



# YELLOWSTONE COUNTY BOARD OF PLANNING

CITY OF BILLINGS AND  
YELLOWSTONE COUNTY, MONTANA



## AGENDA

APRIL 25, 2023 MEETING TIME: 6:00 p.m.  
1st Floor Large Conference Room, Miller Building  
2825 3rd Avenue North, Billings, Montana 59101

### NOTICE TO THE PUBLIC

\*\*\*In the event a quorum of the Council is present, no City-related decisions will be made during this meeting or event.

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://tinyurl.com/yckr478k>

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](mailto: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](mailto:deinest@billingsmt.gov) or 406-247-8610. 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. **APPROVAL OF MEETING MINUTES:** APRIL 11, 2023
4. **PUBLIC COMMENT PERIOD** -- As required (3 minute maximum per person). *Any member of the public may be heard on any subject that is not on the agenda. The Planning Board will not take any action on these items at this time, but could choose to add an item to the next meeting's agenda for discussion.*
  - 4a) **Comments on items not on agenda and requests to add items to future agendas**
  - 4b) **Comments on items on the non-public hearing agenda items**
5. **DISCLOSURE OF CONFLICT OF INTEREST:**
6. **DISCLOSURE OF EX PARTE COMMUNICATION:** Ex Parte Communication Binder is available at the Sign-In and Agenda station.
7. **OLD BUSINESS** (Agenda items that were not discussed or not completed in a previous meeting or items requiring action).
  - a. **PUBLIC HEARINGS/PUBLIC HEARING PARTICIPATION GUIDELINES.** The County Planning Board welcomes public input on matters brought before the Board. To ensure a fair and effective public comment process, we ask that you consider the following guidelines when presenting your comments: Address the Planning Board directly. You must state your name and address before commenting. This is an opportunity to explain how you will be affected by the decision and why that is an important consequence. By state law, the Planning Board must consider only certain criteria when reviewing subdivisions (76-3-608(a), MCA). Please see the attached guidelines for the criterion. Thank you for participating!
    1. **Public Hearing. Motion/Recommendation to City Council.** Lake Hills 40th Filing. A 17-lot City Major Subdivision. Ron Hill, Applicant, John Bruckner, WWC Engineering, agent. Hunter Kelly, Planner I, presenting.
    2. **Public Hearing. Motion and Recommendation to City Council.** 54 West AKA Fifty-Four West Subdivision Being C/S 1834, PARCEL 2B. A 68-lot City Major Subdivision. Mike Christensen, Christensen

Homes, applicant. Travis Copper, KLJ Engineering, agent. Hunter Kelly, Planner I, 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 9, 2023**

a. **Plat Review. Discussion Amended Highlands Ranch Subdivision, Lots 4-5, (PZX-23-00006) County Major Subdivision, Tom and Kim Troop, Applicants. Aaron Redland, WWC Engineering, Agent. Dave Green, Planner II, presenting.**

### 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:** 04/25/2023

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**Information**

**Subject**

APPROVAL OF MEETING MINUTES: APRIL 11, 2023

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**Attachments**

PLNB\_2023\_04\_11\_MIN\_DRAFTa.pdf

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# CITY/COUNTY PLANNING BOARD

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

	Position	01/10/2023	01/24/2023	02/14/2023	02/28/2023	03/14/2023	03/28/2023	04/11/2023	04/25/2023	05/09/2023	05/23/2023	06/13/2023	06/27/2023	07/11/2023	07/25/2023	08/08/2023	08/22/2023	09/12/2023	09/26/2023	10/10/2023	10/24/2023	11/14/2023	11/28/2023	12/12/2023
<b>Jim Ronquillo</b>	Mayor/Billings Ward I	1	1	1	1	1	1	E																
<b>Roger Gravgaard</b>	Mayor/Billings Ward II	1	1	1	1	1	1	1																
<b>Dennie Stephenson</b>	Mayor/Billings Ward III	1	1	1	1	1	1	1																
<b>John Staley</b>	Mayor/Billings Ward IV	1	1	1	1	1	1	1																
<b>David Nordel</b>	Mayor/Billings Ward V	1	E	E	1	1	1	1																
<b>Troy Boucher</b>	YC District 1	A	A	A	A	A	1	A																
<b>Dennis Cook</b>	YC District 2	1	1	1	1	1	1	1																
<b>Vacant</b>	YC District 3	-	-	-	-	-	-	-																
<b>Vacant</b>	YC District 4	-	-	-	-	-	-	-																
<b>Woody Woods</b>	YC District 5	1	1	1	1	1	1	1																
<b>Vacant</b>	YC District 6	-	-	-	-	-	-	-																
<b>Vacant</b>	YC District 7	-	-	-	-	-	-	-																
<b>Vacant</b>	Y County Cons. District	-	-	-	-	-	-	-																
<b>Scott Reiter</b>	<b>Ex-Officio SD2</b>	E	E	E	E	A	1	E																

**APRIL 11, 2023**

*DRAFT- To be approved by a motion on April 25, 2023*

**PUBLIC HEARINGS/PUBLIC HEARING PARTICIPATION GUIDELINES**

As legally advertised, The Yellowstone County Board of Planning met on April 11, 2023 in the Miller Building 1<sup>st</sup> Floor Conference Room.

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>

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**1. Call the Meeting to Order:** President Cook called the meeting to order at 6:00 p.m. on Tuesday, April 11, 2023.

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

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

**Participating Planning staff members:** Wyeth Friday, Director, Planning & Community Services Department; Hunter Kelly, Planner II, Tammy Deines, Planning Clerk; Lora Mattox, Transportation Planner; Mike Black, Yellowstone County Public Works Department

**Others in Attendance:** John Bruckner, WWC Engineering; Travis Copper, KLJ, Lisa Gray, HDR Inc.; Michael Christensen, applicant; Maya Burton, Floberg Realty

**2. Approval of Agenda – Board member Staley made a motion and it was seconded by Board member Stephenson to approve the agenda as submitted. The motion carried with a unanimous voice vote.**

**3. Approval of Minutes: March 28, 2023**

**Motion by Board member Stephenson and seconded by Board member Nordel to approve the March 28, 2023 meeting minutes as submitted. The motion carried with a unanimous voice vote.**

**4. Public Comment:** President Cook 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 is no public comment.

**5- 6. Disclosure of Outside (Ex Parte) Communication or Conflicts of Interest– Board Members and Planning Staff.** There were no disclosures of outside communication or conflicts of interest. There was none.

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

**8. NEW BUSINESS**

**8a. Presentation. Discussion. I-90 Yellowstone River Project. Lisa Gray HDR Inc., presenting.** Ms. Gray thanked the Board for this opportunity to present this evening and followed with a PowerPoint presentation on the I90 Yellowstone River Project. Shane Johnson, Construction

**Project Overview:** The Montana Department of Transportation (MDT) is reconstructing Interstate 90 (I-90) in Billings between the 27th Street and Lockwood interchanges including reconstructing the Yellowstone River bridges, Talen Energy Railroad (RR) structures, and roadway- on time, on budget, and safely.

**Bridge Construction Elements:** Construct Temporary Work Facilities; Erect Bridge Girder; Dismantle and Remove the Old Bridge; Construct Bridge Deck and Overlay Polymer; Construct Bridge Substructure

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**Construction Elements through November 2023:** Coordinate Construction Traffic; Abate Dust; Install Barrier; Install Storm Drain System; Mill Pavement; Pave Roadway; Remove Pavement and Prepare Base Materials; Roll Roadway

**Drivers Should Expect:** Traffic shifts; Temporary Ramp Closures; Width Restrictions; Extended Construction Work Hours; Reduced Speed Limits; New Traffic Patterns

### **Construction Schedule:**

- **2023:** Construction of new eastbound structures over the Yellowstone River and over the Talen Energy railroad spur line. Reconstruction of the eastbound road.
- **2024:** Cleanup, final signing and striping, pavement sealing, bridge deck overlay, and some roadway construction near the interchanges.

### **Adjacent Projects:**

- Lockwood Interchange Reconstruction  
Website: [www.mdt.mt.gov/pubinvolve/i90lockwood](http://www.mdt.mt.gov/pubinvolve/i90lockwood)
- Billings Bypass Project  
Website: <http://www.mdt.mt.gov/pubinvolve/billingsbypass>
- I90 East Laurel-West Billings Improvements  
Website: [www.mdt.mt.gov/pubinvolve/eastlaurel](http://www.mdt.mt.gov/pubinvolve/eastlaurel)
- I90 Yellowstone River Project Billings  
Website: <http://www.mdt.mt.gov/pubinvolve/i90yellowstone>

### **Stay Informed**

- Email: [I90yellowstone@hdrinc.com](mailto:I90yellowstone@hdrinc.com)
- Phone: 888-926-5827
- Text: i90Yellowstone to 844-799-0212\*
- Project Website: [www.mdt.mt.gov/pubinvolve/i90yellowstone](http://www.mdt.mt.gov/pubinvolve/i90yellowstone)

### **Discussion**

President Cook called for questions and discussion from the members of the Board. Discussion followed by the members of the Board on the drivability of the diverging

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## CITY/COUNTY PLANNING BOARD

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diamond interchange design proposed for the Lockwood Johnson Lane Interchange.

**8b. Plat Review. Discussion. Lake Hills Subdivision, 40th Filing. City Major Subdivision. Ron Hill, applicant. John Bruckner, WWC Engineering, agent. Hunter Kelly, Planner I, presenting.**

Hunter Kelly opened this agenda item with the staff presentation.

### **RECOMMENDATION**

Staff proposes the Planning Board recommend to City Council that the preliminary plat of Lake Hills Subdivision, 40<sup>th</sup> Filing be conditionally approved and the Findings of Fact adopted as presented in the staff report.

### **BACKGROUND**

On March 1, 2023, WWC Engineering, on behalf of Ron S. Hill, applied for preliminary subsequent Major plat approval for Lake Hills Subdivision, 40th Filing. The proposed subdivision creates 13 lots for development. The subject property is generally located South of Greenbriar Road and East of Clubhouse Way. The property is zoned N3 – Suburban Neighborhood Residential. The land is currently vacant.

**VARIANCES** No variances are requested.

### **PROPOSED CONDITIONS OF APPROVAL**

1. To minimize the effects on local service prior to final plat approval, the applicant will coordinate with the USPS to determine what type of deliver system is preferred and to locate and provide 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.

President Cook called for presentation by the Applicant.

