



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



AGENDA

APRIL 27, 2021 MEETING TIME: 6:00 p.m.
1st Floor Large Conference Room, Miller Building
2825 3rd Avenue North, Billings, Montana 59101

NOTICE TO THE PUBLIC

****ATTENTION****

Due to the COVID-19 health concerns, this meeting will be held in a virtual videoconferencing environment. The Yellowstone County Board of Planning members will attend the meeting via a remote location, using a virtual meeting method. The regular meeting rooms will be closed during the meeting. In order to honor the Right of Participation and the Right to Know in Article II, sections 8 and 9, of the Montana Constitution, the City/County Planning Division is making every effort to meet the requirements of the open meeting laws.

Citizens are invited to:

- Review the Agenda Packet on the City's website at: <https://ci.billings.mt.us/117/Agendas-Minutes>
- View the meeting live online at Facebook:
<https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260>

Public comment will be taken only during the Public Comment periods as indicated on the agenda and during the Public Hearings, if any are scheduled, under the Regular agenda. Comments may be sent to Board via email before 10:00 AM on the meeting date. All emails received prior to this time will be read into the record for the public hearing. Comments may be submitted by:

- Mail: City/County Planning Division, 2825 3rd Ave N 4th Floor, Billings, MT 59101
 - Email: deinest@billingsmt.gov
- Call in during the Public Comment periods as indicated on the agenda:
 - Citizens may call in during specific Public Comment periods at **406.237.6165**.
All callers will be placed in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be limited to 3 minutes of testimony as is customary. Future delivery methods may be explored as best practice is learned.

Please direct questions to Tammy Deines, Planning Clerk at deinest@billingsmt.gov or 406247-8610. Thank you!

1. **CALL TO ORDER - Planning Board President:** Welcome and Introduction of new and returning Board Members.
2. **APPROVAL OF AGENDA*** - including any additions or deletions to agenda. The agenda for a regular meeting will be closed at 5:00 p.m. three (3) working days prior to the date of the meeting.
3. **MOTION. APPROVAL OF MEETING MINUTES:** APRIL 13, 2021
4. **PUBLIC COMMENT PERIOD** – As required (3 minute maximum per person). *Any member of the public may be heard on any subject that is not on the agenda. The Planning Board will not take any action on these items at this time, but could choose to add an item to the next meeting's agenda for discussion.*
 - 4a) **Comments on items not on agenda and requests to add items to future agendas**
 - 4b) **Comments on items on the non-public hearing agenda items**
5. **DISCLOSURE OF CONFLICT OF INTEREST:**

6. **DISCLOSURE OF EX PARTE COMMUNICATION:** Ex Parte Communication Binder is available at the Sign-In and Agenda station.
7. **OLD BUSINESS** (Agenda items that were not discussed or not completed in a previous meeting or items requiring action).
 - a. **PUBLIC HEARINGS/PUBLIC HEARING PARTICIPATION GUIDELINES.** The County Planning Board welcomes public input on matters brought before the Board. To ensure a fair and effective public comment process, we ask that you consider the following guidelines when presenting your comments: Address the Planning Board directly. You must state your name and address before commenting. This is an opportunity to explain how you will be affected by the decision and why that is an important consequence. By state law, the Planning Board must consider only certain criteria when reviewing subdivisions (76-3-608(a), MCA). Please see the attached guidelines for the criterion. Thank you for participating!
 1. Public Hearing. Motion/Recommendation to BOCC. Yellowstone Landing Commercial Park. City Major Subdivision. Aviation Properties, LLC. Taylor Kasperick, agent. Dave Green, Planner II, presenting.
 2. Public Hearing. Motion/Recommendation to City Council. Lake Hills 39th Filing. City Major Subdivision. Greg Reid, WWC Engineering, agent. Dave Green, Planner II, presenting.
 3. Public Hearing. Motion/Recommendation. Bitterroot Heights Subdivision 3rd Filing. City Major Subdivision. Rob Neihart, Performance Engineering, agent. Dave Green, Planner II, presenting.
8. **NEW BUSINESS:** There is no New Business.
9. **OTHER BUSINESS:**
 - a. (Standing Item) Long Range Strategic Issues and an overview of future City and County issues and projects.
10. **ADJOURNMENT**

FUTURE AGENDA ITEMS FOR TUESDAY, MAY 11, 2021

- a. Plat Review. Discussion. Stone Creek Subdivision. County Major Subdivision. Dan Wells, Regal Land Development, developer. Craig Dalton, PEC Engineering, Agent. Dave Green, Planner II, presenting.

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1st Floor Large Conference Room, Miller Building
2825 3rd Avenue North, Billings, Montana 59101



Public Hearing Participation Guidelines

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

1. Be informed of the process and the requirements of the Board. If you are commenting about a subdivision, please limit your comments to the review criteria.
By state law, the Planning Board must consider only certain criteria when reviewing subdivisions (76-3-608(a), MCA). These criteria include:
 - Effect on agriculture and agricultural water user facilities
 - Effect on local services
 - Effect on the natural environment
 - Effect on wildlife and wildlife habitat
 - Effect on public health and safety
2. Provide specific information about why you are concerned about the pending application, how the decision will impact the review criteria listed above, and provide suggestions on how to minimize or eliminate the impact.
3. Respect the right of others to participate. Wait until the previous speaker has completed their comments before making your own comments. Do not talk over the person commenting or with other people in attendance.
4. The public hearing is not an opportunity to question or accuse the applicant or their agent. If you have questions of the Board, the applicant or the agent, ask the question directly to the Board during the public hearing portion of the meeting. The Board will respond or request the applicant or agent to respond after the public comment portion of the hearing is closed.
5. After the public comment portion of the hearing is closed, no further comments are allowed unless you are addressed directly by a Board member.
6. You should expect the Board to make a balanced recommendation in accordance with its statutory responsibilities. The Board's ability to make reasonable and thoughtful recommendations is dependent on a fair consideration of everyone's interests.

Thank you for participating.

Planning Board Meeting 2 (4th Tuesday)

Meeting Date: 04/27/2021

Information

Subject

MOTION. APPROVAL OF MEETING MINUTES: APRIL 13, 2021

Attachments

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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	01/12/2021	01/26/2021	02/09/2021	02/23/2021	03/09/2021	03/23/2021	04/13/2021	04/28/2021	05/12/2021	** 05/27/2021	06/09/2021	06/23/2021	07/14/2021	07/28/2021	08/11/2021	08/25/2021	09/09/2021	09/22/2021	**10/14/2021	10/27/2021	11/10/2021	11/24/2021	12/08/2021
Teresa Larsen	Mayor/Billings Ward I	1	1	1	1	1	1	1																
Heidi Jensen-Christison	Mayor/Billings Ward II	1	1	E	1	1	E	1																
Dennie Stephenson	Mayor/Billings Ward III	1	1	1	1	1	1	1																
Darell Tunnicliff	Mayor/Billings Ward IV	1	1	1	1	1	1	1																
Jon Thompson	Mayor/Billings Ward V	1	E	1	1	E	1	1																
Troy Boucher	YC District 1	1	1	1	E	1	E	1																
Dennis Cook	YC District 2	1	1	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																
Vacant	YC District 6	-	-	-	-	-	-	-																
Jarett Hillius	YC District 7	1	1	1	E	1	1	E																
Vacant	Y County Cons. District	-	-	-	-	-	-	-																
Scott Reiter	Ex-Officio SD2	-	-	-	1	E		E																

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April 13, 2021

Virtual Video Conference Format

DRAFT- To be approved by a motion on April 27, 2021

PUBLIC HEARINGS/PUBLIC HEARING PARTICIPATION GUIDELINES. Due to the COVID-19 health concerns, the format of the Yellowstone County Board of Planning meeting will be held in a virtual videoconferencing environment. The normal hearing room on the 1st Floor at 2825 3rd Ave North (Miller Building) will be closed during the meeting and no one will be attending this hearing in person. Public comment will be taken only during the Public Comment periods as indicated on the agenda, and during the Public Hearings under the Regular agenda. Comments may be sent to Board via email before 1:00 PM on Tuesday, April 13, 2021. All emails received prior to this time will be read into the record for the public.

The Public may call in during specific Public Comment periods at (406) 237-6165. All callers will be in a queued system and are asked to remain on hold and be patient. Calls will be taken in the order in which they are received. Callers will be restricted to 3 minutes of testimony as is customary. Live coverage can be viewed: <https://www.facebook.com/Billings-Planning-Community-Services-Department-1738982159659260/?ref=bookmarks>

Call the Meeting to Order

President Woods called the meeting to order at 6:00 p.m. on Tuesday April 13, 2021.

Introduction of Planning Board Members and Planning Department Staff

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

Participating Planning staff members: Wyeth Friday, Director, Planning & Community Services Department; Dave Green, Planner II, Tammy Deines, Planning Clerk

Other Participants: Taylor Kasperick, Performance Engineering; Greg Reid, WWC Engineering, Erin Hettinger, WWC Engineering

Disclosure of Outside (Ex Parte) Communication or Conflicts of Interest– Board Members and Planning Staff. There were no declarations of ex parte communications or conflicts of interest.

Approval of the April 13, 2021 Agenda

Board member Cook made a motion and Board member Tunncliff seconded the motion to approve the April 13, 2021 meeting agenda as amended. The motion carried with a unanimous voice vote.

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Approval of Minutes: March 23, 2021

Board member Cook moved and Board member Jensen-Christison seconded the motion to approve the March 23, 2021 meeting minutes. The motion carried with a unanimous voice vote.

Public Comment: 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. President Woods announced the public call in phone number: 406-237-6165.

Planning Clerk Tammy Deines reported no calls for public comment.

7. OLD BUSINESS:

7a. Motion/Recommendation to City Council South Billings Urban Renewal, (SBBURA), District expansion and Plan amendment conformance with the 2016 City of Billings Growth Policy. Director Wyeth Friday, presenting.

RECOMMENDATION

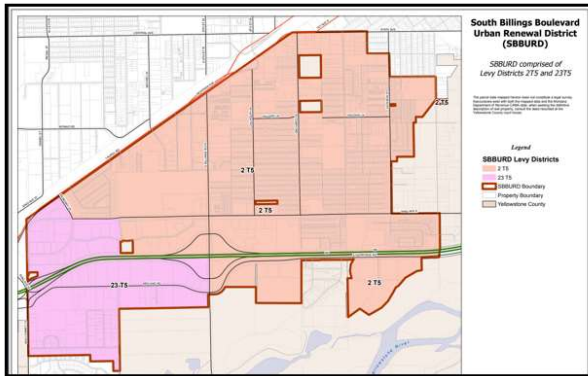
Staff recommends the Yellowstone County Board of Planning review the proposed District expansion and Plan amendment, and make a recommendation to the City Council that the expansion and plan amendment are in conformance with the 2016 City of Billings Growth Policy.

BACKGROUND

South Billings Urban Renewal Association Coordinator Jim Tevlin working with Planning and Community Services Department Director Wyeth Friday in the past 8 months has been in contact with property owners and agents interested in having property included in the South Billings Boulevard Urban Renewal District. Several of these properties face significant hurdles to development with property conditions and cleanups, and public infrastructure needs that align with the goals and purpose of urban renewal efforts in South Billings. City staff also is proposing Riverfront Park be included in the District expansion as the SBBURD Urban Renewal Plan calls for park improvements and amenities, and Riverfront Park has significant infrastructure deficiencies as well as park amenity needs. The proposal to expand the District was brought to the City Council at a Work Session in December 2021 and Council directed staff to move forward with the process to expand the District in 2021. The Planning Board reviewed this item at its March 23 meeting and is scheduled to take action on this item at this meeting. This action by the Planning Board is one of the critical steps to move the process forward to the City Council for action on the expansion.

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South Billings Boulevard Urban Renewal District
Expansion Proposal

The following properties are proposed to be included in the SBBURD expansion:

- Adkins Property - Northeast corner of the intersection of Jackson Street and King Avenue East, about 4 acres, owned by Jason Adkins with an in-holding owned by Robert Ronshaugen.
- Compton Property - 3218 South Frontage Road, about 17 acres, owned by KSKC Properties, LLC (Tim Compton). Property is former Knife River gravel pit that was remediated, annexed into the City and sold to KSKC Properties, LLC in 2015,
- Driscoll Property - 3508 South Frontage Road, about 36 acres, owned by Driscoll Family, LP (sale pending).

- Hogan Property - 3716 South Frontage Road, about 3.6 acres, owned by Evolution HC, LLC. Property was Annexed by the City Council at its meeting on November 23, 2021
- Riverfront Park (City) - East of South Billings Boulevard and north of the Yellowstone River, about 300 acres, owned by the City of Billings, Parks and Recreation.

Wyeth Friday noted that there are some challenges with annexing Riverfront Park, as there is some State inclusion in the area. A summary of the blight findings is compiled along with considerations of condition of the properties and infrastructure needs.

Growth Policy Conformance

The Yellowstone County Board of Planning must review the proposed expansion of the South Billings Boulevard Urban Renewal District and Plan update, and affirm for the City Council that the District expansion conforms to the 2016 City of Billings Growth Policy. Specifically, several Growth Policy Guidelines are addressed by potential development and redevelopment that may occur on properties to be included in the District expansion. Some examples are called out here for the Board's reference:

- **Essential Investments** (relating public and private expenditures to public values) Developed parks that provide recreation, special amenities (community gardens, dog parks, viewing areas), and active living opportunities are desirable for an attractive and healthy community.
- **Walking Paths and Trails** – Construct sidewalks, trails and pathways throughout the District with landscaping to ensure the safety of children and all pedestrians, as well as provide access to neighborhoods and services. The safety of all users and the connectivity of the transportation system are important criteria to consider in roadway designs and transportation plans. Infill development and development near existing City infrastructure may be the most cost-effective. Infrastructure and service investments that stabilize or improve property values, secure future utility costs, consider maintenance costs, and improve our environmental quality far into the future (i.e. energy efficient) are desirable
- **Community Fabric** (attractive, aesthetically pleasing, uniquely Billings) Planning and construction of interconnected sidewalks and trails are important to the livability of Billings Home Base (healthy, safe, and diverse housing options). A mix of housing types that meet the needs of a diverse population is important.

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Discussion

President Woods called for questions and discussion. Board member Thompson asked if consideration has been given to annexation of the "Sugar properties" that the City leases as a recreational area. Wyeth Friday said there have been discussions but the property owners are not interested in annexation at this time. It may be considered in the future. In response to question by Board member Tunnickliff, Wyeth Friday said there has been renewed interest in a recreational center and City Council formed a committee to revisit the proposals with the community stakeholders and report the findings to City Council. The committee will also consider the SBBURD bonding capacity and private funding sources.

Board member Tunnickliff asked if the SBBURD would include recreational school type facilities. Director Friday said School District #2 are reevaluation their facilities. They have expressed interest in the proposed recreational facilities, especially for swimming. Board member Tunnickliff stated he is supportive of the proposal for a recreational center as it would be a year-round facility to be used for the neighborhood and the community as a whole.

Board member Tunnickliff voiced concern with the scheduled 32-year sunset period of this district and noted other community entities in need of revenue. Director Friday explained that the law sets the life of the urban renewal district at fifteen years and it can be extended with bonding. The life of the district retires when the bonds are paid off. Across the state, the average period of sun setting is 17-18 years. The challenge with the timeframe with some of the districts is that some districts take a longer period to build financial increments. The South Billings Tax Increment District entertains and supports projects that are school related. Board member Tunnickliff said the course of the remaining period generates 70 million dollars, which is a lot of revenue to be used. He commented the TIFD timeframe seems to be a significant stretch as opposed to the state designation. Wyeth Friday said the EBURD and SBBURA districts were created and bonded, and will retire close to the same time. Board member Tunnickliff said it is difficult to support expansion when we continue to limit the tax base. Board member Jensen-Christison commented the infrastructure may not have been completed in this area if the project had not been bonded. Board member Tunnickliff clarified and stated he is opposed to the length of the term but not the tax increment district itself. President Woods said he is in favor of facilities. He pointed out it is interesting how school districts generally oppose tax increment districts but are looking at putting a football field in this area. Board member Thompson said the benefits derived from the TIFD are projects that would not have been completed without the funding from the district. In the big picture, the school districts have benefitted. He noted there was not a lot of activity in the first years of this district. Wyeth Friday concurred and said this is not uncommon. Board member Tunnickliff said he does not wish to extend this into perpetuity by bonding. Wyeth Friday said there is a cut-off period and it will end when the bonding expires.

