

Section 76-3-621 of the Montana Subdivision and Platting Act covers the park dedication requirement. Per 10.2 (A) 1 of the Yellowstone County Subdivision Regulations:

- Lots 0.50 acres or less, 11% dedication > 39.746 acres x 11% = 4.372 acres
- Lots 0.50 – 1.0 acres, 7.5% dedication > 10.992 acres x 7.5% = 0.824 acres
- Lots 3.0 acres or greater, 2.5% dedication > 3.807 acres x 2.5% = 0.095 acres

Required parkland dedication is 5.292 acres, Subdivider is proposing to dedicate 3.258 acres of parkland area to the public. The remainder of the parkland requirement will be fulfilled by way of cash-in-lieu. Parkland improvements will include the construction of underground irrigation systems, irrigation wells, lawn, and installation of the internal trail system. A Park Maintenance District will be created for the maintenance of the parkland area.

### **VIII. IRRIGATION**

- The property is located within the boundary of the Snow Ditch Irrigation District. No water shares will be transferred to the individual lot owners.
- Access to the Snow Ditch for maintenance and operation shall remain. Any modification to the Snow Ditch shall be agreed upon by the irrigation district.

### **IX. SOILS/GEOTECHNICAL STUDY**

- A geotechnical study is not required by the Yellowstone County Subdivision Regulations as part of this plat. Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitation for proposed construction on the lots, which may require a geotechnical survey prior to construction.

### **X. PHASING OF IMPROVEMENTS**

Improvements for the subdivision are to be developed in three (3) phases. The phases are defined as follows:

- A. Phase I
  - Block 1: Lots 1-25 and 26 (Parkland)
  - Block 2: Lots 1-9
  - Block 3: Lots 1-14
  - Block 4: Lots 1-18
  - Block 5: Lots 9 and 10
  - Block 6: Lots 1 and 14
  - Block 7: Lots 1 and 14
  - Completed Roads: Leading Light Lane, Sun Basin Road, Sunbeam Circle, and Light Stream Lane
  - Partial Roads: Sundance Ridge Road from Central Avenue to Sun Basin Road, Laihona Lane from Light Stream Lane to the east boundary of Lot 18, Block 4. Sunburst Lane from Light Stream Lane to the east boundary of Lot 10, Block 5. Shining Light Lane from Light Stream Lane to the east boundary of Lot 14, Block 6. Broadwater Avenue from Light Stream Lane to 48<sup>th</sup> Street West.
  
- B. Phase II – Opened by June 1, 2030
  - Block 4: Lots 19-26
  - Block 5: Lot 1-8
  - Construct the remaining portions of Laihona Lane to the intersection with Light Stream Lane.
  
- C. Phase III – Opened by June 1, 2030
  - Block 5: Lots 11-25
  - Block 6: Lots 2-13
  - Block 7: Lots 2-13
  - Construct the remaining portions of Sundance Ridge Road, Shining Light Lane and Broadwater Avenue.

Utilities for each lot will be constructed at the time of phase development.

**XI. FINANCIAL GUARANTEES**

Except as otherwise provided, Subdivider shall install and construct said required improvements by private contracts secured by bonds, irrevocable letters of credit, sequential development, or any other method that may be acceptable to the Planning Board and Board of County Commissioners. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said special improvement district or private contract, and the improvements shall be designed and constructed under the supervision of a professional engineer competent in civil engineering, licensed in the State of Montana. Upon completion of the improvements, the consulting Engineer shall file with the Public Works Department, a statement certifying that the improvements have been completed in accordance with approved, seal stamped,

record drawings, along with all required post-construction certification per Section 4.6.C of the Yellowstone County Subdivision Regulations.

(In the event that all required improvements are not installed and constructed prior to final plat approval, the Subdivider shall provide a monetary security guarantee in the amount of 125% of the estimated total cost by one (1) of the methods listed in Chapter 5 of the Yellowstone County Subdivision Regulations. If using a security, describe the method in this section)

## **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 County Public Works Department.
- 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.
- G.** Subdivider agrees to create any required (or expansion of existing) RSID(s) for future maintenance of all public (or common) constructed improvements prior to final plat approval.

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

“SUBDIVIDER”

*Regal Land Development, Inc*

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

Title: \_\_\_\_\_

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 *Regal Land 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 Yellowstone County, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

“COUNTY”  
COUNTY OF YELLOWSTONE  
MONTANA

County of Yellowstone  
Board of County Commissioners

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

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

Attest: \_\_\_\_\_  
County Clerk and Recorder

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 Board of County Commissioners and the County Clerk and Recorder, respectively, of Yellowstone County, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of Yellowstone County, 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 Rural Special Improvement Districts (RSID's), for a period of no more than twenty years from the recording of this waiver, which Yellowstone County 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 is more particularly described as follows:

*Sundance Subdivision*

Signed and dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

“SUBDIVIDER”

*Regal Land Development, Inc*

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

Title: \_\_\_\_\_

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 *Regal Land Development, Inc*, who executed the foregoing instrument 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: \_\_\_\_\_