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## CITY/COUNTY PLANNING BOARD

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### **John Bruckner, WWC Engineering, 550 S 24<sup>th</sup> Street West, Billings, MT**

Mr. Bruckner is the agent for applicant/developer Ron Hill. He offered to answer questions. There were no questions from the Board for Mr. Bruckner.

### **Discussion**

President Cook called for questions and discussion from the members of the Board. Board member Staley asked regarding the adjacent lot sizes. Hunter Kelly said these lots will range from a minimum of 9,600 square feet to about 13,000 square feet for the single-family housing lots. Board member Woods pointed out this type of reconfiguration of lots has happened in previous filings.

*\*\* A motion and recommendation will be forwarded by Planning Board to City Council and A public hearing and for Lake Hills Subdivision will be held during the April 25, 2023 Planning Board meeting.*

### **8c. Plat Review. Board Discussion. 54 West Subdivision. City Major.**

**Mike Christensen, applicant. Ryan Welsh, KLJ Engineering. Travis Copper, KLJ Engineering, agents. Hunter Kelly, Planner I, presenting.**

Planner Hunter Kelly opened this agenda item with a staff presentation.

### **RECOMMENDATION**

Staff proposes the Planning Board recommend to City Council that the preliminary plat of Fifty Four West Subdivision be conditionally approved and the Findings of Fact adopted as presented in the staff report.

**BACKGROUND** (On March 1, 2023, KLJ Engineering, on behalf of Michael Christensen , applied for preliminary subsequent Major plat approval for Fifty Four West Subdivision. The Proposed subdivision creates 66 lots for residential development. The subject property is generally located North of Rimrock Road and East of 54th Street West. The property is currently zoned N3. Per the zoning code, the property will need to be rezoned to a Planned Neighborhood Development. Additionally, in order for this land to develop in the City, annexation is required. Both an annexation and zone change are being reviewed by staff and will be considered concurrently with this application. The land is currently vacant.

**VARIANCES** No variances are requested.

**PROPOSED CONDITIONS OF APPROVAL**

1. To minimize the effects on local service prior to final plat approval, the applicant will coordinate with the USPS to determine what type of deliver system is preferred and to locate and provide the correct amount of space for safely delivering the mail to the residents.
2. To minimize the effect on local services, to be compliant with Planned Neighborhood Development zoning regulations, and because of the location in proximity to Cottonwood Park, the subdivider shall provide a combination of 2% (.33 acres) developed park and 9% (1.46 acres) cash-in-lieu. The dollar value shall be determined based on methods outlined in Section 23-1007 of the City of Billings Subdivision Regulations. The payment shall be made prior to final plat approval.
3. In order to protect public health and safety and provide for future park maintenance, all required parkland shall be privately owned and maintained. Prior to final plat approval, the subdivider shall submit for review and comment, documents outlining how the maintenance will occur.
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.
- 6. (CPTED Recommendation)** In order to protect public health and safety and adhere to Crime Prevention Through Environmental Design (CPTED) principles; fences within the rear yard setback of Lots 1-7, Block 8, and Lot 9, Block 7 and side yard fences adjacent to the 30' wide ROW for the shared used path shall be limited to 4 feet in height. The Covenants, Codes, and Restrictions (CC&Rs) filed with the final plat shall include this language. In addition, the following language shall be placed into the Subdivision Improvements Agreement under Section II. Titled Property Conditions and Information for Lot Purchasers F. rear yard fences of Lots 1-7, Block 8, and Lot 9, Block 7 and side yard fences adjacent to the 30' wide ROW for the shared used path shall be limited to 4 feet in height. The aforementioned fences may be constructed up to the maximum height allowable by zoning, if the fence is constructed of materials that are permitted by the zoning code and allows for transparency.
- 7. (CPTED Recommendation)** In order to protect public health and safety and adhere to Crime Prevention Through Environmental Design (CPTED) principles and per the

City of Billings Subdivision Regulations Section 23-406 A. 3. The subdivider shall install a plantings within the open space area and future easements (Condition 8) adjacent to the shared use path. The landscaping shall include at least 1 tree and 6 shrubs or ornamental grasses every 40’. The trees should be of a variety included in the City’s preferred tree planting list.

8. **(CPTED Recommendation)** In order to minimize the impacts on local services and protect public health and safety, the 30’ wide private open space lots on the perimeter of the development shall be changed to easements as opposed to standalone lots. The Final Plat shall depict these areas as being part of individual lots and depict the easement. The easement along Lot 7, Block 8 and Lot 9, Block 7 shall include the required landscaping/planting strip as referenced in Condition #7.

Planner Kelly pointed out the addition of Conditions of Approval #6-8 are due to the recently adopted City Council guidelines for Crime Prevention through Environmental Design, (CPTED), principals. He referred to the posted site plan and explained the CPTED guideline that pertains to this plat. In this survey, Block 8 borders a publically used multi-use trail. Per CPTED principals, the application of the reduction in fence height is to allow more visibility on the multi-use path, reduce instances of crime, and create a natural barrier corridor with plantings.

### **Discussion**

President Cook called for questions and discussion.

Board member Staley asked for further clarifications. Director Friday said these conditions of approval are City Council is moving forward with integration of CPTED principals in a variety of processes. Staff is trying to be proactive and are proposing solutions within the Conditions of Approval to concur with the CPTED principals prior to the application moving forward to City Council. CPTED is being integrated into Planning and Parks development review processes.

Board member Nordel asked about the rationale behind these principals and which application types constitute the need for shrubs and the height of fences. Director Friday explained that the thought is that public corridors with 6-foot fencing along trail ways limit the visibility to trails. Hunter Kelly clarified and said the 4-foot fence is generally the maximum fence height allowed within the City for the front yard. Board member Nordel said that while he applauds the effort, but these conditions may potentially lower the salability of the homes on the affected lots as it seems counterintuitive to have a fence in the rear yards that can be seen through. President Cook commented that this is a

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## CITY/COUNTY PLANNING BOARD

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proactive approach and it seems the language is still open to discussion. Director Friday said Staff is trying to work with applications to address CPTED principals and recommendations prior to the City Council hearing. In response to question by Board member Gravgaard, Hunter Kelly said this will affect Lots 1-7 of Block 8 along Rimrock Road due to the adjacent walking path and trail. Board member Gravgaard asked Staff if a presentation could be brought to the Planning Board on the CPTED guidelines. Board member Staley asked about the location of the proposed parkland on this survey and asked why it is acceptable to have children cross 54<sup>th</sup> Street West to access Cottonwood Park. Wyeth Friday said 54<sup>th</sup> Street West is a signalized intersection and there are multi-use paths on the west side going to Cottonwood Park. The cash-in-lieu funds from this development will go to development of Cottonwood Park which will be master planned this year to identify initial phases of improvement for the park. Hunter Kelly pointed out that the Parks & Recreation Staff member that made the recommendation no longer works with the City. Board member Woods asked who will maintain the landscaping in the common spaces and if the trees and shrubs are in addition to the landscaping requirements. Director Wyeth Friday said there is language in the subdivision code for screening and plantings along these types of park strips. Maintenance of the established open space will be done through a homeowners association. Board member Woods asked if the detention pond will be fenced.

President Cook called for presentation by the applicant.

### **Travis Copper, KLJ Engineering, 2611 Gabel Road, Billings, MT**

Mr. Copper represents applicant, Michael Christensen. He noted the posted plat and said the City Parks Department is not in agreement with using storm water detention areas for parkland. Mr. Copper said they they have agreed to pay cash-in-lieu and they feel if accepted by the Parks Department, the proposed area will make a good park. There is no proposal to fence the detention pond which overflows into the Cove Ditch. Board member Nordel asked regarding the cash-in-lieu dedication. Director Friday said the subdivision regulation language states the cash-in-lieu funds have to benefit a park in this area. Board member Staley voiced concern that kids will be forced to cross a busy street as there is no park in this subdivision. Board member Woods commented it would make sense to fence the Cove Ditch to reduce access to the ditch. Hunter Kelly explained the development review process and said the annexation petition, the application for a planned development agreement for zoning, and the subdivision preliminary plat hearing will be held during the same City Council meeting. Travis Copper said fencing will depend on the depth of the ponds and the area available.

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He asked staff regarding the safety requirements and the applicability of the CPTED principles with a trail located along an arterial road. Hunter Kelly said more there will be more discussion with Staff and Parks prior to the public hearing. Board member Nordel stressed the importance of understanding the CPTED principles and how they apply to developments, as it seems counterintuitive to him. Discussion followed by the Board regarding the condition language for location of the 4-foot fence in an easement line on this property.

### **Mike Christensen, 3936 Avenue B, Billings, MT**

Mr. Christensen is the applicant/developer. Mr. Christensen said the vision for this development is family neighborhood with big lots with a greater sense of arrival. He said whether the area becomes parkland or not, the detention area will be manicured and kept up by the Homeowners Association. Mr. Christensen feels the CPTED requirement for 4-foot back yard fencing will make the lots along Rimrock Road a “tough sell” due to the privacy factor for homeowners. Board member Gravgaard asked if the private open space along Lloyd Mangrum is an option for parkland.

Mr. Christensen said it doesn’t meet the Parks and Recreation Department’s expectations. He said that the open space will include benches and set the feel for the subdivision. Director Friday said part of the location of the private open space is to address storm water flows. Board member Nordel asked if this site plan can return to the Parks Department for reconsideration. Director Friday said Staff will convey this information to the Parks Department and clarification can brought to the Board during the public hearing.

*\*\* A motion and recommendation will be forwarded by Planning Board to City Council and A public hearing and for 54 West Subdivision will be held during the April 25, 2023 Planning Board meeting.*

## **9. OTHER BUSINESS**

### **9a. (Standing Item) Long Range Strategic Issues and an overview of future City and County issues and projects. Director Wyeth Friday**

**9a1. Zoning Code Amendments:** Staff is moving three bundles of zoning code amendments through the review process. The City Council initiated requests for amendments will address language for garage entries, NX zoning, changes for multi-tenant buildings and signing, fence materials, PND requirements for open space, rebuilding residential and community mixed zones, building set back requirements in multi-family developments, and landscape plan language. Staff will send the Planning Board a summary of the amendments.

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**CITY/COUNTY PLANNING BOARD**

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9a2. **Follow-up on Peila Subdivision.** Director Friday said staff will invite the Yellowstone County Public Works Director to speak to the Planning Board regarding maintenance of County roadways and Traffic Impact Studies.  
Studies.