Motion

Board member Tunnickliff made a motion and Board member Jensen-Christison seconded the motion for the Planning Board President to execute a letter and forward a recommendation of approval of the South Billings Urban Renewal, (SBURRA), District expansion and Plan amendment in conformance with the 2016 City of Billings Growth Policy.

The motion carried with a unanimous voice vote.

8. NEW BUSINESS

8a. Plat Review. Discussion. Yellowstone Landing Commercial Park. County Major Subdivision. Aviation Properties, LLC Taylor Kasperick, agent. Dave Green, Planner II, presenting.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On March 1, 2021, Performance Engineering, agent for Aviation Properties, LLC, applied for preliminary major plat approval for Yellowstone Landing Commercial Park. The proposed subdivision creates 10 lots for commercial development. The subject property is generally located on the north side of Highway 3 and east of A J Way. The property is currently zoned Heavy Commercial (CX). The proposed lots will be developed in compliance with the zoning as the property is developed.

RECOMMENDATION

Staff proposes the Planning Board recommend conditional approval of the preliminary plat of Yellowstone Landing Commercial Park to the City Council and adopt the Findings of Fact as presented in the staff report.

PROPOSED CONDITIONS OF APPROVAL

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

1. To minimize 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.
2. To protect public health and safety and 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.
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.

Discussion

President Woods called for questions and discussion. Board member Larsen asked about the potential for increased traffic with the subdivision build out and if a traffic plan is in place. Planner Dave Green stated a traffic study is required for commercial subdivision development. Taylor Kasperick, Performance Engineering, stated a Traffic Impact Study, (TIS), has been conducted and submitted to the City Engineering Department and MDT. The preliminary traffic impact study points to the need for a center left turn lane at full buildout of the subdivision. Board member Thompson asked about the storm water management and if storm water will be piped

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under Highway 3 and dumped on the rims. Taylor Kasperick said the current plan is retain the storm water on site on Lot 3 and pump it north to a drainage that makes it way to Alkali Creek. President Woods asked if a temporary turn around on Super Cub Way would be needed to allow for fire protection. Taylor Kasperick said he does not think a turnaround will be required until the second phase of the subdivision.

**A public hearing will be held for Yellowstone Landing Commercial Park on April 27, 2021. City Council Action on May 24, 2021.

8b. Plat Review. Discussion. Lake Hills Subdivision, 39th Filing. Greg Reid, WWC Engineering, agent. Dave Green, Planner II, presenting.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On March 1, 2021, WWC Engineering, agent for Ron Hill and John Bruckner, applied for preliminary major plat approval for Lake Hills Subdivision, 39th Filing. The proposed subdivision creates 20 lots from the existing 16 lots for residential development. The subject property is generally located along both sides of Gleneagles Boulevard north of Black Diamond Road. The property is zoned Neighborhood 3 (N3). The proposed lots will be developed in compliance with the zoning as the property is developed.

RECOMMENDATION

Staff proposes the Planning Board recommend conditional approval of the preliminary plat of Lake Hills Subdivision, 39th 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 minimize the effects on local service, prior to final plat approval, the applicant will coordinate with USPS for locating and providing the correct amount of space for safely delivering the mail to the residents.
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal, or the Public Works Departments to clarify the documents and bring them into the standard acceptable format.
3. 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.

* A letter in support of Lake Hills Subdivision, 39th Filing was received by staff from Mike Craighill, 2118 Lake Hills Drive, Billings, MT 59105. He complimented "the many contractors and subcontractors working in and around the Lake Hills Subdivision on their professionalism, care for the area and their contribution to a visually appealing neighborhood".

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Discussion

President Woods called for questions and discussion. There was none. President Woods noted that sidewalks would be installed at the time of the development itself.

**A public hearing will be held for Lake Hills Subdivision 39th Filing on April 27, 2021. City Council will review this application and take action on May 24, 2021.

8c. Plat Review/Discussion. Bitterroot Heights Subdivision, 39th Filing. Rob Neihart, Performance Engineering, and agent. Dave green, Planner II, presenting.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On March 1, 2021, PEC Engineering, agent for BCJM Properties, LLC, applied for preliminary major plat approval for Bitterroot Heights Subdivision, 3rd Filing. The proposed subdivision creates 71 lots for residential development. The subject property is generally located on the west side of Bitterroot Drive and north of Mary Street. The property is zoned Neighborhood 2 (N2)**. The proposed lots will be developed in compliance with the zoning as the property is developed.

RECOMMENDATION

Staff proposes the Planning Board recommend conditional approval of the preliminary plat of Bitterroot Heights Subdivision, 3rd 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 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.
2. 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.
3. 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.

**Dave Green noted the zoning denoted in the staff report should be corrected to N3 as the proposed zone change from Ag-(A) to R70-(N2) was denied.

Discussion

President Woods called for questions and discussion. Board member Jensen-Christison asked about the rough terrain and making the lots usable. Taylor Kasperick noted this was previously a gravel pit and there are some areas that will be filled in. President Woods asked where the open area is located on the survey and Taylor Kasperick provided clarification. He said there would be a gravel path along the drainage way that will connect to the subdivision. There is a park plan for the development. The owner will develop the infrastructure to connect to the parkland to the north with

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an internal trail system. The trail way improvements will be maintained through a Parks Maintenance District.

**A public hearing will be held for Bitterroot Heights Subdivision, 3rd Filing on April 27, 2021. City Council will review this application and take action on May 24, 2021.

9. OTHER BUSINESS:

9a. Standing Item. Staff Updates. Long Range Strategic Issues and an overview of future City and County issues and projects.

9a1. Meeting format for future Planning Board meetings. Director Friday said City Council held a work session and a regular business meeting in a hybrid format at the Library Community Room. There were several participants online and in person. Staff plans to work with the City Clerk's office to coordinate a Planning Board meeting at the Library Community Room during the month of May.

ADJOURNMENT: 7:15 PM

DRAFT—TO BE APPROVED BY A MOTION- April 27, 2021

--Tamara L. Deines, Planning Clerk

Planning Board

Date: 04/27/2021
Title: Yellowstone Landing Commercial Park Subdivision - Preliminary Major Plat
Presented by: David Green
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Staff proposes the Planning Board recommend conditional approval of the preliminary plat of Yellowstone Landing Commercial Park 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 in relation to traffic movement, prior to final plat approval, the applicant will provide City Engineering Department and the Montana Department of Transportation with a TIS. Any required improvement identified in the TIS will be installed by the applicant as well as striping AJ Way as outlined in the Findings of Fact.
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. To protect public health and safety and 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.
4. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
5. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On March 1, 2021, Performance Engineering, agent for Aviation Properties, LLC, applied for preliminary major plat approval for Yellowstone Landing Commercial Park. The proposed subdivision creates 10 lots for commercial development. The subject property is generally located on the north side of Highway 3 and east of A J Way. The property is currently zoned Heavy Commercial (CX). The proposed lots will be developed in compliance with the zoning as the property is developed.

VARIANCE REQUESTED

The applicant is not requesting a variance from the subdivision regulations.

PROCEDURAL HISTORY

- Pre-application meeting January 28, 2021
- Preliminary plat application submitted to Planning Division on March 1, 2021
- Departmental review meeting March 18, 2021
- Preliminary plat resubmittal March 25, 2021
- Planning Board plat review April 13, 2021
- Planning Board public hearing April 27, 2021

- Preliminary plat to City Council May 24, 2021
- 60 working-day preliminary plat review period ends May 25, 2021

PLAT INFORMATION

General location: North side of Highway 3 and east of A J Way

Legal Description: COS 2037, Tract 14A

Owner/Subdivider: Aviation Properties, LLC

Engineer and Surveyor: Performance Engineering

Existing Zoning: CX

Existing land use: Farm land

Proposed land use: Commercial

Gross and Net area: 25.96 acres / 21.62 acres

Proposed number of lots: 10

Lot size: Max: 4.13 acres
Min.: 0.86 acres

Parkland requirements: Parkland dedication is not required with commercial subdivisions.

STAKEHOLDERS

At the Planning Board Plat review meeting staff gave a presentation about the proposed subdivision, then stood for any questions the board members might have. President Woods queried the board to see if there were any questions or discussion. Board member Larsen asked about the potential for increased traffic with the subdivision build out and if a traffic plan is in place. Staff stated a traffic study is required for commercial subdivision development. Taylor Kasperick, from Performance Engineering representing the applicant, stated a Traffic Impact Study (TIS) has been completed and has been submitted to the City Engineering Division and MDT. The preliminary traffic impact study points to the need for a center left turn lane at full build out of the subdivision. Board member Thompson asked about the storm water management and if storm water will be piped under Highway 3 and dumped on the rims. Mr. Kasperick said the current plan is to retain the storm water on site on Lot 3. They are proposing to pump it north to a drainage on Airport property that makes its way to Alkali Creek. President Woods asked if a temporary turn around on Super Cub Way would be needed to allow for fire protection. Mr. Kasperick said he does not think a turnaround will be required until the second phase of the subdivision since the first phase all lots have access from AJ Way. He also stated they may also propose doing a gravel surface emergency access through phase 3 when phase 2 is built. Then with phase 3 build out, the developer will pave the gravel surface road to complete all internal subdivision roads.

ALTERNATIVES

In accordance with state law, the City Council has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed plat ends on May 25, 2021. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 working day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

FISCAL EFFECTS

This subdivision will have no fiscal effects on the Planning Division.

Attachments

Preliminary Plat

Findings of Fact

SIA

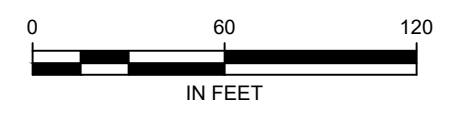
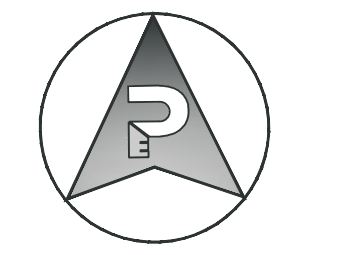
3.3 Prelim Letter Citizen Richard Waide

PRELIMINARY PLAT OF YELLOWSTONE LANDING COMMERCIAL PARK SUBDIVISION

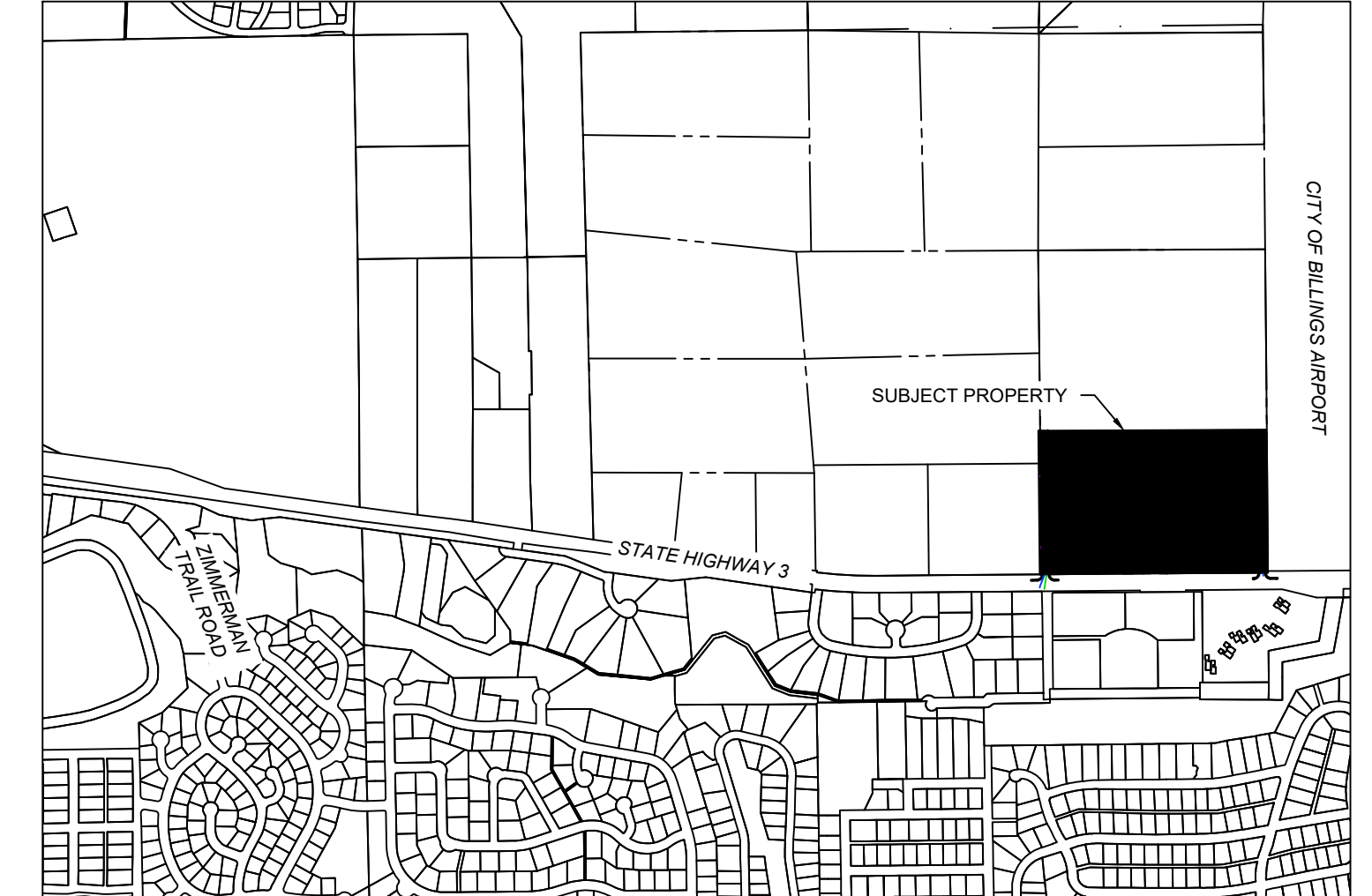
BEING TRACT 14A OF AMENDED PLAT OF TRACTS 13 AND 14 OF CERTIFICATE OF SURVEY 2037
(DOCUMENT NO. _____)

LOCATED IN A PORTION OF THE EAST 1/2 OF SECTION 26, T. 1 N., R. 25 E., P.M.M
YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : AVIATION PROPERTIES, LLC
PREPARED BY : PERFORMANCE ENGINEERING, LLC
DATE : MARCH 2021



VICINITY MAP
NOT TO SCALE



SITE DATA	
# OF LOTS	10
MAXIMUM LOT AREA	± 4.00 ACRES
MINIMUM LOT AREA	± 0.80 ACRES
PARKLAND AREA	N/A
LINEAL FEET OF STREETS	± 2,510
NET ACREAGE	21.620
GROSS ACREAGE	25.956