**9a3. Announcement:** The April 25, 2023 meeting will be held as legally announced and advertised. Public Hearings will be held for City Major Subdivision, Lake Hills, 40<sup>th</sup> Filing, and City Major Subdivision 54 West Subdivision.

**ADJOURNMENT: 7:42 PM**

**DRAFT—TO BE APPROVED BY A MOTION April 25, 2023**

Tamara L. Deines, Planning Clerk

## Planning Board

**Date:** 04/25/2023  
**Title:** Lake Hills Subdivision, 40th Filing - City Major Preliminary Plat Public Hearing  
**Presented by:** Hunter Kelly, Planner 1  
**Department:** Planning & Community Services  
**Presentation:** Yes

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### Information

#### RECOMMENDATION

Staff proposes the Planning Board recommend to City Council that the preliminary plat of Lake Hills Subdivision, 40th Filing be conditionally approved and the Findings of Fact adopted as presented in the staff report.

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

On March 1, 2023 , WWC Engineering , on behalf of Ron S. Hill , applied for preliminary subsequent Major plat approval for Lake Hills Subdivision, 40th Filing . The Proposed subdivision creates 13 lots for development. The subject property is generally located South of Greenbriar Road and East of Clubhouse Way . The property is zoned N3 - Suburban Neighborhood Residential . The land is currently vacant.

#### VARIANCES

No variances are requested.

#### PROPOSED CONDITIONS OF APPROVAL

1. To minimize the effects on local service prior to final plat approval, the applicant will coordinate with the USPS to determine what type of deliver system is preferred and to locate and provide 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.

#### PROCEDURAL HISTORY

Pre-Application Meeting: January 26, 2023  
Preliminary Plat application submitted to Planning Division: March 1, 2023  
Departmental Review Meeting: March 16, 2023  
Preliminary Plat Resubmittal: March 23, 2023  
Planning Board Plat Review: April 11, 2023  
Planning Board Public Hearing: April 25, 2023  
Preliminary Plat to City Council: May 22, 2023  
60 Working-Day Preliminary Plat Review period ends: May 24, 2023

#### PLAT INFORMATION

General Location: South of Greenbriar Road and East of Clubhouse Way  
Legal Description: LOT 3 AND LOT 4, BLOCK 52; LOT 13, LOT 14, LOT 15, LOT 17, AND LOT 18, BLOCK 54, OF LAKE HILLS SUBDIVISION, 21ST FILING, DOCUMENT NO. 612471, AND LOT 2A AND LOT 5A OF AMENDED PLAT OF LAKE HILLS SUBDIVISION, 21ST FILING FILED AS DOCUMENT NO. 3931042  
Owner/Subdivider: Ron S. Hill  
Engineer/Surveyor: WWC Engineering  
Existing Zoning: N3 - Suburban Neighborhood Residential  
Existing Land Use: vacant land  
Proposed Zoning: N3 - Suburban Neighborhood Residential  
Proposed Land Use: Residential  
Gross & Net Area: 4.654 Acres & 3.046 Acres  
Lot Size:  
    Minimum: 9,600 Square Feet  
    Maximum: 13,900 Square Feet  
Parkland Requirements: N/A; Parkland Requirements filled by adjacent Golf Course as part of original filings of Lake Hills Subdivision.

## **STAKEHOLDERS**

There are no stakeholder responses at this time. Stakeholder input will be received at a public hearing scheduled for this subdivision on April 25, 2023

At the Planning Board Plat Review meeting on April 11, staff gave a brief overview of the subdivision and was available for questions from the Board. President Cook called for questions and discussion from members of the Board. Board member John Staley asked about the lot sizes of surrounding lots in comparison to lots proposed within the subdivision. Staff explained most of the lots in the vicinity were already developed under the old zoning code, and were of a size and shape conforming to those standards. Board member Woods commented on this is a repeated practice of resizing lots within some of older subdivisions within the City since the adoption of the new zoning code. John Bruckner, the applicant's engineer, was also present to answer questions, there were no questions.

## **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 May 24, 2023 State and City subdivision regulations also require that preliminary plat 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**

The preliminary plat of this subdivision will have no financial impact on the Planning Division.

## **SUMMARY**

One of the purposes of the City's subdivision review process is to identify potential negative effects of property being subdivided. Negative effects that are identified become the subdivider's responsibility to mitigate. Various City departments, private service/utility providers and the affected school district/s, have reviewed this application and provided input on effects and mitigation. The Findings of Fact, which are presented as an attachment, discuss potential negative impacts of the subdivision and conditions of approval are recommended as measures to further mitigate any impacts. In this case, there were found to be minimal impacts from this proposed subdivision.

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### **Attachments**

Preliminary Plat  
Subdivision Improvement Agreement  
Findings of Fact

# PLAT OF LAKE HILLS SUBDIVISION, 40TH FILING

BEING LOT 3 AND LOT 4, BLOCK 52; LOT 13, LOT 14, LOT 15, LOT 17, AND LOT 18, BLOCK 54,  
OF LAKE HILLS SUBDIVISION, 21ST FILING, DOCUMENT NO. 612471,  
AND LOT 2A AND LOT 5A OF AMENDED PLAT OF LAKE HILLS SUBDIVISION, 21ST FILING FILED AS DOCUMENT NO. 3931042,  
WITHIN NW1/4 OF SECTION 16, T01N, R26E, P.M.M.  
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR: RON S. HILL  
DATE SURVEYED: JANUARY 2023  
PREPARED BY: WWC ENGINEERING

## 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 parcels situated in the NW1/4 of Section 16, T.01N., R.26E., P.M.M., City of Billings, Yellowstone County, Montana, being Lot 3 and Lot 4, Block 52; Lot 13, Lot 14, Lot 15, Lot 17 and Lot 18, Block 54 of Lake Hills Subdivision, 21st Filing, filed as Document No. 612471; and Lot 2A and 5A of Amended Plat of Lake Hills Subdivision, 21st Filing filed as Document No. 3931042 in the Office of the Yellowstone County Clerk and Recorder, being more particularly described as:

Beginning at the northwest corner of Lot 5A, Block 52 of Amended Plat of Lake Hills Subdivision, 21st Filing on the south line of Lot 7, Block 52 of Lake Hills Subdivision 21st Filing; thence on the south line of said Lot 7, N83°40'10"E a distance of 31.96 feet to the corner common to Lot 7 and Lot 8, Block 52 of Lake Hills Subdivision 21st Filing; thence on the south line of said Lot 8, N83°35'54"E a distance of 9.99 feet; thence continuing on said south line of Lot 8, N83°43'35"E a distance of 89.96 feet to the corner common to Lot 8 and Lot 9, Block 52 of Lake Hills Subdivision 21st Filing; thence on the south line of said Lot 9, N83°41'19"E a distance of 14.95 feet to a point on the south line of said Lot 9; thence on the south line of Lot 9 and Lot 10, Block 52 of Lake Hills Subdivision 21st Filing, N83°42'12"E a distance of 185.04 feet to the southwest corner of Lot 11A, Block 52 of Lake Hills Subdivision 37th Filing; thence on said south line of Lot 11A, N83°42'41"E a distance of 24.96 feet; thence continuing on said south line of Lot 11A, N74°23'28"W a distance of 89.62 feet to the corner common to said Lot 11A and Lot 1A-2, Block 52 of Lake Hills Subdivision 37th Filing; thence on the southwesterly line of said Lot 1A-2, S48°52'35"E a distance of 102.39 feet to the northerly right-of-way line of Greenbriar Road; thence along the northerly right-of-way line of Greenbriar Road a distance of 59.85 feet on a non-tangent curve to the right, having a radius of 240.00 feet, a delta angle of 14°17'13"; and whose long chord bears S49°46'15"W a distance of 59.70 feet; thence crossing the Greenbriar Road right-of-way on the westerly line of Lake Hills Subdivision 37th Filing, S33°07'43"E a distance of 60.00 feet to the westerly corner common to Lot 6A, Block 54 of Amended Plat of Lake Hills Subdivision 21st Filing and Lot 5A-2, Block 54 of Lake Hills Subdivision 37th Filing; thence a distance of 50.06 feet along a non-tangent curve to the right, having a radius of 300.00 feet, a delta angle of 9°33'38"; and whose long chord bears S61°41'10"W a distance of 50.00 feet to the northeast corner of Lot 1, Block 53 Lake Hills Subdivision 21st Filing at the intersection point of the easterly right-of-way line of Opal Lane and southerly right-of-way line of Greenbriar Road; thence continuing on the southerly right-of-way line of Greenbriar Road a distance of 90.28 feet on a curve to the right, having a radius of 300.00 feet, a delta angle of 17°14'34", and whose long chord bears S75°05'15"W a distance of 89.94 feet to a point of curvature on said southerly right-of-way line of Greenbriar Road; thence continuing on said southerly right-of-way line, S83°42'32"W a distance of 274.88 feet to the intersection of the southerly right-of-way of Greenbriar Road and easterly right-of-way of Cypress Point; thence on the easterly right-of-way line of Cypress Point, a distance of 41.96 feet along a non-tangent curve to the left, having a radius of 120.00 feet, a delta angle of 20°02'02"; and whose long chord bears S16°18'37"E a distance of 41.75 feet; thence on said easterly right-of-way, S26°19'39"E a distance of 280.30 feet to the intersection point of the easterly right-of-way of Cypress Point and northerly right-of-way of Opal Lane; thence S26°19'39"E a distance of 50.00 feet to the intersection of the easterly right-of-way line of Cypress Point and the southerly right-of-way of Opal Lane; thence continuing on the easterly right-of-way line of Cypress Point, S26°19'39"E a distance of 152.46 feet; thence 133.97 feet along a non-tangent curve to the right, having a radius of 50.00 feet, a delta angle of 153°31'13"; and whose long chord bears S9°34'02"E a distance of 97.34 feet to the northwesterly corner of Lot 12, Block 54 of Lake Hills Subdivision 21st Filing; thence on the west line of said Lot 12, S11°20'35"E a distance of 130.98 feet to the north line of Lot 5 of Lake Hills Subdivision 31st Filing; thence on the north line of said Lot 5, S78°45'04"W a distance of 111.83 feet; thence on the east line of said Lot 5, N26°19'29"W a distance of 382.38 feet to the southwest corner of Lot 16, Block 54 Lake Hills Subdivision 21st Filing; thence on the southerly line of said Lot 16, N63°30'52"E a distance of 119.90 feet to the westerly right-of-way line of Cypress Point; thence on said westerly right-of-way line, N26°19'39"W a distance of 119.54 feet to the north line of Lot 16, Block 54 of Lake Hills Subdivision 21st Filing; thence on the north line of said Lot 16, S63°43'37"W a distance of 119.89 feet to the east line of Lot 5, Lake Hills Subdivision 31st Filing; thence on said east line, N26°19'29"W a distance of 265.39 feet to the southerly right-of-way line of Greenbriar Road; thence on said southerly right-of-way a distance of 41.55 feet along a non-tangent curve to the right, having a radius of 240.00 feet, a delta angle of 9°55'12"; and whose long chord bears N71°30'47"E a distance of 41.50 feet; thence crossing the Greenbriar Road right-of-way on the easterly line of Lake Hills Subdivision 37th Filing, N19°14'46"W a distance of 60.24 feet to the intersection of the easterly right-of-way line of Winged Foot Drive and northerly right-of-way line of Greenbriar Road; thence on the said northerly right-of-way line a distance of 43.89 feet along a non-tangent curve to the right, having a radius of 300.00 feet, a delta angle of 8°22'57"; and whose long chord bears N79°31'04"E a distance of 43.85 feet; thence continuing on said northerly right-of-way line, N83°42'32"E a distance of 31.97 feet to the southeast corner of Lot 6A, Block 52 of Amended Plat of Lake Hills Subdivision 21st Filing; thence on the easterly line of said Lot 6A, N06°19'51"W a distance of 119.93 feet to the Point of Beginning.

Said described parcel contains a gross area of 4.654 acres and a net area of 3.046 acres, more or less, subject to any and all easements, reservations, restrictions and conveyances of record.

The above described tract of land is to be known and designated as LAKE HILLS SUBDIVISION, 40TH FILING, City of Billings, Yellowstone County, Montana. The undersigned do hereby grant unto all utility companies, as each 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. The lands designated as public right-of-way are hereby granted and dedicated to the use of the public forever shall include the portions of Greenbriar Road and Cypress Point shown on the plat.

Dated this \_\_\_\_\_ Day of \_\_\_\_\_, 2023

Ron S. Hill, Living Trust

Ron S. Hill, Trustee

## ACKNOWLEDGMENTS

State of Montana )  
 ) SS  
County of Yellowstone )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned a notary public to 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 SURVEYOR

The undersigned, a Montana Registered Land Surveyor being first duly sworn, deposes and says that during the month of January 2023, a survey was performed under his supervision of a tract of land to be known as LAKE HILLS SUBDIVISION, 40TH 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 this \_\_\_\_\_ day of \_\_\_\_\_, 2023

John Bruckner  
Registration Number 63052 LS

## 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 \_\_\_\_\_, 2023

Reviewed by \_\_\_\_\_

## ERRORS AND OMISSIONS REVIEW

Reviewed for errors and omissions in calculations and drafting this \_\_\_\_\_ day of \_\_\_\_\_, 2023, 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 in this Subdivision Plat and encompassed by the proposed division have been paid.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023

Deputy Treasurer  
Yellowstone County, Montana

## CERTIFICATE OF FILING BY CLERK AND RECORDER

QRTR.	SEC.	TWP.	RGE.
☒	16	01N.	26E.

## LAKE HILLS SUBDIVISION, 40TH FILING

JOB#: 2022-019

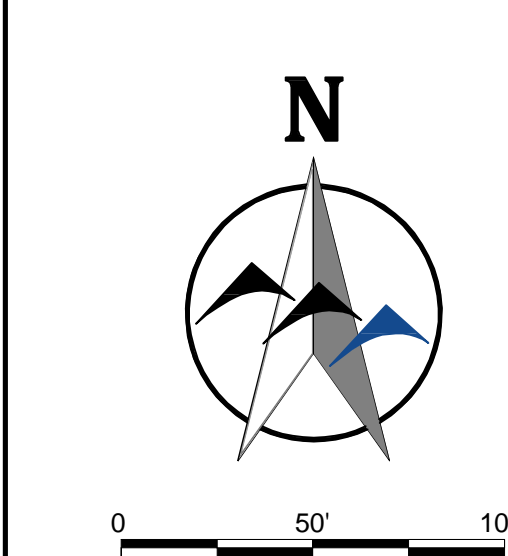
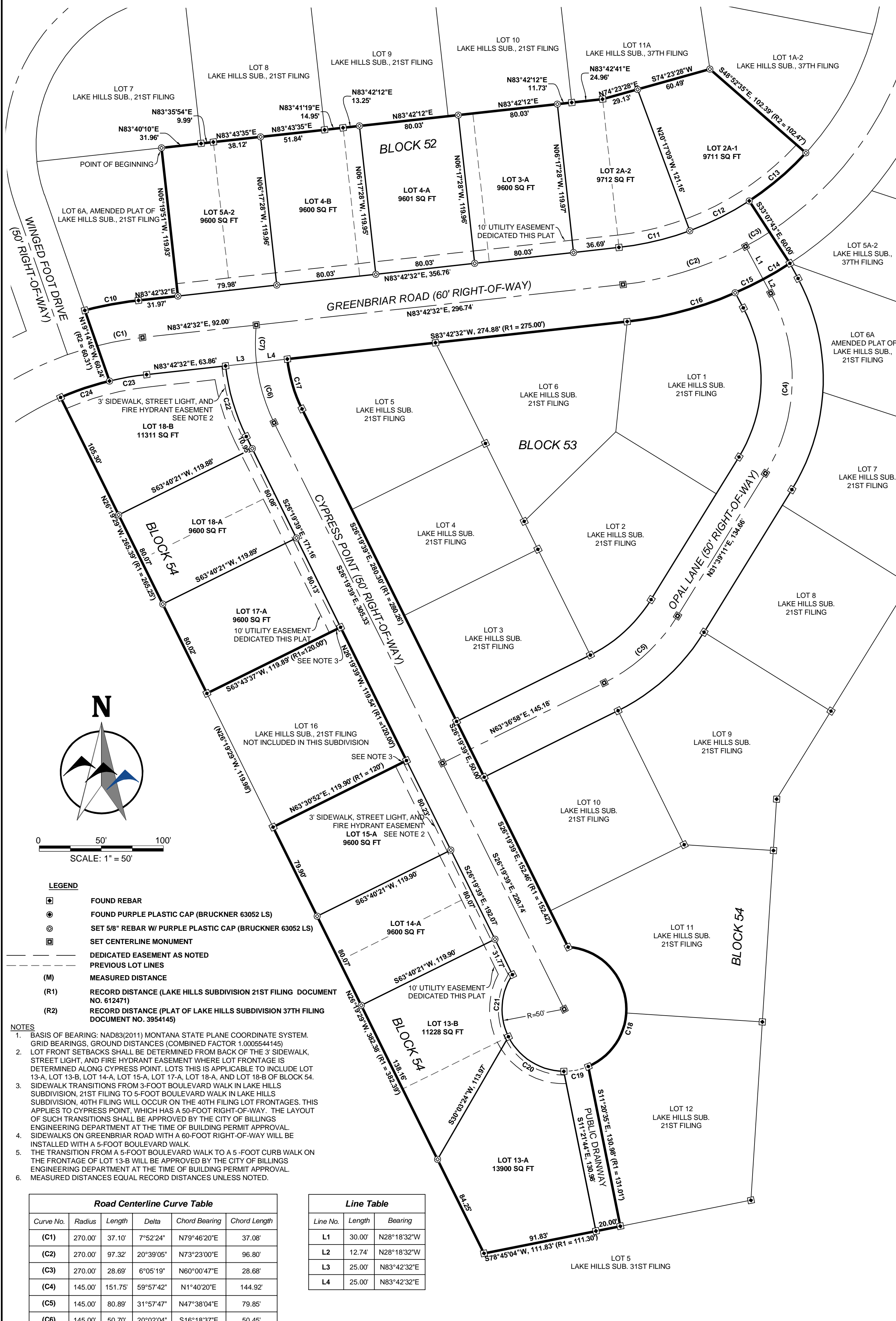
REVISIONS	Date	By



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

## SUBDIVISION IMPROVEMENTS AGREEMENT

Document No. \_\_\_\_\_

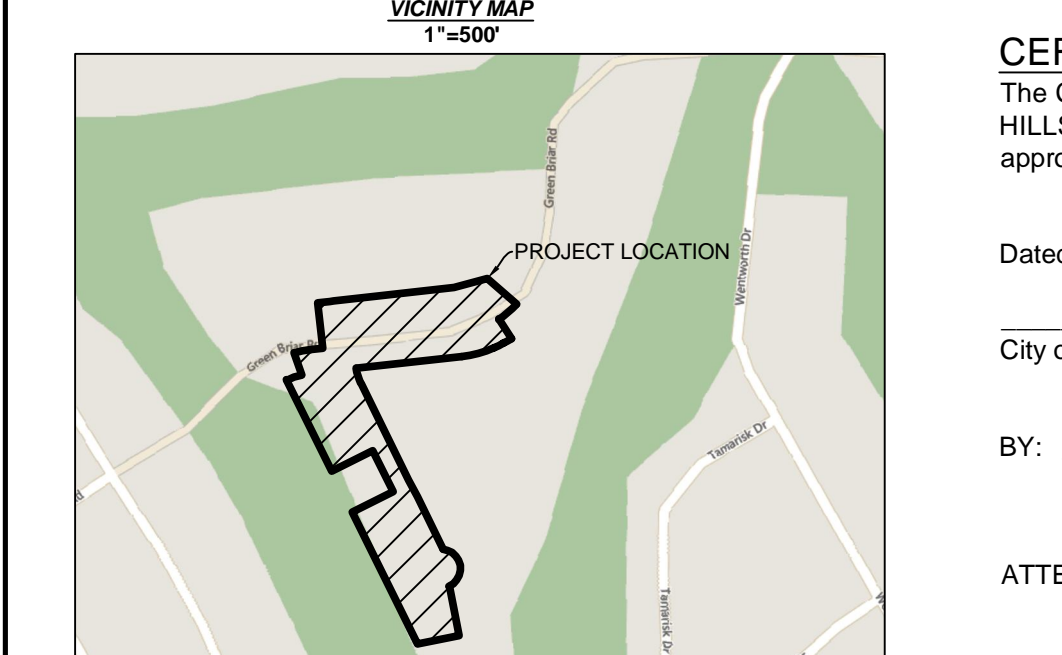


- LEGEND**
- ☐ FOUND REBAR
  - ☐ FOUND PURPLE PLASTIC CAP (BRUCKNER 63052 LS)
  - ☐ SET 5/8" REBAR W/ PURPLE PLASTIC CAP (BRUCKNER 63052 LS)
  - ☐ SET CENTERLINE MONUMENT
  - ☐ DEDICATED EASEMENT AS NOTED
  - ☐ PREVIOUS LOT LINES
  - (M) MEASURED DISTANCE
  - (R1) RECORD DISTANCE (LAKE HILLS SUBDIVISION 21ST FILING DOCUMENT NO. 612471)
  - (R2) RECORD DISTANCE (PLAT OF LAKE HILLS SUBDIVISION 37TH FILING DOCUMENT NO. 3931042)