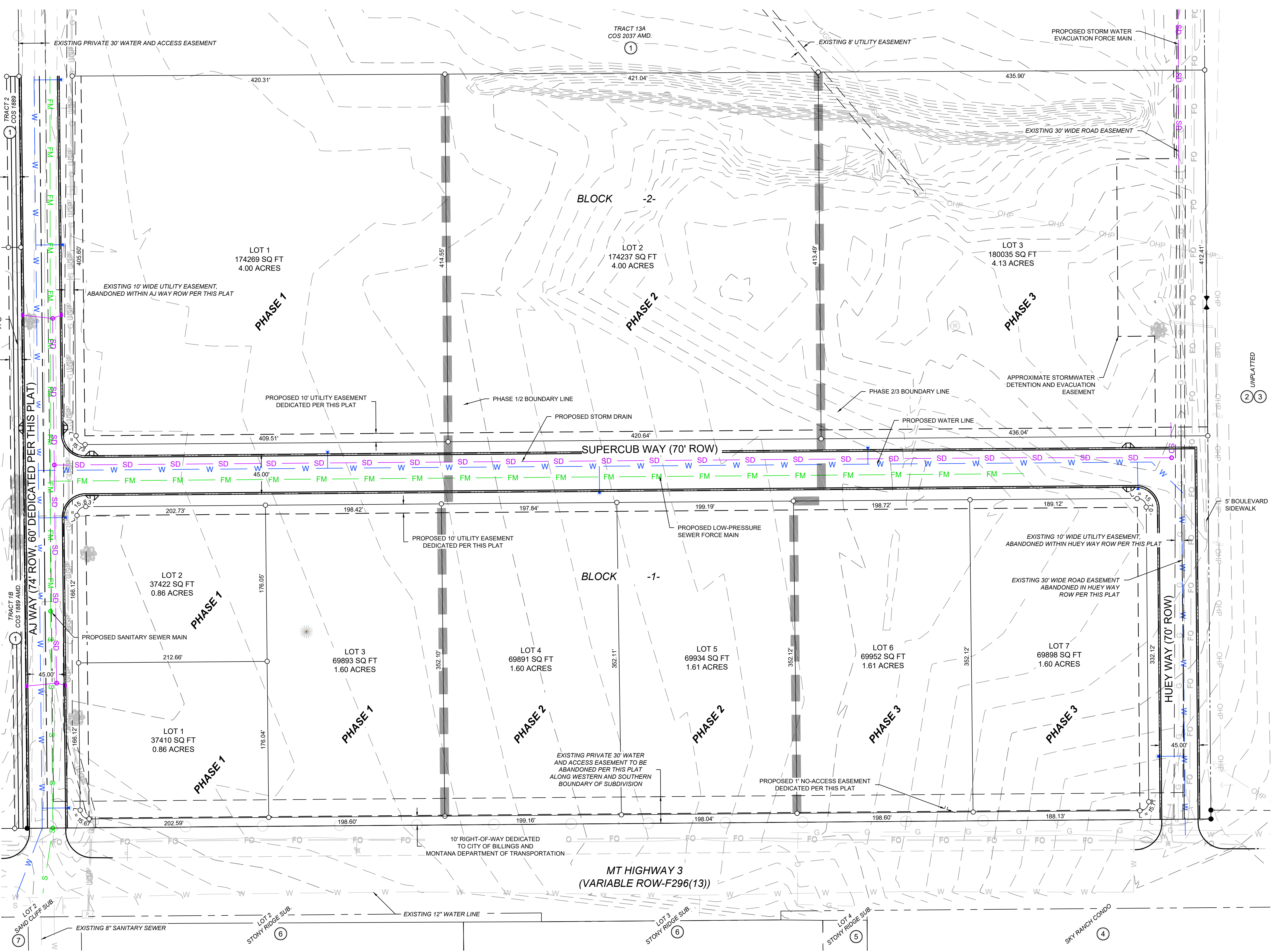
PROPERTY OWNERS		
NUMBER	NAME	MAILING ADDRESS
1	AVIATION PROPERTIES, LLC	6309 JELLISSON ROAD BILLINGS, MT 59101
2	CITY OF BILLINGS	210 N 27TH ST. BILLINGS, MT 59101
3	CITY OF BILLINGS (AIRPORT)	PO BOX 1178 BILLINGS, MT 59103
4	SKY RANCH CONDOMINIUM	101 SKY RANCH DRIVE BILLINGS, MT 59106
5	STONY RIDGE DEVELOPMENT	PO BOX 7113 BILLINGS, MT 59103
6	SKYLINE PARTNERSHIP	PO BOX 7113 BILLINGS, MT 59103
7	JAMES AND BECKIE BELEY	3382 STONEY RIDGE RD. BILLINGS, MT 59106

EXISTING LAND USE : AGRICULTURE/VACANT

EXISTING ZONING : HEAVY COMMERCIAL-LIGHT INDUSTRIAL

PROPOSED LAND USE : COMMERCIAL

PROPOSED ZONING : HEAVY COMMERCIAL-LIGHT INDUSTRIAL



MT HIGHWAY 3
(VARIABLE ROW-F296(13))

C:\Users\TaylorKaspernick\Dropbox (PEC Billings)\PEC Billings Team Folder\Aviation Properties\20-117 BFS Subdivision\CAD\Plan\20-117 YLCP Preliminary Plat.dwg 3/29/2021 9:45:11 PM PEC-STANDARD.LUTB

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Yellowstone Landing Commercial Park 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 Billings Subdivision Regulations (Section 23-303(H), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302.H.2.]

1. Effect on agriculture and agricultural water user facilities

The subject property is currently used as dry land farm ground, it has been rezoned and is annexed into the City. This proposed development will remove about 21.9 acres of dry land farming out of production. Being dryland farming there are no ditches or water rights to be transferred to new owners. All drains shall remain in place and not be altered by the subdivider or subsequent owners. The subdivision should not affect agricultural water users' facilities.

2. Effect on local services

- a. **Utilities** – Public water services to the subject property will be provided by the City of Billings. This subdivision will connect to an existing 12-inch water line in Highway 3. Twelve-inch water lines will be installed in all internal roads with stubs to each lot. All water line construction shall be installed, by the subdivider, in conformance with the design standards, specification, rules and regulations of the City of Billings Engineering Division.

Fire hydrants will also be installed, by the subdivider, as required by the City of Billings Fire Department. The City Fire Department will review and approve all proposed hydrant locations prior to installation.

Sanitary sewer service will be provided by the City of Billings. The sanitary sewer system for the Subdivision will be installed by the subdivider and will consist of an 8-inch low-pressure sanitary sewer force main and gravity sewer main. A gravity sewer main will be constructed along AJ Way from a new connection to the existing manhole in Stoney Ridge Road to the northern extents of the Subdivision. A low-pressure sanitary sewer force main will be constructed along Supercub Way to the extent necessary to serve Lot 6 of Block 1.

Each lot will be provided with individual sewer service connections. All sewer line construction shall be installed, by the subdivider, in conformance with the design standards, specification, rules and regulations of the City of Billings Engineering Department.

Private utility providers shall use the provided easement outside the public right of way, these easements 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. Each lot will be required to have a detention facility on the lot. In the event of a 50-year storm event they will be allowed to do a controlled discharge into the main detention facility to the east. Stormwater is required to dissipate by means of infiltration that meets the requirements of City of Billings stormwater management manual. It has been proposed that in the event of a 50-year storm and overburden of water, the system will be designed to discharge, by pumping, into a coulee north of the subdivision located on City of Billings property through an easement. This easement would require permission granted by the City of Billings/Logan International Airport. Other methods of storm water management shall also be reviewed. All proposed drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual*.
- 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 this proposed subdivision will be from Highway 3. Each individual lot will be accessed from inside the subdivision from either AJ Way, Supercub Way or Huey Way. AJ Way is an existing street and has a 74-foot wide right-of-way. The two new internal streets, Supercub Way and Huey Way will have 70-foot-wide rights-of-way and be built, by the subdivider, to a City of Billings standard 45-foot top back of curb to top back of curb width. A TIS has been submitted to the City of Billings Engineering division and to the Montana Department of Transportation for impacts to Highway 3. City Engineering Department has requested that AJ Way shall be striped to have a left turn and right turn lane onto Highway 3. The subdivider will construct any needed improvements identified in the TIS. **(Condition #1)** This information is outlined in the SIA under the heading III Transportation A. Streets.

Sidewalks will be installed at time of lot construction with 5-foot wide boulevard sidewalks. Road construction will include installation of accessible ramps at the intersections. Sidewalks will not be installed on Highway 3 at the time of lot construction. Highway 3 is a State road and will not be modified with sidewalks at this time. In the future sidewalks along Highway 3 may be installed, this subdivision will participate in that cost. This information is outlined in the SIA under the heading III Transportation B. Sidewalks. All proposed streets construction inside the subdivision will be reviewed and approved by City Engineering before installation. Any construction work on Highway 3 will be reviewed and approved by Montana Department of Transportation.

- e. Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station that serves this area is located at 2308 8th Avenue North (Station #1).

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

Comments from the Police department state that continued expansion of subdivisions will require additional resources to maintain acceptable levels of service.

- f. **Schools** – This subdivision is a commercial subdivision and will have no impacts on the school system.
- g. **Parks and Recreation** – This subdivision is a commercial subdivision and is not required to provide parkland dedication.
- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision. The developer will work with the USPS to provide a satisfactory location for a CBU for this filing. **(Condition #2)**
- 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 to begin, January 2025. Phase 3 is to begin by January 2029.

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 #3)**

3. Effect on the natural environment

The subject property is relatively level land adjacent to dryland farming uses to the west and north. Across Highway 3 there is residential and to the east is future commercial development and the Billings Airport. 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 under the heading II. Property Conditions and Information for Lot Purchasers.

5. Effect on the public health, safety and welfare

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

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:

Prosperity (promoting equal opportunity and economic advancement): A diversity of available jobs can ensure a strong Billings' economy (p.9)

Prosperity (promoting equal opportunity and economic advancement): Successful businesses that provide local jobs benefit the community. (p.9)

3. 2018 Billings Urban Area Long Range 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.

4. Billings Area Bikeway and Trail Master Plan (BABTMP)

The proposed subdivision lies within the jurisdiction of the BABTMP. The BABTMP shows a future bike lane along Highway 3. There are no identified trails within the proposed 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 Heavy Commercial (CX) zoning district. All building development on the lots shall comply with current zoning when applying for a building permit.

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

The subdivider has provided private utility easements as requested 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 Highway 3. All existing and new proposed streets are dedicated to the public as shown on the plat.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Yellowstone Landing Commercial Park Subdivision 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 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 proposes the Planning Board forward a recommendation of conditional approval of the preliminary plat of Yellowstone Landing Commercial Park Subdivision to the City Council and adopt the Findings of Fact as presented in the staff report.

**SUBDIVISION IMPROVEMENTS AGREEMENT
 & WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT
 DISTRICTS
 YELLOWSTONE LANDING COMMERCIAL PARK SUBDIVISION**

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 (City of Billings)**

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**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS**

YELLOWSTONE LANDING COMMERCIAL PARK SUBDIVISION

This agreement is made and entered this ____ day of _____, 20____, by and between *Aviation Properties, LLC*, whose address for the purpose of this agreement is **6309 Jellison Road, Billings, Montana, 59101**, 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 *Yellowstone Landing Commercial Park Subdivision*; and

WHEREAS, at a regular meeting conducted on ____ day of _____, 20____, the City Council conditionally approved a preliminary plat of *Yellowstone Landing Commercial Park Subdivision*; 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 *Yellowstone Landing Commercial Park 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 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 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 23.1101, BMCC):

1. *No variances are requested as part of this Subdivision.*

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. If sidewalk is not constructed within 5 years from the date of each subdivision phase opening, the City has the right to construct the sidewalk and assess the property owners.
- 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 lot owners 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. Additional geotechnical studies may be required by the City of Billings Building Department and Engineering Division at the time of individual lot development to acquire a Building Permit.
- D.** No water rights have been transferred to the lot 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.** 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.
- G.** Individual lot owners should be aware that Best Management Practices for stormwater control shall be required for new construction on lots. Best

Management Practices are defined within Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.

- H. Lot owners should be aware of Agreement between Subdivider and Neighboring Property Owners entered into September 2016, of which a copy shall be provided by the Subdivider prior to property closing and an abstract is recorded under Document No. 3790799 at the Yellowstone County Clerk and Recorder's Office. Terms and duration of the Agreement are binding to Lot Owners and include requirements pertaining to building color, lighting, noise, and landscaping. Any requirements not explicitly addressed in said agreement shall comply with the current City of Billings Zoning Code.
- I. Lot owners shall be aware of and comply with Federal Aviation Administration requirements pertaining to building requirements as agreed to in the Perpetual Air Rights Easement for the Property.

III. Transportation

A. Streets

- Subdivider will execute a private contract to construct public streets, curb and gutter, and some sidewalks within the public Right-of-Way (ROW) dedicated in conjunction with the Subdivision. The improvements will consist of constructing a collector roadway (45' TBC-TBC) from State Highway 3 to the Subdivision extents along AJ Way, and a local commercial roadway (45' TBC-TBC) along the interior of the Subdivision. Dedicated ROW widths will be per the City of Billings Subdivision Regulations.
- Standard curb and gutter will be installed along roadways within the Subdivision. Extent of curb and gutter within Montana Department of Transportation (MDT) Right-of-Way will be determined based on findings from the Traffic Impact Study and MDT approval.
- All streets will be provided with asphalt concrete driving surface.

B. Sidewalks

- Individual lot owners will be responsible for the construction of the sidewalks along their lot frontages at the time of lot construction and shall be included in each building permit.
- Sidewalks shall be 5-foot wide with a 5-foot boulevard planting strip between the sidewalk and the curb. Subdivider will install, within the private contract, corner intersection handicap ramps and aprons.
- An 8 to 10-foot sidewalk or trail along the north side of State Highway 3 will be constructed in the future. Subdivider and/or individual lot owners waive the right to protest being included in a Special Improvement District (SID) for the proportionate share of said cost. All of the lots within *Yellowstone Landing Commercial Park Subdivision* can be assessed for installation of the sidewalk/trail along the State Highway 3 frontage of the

subdivision. The Subdivider shall be responsible for the maintenance of the sidewalk/trail after construction.

C. Street Lighting

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

D. Traffic Control Devices

- Subdivider will install necessary traffic control devices within or adjacent to the Subdivision in conformance with the City of Billings and Montana Department of Transportation standards.
- Street name signs for streets within the Subdivision, or located immediately adjacent thereto, shall be furnished and installed by the subdivider in accordance with the specifications of the City of Billings standards.
- Subdivider shall provide a Traffic Impact Study (TIS) to MDT and City Engineering for review and approval identifying any off-site contributions. Subdivider is responsible for the cost of the TIS and any off-site contributions identified in the TIS.

E. Access

- The Subdivision will be accessed via two approaches off State Highway 3. The approaches will be located at, or in the immediate vicinity of, the existing paved approaches accessing the Subdivision. A 1-foot no-access easement is proposed along the south property line of those lots adjacent to State Highway 3.
- Approaches will be designed to comply with MDT rules and regulations and shall be approved by MDT prior to construction.
- Improvements to State Highway 3 and approach sizing will be determined based on a TIS prepared for the Subdivision by the Subdivider and submitted to the City of Billings and MDT.

F. Billings Area Bikeway and Trail Master Plan

- The Billings Area Bikeway and Trails Master Plan does not identify any pathways or trails internal or connecting to the Subdivision.

G. Public Transit

- Met Transit provides service to the City of Billings, with the closest route including a pick-up and drop-off area located in the Airport, approximately 1.85 miles from the Subdivision. No improvements are required to ensure public transit service.

IV. Emergency Service

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply (fire hydrants) in place to allow for fire suppression requirements. Prior to 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 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.
- 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.
- Should a terminated roadway during Subdivision phasing exceed 150' in length and there be no other approved means for apparatus turnaround on individual lots, a fire apparatus turnaround shall be installed at the termination point of roadways between each Subdivision phase.
- No fire apparatus turnaround is required along AJ Way as the roadway extends as a private road north of the Subdivision and fire apparatus' are able to turnaround outside Subdivision extents.

V. Storm Drainage

All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the Stormwater Management Manual in place at the time of development. A complete stormwater management plan shall be submitted to the Engineering Division for review and approval at the time of development.

- Stormwater runoff from improvements made within dedicated ROW will be conveyed via curb and gutter, inlets, and piping installed by the Subdivider to the eastern portion of the Subdivision where it will be detained in accordance with the Stormwater Management Manual requirements. Said improvements are referred to as the Subdivision Collection and Storage System subsequently.
- Individual lots are required to provide on-site stormwater detention in accordance with the Stormwater Management Manual requirements (Individual Lot Storm Infrastructure), and are allowed to discharge to the Subdivision Collection and Storage System at rates necessary to evacuate the stormwater volume corresponding to the 50-year, 24-hour storm event.
- Stormwater volumes collected in the Subdivision Collection and Storage System are to be evacuated from the Subdivision within the timeframe called for in the Stormwater Management Manual.
- The stormwater detention area and outfall shall be maintained by a Homeowner's Association (HOA). Subdivider shall provide an HOA

Storm Water Facility Maintenance Agreement for review and approval by the City of Billings Engineering Division. This agreement shall outline the maintenance responsibilities of the storm water facilities.

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 in effect at the time building permits are issued.

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

- 12-inch water mains to serve the Subdivision shall be installed by the Subdivider along AJ Way, Supercub Way, and Huey Way, and connect to the existing 12-inch water main located in State Highway 3.

B. Sanitary Sewer

- The sanitary sewer system for the Subdivision will be installed by the Subdivider and will consist of a low-pressure sanitary sewer force main (size to be determined by Subdivider and approved by the Public Works Engineering Division) and 8-inch gravity sewer main. The 8-inch gravity sewer main will be constructed along AJ Way from a new connection to the existing manhole in Stoney Ridge Road to the point where depth of cover of the pipeline becomes infeasible. From this point, low-pressure sanitary sewer force main will be constructed along AJ Way to the northern extent of the subdivision and Supercub Way to the extent necessary to serve Lot 7 of Block 1.
- Should the City extend a sanitary sewer main along the subdivision frontage on State Highway 3 east of AJ Way, the Subdivider waives the right to protest inclusion in a Special Improvement District to assess the proportionate cost of those improvements.

C. Power, Telephone, Gas, and Cable Television

- Existing power, natural gas, and communication utilities exist within the Subdivision boundary. Mainlines for each utility will be installed by the private utility companies within the dedicated 10' utility easements on the front of each lot.

VII. Parks/Open Space

There is no parkland requirement for proposed Yellowstone Landing Commercial Park Subdivision, as this is a commercial subdivision [MCA 76-3-621(3)(b)].

VIII. Irrigation

No irrigation rights, infrastructure, or amenities are affected by the Subdivision.

IX. Soils/Geotechnical Study

At the time of individual lot development, the City of Billings may require a geotechnical investigation or study per Building Permit requirements.

X. Phasing of Improvements

Phasing of the Subdivision is proposed. The improvements made during each phase, and the anticipated schedule of each phase, are as follows:

Phase I - Lots 1, 2, and 3 of Block 1, and Lot 1, Block 2 (2021)

- Roadway, curb and gutter, water main, fire hydrants, gravity sanitary sewer, and low-pressure force main shall be constructed to the northern extents of the Subdivision and to the eastern boundary of Lot 1, Block 2.
- The Subdivision Collection and Storage System, minus inlets within portions of Subdivision roadway not being constructed, shall be constructed during Phase 1.

Phase II – Lots 3 & 4 of Block 1, and Lot 2 of Block 2 (2025)

- Roadway, curb and gutter, water main, fire hydrants, and low-pressure force main shall be constructed to the eastern boundary of Lot 2, Block 2.

Phase III – Lots 5 & 6 of Block 1, and Lot 3 of Block 2 (2029)

- Roadway, curb and gutter, water main, and fire hydrants, shall be constructed along Supercub Way and Huey Way to its access point and approach onto State Highway 3.
- Low-pressure force main shall be constructed to the extents necessary to provide service to Lot 7 of Block 1.

XI. Financial Guarantees

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

XII. Legal Provisions Applying to Subdivider

- A.** Subdivider agrees to guarantee all public improvements for a period of two years 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 run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees 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”

Aviation Properties, LLC

By: _____

Title: _____

STATE OF MONTANA)
 : ss
County of)

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 *Aviation Properties, LLC*, 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: _____

Good afternoon,

I feel any approval of any Usage Change must NOT include Heavy Commercial Use.

As noted by many of the residential property owners in the immediate area, and certainly in my thoughts because I own property and live in Rehberg Ranch, this huge usage change will definitely have a negative impact on those of us that moved to this area north of the Rims because of its solitude and feelings of living far away from any commercial activity, and living with the beauty that comes from a primarily agricultural environment.

I can only imagine the negative impact this Usage Change to Heavy Commercial will have on traffic along Hwy 3 and traffic utilizing Zimmerman Trail and 27th Street, along with the noise and potential traffic accidents due to the fact that Hwy 3 in only one lane in either directions, East or West.

Couple these negative factors with the upcoming potential construction of an access road from the Heights to Hwy 3 at Zimmerman Trail, and the huge additional influx of traffic that construction will bring, and the additional noise and potential for increasing traffic accidents as well as additional crime in this entire area, primarily for residential home owners. Being able to safely enter and exit Gun Club Road and all of the other residential streets that access Hwy 3 for residents will become much more dangerous than it is currently with this change in Usage and the addition of the completion of the access road from the Heights. Usage change to Heavy Commercial will also have a very negative effect on local Wildlife that uses the areas north of Hwy 3 as a refuge; the toll will be significant in lost lives of these wild animals in their normal and usual habitat for living and raising families.

For these reasons, I certainly feel this Usage Change to Heavy Commercial should be Defeated by those individuals on the Board that desire to protect the beauty and sanctity of the area North of the Rims, protect the property values of those residents living along Hwy 3, and protect everyone, including all wildlife from escalating traffic problems and traffic caused deaths all along the Hwy 3 Corridor, including Zimmerman Trail and 27th Street, and beyond.

Sincerely,

Richard Waide
4029 Rifle Creek Trail
Billings, MT 59106
406-652-2961
rhdbl@msn.com

Planning Board

Date: 04/27/2021
Title: Lake Hills Subdivision, 39th Filing - Preliminary Major Plat
Presented by: David Green
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Staff proposes the Planning Board recommend conditional approval of the preliminary plat of Lake Hills Subdivision, 39th 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 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.
2. 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.
3. 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.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On March 1, 2021, WWC Engineering, agent for Ron Hill and John Bruckner, applied for preliminary major plat approval for Lake Hills Subdivision, 39th Filing. The proposed subdivision creates 20 lots from the existing 16 lots for residential development. The subject property is generally located along both sides of Gleneagles Boulevard north of Black Diamond Road. The property is zoned Neighborhood 3 (N3). The proposed lots will be developed in compliance with the zoning as the property is developed.

PROCEDURAL HISTORY

- Pre-application meeting January 21, 2021
- Preliminary plat application submitted to Planning Division on March 1, 2021
- Departmental review meeting March 18, 2021
- Preliminary plat resubmittal March 25, 2021
- Planning Board plat review April 13, 2021
- Planning Board public hearing April 27, 2021
- Preliminary plat to City Council May 24, 2021
- 60 working-day preliminary plat review period ends May 25, 2021

PLAT INFORMATION

General location: Located along both sides of Gleneagles Boulevard north of Black Diamond Road

Legal Description: Portions of Lake Hills Subdivision, 16th and 17th Filings

Owner/Subdivider: Ron Hill

Engineer and Surveyor: WWC Engineering
Existing Zoning: N3
Existing land use: Vacant Subdivision
Proposed land use: Residential
Gross and Net area: 4.87 acres / 4.87 acres
Proposed number of lots: 20
Lot size: Max: 14,800 square feet
Min.: 9,600 square feet
Parkland requirements: Parkland dedication was met with previous filings.

STAKEHOLDERS

At the Planning Board Plat review meeting staff gave a presentation about the proposed subdivision then stood for questions from the board. President Woods called for questions and discussion. There was none. President Woods noted that sidewalks would be installed with this development.

ALTERNATIVES

In accordance with state law, the City Council has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed plat ends on May 25, 2021. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 working day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

FISCAL EFFECTS

This plat will have no fiscal impacts on the City/County Planning Division.

Attachments

Findings of Fact
Proposed Plat
SIA
Letter from surrounding property owner

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Lake Hills Subdivision, 39th 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 originally platted in 1958 as a county subdivision and these lots have been within the Lake Hills Golf course for many years. There are no agricultural water user facilities within this proposed subdivision. It will not have a negative effect on the agricultural industry.

This subdivision does not contain any ditches or water shares, and therefore will not affect agricultural water user facilities.

2. Effect on local services

a. Utilities – Public water services to the subject property will be provided by the County Water District of Billings Heights. There is an existing 12-inch water line in Gleneagles Boulevard. This work will be funded by SID 1416. Each lot will be provided with individual water service connections. All water line construction shall be installed in conformance with the design standards, specification, rules and regulations of the County Water District of Billings Heights.

Fire hydrants will also be installed as required by the City of Billings Fire Department. The City Fire Department with review and approve all proposed hydrant locations prior to installation.

Sanitary sewer service will be provided by the City of Billings by connecting to the existing 15-inch sewer main located in Gleneagles Boulevard and Sierra Granda Boulevard. A new sewer main from the existing main will run in the roadways within the subdivision, it will be funded by SID 1416. Each lot will be provided with individual sewer service connections. All sewer line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings Engineering Department.

Private utility providers shall use the provided easement outside the public right of way, these easements 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. A stormwater master plan is in place for this subdivision. All proposed

stormwater management will be reviewed and approved by City of Billings Engineering Department to ensure it meets the master planned stormwater plan for Lake Hills Subdivision. All drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual*.

- 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 this proposed subdivision is from Gleneagles Boulevard. Sierra Granda Boulevard and Black Diamond Road connect to Gleneagles Boulevard within this subdivision. Gleneagles Boulevard is within an existing 80-foot right of way. Gleneagles Boulevard will be constructed to a 49-foot wide, back of curb to back of curb road with 5-foot wide boulevard sidewalks. Sierra Granda Boulevard is within a 60-foot-wide right of way and will be built to a 49 foot back of curb to back of curb. Black Diamond Road is within a 50-foot-wide right of way and will be constructed to 34-foot wide, back of curb to back of curb road with boulevard sidewalks. Sidewalks will be installed at the time of individual lot development. Road construction will include installation of accessible ramps at the intersections.
- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station that serves this area is located at 1601 St. Andrews Drive (Station #6).

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

Comments from the Police department state that continued expansion of subdivisions will require additional resources to maintain acceptable levels of service.

- f. **Schools** – School District #2 provides service to students within this subdivision from elementary to high school (Sandstone Elementary School, Castle Rock Middle School, and Skyview High School). School District #2 did not respond to request for comments at the time of the writing of this report.
- g. **Parks and Recreation** – The parkland dedication requirement for this subdivision have been met with previous filings of Lake Hills Subdivision.
- 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 developer will work with the USPS to provide a satisfactory location for a CBU for this filing. (**Condition #1**)

3. Effect on the natural environment

The subject property is relatively level land adjacent to urban development mostly on the east and south sides, there is less on the west and north. A geotechnical study was performed for the subdivision a summary of the information from that study is included in the SIA under the heading IX. Soils/Geotechnical Study. 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 under the heading II. Property Conditions and Information for Lot Purchasers.

5. Effect on the public health, safety and welfare

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

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:

Essential Investments: Infill development and development near existing City infrastructure may be the most cost effective. (p.6)

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) Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings. (p.9)

2. Billings Heights Neighborhood Plan

The Billings Heights Neighborhood Plan, adopted in 2006, identifies this area for low-density residential development. The subdivision meets the following goals of the Heights Neighborhood Plan:

Issue: Urban Sprawl

Goal: Encourage infill housing.

Objectives: To preserve and conserve resources and curb urban sprawl.

This subdivision will be building houses in an already established neighborhood and subdivision, reducing sprawl to new land.

Issue: Residential Development

Goal: To provide safe, good quality and affordable housing in the Heights. Develop housing patterns that are compatible with existing neighborhoods. Maintain similar housing in established neighborhoods.

Objectives: To encourage infill development and housing development that meets residents' desire to have similar housing within their neighborhood.

This subdivision provides low-density residential single-family development in a neighborhood with existing low-density single-family development.

3. 2018 Billings Urban Area Long Range 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.

4. Billings Area Bikeway and Trail Master Plan (BABTMP)

The proposed subdivision lies within the jurisdiction of the BABTMP. The BABTMP does not show any trails within the proposed subdivision. Gleneagles Boulevard is identified as having a future bike lane on it.

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 Neighborhood 3 (N3) zoning district. All building development on the lot shall comply with current zoning when applying for a building permit.

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

The subdivider 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 Gleneagles Boulevard that will be constructed with this project. All streets are dedicated to the public as shown on the plat.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Lake Hills Subdivision, 39th 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 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.

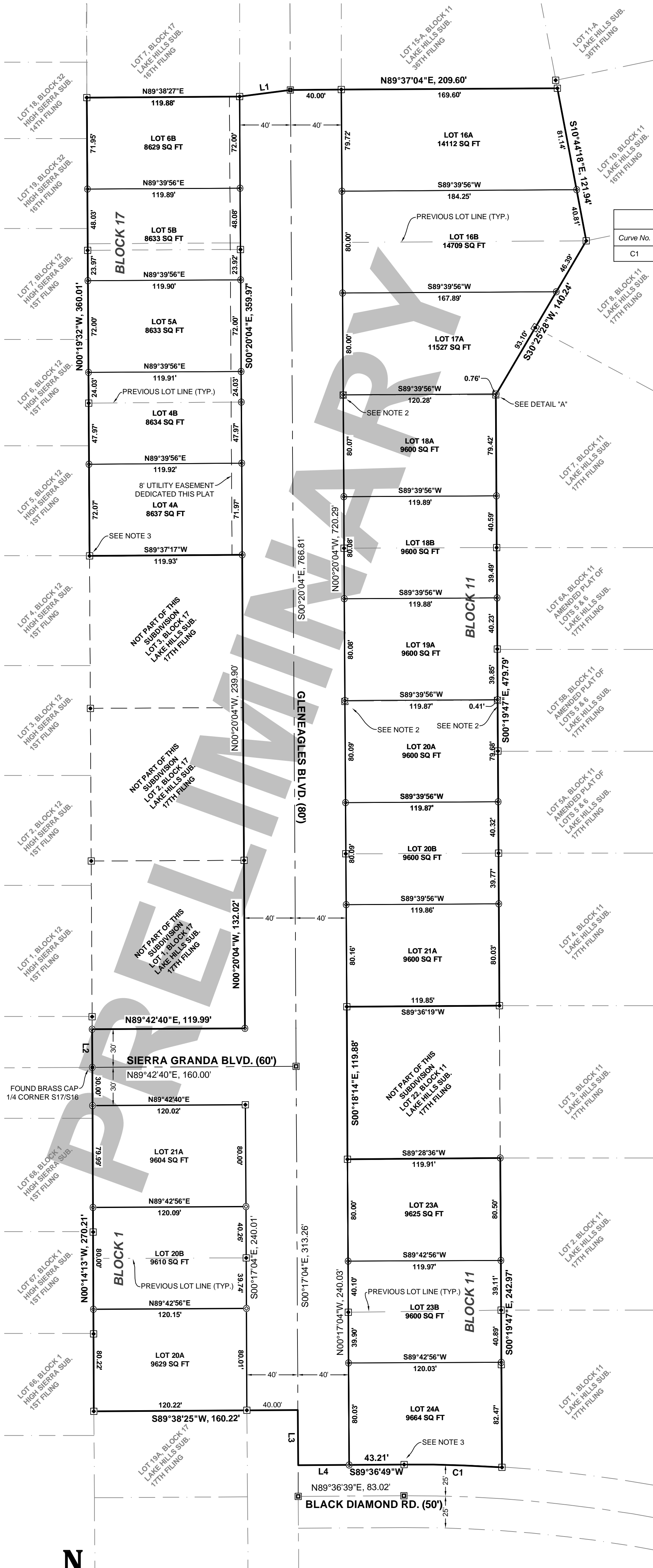
RECOMMENDATION

The Planning Board is forwarding a recommendation of conditional approval of the preliminary plat of Lake Hills Subdivision, 39th Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