- NOTES**
1. BASIS OF BEARING: NAD83(2011) MONTANA STATE PLANE COORDINATE SYSTEM. GRID BEARINGS, GROUND DISTANCES (COMBINED FACTOR 1.00054145)
  2. LOT FRONT SETBACKS SHALL BE DETERMINED FROM BACK OF THE 3' SIDEWALK, STREET LIGHT, AND FIRE HYDRANT EASEMENT WHERE LOT FRONTAGE IS DETERMINED ALONG CYPRESS POINT. LOTS THIS IS APPLICABLE TO INCLUDE LOT 19A, LOT 19B, LOT 14A, LOT 15A, LOT 17A, LOT 18A, AND LOT 18B OF BLOCK 54.
  3. SIDEWALK TRANSITIONS FROM 3-FOOT BOULEVARD WALK IN LAKE HILLS SUBDIVISION, 21ST FILING TO 5-FOOT BOULEVARD WALK IN LAKE HILLS SUBDIVISION, 40TH FILING WILL OCCUR ON THE 40TH FILING LOT FRONTS. THIS APPLIES TO CYPRESS POINT, WHICH HAS A 50-FOOT RIGHT-OF-WAY. THE LAYOUT OF SUCH TRANSITIONS SHALL BE APPROVED BY THE CITY OF BILLINGS ENGINEERING DEPARTMENT AT THE TIME OF BUILDING PERMIT APPROVAL. SIDEWALKS ON GREENBRIAR ROAD WITH A 60-FOOT RIGHT-OF-WAY WILL BE INSTALLED WITH A 5-FOOT BOULEVARD WALK.
  4. THE TRANSITION FROM A 5-FOOT BOULEVARD WALK TO A 5-FOOT CURB WALK ON THE FRONTAGE OF LOT 13-B WILL BE APPROVED BY THE CITY OF BILLINGS ENGINEERING DEPARTMENT AT THE TIME OF BUILDING PERMIT APPROVAL.
  5. MEASURED DISTANCES EQUAL RECORD DISTANCES UNLESS NOTED.

Curve No.	Radius	Length	Delta	Chord Bearing	Chord Length
(C1)	270.00'	37.10'	7°52'24"	N79°46'20"E	37.08'
(C2)	270.00'	97.32'	20°39'05"	N73°23'00"E	96.80'
(C3)	270.00'	28.69'	6°05'19"	N60°00'47"E	28.66'
(C4)	145.00'	151.75'	59°57'42"	N1°40'20"E	144.92'
(C5)	145.00'	80.89'	31°57'47"	N47°38'04"E	79.85'
(C6)	145.00'	50.70'	20°02'04"	S16°18'37"E	50.45'
(C7)	145.00'	30.22'	11°56'26"	S0°19'22"E	30.17'

Curve No.	Radius	Length	Delta	Chord Bearing	Chord Length
C10	300.00'	43.69'	8°22'57"	N79°31'04"E	43.86'
C11	240.00'	58.62'	13°59'41"	N76°42'42"E	58.48'
C12	240.00'	53.62'	12°47'59"	N63°18'51"E	53.51'
C13	240.00'	59.85'	14°17'13"	S49°46'15"W	59.70'
C14	300.00'	25.03'	4°46'49"	S99°17'45"W	25.03'
C15	300.00'	25.03'	4°46'49"	S64°04'34"W	25.03'
C16	300.00'	90.28'	17°14'34"	S75°05'15"W	89.95'
C17	120.00'	41.96'	20°02'02"	S16°18'37"E	41.75'
C18	50.00'	133.97'	153°31'13"	S9°34'02"E	97.35'
C19	50.00'	20.18'	23°07'28"	N78°45'18"E	20.05'
C20	50.00'	55.29'	63°21'41"	S58°00'07"E	52.52'
C21	50.00'	52.35'	59°59'38"	S3°40'32"W	50.00'
C22	170.00'	59.44'	20°02'05"	S16°18'36"E	59.15'
C23	240.00'	30.31'	7°14'09"	N80°05'27"E	30.29'
C24	240.00'	41.55'	9°55'12"	N71°30'47"E	41.51'



**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 \_\_\_\_\_, 2023

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.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023

President \_\_\_\_\_ 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, 40TH FILING has been duly examined and have found the same to conform to the law and hereby approve it.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023

City of Billings, Montana

BY: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

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

*Lake Hills Subdivision, 40<sup>th</sup> Filing*  
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**SUBDIVISION IMPROVEMENTS AGREEMENT  
& WAIVER OF RIGHT TO PROTEST FUTURE SPECIAL  
IMPROVEMENT DISTRICTS**

*Lake Hills Subdivision, 40<sup>th</sup> Filing*

**This agreement** is made and entered into this \_\_\_\_\_ day of \_\_\_\_, 2023, 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 \_\_\_\_, 2023, the Board of Planning recommended conditional approval of a preliminary plat of Lake Hills Subdivision, 40<sup>th</sup> Filing; and

**WHEREAS**, at a regular meeting conducted on \_\_\_ day of \_\_\_\_, 2023, the City Council conditionally approved a preliminary plat of Lake Hills Subdivision, 40<sup>th</sup> 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, 40<sup>th</sup> 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 home construction. If sidewalk is not constructed within 5 years, the City has the right to construct the sidewalk and assess the property owners.

B. Front setbacks for those lots included in the subdivision with frontage determined along Cypress Point shall be calculated from the back of 3-foot sidewalk, street light, and fire hydrant easement rather than front of lot line/edge of right-of-way. This applies to Lots 13-A, 13-B, 14-A, 15-A, 17-A, 18-A, and 18-B of Block 54.

C. 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 Lake Hills Subdivision, 21<sup>st</sup> Filing, prepared by Rimrock Engineering, Inc. (July 2, 2019), indicate that there could be potential limitations for proposed construction on the lots. 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.

D. 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.

E. 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 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 a Stormwater Pollution and Prevention Plan (SWPPP) are 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.

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.

### **III. TRANSPORTATION**

#### **Streets**

- Rights-of-way widths of 60-feet for Greenbriar Road and 50-feet for Cypress Point have already been dedicated in previous filings. The previous filings also included a 50-foot radius cul-de-sac at the southerly end of Cypress Point.
- The Owner shall construct public streets, and curb & gutter within the Subdivision. Streets fronting lots within the Subdivision shall be constructed as 34' back of curb to back of curb. The cul-de-sac at the southerly end of Cypress Point shall be constructed with a City of Billings approved standard detail. These roads shall be built to grade with a satisfactory subbase, base course, curb and gutter, and asphalt surface. All streets shall be built in accordance with the City of Billings' site development ordinance and city subdivision regulations.
- The construction costs have been funded and no additional monetary security is required.

#### **Sidewalks**

- The Owner will install corner intersection handicap ramps.
- Individual lot owners will be responsible for the construction of the sidewalks adjacent to their lot at the time of home construction and shall be included in each building permit.
- Sidewalk transitions from 3-foot boulevard walk in Lake Hills Subdivision, 21<sup>st</sup> Filing to 5-foot boulevard walk in Lake Hills Subdivision, 40<sup>th</sup> Filing will occur on the 40<sup>th</sup> Filing lot frontages. This applies to Cypress Point, which has a 50-foot right-of-way. The layout of such transitions shall be approved by the City of Billings Engineering Department at the time of building permit approval.
- Sidewalks on Greenbriar Road with a 60-foot right-of way will be installed with a 5-foot boulevard walk.
- The transition from a 5-foot boulevard walk to a 5-foot curb walk on the frontage of Lot 13-B will be approved by the City of Billings Engineering Department at the time of building permit approval.

#### **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.
- The Owner 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 1421. The construction costs have been funded through the establishment of SID 1421 and no additional monetary security is required.

Internal stormwater drainage will flow to two new storm inlets installed in Opal Lane and to the end of Cypress point to discharge through the storm easement south of the cul-de-sac. Discharge will be to storm dispersion ponds east and south of the subdivision located on Lake Hills Golf Course property. Flows leaving the stormwater dispersion ponds will continue in the direction they have historically flowed.

To help prevent stormwater drainage entering the subdivision, exterior storm drainage will be directed southerly onto Lake Hills Golf Course property on the west side of the subdivision flowing to a stormwater dispersion pond located south of the subdivision.

## **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. There is an existing 8-inch water main located in Greenbriar Road that currently terminates at both East and West edges of the subdivision. SID 1421 will extend the 8-inch water main along the length of Greenbriar Road through the subdivision. An 8-inch water main will be installed along the lengths of Cypress Point and Opal Lane. 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 8-inch main is located at the intersection of Greenbriar Road and Opal Lane and currently terminates near the east edge of the proposed subdivision at a manhole with stubouts to Greenbriar Road and Opal Lane. SID 1421 will install a new 8-inch sanitary sewer mains from the existing 8-inch main and run west along Greenbriar Road and southwest along Opal Lane to service lots. A new 8-inch main will be installed along Cypress Point connecting to the sanitary main within Opal Lane. New sewer services will be installed for all lots in the subdivision.

## **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 Lake Hills Subdivision, 21<sup>st</sup> Filing, prepared by Rimrock Engineering, Inc. (July 2, 2019), some soils found in this area consist of potentially compressible clay soils over sandstone shale bedrock at or near foundation and concrete slab elevations. Field and laboratory test results indicate that some site soils are compressible and potentially expansive with increased moisture which can be detrimental to lightly loaded structures.

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. 1421. 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 and 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

\_\_\_\_\_  
Trustee, Ron S. Hill

STATE OF MONTANA )

: ss

County of Yellowstone )

On this \_\_\_ day of \_\_\_\_\_, 2023, before me, a Notary Public in and for the State of Montana, personally appeared Ron S. Hill, Trustee of Ron S. Hill Living Trust, known to me to 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 \_\_\_\_\_, 2023.

“CITY”  
CITY OF BILLINGS  
MONTANA

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

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

STATE OF MONTANA )

: ss

County of Yellowstone )

On this \_\_\_\_ day of \_\_\_\_\_, 2023, 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: \_\_\_\_\_



Notary Public in and for the State of Montana

Printed name: \_\_\_\_\_

Residing at: \_\_\_\_\_

My commission expires: \_\_\_\_\_

## **FINDINGS OF FACT**

The Planning staff has prepared the Findings of Fact for the preliminary plat of Lake Hills Subdivision, 40<sup>th</sup> Filing. These findings are based on the preliminary plat application and supplemental documents; addressing the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Billings Subdivision Regulations (Section 23-303(H), BMCC).

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

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

The subject property was 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 have an effect on 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. An 8-inch water line is located in Greenbriar Road, and will be extended to this subdivision and an 8-inch water main will be installed along the lengths of Cypress Point and Opal Lane.; this work is being funded by SID 1421. 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 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 8-inch sewer main located in subdivision. An existing 8-inch main is located at the intersection of Greenbriar Road and Opal Lane and currently terminates near the east edge of the proposed subdivision at a manhole with stub outs to Greenbriar Road and Opal Lane. SID 1421 will install anew 8-inch sanitary sewer mains from the existing 8-inch main and run west along Greenbriar Road and southwest along Opal Lane to service lots. A new 8-inch main will be installed along Cypress Point connecting to the sanitary main within Opal Lane. 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*. The new storm drainage improvements shall be constructed as part of SID 1421.
- 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 Greenbriar Road and Cypress Point. Greenbriar Road has a right-of-way width of 60-feet, and Cypress point has a right of way width of 50 feet. Street fronting lots within the subdivision will be constructed to 34-foot wide, back of curb to back of curb. Sidewalk transitions from 3-foot boulevard walk in Lake Hills Subdivision, 21<sup>st</sup> Filing to 5-foot boulevard walk in Lake Hills Subdivision, 40th Filing will occur on the 40th Filing lot frontages. This applies to Cypress Point, which has a 50-foot right-of-way. The layout of such transitions shall be approved by the City of Billings Engineering Department at the time of building permit approval. Sidewalks on Greenbriar Road with a 60-foot right-of way will be installed with a 5-foot boulevard walk. Sidewalks will be installed at the time of individual lot development. The developer will install accessible ramps at the intersections, which will be completed with the subdivision street improvements.
- 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 on its north and west sides. 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.

**Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods):** Neighborhoods that are safe and attractive and provide essential services are much desired.

**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.

## **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:

**Urban Sprawl:** This subdivision will be building houses in an already established neighborhood, reducing sprawl to new land.

**Health, Safety and Welfare:** Public infrastructure will be connected eliminating some existing dead ends on water and sewer lines.

**Residential Development:** 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. There will be no trails built with this 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 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 the construction of Greenbriar Road and Cypress Point, all local streets to be dedicated to the public as shown on the plat.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Lake Hills Subdivision, 40<sup>th</sup> Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2016 Growth Policy 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 is forwarding a recommendation of conditional approval of the preliminary plat of Lake Hills Subdivision, 40<sup>th</sup> Filing, to the City Council, and adopt the Findings of Fact as presented in the staff report.

Approved by the Billings City Council, May 22, 2023

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William A. Cole, Mayor

## Planning Board

**Date:** 04/25/2023  
**Title:** Fifty Four West Subdivision - City Major Preliminary Plat Review  
**Presented by:** Hunter Kelly, Planner 1  
**Department:** Planning & Community Services  
**Presentation:** Yes

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### Information

#### RECOMMENDATION

Staff proposes the Planning Board recommend to City Council that the preliminary plat of Fifty Four West Subdivision be conditionally approved and the Findings of Fact adopted as presented in the staff report.

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

On March 1, 2023, KLJ Engineering, on behalf of Michael Christensen, applied for preliminary subsequent Major plat approval for Fifty Four West Subdivision. The Proposed subdivision creates 66 lots for residential development. The subject property is generally located North of Rimrock Road and East of 54th Street West. The property is currently zoned N3. Per the zoning code, the property will need to be rezoned to a Planned Neighborhood Development. Additionally, in order for this land to develop in the City, annexation is required. Both an annexation and zone change are being reviewed by staff and will be considered concurrently with this application. The land is currently vacant.

#### VARIANCES

No variances are requested.

#### PROPOSED CONDITIONS OF APPROVAL

1. To minimize the effects on local service prior to final plat approval, the applicant will coordinate with the USPS to determine what type of deliver system is preferred and to locate and provide the correct amount of space for safely delivering the mail to the residents.
2. To minimize the effect on local services, to be compliant with Planned Neighborhood Development zoning regulations, and because of the location in proximity to Cottonwood Park, the subdivider shall provide a combination of 2% (.33 acres) developed park and 9% (1.46 acres) cash-in-lieu. The dollar value shall be determined based on methods outlined in Section 23-1007 of the City of Billings Subdivision Regulations. The payment shall be made prior to final plat approval.
3. In order to protect public health and safety and provide for future park maintenance, all required parkland shall be privately owned and maintained. Prior to final plat approval, the subdivider shall submit for review and comment, documents outlining how the maintenance will occur.
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.
6. In order to protect public health and safety and adhere to Crime Prevention Through Environmental Design (CPTED) principles; fences within the rear yard setback of Lots 1-7, Block 8, and Lot 9, Block 7 and side yard fences adjacent to the 30' wide ROW for the shared used path shall be limited to 4 feet in height. The Covenants, Codes, and Restrictions (CC&Rs) filed with the final plat shall include this language. In addition, the following language shall be placed into the Subdivision Improvements Agreement under Section II. Titled Property Conditions and Information for Lot Purchasers F. rear yard fences of Lots 1-7, Block 8, and Lot 9, Block 7 and side yard fences adjacent to the 30' wide ROW for the shared used path shall be limited to 4 feet in height. The aforementioned fences may be constructed up to the maximum height allowable by zoning, if the fence is constructed of materials that are permitted by the zoning code and allows for transparency.
7. In order to protect public health and safety and adhere to Crime Prevention Through Environmental Design (CPTED) principles and per the City of Billings Subdivision Regulations Section 23-406 A. 3. The subdivider shall install plantings within the open space area and future easements (Condition 8) adjacent to the shared use path. The landscaping shall include at least 1 tree and 6 shrubs or ornamental grasses every 40'. The trees should be of a variety included in the City's preferred tree planting list.

Note: Staff has further revised the staff recommended conditions of approval since the plat review meeting after further researching outcomes related easements and their impact on the concurrent zoning application and possible outcomes. These above referenced conditions are supported in the attached Findings of Fact.

#### PROCEDURAL HISTORY

Pre-Application Meeting: August 25, 2022  
Preliminary Plat application submitted to Planning Division: March 1, 2023  
Departmental Review Meeting: March 16, 2023  
Preliminary Plat Resubmittal: March 23, 2023  
Planning Board Plat Review: April 11, 2023  
Planning Board Public Hearing: April 25, 2023  
Preliminary Plat to City Council: May 22, 2023  
60 Working-Day Preliminary Plat Review period ends: May 24, 2023

## **PLAT INFORMATION**

General Location: North of Rimrock Road and East of 54th Street West  
Legal Description: Certificate of Survey 1834, Parcel 2B Amended, AMD 30.608 ac (98)  
Owner/Subdivider: Michael Christensen  
Engineer/Surveyor: KLJ Engineering  
Existing Zoning: N3 - Suburban Neighborhood Residential  
Existing Land Use: Vacant land  
Proposed Zoning: PND - Planned Neighborhood Development  
Proposed Land Use: Residential  
Gross & Net Area: Gross 30.61 Acres & Net 16.21 Acres  
Lot Size:  
    Minimum: 10,000 Square Feet  
    Maximum: 21,707 Square Feet  
Parkland Requirements: 1.78 Acres required. 0.83 Acres is provided. Of that, 0.33 is provided toward the park land dedication and the remaining 1.45 acres is to be covered via cash-in-lieu contribution.

## **STAKEHOLDERS**

There are no stakeholder responses at this time. Stakeholder input will be received at a public hearing scheduled for this subdivision on April 25, 2023.

At the Planning Board Plat Review meeting on April 11, staff gave a brief overview of the subdivision and was available for questions from the Board. President Cook called for questions and discussion from members of the Board. Board member John Staley requested clarification regarding the CPTED requirements as proposed in conditions 6-8. Planning and Community Services Director Wyeth Friday responded, explaining the City Council's initiative to incorporate CPTED principles into ongoing planning projects. Board member David Nordel raised additional concerns regarding the CPTED conditions and how they may seem counterproductive to the intended goals of the CPTED principles. Board member Roger Gravgaard asked for clarification on what lots were effected by the proposed fence height restrictions. Staff responded and further explained how CPTED applied to those lots. Board member Gravgaard suggested bringing additional city staff to explain CPTED and how it applies to the City of Billings, with Director Friday responding in the affirmative.

Board member Staley segued into a concern regarding the conditions of approval referring to the parks and the cash-in-lieu contribution. Staff responded by explaining the concerns of the Parks department as stated in their review of the plat and suggested a Parks Department representative appear at the public hearing if necessary. Director Friday explained further, detailing the possible uses of the cash in lieu contribution and how it relates to the nearby Cottonwood Park. Board member Woody Woods had questions regarding the possible maintenance of the private open space and who would actually perform it. Staff responded by affirming the condition that the private parkland will be privately maintained. Board member Woods also raised concerns regarding the proposed stormwater retention area and if it would be fenced. Travis Copper, the project engineer, responded to the question and stated they could look at fencing options but the stormwater area was intended to be very shallow with gradual slopes. Mr. Copper gave additional context regarding their proposed park and stormwater retention designs. Board member Woods asks staff to clarify the subdivision process and how the associated annexation and zone change are incorporated, with staff affirming the applicant is following all the procedures as necessary. The Applicant, Michael Christensen, rose to speak and provided his vision and mission statements for the project. Mr. Christensen went on to give his rationale on the park distribution within the subdivision and how the proposed private parkland would reflect a more marketable subdivision with grass, benches and other improvements.

There were no further questions or discussion on the plat.

## **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 May 24, 2023. State and City subdivision regulations also require that preliminary plat 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**

The preliminary plat of this subdivision will have no financial impact on the Planning Division.

### **SUMMARY**

One of the purposes of the City's subdivision review process is to identify potential negative effects of property being subdivided. Negative effects that are identified become the subdivider's responsibility to mitigate. Various City departments, private service/utility providers and the affected school district/s, have reviewed this application and provided input on effects and mitigation. The Findings of Fact, which are presented as an attachment, discuss potential negative impacts of the subdivision and conditions of approval are recommended as measures to further mitigate any impacts. In this case, there were found to be some impacts from this proposed subdivision.