PLAT OF LAKE HILLS SUBDIVISION, 39TH FILING

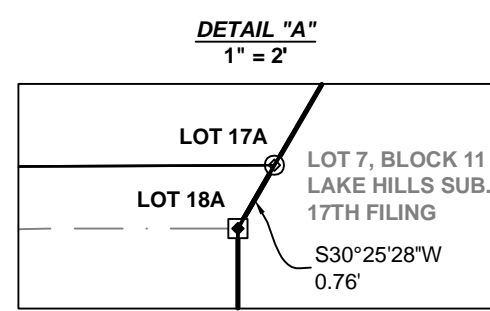
BEING LOT 6A, BLOCK 17, LOTS 15-16, BLOCK 11 OF LAKE HILLS SUBDIVISION, 16TH FILING, DOCUMENT NO. 612466,
 LOTS 4-6, BLOCK 17, LOTS 20-21, BLOCK 1, LOTS 17-21, LOTS 23-24, BLOCK 11, OF LAKE HILLS SUBDIVISION, 17TH FILING, DOCUMENT NO. 612467,
 WITHIN NW1/4 AND SW1/4 OF SECTION 16, T01N, R26E, P.M.M.
 CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: RON S. HILL
 DATE SURVEYED: JANUARY 2021
 PREPARED BY: WWC ENGINEERING



Line No.	Length	Bearing
L1	40.24'	N82°40'57"E
L2	30.00'	N0°19'32"W
L3	43.24'	N0°17'04"W
L4	40.00'	S89°42'56"W

Curve No.	Radius	Length	Delta	Chord Bearing	Chord Length
C1	1110.00'	76.95'	3°58'19"	N88°24'27"W	76.94'



LEGAL DESCRIPTION AND PROPERTY OWNER CERTIFICATE OF DEDICATION

State of Montana)
) SS
 County of Yellowstone)

KNOW ALL BY THESE PRESENTS: That we, the undersigned owners, do hereby certify that we, have caused to be surveyed, subdivided, and platted into lots blocks roads and alleys and other divisions and dedications, as shown by this plat hereunto included, the following described tract of land, to wit:

The parcel situated in the NW1/4 and SW1/4 of Section 16, T01N, R26E, P.M.M., City of Billings, Yellowstone County, Montana, and more particularly described as Lot 6A of Block 17 and Lots 15 and 16 of Block 11, Lake Hills Subdivision, 16th Filing, Document No. 612466; Lots 4-6, Block 17, Lots 20-21, Block 1, Lots 17-21 and Lots 23-24, Block 11 of Lake Hills Subdivision, 17th Filing, Document No. 612467; said tract being 4.56 acres in area, more or less, exclusive of the previously dedicated Sierra Granda Boulevard and Gleneagles Boulevard rights-of-way.

The above described tract of land is to be known and designated as LAKE HILLS SUBDIVISION, 39TH FILING, Yellowstone County, Montana. The undersigned do hereby grant unto all utility companies, as such are defined and established by Montana Law, and cable television companies, an easement for the location, maintenance, repair, removal of lines over, under and across the areas designated on the plat as Utility Easement to have and hold forever.

DATED THIS _____ DAY OF _____, 2021.

Ron S. Hill, Living Trust

Trustee, Ron S. Hill

ACKNOWLEDGMENTS

State of Montana)
) SS
 County of Yellowstone)

on this _____ day of _____, 2021, before me, the undersigned a notary public for the State of _____, personally appeared Ron S. Hill, Trustee of Ron S. Hill Living Trust, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

Notary Public for the State of _____

CERTIFICATE OF CITY ATTORNEY

This Subdivision Plat has been reviewed by the City Attorney's Office and is acceptable to form.

Dated this _____ day of _____, 2021

Reviewed by _____

ERRORS AND OMISSIONS REVIEW

Reviewed for errors and omissions in calculations and drafting this _____ day of _____, 2021, pursuant to section 76-3-611(2)(a), M.C.A.

Examining Land Surveyor

Reg. No. _____

CERTIFICATE OF COUNTY TREASURER

I hereby certify, pursuant to Section 76-3-611(1)(b), M.C.A. that all real property taxes and special assessments assessed and levied on the land described on this Subdivision Plat and encompassed by the proposed division have been paid.

Dated this _____ day of _____, 2021

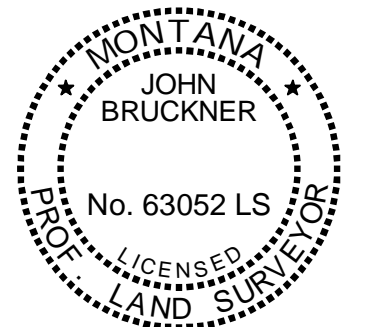
TREASURER
 YELLOWSTONE COUNTY, MONTANA

CERTIFICATE OF SURVEYOR

The undersigned, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of January 2021, a survey was performed under his supervision of a tract of land to be known as LAKE HILLS SUBDIVISION, 39TH FILING, in accordance with the request of the owner thereof and in conformance with Montana Subdivision and Platting Act, said subdivision being in accordance with the Landowner's Certificate and as shown on the plat; that the monuments found and set are of the character and occupy the positions hereon.

Dated the _____ day of _____, 2021

John Bruckner
 Registration Number 63052 LS



SUBDIVISION IMPROVEMENTS AGREEMENT

Document No. _____

CERTIFICATE OF CITY ENGINEER'S OFFICE

I hereby certify that I have examined the annexed plat and find that it conforms with Section 76-4-125(1)(d) MCA, removing sanitary restrictions since the plat is inside a master planning area and is provided with municipal facilities for the supply of water and disposal of sewage and solid waste.

Dated this _____ day of _____, 2021

CITY ENGINEER'S OFFICE

NOTICE OF APPROVAL

STATE OF MONTANA)
) SS
 County of Yellowstone)

This plat has been approved for filing by the Yellowstone County Board of Planning and conforms to the recommendations of this board.

Date _____

Executive Secretary

CERTIFICATE OF CITY COUNCIL APPROVAL

The City Council of the City of Billings, Yellowstone County, Montana does hereby certify that the accompanying plat for LAKE HILLS SUBDIVISION, 39TH FILING has been duly examined and have found the same to conform to the law and hereby approve it.

Dated this _____ day of _____, 2021

CITY OF BILLINGS, MONTANA

BY: _____
 Mayor

ATTEST: _____
 City Clerk

CERTIFICATE OF FILING BY CLERK AND RECORDER

QTR.	SEC.	TWP.	RGE.
16	16	1N	26E

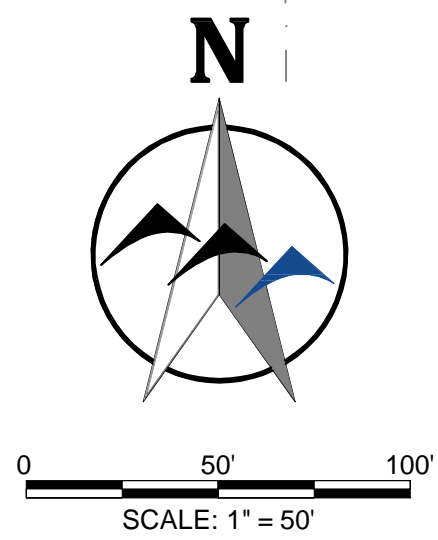
LAKE HILLS SUBDIVISION, 39TH FILING

JOB#: 2020-388

WWC ENGINEERING

550 S. 24TH ST. W., SUITE 201
 BILLINGS, MT 59102
 (406) 894-2210

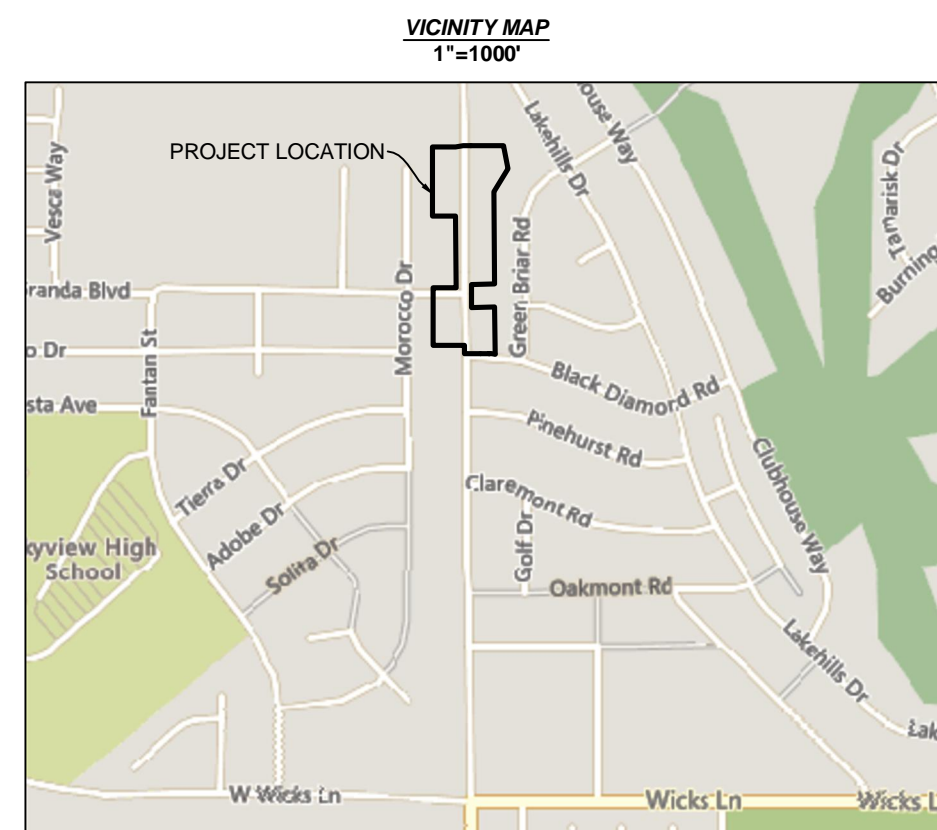
DATE: 01/20/21 BY: JPB CHECKED: AMR DATE: 01/20/21 SCALE: 1" = 50'



- LEGEND**
- FOUND REBAR
 - FOUND YELLOW PLASTIC CAP (YPC)
 - SET 5/8" REBAR W/ PURPLE PLASTIC CAP (BRUCKNER 63052 LS)
 - FOUND BRASS CAP
 - FOUND CENTERLINE MONUMENT
 - SET CENTERLINE MONUMENT

BASIS OF BEARING
 Coordinate System (MT83-BLGS-IF)
 Lambert Conformal Conic Projection
 (Single Parallel)
 North American Datum 1983(2011)
 Standard Parallel & Grid Origin: 45°47'00"
 Central Meridian: 108°25'00"
 False Northing: 50,000m
 False Easting: 200,000m
 Standard Parallel Scale: 1.0001515

- SURVEYORS NOTES**
- GROUND DISTANCES, INTERNATIONAL FEET
 - FOUND CORNERS AT OLD LOT CORNERS WERE REMOVED FOR CLARITY AT NOTED LOCATIONS.
 - DOUBLE MONUMENTS WERE FOUND AT THESE LOCATIONS. FOUND 1/2" REBAR WERE ACCEPTED AND HELD.



**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENTS DISTRICTS**

Lake Hills Subdivision, 39th Filing
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CITY OF BILLINGS

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**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS**

Lake Hills Subdivision, 39th Filing

This agreement is made and entered into this _____ day of __, 2021, by and between Ron S. Hill Living Trust, whose address for the purpose of this agreement is **P.O. Box 50636; Billings, Montana 59105**, 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 __, 2021, the Board of Planning recommended conditional approval of a preliminary plat of Lake Hills Subdivision, 39th Filing; and

WHEREAS, at a regular meeting conducted on __ day of __, 2021, the City Council conditionally approved a preliminary plat of Lake Hills Subdivision, 39th 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 Lake Hills Subdivision, 39th Filing upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, the rules, regulations, policies, and resolutions of the City of Billings, and the laws and administrative rules of the State of Montana.

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

I. VARIANCES

A. No variances are being requested for this subdivision.

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. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.

B. Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey and Geotechnical Engineering Report for Residential Lots Gleneagles-Lake Hills Drive, prepared by Rimrock Engineering (October 16, 2015) indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction. Refer to Section IX for discussion of the geotechnical study completed for some of the lots within the subdivision. All permitted structures within city limits are required by the City of Billings to obtain and follow a geotechnical report prior to construction.

C. Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is possible that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. Temporary and permanent fencing may alleviate these concerns. Continued development in the area will also further alleviate these interactions. 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.

D. There is attached hereto a Waiver waiving the right to protest the creation of the special improvements district 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 filled with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner, or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

E. The Subdivider and subsequent contractors/builders acknowledge that a Stormwater Pollution and Prevention Plan (SWPPP) may be required to be filed with the City and the Montana Department of Environmental Quality (MDEQ). This SWPPP shall be adhered to during all phases of construction and shall be updated as required by MDEQ under the General Permit for Stormwater Discharges Association with Construction Activity, Chapter 28, BMCC and the Billings Stormwater Management Manual.

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

III. TRANSPORTATION

Streets

- Rights-of-way widths of 60 feet for Sierra Granda Boulevard, 80 feet for Gleneagles Boulevard and 50 feet for Black Diamond Road have already been dedicated in previous filings.
- The Owner shall construct public streets, and curb & gutter within the Subdivision through SID 1416. Gleneagles Boulevard and Sierra Grande Boulevard shall be constructed as 49 feet back of curb to back of curb. Black Diamond Road will be constructed as 34 feet back of curb to back of curb. These access roads shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings' site development ordinance, and city subdivision regulations.
- The construction costs have been funded and no additional monetary security is required.

Sidewalks

- The corner intersection handicap ramps will be installed through SID 1416.
- Individual lot owners will be responsible for the construction of the sidewalks adjacent to their lot at the time of lot construction and shall be included in each building permit.
- Sidewalks shall be 5-foot wide with a 3-foot to 10-foot boulevard planting strip between the sidewalk and the curb. Sidewalk will tie into existing previously constructed sidewalks.

Street Lighting

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

Traffic Control Devices

- Traffic control devices are not required for this subdivision but are included in the waiver of right to protest.
- SID 1416 will furnish and install street name signs for streets within the subdivision or located immediately adjacent thereto in accordance with the specifications of the City of Billings Public Works and Fire Departments.

Access

- Access to the lots will be from drive approaches installed at the time of lot development from streets built with this Subdivision. Access permits shall be obtained from City Engineering.

Billings Area Bikeway and Trails Master Plan (BABTMP)

- This subdivision is located within the jurisdiction of the BABTMP, but no trail corridors are identified within this subdivision area.

Public Transit

- This subdivision does not require improvements to ensure public transit service. The nearest transit stop is at the intersection of Wicks Lane and Gleneagles Boulevard.

IV. EMERGENCY SERVICE

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

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

At a minimum, the following is required:

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

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the Stormwater Management Manual in place at the time of development. A master plan is in place for Lake Hills Subdivision and all future stormwater improvements will be reviewed and approved by the Engineering Division to comply with said plan. The new storm drainage improvements shall be constructed as part of SID 1416. The construction costs have been funded through the establishment of SID 1416 and no additional monetary security is required.

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 County

Water District of Billings Heights and Public Works Department – Distribution and Collection Division, respectively. 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 appropriate water and wastewater construction fees in effect shall be submitted with the applications.

It is acknowledged that the properties subject to this Subdivision Improvements Agreement shall be subject to the appropriate water and wastewater local and interior construction fees in effect at the time of payment. Fees shall be paid for the lots in each phase as applied for in the extension application and as per the first paragraph above.