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### **Attachments**

Final Plat  
Subdivision Improvement Agreement  
Findings of Fact

PRELIMINARY PLAT OF

# FIFTY FOUR WEST SUBDIVISION

BEING LOT 2B OF CERTIFICATE OF SURVEY NO. 1834  
LOCATED IN THE SW 1/4 OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 25 EAST, P.M.M.  
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA  
PREPARED FOR : MICHAEL CHRISTENSEN HOMES  
DECEMBER 2022

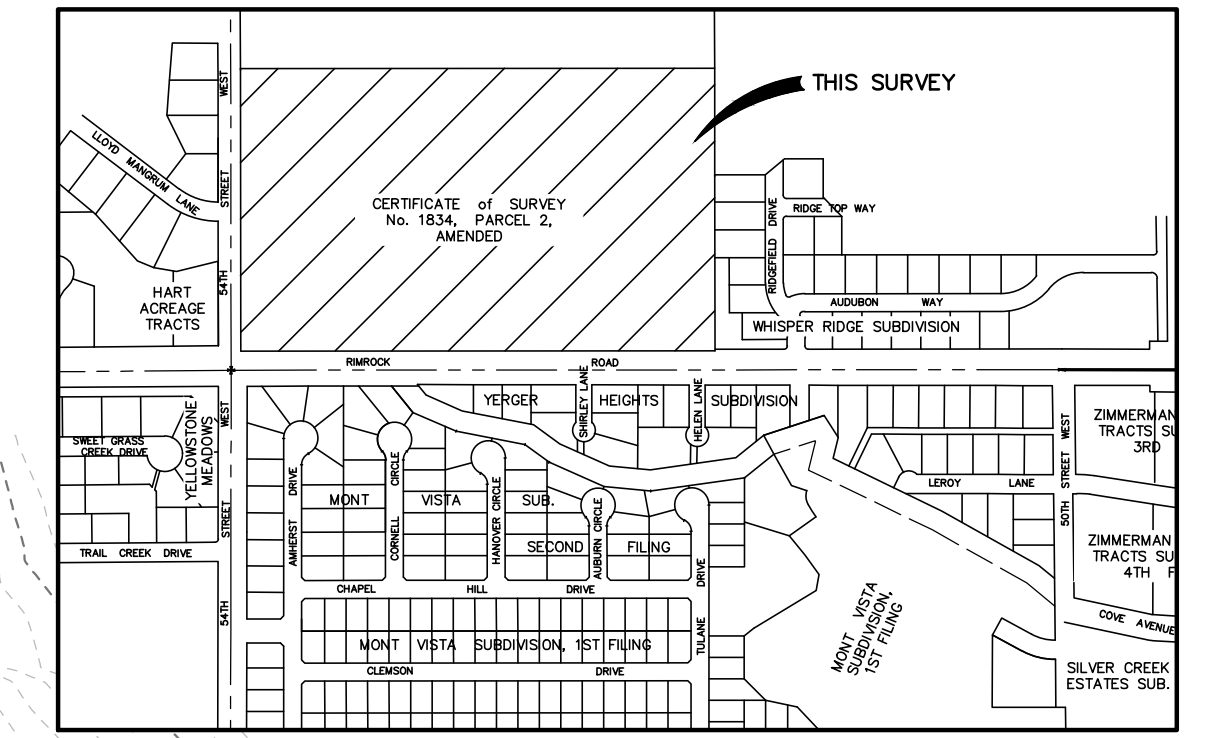
**OWNER:** NED ZIMMERMAN  
541 DARSY DEAN ROAD  
WLSALL, MT 59086-9405

**SUBDIVIDER:** MICHAEL CHRISTENSEN  
P.O. BOX 80883, BILLINGS, MT 59108

PREPARED BY:



2611 Gabel Road  
P.O. Box 80303  
Billings, MT 59108



**VICINITY MAP**  
N.T.S.

**LEGEND**

- Found Section Corner
- Found Monument, YPC, ENG INC 9960LS
- Found Monument, YPC, SANDERSON STEWART 8377S
- Found Monument, YPC, ZUCK ENG 6966S
- YPC Yellow Plastic Cap
- Proposed Water Line
- Proposed Sanitary Line
- Proposed Stormwater Line
- Proposed Sanitary Manhole
- Proposed Stormwater Manhole
- Proposed Stormwater Inlet
- Existing Electrical Overhead Power
- Existing Gas Line
- Existing Fiber-optic Line
- Existing Telephone Line
- Existing Water Line

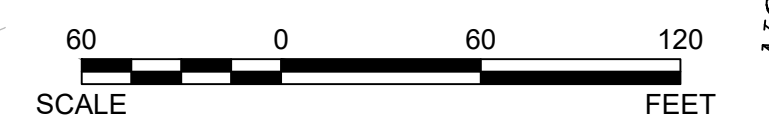
**GENERAL INFORMATION**

Number of Lots: 66 Single Family  
5 Private Open Space  
73 Total

Maximum Lot Area (Res): 21,707 SF  
Minimum Lot Area (Res): 10,000 SF

Total Length of Streets: 4,408 LF  
Gross Area: 30.61 Acres  
Net Area: 16.21 Acres (Res Lots)

Existing Zoning: N3  
Proposed Zoning: N3, N2 & P1  
Existing Land Use: Vacant  
Proposed Land Use: Residential



**BASIS OF BEARINGS:**

US RMTCS BILLINGS LDP  
LAMBERT CONFORMAL CONIC ONE PARALLEL PROJECTION  
NAD83(2011) (EPOCH 2010.0000)

CENTRAL MERIDIAN LOCATED AT:  
LAT: N45°47'00.00000"  
LON: W108°25'00.00000"

BEARINGS SHOWN ARE GRID BEARINGS AND HAVE NOT BEEN ADJUSTED FOR CONVERGENCE.

DISTANCES SHOWN ARE GROUND DISTANCES.

SCALE FACTOR: 1.0001515



1/4 CORNER SET  
KLI 2-1/2" ALUM.  
CAP 17791 PLS

SECTION CORNER  
BRASS CAP IN  
MONUMENT BOX

1/4 CORNER  
KLI 2" ALUMINUM  
CAP 17791 PLS

PRELIMINARY PLAT OF

# FIFTY FOUR WEST SUBDIVISION

BEING LOT 2B OF CERTIFICATE OF SURVEY NO. 1834  
LOCATED IN THE SW 1/4 OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 25 EAST, P.M.M.  
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA  
PREPARED FOR : MICHAEL CHRISTENSEN HOMES  
DECEMBER 2022

OWNER: NED ZIMMERMAN  
541 DARSY DEAN ROAD  
WLSALL, MT 59086-9405

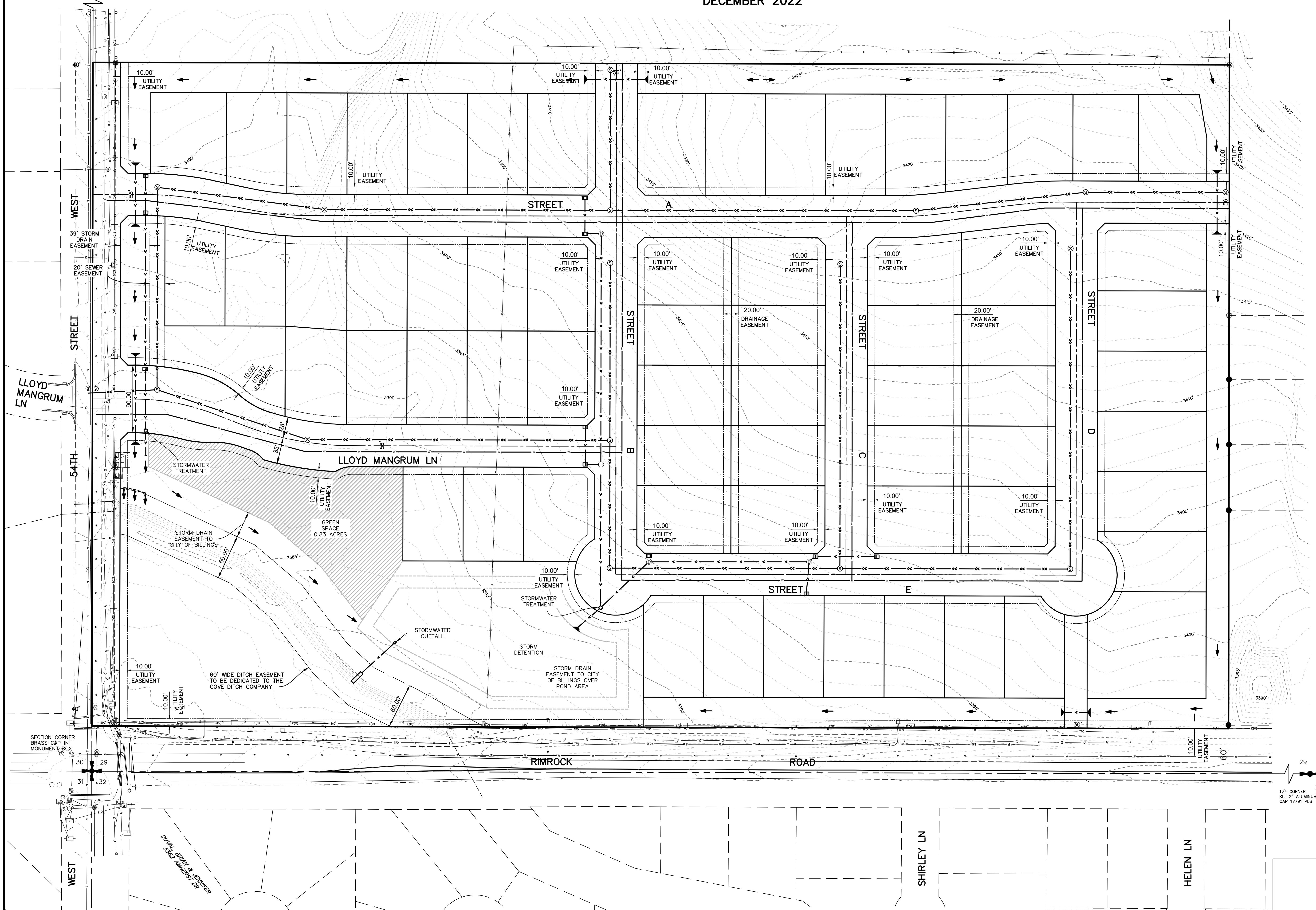
SUBDIVIDER: MICHAEL CHRISTENSEN  
P.O. BOX 80883, BILLINGS, MT 59108