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 County Water District of Billings Heights, City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality.

Water

The County Water District of Billings Heights serves the property. SID 1416 will extend water main along the length of Gleneagles Boulevard, Black Diamond Road, and Sierra Granda Boulevard through the subdivision. New water main will connect to 12" water main at the north and south end of the project, on Glen Eagles Boulevard. New water services will be installed for all lots in the subdivision.

Sanitary Sewer

Sanitary sewer mains and services will be extended from those that are existing in the subdivision. An existing 15" sanitary main passes through a portion of the Subdivision on Gleneagles Boulevard and Sierra Granda Boulevard. SID 1416 will extend sanitary mains across the front of lots within SID 1416 for sewer services to be installed. Sanitary sewer already extends into 9 existing lots within the subdivision. These services on the west side of Gleneagles will be extended 10 feet to accommodate dry utilities. New sewer services will be installed for all lots without sanitary sewer service in the subdivision as part of SID 1416.

Power, Telephone, Gas, and Cable Television

Private utility facilities (power, natural gas, telephone, and cable) will be installed during construction and located within the right-of-way and utility easements shown on the plat.

VII. PARKS/OPEN SPACE

There is no parkland requirement for this subdivision as the parkland requirement has been previously met.

VIII. IRRIGATION

No irrigation ditch, field laterals, or irrigation easements exist in this subdivision.

IX. SOILS/GEOTECHNICAL STUDY

According to the Geotechnical Engineering Report for Residential Lots Gleneagles-Lake Hills Drive, prepared by Rimrock Engineering (October 16, 2015), some soils found in this area consist of potentially compressible clay soils and silty sands which are expected to be compressible and potentially collapsible with increased moisture. Shale and sandstone shale bedrock at or near foundation and concrete slab elevations may be encountered.

Subsurface conditions vary from one location to another and the structural characteristics may vary from one structure to another. Currently all permitted structures within city limits are required by the City of Billings to obtain and follow a geotechnical report prior to construction.

X. PHASING OF IMPROVEMENTS

There are no intended phasing improvements.

XI. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements through Special Improvements District No. 1416. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said special improvement district and the improvements shall be installed as approved by the City Engineer and the City of Billings Public Works and County Water District of Billings Heights.

XII. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

- A. Subdivider agrees to guarantee all public improvements for a period of two years 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 run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees 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”

Ron S. Hill Living Trust

By: _____

Its: _____

STATE OF MONTANA)

: ss

County of Yellowstone)

On this ___ day of _____, 2021, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the _____, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

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

This agreement is hereby approved and accepted by the City of Billings, this _____ day of _____, 2021.

“CITY”
CITY OF BILLINGS
MONTANA

By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA)

: ss

County of Yellowstone)

On this ____ day of _____, 2021, 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 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:
Lake Hill Subdivision, 39th Filing

Signed and dated this _____ day of _____, 2021.

Ron S. Hill Living Trust

By: _____

Title: _____

STATE OF MONTANA)

: ss

County of Yellowstone)

On this ___ day of _____, 2021, before me, a Notary Public in and for the State of Montana, personally appeared _____, known to me to be the person who executed the forgoing instrument as the _____ of Ron S. Hill Living Trust known to me to be 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: _____

Greetings.

This letter is in reference to the Notice of Public Hearing regarding Lake Hills Subdivision, 39th Filing. Hearing to be held Tuesday, April 13, 2021 at 6pm.

I wish to offer my support to this project.

Further, I would like to compliment the many contractors and subcontractors working in and around the Lake Hills Subdivision on their professionalism, care for the area and their contribution to a visually appealing neighborhood. The contractors that have been working nearby have kept their worksites (and thereby the neighborhood) clean and well maintained. The large trucks that frequent the area have taken great care to observe safe speeds, which is appreciated as there are many young children in the neighborhood. I have no doubt that the professionalism these men and women display will continue onto this project.

Sincerely,

Mike Craighill
2118 Lake Hills Dr, Billings, MT 59105

Planning Board

Date: 04/27/2021
Title: Bitterroot Heights Subdivision, 3rd Filing - Preliminary Major Plat
Presented by: David Green
Department: Planning & Community Services
Presentation: Yes

Information

RECOMMENDATION

Staff proposes the Planning Board recommend conditional approval of the preliminary plat of Bitterroot Heights Subdivision, 3rd 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 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.
2. 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.
3. 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.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On March 1, 2021, PEC Engineering, agent for BCJM Properties, LLC, applied for preliminary major plat approval for Bitterroot Heights Subdivision, 3rd Filing. The proposed subdivision creates 71 lots for residential development. The subject property is generally located on the west side of Bitterroot Drive and north of Mary Street. The property is zoned Neighborhood 2 (N2). The proposed lots will be developed in compliance with the zoning as the property is developed.

VARIANCE REQUESTED

The applicant is not requesting a variance from the subdivision regulations

PROCEDURAL HISTORY

- Pre-application meeting January 28, 2021
- Preliminary plat application submitted to Planning Division on March 1, 2021
- Departmental review meeting March 18, 2021
- Preliminary plat resubmittal March 25, 2021
- Planning Board plat review April 13, 2021
- Planning Board public hearing April 27, 2021
- Preliminary plat to City Council May 24, 2021
- 60 working-day preliminary plat review period ends May 25, 2021

PLAT INFORMATION

General location: West side of Bitterroot Drive and north of Mary Street

Legal Description: COS 3217, Tract 2A-1, and a portion of Lot 1, Block 7, Bitterroot Heights Subdivision, 2nd Filing

Owner/Subdivider: BCJM Properties, LLC
Engineer and Surveyor: PEC Engineering
Existing Zoning: N2
Existing land use: Vacant Lane
Proposed land use: Residential
Gross and Net area: 23.82 acres / 17.89 acres
Proposed number of lots: 71
Lot size: Max: 19,442 square feet
Min.: 8,743 square feet
Parkland requirements: Parkland dedication was met with the 1st and 2nd filings.

STAKEHOLDERS

At the Planning Board Plat review meeting staff gave a presentation about the proposed subdivision, then stood for any questions the board members might have. President Woods called for questions and discussion. Board member Jensen-Christison asked about the rough terrain and making the lots usable. Taylor Kasperick, Performance Engineering, agent for the applicant, noted this was previously a gravel pit and the property will be leveled out to make it usable for development of homes and streets. President Woods asked where the open area is located on the survey. Mr. Kasperick provided clarification noting it is to the north and there is a trail along a natural drainage that goes through the land. He said there is a gravel path along the drainage way. An agreement was made with the 1st and 2nd filing stating the park land is to be developed when this subdivision build out goes to 51% or more. With this filing they are at that threshold and will be working with the parks department to master plan and develop the park. The owner will develop the infrastructure to connect to the parkland to the north with an internal trail system. The trail way improvements and park land will be maintained through a Parks Maintenance District that was created with the 1st and 2nd Filings.

ALTERNATIVES

In accordance with state law, the City Council has 60 working days to act upon this major preliminary plat. The 60 working day review period for the proposed plat ends on May 25, 2021. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 60 working day review period, the City Council is required to:

1. Approve;
2. Conditionally Approve; or
3. Deny the Preliminary Plat

FISCAL EFFECTS

This subdivision will have no fiscal impact on the Planning Division.

Attachments

Findings of Fact
Preliminary Plat
SIA
Email from surrounding property owner

FINDINGS OF FACT

The Planning staff has prepared the Findings of Fact for the preliminary plat of Bitterroot Heights Subdivision, 3rd Filing. These findings are based on the preliminary plat application and supplemental documents; addressing the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(H), BMCC).

A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health, safety and welfare? [MCA 76-3-608 (3) (a) and BMCC 23-302.H.2.]

1. Effect on agriculture and agricultural water user facilities

The subject property is currently dry land grass and shrubs. There are no water rights being transferred to subdivision property owners. Ditches existing near this development are for the benefit of other properties. All ditches and drains shall remain in place and not be altered by the subdivider or subsequent owners. The subdivision should not affect agricultural water users' facilities.

2. Effect on local services

- a. Utilities** – Public water services to the subject property will be provided by the County Water District of Billings Heights. There is an 8-inch water line the existing subdivision 1st and 2nd filings. That pipe size will be continued through the 3rd filing. There will be a stub out to each lot for the individual lots to have access to water. All water line construction shall be installed in conformance with the design standards, specification, rules and regulations of the County Water District of Billings Heights.

Fire hydrants will also be installed as required by the City of Billings Fire Department. The City Fire Department will review and approve all proposed hydrant locations prior to installation.

Sanitary sewer service will be provided by the City of Billings by connecting to the existing 8-inch sewer main located in the existing 1st and 2nd filings of this subdivision. All sanitary sewer mains will be 8 inches with services stubbed to each lot. All sewer line construction shall be installed in conformance with the design standards, specification, rules and regulations of the City of Billings Engineering Department.

All telephone, gas, electrical power, and cable television lines that are placed within the public right-of-way shall be installed prior to surface improvements. An 8-foot utility easement is provided along the front lot lines of selected lots for utility services as shown on the plat of Bitterroot Heights Subdivision, 3rd Filing.

- 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. A stormwater master plan is in place for this subdivision. In accordance

with the Stormwater Management Plan developed for Bitterroot Heights Subdivision 1st, Filing, a stormwater detention facility for Bitterroot Heights Subdivision has been constructed in the north-central portion of the property to serve ultimate build-out of all of Bitterroot Heights Subdivision. The detention facility is located on lands dedicated as parks and will be maintained by a Park Maintenance District.

All proposed stormwater management will be reviewed and approved by City of Billings Engineering Department to ensure it meets the master planned stormwater plan for Bitterroot Heights Subdivision. All drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual*.

- 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 this proposed subdivision is from Strapper Lane and a connection to Hawthorne Lane. All new streets will be in a 56-foot-wide right of way and will be constructed to 34-foot wide, back of curb to back of curb road with 5-foot wide boulevard sidewalks. Sidewalks will be installed at the time of individual lot development. Road construction will include installation of accessible ramps at the intersections. Hawthorne Lane will be improved by increasing the paved width from 26 feet to 30 feet.
- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The fire station that serves this area is located at 1601 St. Andrews Drive (Station #6).

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

Comments from the Police department state that continued expansion of subdivisions will require additional resources to maintain acceptable levels of service.

- f. **Schools** – School District #2 provides service to students within this subdivision from elementary to high school (Beartooth Elementary School, Medicine Crow Middle School, and Skyview High School). School District #2 did not respond to request for comments at the time of the writing of this report.
- g. **Parks and Recreation** – The parkland dedication requirement for this subdivision have been met with previous filings of Bitterroot Heights Subdivision.
- 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 developer will work with the USPS to provide a satisfactory location for a CBU for this filing. (**Condition #1**)

3. Effect on the natural environment

The subject property is relatively level land adjacent to urban development on the east. A geotechnical study was performed for the subdivision a summary of the information from that study is included in the SIA under the heading IX. Soils/Geotechnical Study. 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 under the heading II. Property Conditions and Information for Lot Purchasers.

5. Effect on the public health, safety and welfare

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

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:

Essential Investments: Infill development and development near existing City infrastructure may be the most cost effective. (p.6)

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) Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings. (p.9)

2. Billings Heights Neighborhood Plan

The Billings Heights Neighborhood Plan, adopted in 2006, identifies this area for low-density residential development. The subdivision meets the following goals of the Heights Neighborhood Plan:

Issue: Urban Sprawl

Goal: Encourage infill housing.

Objectives: To preserve and conserve resources and curb urban sprawl.

This subdivision will be building houses in an already established neighborhood and subdivision, reducing sprawl to new land.

Issue: Residential Development

Goal: To provide safe, good quality and affordable housing in the Heights. Develop housing patterns that are compatible with existing neighborhoods. Maintain similar housing in established neighborhoods.

Objectives: To encourage infill development and housing development that meets residents' desire to have similar housing within their neighborhood.

This subdivision provides low-density residential single-family development in a neighborhood with existing low-density single-family development.

3. 2018 Billings Urban Area Long Range 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.

4. Billings Area Bikeway and Trail Master Plan (BABTMP)

The proposed subdivision lies within the jurisdiction of the BABTMP. The BABTMP does not show any trails within the proposed subdivision. Gleneagles Boulevard is identified as having a future bike lane on it.

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 Neighborhood 2 (N2) zoning district. All building development on the lot shall comply with current zoning when applying for a building permit.

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

The subdivider will 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 Strapper Lane and new internal streets will provide access to individual lots. All streets are dedicated to the public as shown on the plat.

CONCLUSIONS OF FINDINGS OF FACT

- The preliminary plat of Bitterroot Heights Subdivision, 3rd 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 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 the Planning Board forward a recommendation of conditional approval of the preliminary plat of Bitterroot Heights Subdivision, 3rd Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

PRELIMINARY PLAT OF
BITTERROOT HEIGHTS SUBDIVISION, 3RD FILING
 BEING TRACT 2A-1 OF COS 3217, 2ND AMENDED AND A PORTION OF LOT 1 OF BLOCK 7 OF
 BITTERROOT HEIGHTS SUBDIVISION 2ND FILING
 LOCATED IN THE SE ¼ OF SECTION 11, TOWNSHIP 01 N, RANGE 26 E, P.M.M., CITY OF BILLINGS,
 YELLOWSTONE COUNTY, MONTANA



PREPARED FOR : BCJM PROPERTIES, LLC

PREPARED BY : PERFORMANCE ENGINEERING, LLC

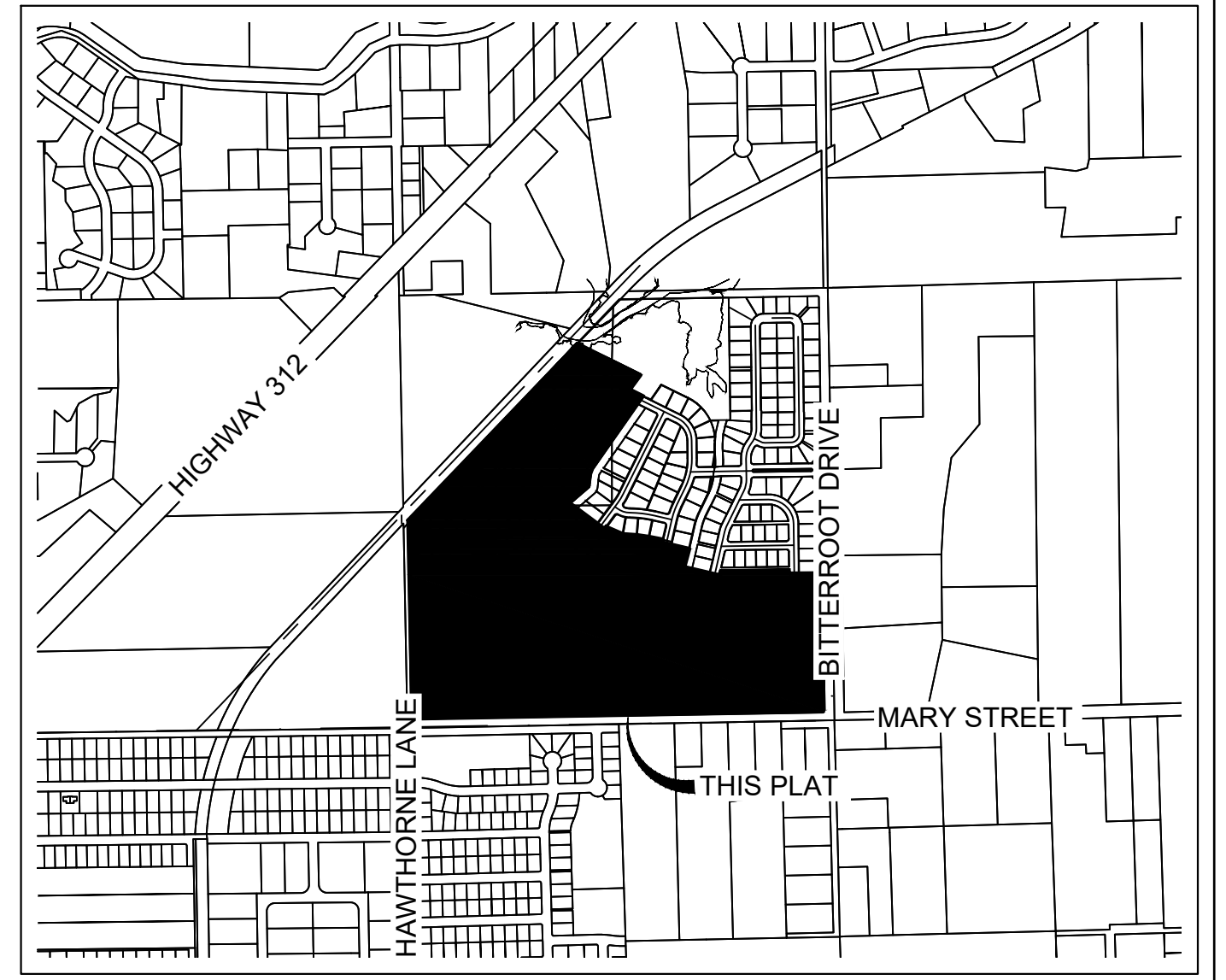
SITE DATA

EXISTING LAND USE: VACANT URBAN
 EXISTING ZONING: R2
 PROPOSED LAND USE: RESIDENTIAL
 PROPOSED ZONING: R3
 TOTAL LOTS IN SUBDIVISION: 80
 GROSS AREA: 79.064 AC
 RIGHT-OF-WAY: 6.510 AC
 LINEAL FEET OF STREETS: 5,191 LF
 NET AREA OF LOTS: 72.554 AC

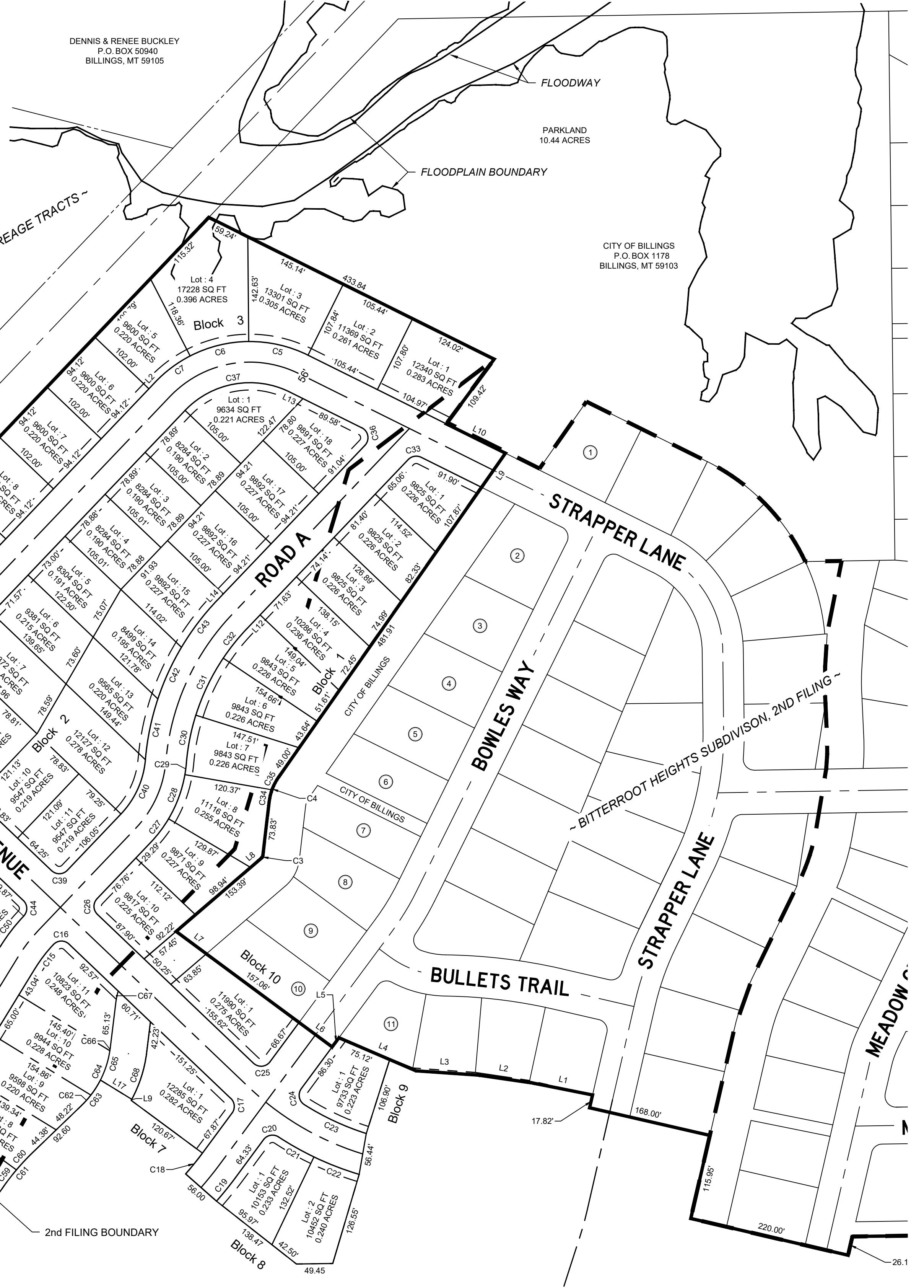
PARKLAND TO DATE
 REQUIRED: 9.201 AC
 DEDICATED: 12.441 AC
PARKLAND THIS PLAT
 REQUIRED: 2.035 AC
 DEDICATED: 0.204 AC
 EXCESS PARKLAND DEDICATED: 1.409 AC

ADJOINING LANDOWNER INFORMATION

- | | |
|--|--|
| 1 JOEY KIERNAN & LINDA R LOFF
1346 EUBANKS AVENUE
ATLANTA, GA 30344 | 7 KENNETH C & SHELEAH THOMSON
2526 BOWLES WAY
BILLINGS, MT 59105 |
| 2 GENEVIEVE WINK
2620 BOWLES WAY
BILLINGS, MT 59105 | 8 TROY E & VICTORIA H RUFF
2522 BOWLES WAY
BILLINGS, MT 59105 |
| 3 LINDSAY M MILLER
2614 BOWLES WAY
BILLINGS, MT 59105 | 9 MARTY W & CARLA L EDWARDS
2518 BOWLES WAY
BILLINGS, MT 59105 |
| 4 BRANDON E COOK
2610 BOWLES WAY
BILLINGS, MT 59105 | 10 DENNIS & SUSAN DIRKS
2514 BOWLES WAY
BILLINGS, MT 59105 |
| 5 MARC E & LISA D NEIHAUS
2606 BOWLES WAY
BILLINGS, MT 59105 | 11 TROY R & CAMMIE GUPTILL
1428 BULLETS TRAIL
BILLINGS, MT 59105 |
| 6 ROBERT M, TAMARA M, & CODY J HOOPER
2602 BOWLES WAY
BILLINGS, MT 59105 | |



VICINITY MAP



FRED R & DANIELLE K SCHMIDT
BILLINGS, MT 59103

CS 903

16' ROW DEDICATED THIS PLAT

40' EX. HAWTHORNE LANE ROW

306 LLC
1715 S 11TH ST
BILLINGS, MT 59101

UNPLATTED

HAPPY COWS LLC
2500 AIREWAY DRIVE
BILLINGS, MT 59106

DENNIS & RENEE BUCKLEY
P.O. BOX 50940
BILLINGS, MT 59105

CITY OF BILLINGS
P.O. BOX 1178
BILLINGS, MT 59103

Line Table

Line #	Length
L1	87.85
L2	74.75
L3	12.69
L4	85.41
L5	108.67
L6	86.30
L7	25.12
L8	56.00
L9	51.29
L10	19.68
L11	1.63
L12	56.64
L13	89.70
L14	16.00
L15	26.03
L16	20.09
L17	12.10
L18	9.14
L19	18.42
L20	50.10

Curve Table

Curve #	Length	Radius	Delta
C1	15.80	9.73	93.06
C2	15.67	10.00	89.78
C3	3.73	5.00	42.74
C4	36.10	73.00	28.34
C5	83.62	178.00	26.92
C6	82.96	178.00	26.70
C7	59.41	178.00	19.12
C8	4.36	178.00	1.40
C9	66.46	178.00	21.39
C10	67.74	178.00	21.80
C11	23.56	15.00	90.00
C12	53.38	128.00	23.89
C13	65.00	128.00	29.10
C14	10.21	128.00	4.57
C15	40.42	191.00	12.12
C16	23.56	15.00	90.01
C17	21.70	15.00	82.87
C18	36.49	432.00	4.84
C19	41.21	488.00	4.84
C20	22.70	15.00	86.70
C21	55.46	418.00	7.60
C22	66.10	418.00	9.06
C23	93.53	362.00	14.80
C24	24.64	15.00	94.12
C25	25.43	15.00	97.13
C26	23.56	15.00	90.00

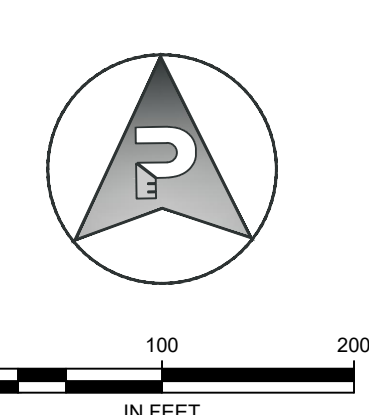
Curve Table

Curve #	Length	Radius	Delta
C27	40.33	178.00	12.98
C28	64.44	178.00	20.74
C29	15.75	178.00	5.07
C30	66.66	302.00	12.65
C31	86.47	302.00	16.41
C32	51.48	302.00	9.77
C33	19.04	15.00	72.75
C34	16.73	73.00	13.13
C35	19.37	73.00	15.21
C36	28.08	15.00	107.25
C37	154.90	122.00	72.75
C38	23.57	15.00	90.02
C39	23.56	15.00	90.00
C40	82.60	122.00	38.79
C41	84.64	358.00	13.55
C42	77.40	358.00	12.39
C43	80.52	358.00	12.89
C44	23.56	15.00	89.99
C45	23.55	15.00	89.98
C46	23.56	15.00	90.00
C47	39.58	472.00	4.80
C48	60.59	472.00	7.36
C49	23.56	15.00	90.00
C50	52.28	247.00	12.13
C51	23.56	15.00	90.00
C52	54.80	528.00	5.95

Curve Table

Curve #	Length	Radius	Delta
C53	57.26	528.00	6.21
C54	23.56	15.00	90.00
C55	94.97	122.00	44.60
C56	23.56	15.00	90.00
C57	76.94	76.59	57.56
C58	4.83	5.00	55.36
C59	30.41	320.00	5.44
C60	32.47	320.00	5.81
C61	62.88	320.00	11.26
C62	18.66	130.00	8.22
C63	42.93	130.00	18.92
C64	66.40	130.00	29.27
C65	42.14	130.00	18.57
C66	3.59	130.00	1.58
C67	13.41	70.00	10.97
C68	68.75	180.00	21.88

Block 11
 Lot: 1
 2354644 SQ FT
 54.055 ACRES



PRELIMINARY PLAT OF BITTERROOT HEIGHTS SUBDIVISION, 3RD FILING

BEING TRACT 2A-1 OF COS 3217, 2ND AMENDED AND A PORTION OF LOT 1 OF BLOCK 7 OF BITTERROOT HEIGHTS SUBDIVISION 2ND FILING
 LOCATED IN THE SE ¼ OF SECTION 11, TOWNSHIP 01 N, RANGE 26 E, P.M.M., CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA



PREPARED FOR : BCJM PROPERTIES, LLC

PREPARED BY : PERFORMANCE ENGINEERING, LLC

SITE DATA

EXISTING LAND USE: VACANT URBAN
 EXISTING ZONING: N2
 PROPOSED LAND USE: RESIDENTIAL
 PROPOSED ZONING: N3

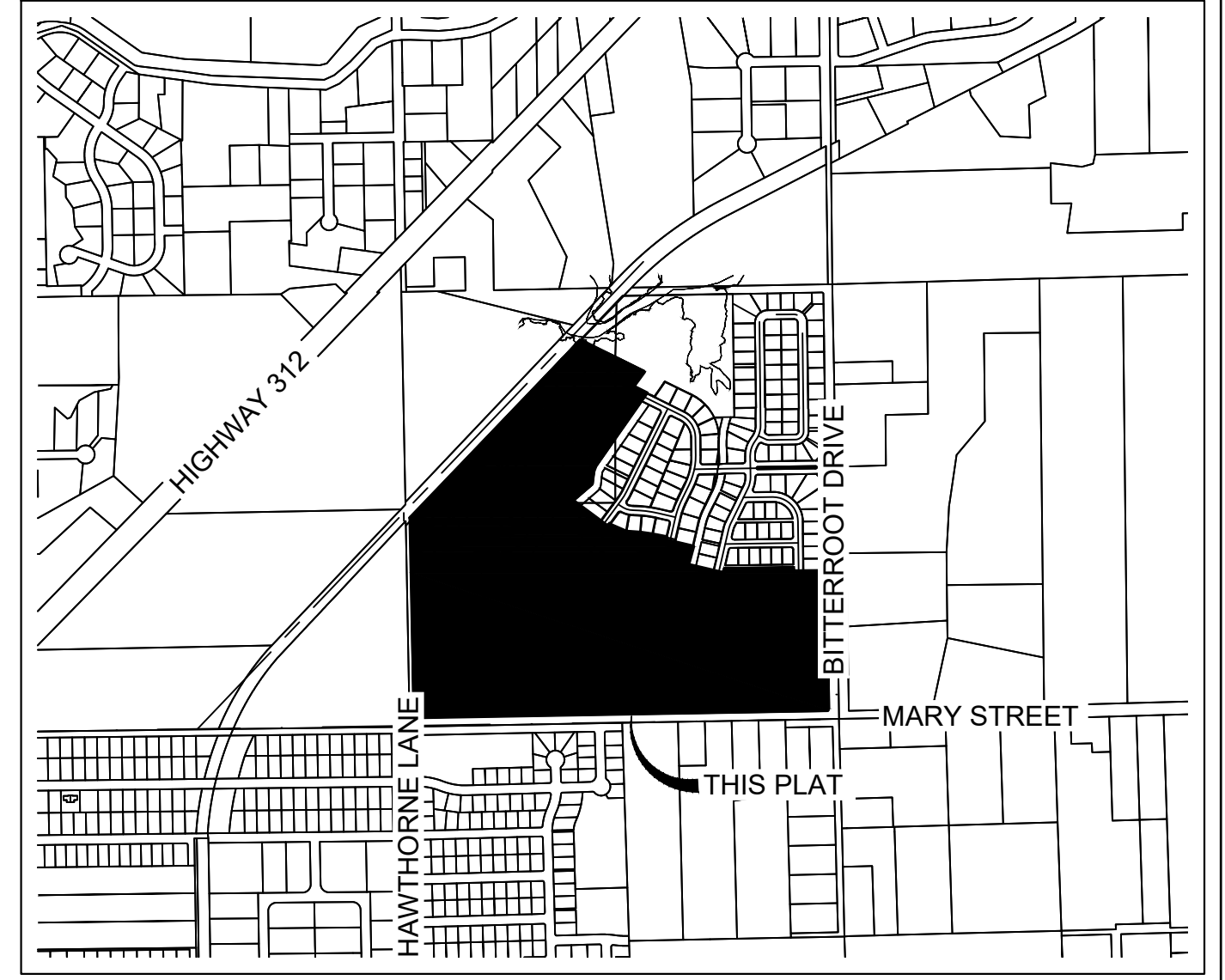
TOTAL LOTS IN SUBDIVISION: 80

GROSS AREA: 79.064 AC
 RIGHT-OF-WAY: 6.510 AC
 LINEAL FEET OF STREETS: 5,191 LF
 NET AREA OF LOTS: 72.554 AC

PARKLAND TO DATE
 REQUIRED: 9.201 AC
 DEDICATED: 12.441 AC

PARKLAND THIS PLAT
 REQUIRED: 2.035 AC
 DEDICATED: 0.204 AC

EXCESS PARKLAND DEDICATED: 1.409 AC



VICINITY MAP

Line #	Length
L1	87.85
L2	74.75
L3	85.41
L4	108.67
L5	86.30
L6	56.00
L7	51.29
L8	19.68
L9	56.64
L10	89.70

Curve #	Length	Radius	Delta
C1	15.80	9.73	93.06
C2	15.67	10.00	89.78
C3	3.73	5.00	42.74
C4	36.10	73.00	28.34
C18	36.49	432.00	4.84
C58	4.83	5.00	55.36
C61	62.88	320.00	11.26
C63	42.93	130.00	18.92



ADJOINING LANDOWNER INFORMATION

- | | | | |
|---|--|--|--|
| 1 BRET & SHELLEY R BARNES
1432 BULLETS TRAIL
BILLINGS, MT 59105 | 8 CURTIS A & ANGELA R SCHMIDT
1516 MUSTANG VALLEY DRIVE
BILLINGS, MT 59105 | 15 ROBERT C & BETTE M WOLFF
825 CRIST DRIVE
BILLINGS, MT 59105 | 22 KELLY R SELPH
2347 COLUMBINE DRIVE
BILLINGS, MT 59105 |
| 2 JAMES & SHAWNA FRIEDE
1436 BULLETS TRAIL
BILLINGS, MT 59105 | 9 ELIZABETH LOCKWOOD
1520 MUSTANG VALLEY DRIVE
BILLINGS, MT 59105 | 16 ROBERT C & BETTE M WOLFF
825 CRIST DRIVE
BILLINGS, MT 59105 | 23 COLTON T JAMES
2346 COLUMBINE DRIVE
BILLINGS, MT 59105 |
| 3 COREY S. JOHNSON
1440 BULLETS TRAIL
BILLINGS, MT 59105 | 10 JOSH S ROBERSON
1524 MUSTANG VALLEY DRIVE
BILLINGS, MT 59105 | 17 M P SOUZA
1512 MARY STREET
BILLINGS, MT 59105 | 24 CHRISTOPHER W GRUDZINSKI
2341 HYACINTH DRIVE
BILLINGS, MT 59105 |
| 4 DANIEL B & DEANNA L HANSARD
2513 STRAPPER LANE
BILLINGS, MT 59105 | 11 KALEN J YOUNG
1528 MUSTANG VALLEY DRIVE
BILLINGS, MT 59105 | 18 BRENT & CHERYL CATHEY
200 BRIDLE PATH ROAD
BILLINGS, MT 59105 | 25 CODY W MARTINEZ
2347 HYACINTH DRIVE
BILLINGS, MT 59105 |
| 5 TRAVIS J & HILLARY B TRYAN
2508 MEADOW CREEK DRIVE
BILLINGS, MT 59105 | 12 AMANDA M & KAI S SLATES
2505 SPRING GULCH WAY
BILLINGS, MT 59105 | 19 JOSEPH M & NARDA ALLEN
1432 MARY STREET
BILLINGS, MT 59105 | 26 BRYAN GROTH JOHN
2346 HYACINTH DRIVE
BILLINGS, MT 59105 |
| 6 TERILL J & VIRGINIA M NORVILLE
1508 MUSTANG VALLEY DRIVE
BILLINGS, MT 59105 | 13 RICHARD & JONI PENTLAND
2495 BITTERROOT DRIVE
BILLINGS, MT 59105 | 20 SARA WRIGHT
1430 MARY STREET
BILLINGS, MT 59105 | 27 DAVID JOHN RUFF
2340 HYACINTH DRIVE
BILLINGS, MT 59105 |
| 7 MARK STEVEN & ALESIA E FOWLER
1512 MUSTANG VALLEY DRIVE
BILLINGS, MT 59105 | 14 MDT
PO BOX 201001
HELENA MT, 59620 | 21 JOSEPH M ALLEN
1414 MARY STREET
BILLINGS, MT 59105 | 28 KALISPELL ASSEMBLY OF GOD CHURCH
225 SUMMIT RIDGE DRIVE
KALISPELL, MT 59901 |



0 200 400
IN FEET

3/25/2021 2:48:24 PM PEC STANDARD.BW.CTB C:\Users\Rob\Neihart\Dropbox (PEC Billings)\PEC Billings Team Folder\BCJM\2020-146 BHS P3\CAD\DWG\Plat20-146 BH Plat.dwg

**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL IMPROVEMENT
DISTRICTS**

Bitterroot Heights Subdivision, 3rd Filing

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(City of Billings)**

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**SUBDIVISION IMPROVEMENTS AGREEMENT
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL
IMPROVEMENT DISTRICTS**

Bitterroot Heights Subdivision, 3rd Filing

This agreement is made and entered this ____ day of _____, 20____, by and between ***BCJM Properties, LLC***, whose address for the purpose of this agreement is **2409 Nina Clare Rd., Billings, MT 59102**, 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 *Bitterroot Heights Subdivision, 3rd Filing*; and

WHEREAS, at a regular meeting conducted on ____ day of _____, 20____, the City Council conditionally approved a preliminary plat of *Bitterroot Heights Subdivision, 3rd 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 *Bitterroot Heights Subdivision, 3rd 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

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 23.1101, BMCC):

1. No variances have been requested at this time.

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. Sidewalks shall be 5-foot boulevard style walk.
- 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.** Much of the area of this subdivision was previously mined for gravel and has since been reclaimed. There exists the potential for variable soils conditions and groundwater levels within the subdivision area. Assessment and mitigation of these conditions, if necessary, shall be the responsibility of the lot owner. Additional geotechnical studies may be necessary at the time of individual lot development.
- D.** No water rights have been transferred to the lot 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 by the completion of the conditions set forth in the Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.
- F.** A Park Maintenance District has been created for the maintenance of the boulevard improvements, maintenance of drainage channels and detention facilities, and future park maintenance. The maintenance of the park, drainage, and boulevard improvements will be performed by the City, but paid for by funds received through the Park Maintenance District. The overall master plan for Bitterroot Heights Subdivision anticipates that approximately 380 lots will be created at full build-out. Development (construction) of the subdivision park will be required when at least 51% of the proposed lots are sold. Development of the park will be the responsibility of the Subdivider.
- 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 with Section 28-201, BMCC and detailed in the Billings Stormwater Management Manual.
- I. Lot owners should be aware that portion(s) of this property lie within the floodplain/floodway, as depicted on the FEMA maps for this area. Please be advised that special development restrictions may apply within these specified areas.
- J. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.

III. TRANSPORTATION

A. Streets

- Subdivider will execute a private contract to construct public streets, and curb and gutter within the Subdivision. The improvements will consist of 34-foot from back of curb to back of curb residential streets with 56-foot rights-of-ways.
- Standard curb and gutter will be installed on all of the interior streets being constructed within the Subdivision.
- All streets will be provided with an asphalt concrete driving surface.
- Hawthorne Lane will be improved by increasing the paved width from 26 feet to 30 feet.

B. Sidewalks

- Individual lot owners will be responsible for the construction of the sidewalks adjacent to their lot at the time of lot construction and shall be included in each building permit.
- Sidewalks shall be 5-foot wide with a 5-foot boulevard planting strip between the sidewalk and the curb at corner intersection handicap ramps and aprons.
- Subdivider will install, within the private contract, corner intersection handicap ramps and aprons.
- Subdivider to install sidewalks and trails fronting parkland/open space areas.

C. Street Lighting

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

D. Traffic Control Devices

- Subdivider will install necessary traffic control devices within or adjacent to the Subdivision in conformance with the City of Billings standards.
- Street name signs for streets within the Subdivision, or located immediately adjacent thereto, shall be furnished and installed by the subdivider in accordance with the specifications of the City of Billings standards.

E. Access

- Subdivision access is limited to a single access to Bitterroot Drive via a public street (Empire Drive) located approximately 1,500 feet north of Mary Street and a single access to Mary Street via a public street (Hawthorne Lane) located approximately 2,600 feet west of Bitterroot Drive. Hawthorne Lane will be improved by increasing the paved width from 26 feet to 30 feet.
- An update to the Traffic Accessibility Studies submitted for the 1st and 2nd Filings shall be performed.

F. Billings Area Bikeways and Trail Master Plan

- The Bitterroot Heights Subdivision, 3rd Filing is within the planning area for the Billings Area Bikeway & Trail Master Plan. The Trail Plan indicates a proposed multi-use trail along the south side of Five Mile Creek with a connection to Mary Street within the old railroad right-of-way. The Plan designates Mary Street as a “primary bikeway” and designates Bitterroot Drive as an “arterial bikeway”.
- Parklands dedicated with Bitterroot Heights Subdivision, 1st and 2nd Filings have been master-planned to include provisions for necessary connections through subdivision property. Construction of the multi-use path through parklands dedicated with Bitterroot Heights Subdivision, 1st and 2nd Filings will be undertaken with development of the park and will commence when 51% of the total planned lots in all the filings are platted. In addition, 8-foot wide gravel maintenance paths have been constructed in the Public Open Space dedicated with the 2nd Filing.
- Ownership of trail corridor through Bitterroot Heights Subdivision, 1st and 2nd Filings will be by the City of Billings Parks Department. Maintenance will be the responsibility of the City of Billings Parks Department through establishment of a Park Maintenance District.

G. Public Transit

- Met Transit provides service to the Billings Heights, with the closest route at the intersection of Bench Boulevard and Pemberton Lane, approximately 1 mile from the 3rd Filing. No improvements are required to ensure public transit service.

IV. EMERGENCY SERVICE

Construction of buildings made of combustible materials shall have adequate fire apparatus access roads and water supply (fire hydrants) in place to allow for fire suppression requirements. Prior to 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 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.
- 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.
- The Subdivider shall provide a permanent 2nd access to the Subdivision by improving Hawthorne Lane to a 30-foot asphalt road.

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions set forth in Chapter 28, BMCC, and the Stormwater Management Manual in place at the time of development. A complete stormwater management plan shall be submitted to the Engineering Division for review and approval at the time of development.

In accordance with the Stormwater Management Plan developed for Bitterroot Heights Subdivision 1st, Filing, a stormwater detention facility for Bitterroot Heights Subdivision has been constructed in the north-central portion of the property to serve ultimate build-out of all of Bitterroot Heights Subdivision. The detention facility is located on lands dedicated as parks and will be maintained by a Park Maintenance District.

Existing natural drainages that traverse the Bitterroot Heights Subdivision will be retained and improved for conveyance of stormwater runoff to the detention facility. The existing west drain has been re-routed with the 2nd Filing to drain to the existing detention facility, in accordance with the Stormwater Management Plan developed for the 1st Filing. The improved natural drainages will be contained within Public Open Space dedicated as parks and will be maintained by a Park Maintenance District.

Where not contained within street rights-of-way, storm drainage facilities will be located within dedicated rights-of-way or on public property. Where storm drain outfalls run between residential lots, a 20-foot wide right-of-way will be provided and a 5-foot concrete pathway will be constructed within the right-of-way.

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 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, County Water District of Billings Heights, Fire Department and the Montana Department of Environmental Quality.

A. Water

Subdivider shall enter into a private contract to extend water mains from those that are existing in the Subdivision. Water will be provided by County Water District of Billings Heights. Each water main will be 8 inches with services stubbed to each lot. Construction drawings shall be reviewed and approved prior to installation.

B. Sanitary Sewer

Subdivider shall enter into a private contract to extend sanitary sewer mains from those that are existing in the Subdivision. All sanitary sewer mains will be 8 inches with services stubbed to each lot. Construction drawings shall be reviewed and approved prior to installation.

C. Power, Telephone, Gas, and Cable Television

All telephone, gas, electrical power, and cable television lines within the public right-of-way shall be installed prior to surface improvements. 8-foot utility easements are provided along the front lot lines of selected lots for utility services as shown on the plat of Bitterroot Heights Subdivision, 3rd Filing.

VII. PARKS/OPEN SPACE

- The parkland requirement for the Bitterroot Heights Subdivision, 3rd Filing is 2.051 acres (11% of net area). The parkland requirement for the anticipated build-out of Bitterroot Heights Subdivision (all filings) is 7.96 acres (11% of net area). A total of 12.441 acres of parkland has been dedicated to the City with Bitterroot Heights Subdivision, 1st and 2nd Filings. Additional parklands will be dedicated with future filings.
- The City and the Subdivider agree that the requirement for park dedication is satisfied by the conveyance of parklands to the City.
- The overall master plan for Bitterroot Heights Subdivision anticipates that approximately 380 lots will be created at full build-out. Development of the subdivision Park Master Plan, adopted by City Council, will be required when at least 51% of proposed lots are sold. The development of the park will be the responsibility of the Subdivider.

VIII. IRRIGATION

- No irrigation facilities are affected by the development of Bitterroot Heights Subdivision, 3rd Filing.
- No water rights have been transferred to the lot owners. Irrigation ditches that exist near this development are for the benefit of other properties. Ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.

IX. SOILS/GEOTECHNICAL STUDY

- A geotechnical investigation was performed for the area of Bitterroot Heights Subdivision, 2nd Filing and can be obtained from the City Engineering Department office.

X. PHASING OF IMPROVEMENTS

- Phasing is not proposed for this Subdivision.

XI. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements with cash or by utilizing the mechanics of a private contract secured by letters of credit or a letter of commitment to lend funds from a commercial

lender. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said private contract, and the improvements shall be installed as approved by the City Engineer and Utility Department Manager.

XII. LEGAL PROVISIONS APPLYING TO SUBDIVIDER

- A.** Subdivider agrees to guarantee all public improvements for a period of two years 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 run with the land and apply to and shall be binding on the heirs, personal representatives, successors, assigns and transferees 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.

To Whom It May Concern,

I am writing this email in response to the proposed zoning change for the Bitterroot Heights subdivision. At this time, I am strongly against this zoning change to allow for multi-family units for several reasons:

- 1) Noise pollution. Changing the lots to allow for multi-family units would increase the number of families occupying the same space, potentially doubling this number, if every lot contained a multi-family unit. This would significantly increase the noise present within an otherwise quiet neighborhood.
- 2) Pollution. For much the same reason listed above, increasing the number of families per lot, would increase the amount of vehicle traffic, and thereby increase pollution in the immediate area. This would also lead to more trash in the area. As we all know, the wind blows quite frequently in our area, and many times this leads to trash blowing out of our trash bins. This would only worsen with the presence of multi-family units.
- 3) Traffic. As it stands, many residents in the subdivision park on the street. When this occurs, it can make it difficult to have traffic moving in both directions. Multi-family units would lead to a significant increase in traffic, which our neighborhood is not currently set up to handle. This would also significantly increase the wear and tear on our roads, increasing the frequency for repairs.
- 4) Safety. This is, perhaps, the most important point. As noted above, multi-family units would increase the traffic seen. I frequently see children playing in our neighborhood, as well as neighbors walking their pets. Significant increases in traffic, again, with the potential to double what would otherwise be expected, would pose a safety concern for residents that enjoy walking and playing in our beautiful neighborhood.

I am strongly against the change in zone to allow for multi-family units within the Bitterroot Heights subdivision, as it can only harm the neighborhood as it currently stands. I would implore the committee to stop this change, and maintain the single family unit zoning that has been present in the rest of the neighborhood. However, if this change in zoning cannot be avoided, I would at least ask that there be a requirement to buffer the existing neighborhood, by placing only single family units up against the existing properties.

Thank you for your time and consideration.

Sincerely,

Lindsay Miller
2614 Bowles Way
Billings, MT 59105
lmiller2015@gmail.com