PREPARED BY:

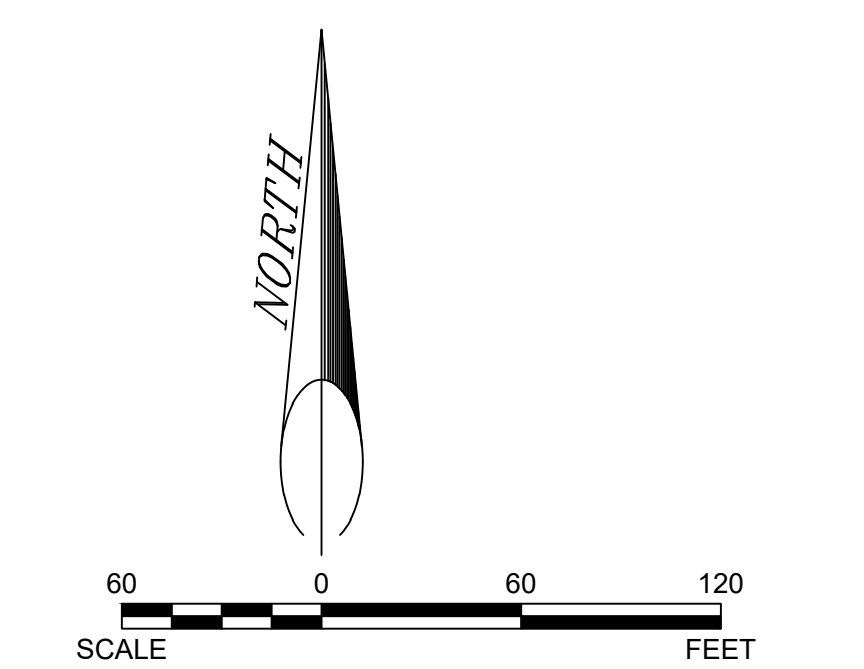


2611 Gabel Road  
P.O. Box 80303  
Billings, MT 59108

1/4 CORNER SET  
KLJ 2-1/2" ALUM.  
CAP 17791 PLS



- LEGEND**
- Found Section Corner
  - Found Monument, YPC, ENG INC 9960LS
  - Found Monument, YPC, SANDERSON STEWART 8377S
  - Found Monument, YPC, ZUCK ENG 6966S
  - Yellow Plastic Cap
  - Proposed Water Line
  - Proposed Sanitary Line
  - Proposed Stormwater Line
  - Proposed Sanitary Manhole
  - Proposed Stormwater Manhole
  - Proposed Stormwater Inlet
  - Existing Electrical Overhead Power
  - Existing Gas Line
  - Existing Fiber-optic Line
  - Existing Telephone Line
  - Existing Water Line



**BASIS OF BEARINGS:**  
 US RMTCS BILLINGS LDP  
 LAMBERT CONFORMAL CONIC ONE PARALLEL PROJECTION  
 NAD83(2011) (EPOCH 2010.0000)  
 CENTRAL MERIDIAN LOCATED AT:  
 LAT: N45°47'00.00000"  
 LON: W108°25'00.00000"  
 BEARINGS SHOWN ARE GRID BEARINGS AND HAVE NOT BEEN ADJUSTED FOR CONVERGENCE.  
 DISTANCES SHOWN ARE GROUND DISTANCES.  
 SCALE FACTOR: 1.0001515

1/4 CORNER  
KLJ 2" ALUMINUM  
CAP 17791 PLS

SECTION CORNER  
BRASS CAP IN  
MONUMENT BOX

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

**Fifty Four West Subdivision**

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(City of Billings, Montana)**

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

**Fifty Four West Subdivision**

**This agreement** is made and entered into this \_\_ day of \_\_\_\_\_, 2023, by and between Michael Christensen Homes (Subdivider), whose address for the purpose of this agreement is PO Box 80883 Billings, Montana 59108, 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 \_\_\_\_\_, 2023, the Board of Planning recommended conditional approval of a preliminary plat of *Fifty Four West Subdivision*; and

**WHEREAS**, at a regular meeting conducted on \_\_ day of \_\_\_\_\_, 2023, the City Council conditionally approved a preliminary plat of *Fifty Four West 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 *Fifty Four West 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. 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 this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.
- C.** Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the project Geotechnical Engineering Report prepared by Rimrock Engineering, under project number G22154, dated October 5, 2022. The report contains foundation design and construction recommendations for the subdivision lots that should be considered during building construction.

- D.** No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- E.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.

## **II. TRANSPORTATION**

### **A. Streets**

- Subdivider shall construct Streets A, B, C, D, E and Lloyd Mangrum Lane with asphalt pavement, curb, gutter and sidewalk. The street width shall be 34-feet from back-of-curb to back-of-curb. The streets shall be centered in a 56-foot-wide right-of-way, dedicated to the City.
- Subdivider shall construct the east half of 54<sup>th</sup> Street West along the west subdivision boundary. Construction shall include pavement widening, curb and gutter. The street half-width shall be 19.5-feet from the right-of-way centerline to the east back-of-curb. Subdivider shall dedicate a 37-foot-wide right-of-way half-width along 54<sup>th</sup> Street West.
- Rimrock Road is designated as a Major Arterial and is located within a 120-foot right-of-way. Rimrock Road shall be constructed with a minimum standard width of 42-feet, back of curb to back of curb. That portion of Rimrock Road adjacent to the subdivision has been partially constructed. The existing street includes approximately (24-feet) of asphalt. The Subdivider shall provide a cash-in-lieu contribution for the construction of approximately an additional 7-feet of asphalt surface with a satisfactory sub-base, base course, standard curb and gutter, necessary tapers and stormdrain piping and inlets on Rimrock Road along the frontage of the subdivision, due prior to final plat approval. The cash-in-lieu contribution shall include engineering design and construction administration.

### **B. Sidewalks**

- Subdivider shall construct 5-foot-wide boulevard walks at the following locations:
  - Along 54<sup>th</sup> Street west, adjacent to west subdivision boundary
  - Along south side of Lloyd Mangrum Lane, adjacent to the Private Park lot.
  - On the southwest curve of the bulb-out, at the intersection of Streets B & E, adjacent to the Private Park lot.
  - Along street frontages adjacent to private open spaces.
- Subdivider shall construct pedestrian ramps at each intersection within the subdivision and at the east side of intersections with 54<sup>th</sup> Street West.
- 5-foot-wide boulevard walks shall be constructed along streets within the subdivision by lot owners, along the frontage of each lot, in conjunction with building permits for each respective lot.

### **C. Street Lighting**

Construction or installation of streetlights within the public rights-of-way shall not be required at this time, but streetlights are included in the Waiver

referenced herein for construction of the same in the future. A maintenance district for streetlights may be formed for future maintenance of any streetlights installed in the future.

#### **B. Traffic Control Devices**

- “Developer shall furnish and install all necessary traffic control devices in accordance with the MUTCD and approved by the City of Billings Public Works Department.
- Subdivider shall install stop signs on Lloyd Mangrum Lane and Street A at intersections with 54th Street West.
- Subdivider shall install street name signs at all subdivision intersections.
- Road closed signs shall be installed on the north end of Street B and the east end of Street A.
- A traffic impact study has been completed for the Subdivision. All required intersection improvement contributions identified therein shall be completed by the Subdivider at the Subdivider’s expense. The percent of traffic contributions to the following intersections shall be in accordance with the traffic accessibility study:
  - Rimrock Road and 54th Street W: 2.25%
  - Rimrock Road and 46th Street W: 2.54%
  - Shiloh Road and Rimrock Road: 2.33%

The cash contributions shall be based on the percent of traffic contributions to the intersections based on the total cost of an intersection as determined by City Engineering for the year in which the contribution is made. The cash contribution shall be made prior to final plat approval.

#### **C. Access**

- No access to or from the subdivision directly to Rimrock Road shall be allowed, except
- Subdivider shall construct a shared use path from the intersection of Street E and Street D, to the existing shared use path along the north side of Rimrock Road. Shared use path shall be in a 20-foot minimum width right-of-way, dedicated to the City of Billings.

#### **D. Heritage Trail Plan**

The subdivision is not within the Heritage Trail Plan and no trail improvements are required.

#### **E. Public Transit**

No public transit facilities are required to be constructed with the subdivision improvements.

### **III. 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.

#### **IV. STORM DRAINAGE**

Stormwater runoff flowing toward the subdivision from large drainage areas to the north, shall be diverted around the perimeter of the subdivision in drainage ditches and through culverts to be constructed by the Subdivider. Runoff from minor off-site drainage areas may be captured and conveyed through the subdivision stormwater management facilities. Perimeter ditches shall be routed to points of discharge existing in the pre-developed site condition. Discharge points shall be designed and constructed to disperse concentrated flows and prevent downstream property damage.

Perimeter ditches described above shall be constructed within a strip of land around the north, west and east side of the subdivision, as shown on the plat. The ditches shall be owned and maintained by the Homeowner's Association.

Stormwater conveyance facilities shall be constructed within the subdivision in accordance with City design standards. Runoff from the subdivision shall be conveyed to the proposed stormwater treatment and detention area in the Private Open Space adjacent to the north side of the Cove Ditch. Stormwater from the detention facility shall be discharged to the Cove Ditch in accordance with City of Billings design standards and written agreement with the Cove Ditch Company. The design rate of discharge shall not exceed one cubic-foot-per-second (1 CFS) per 10 Acres of Subdivision Area. The HOA shall be responsible for paying all fees required as part of agreement with the Cove Ditch Company.

Subdivider shall construct all stormwater management and conveyance facilities discussed above.

#### **V. 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 – Distribution and Collection 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 appropriate water and wastewater construction fees and franchise fee 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 City of Billings Public Works Department, Fire Department and the Montana Department of Environmental Quality.

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

- 10-foot-wide utility easements shall be dedicated on the plat along all road frontages within and adjacent to the subdivision, to allow for installation of power, gas, telecommunication, data, and other services.

**VI. PARKS/OPEN SPACE**

In accordance with Section 23-1002 of the City Subdivision Regulations, the Subdivider must dedicate park land at a proportion of 11-percent of the area of residential lots being created that are smaller than ½-acre or pay cash-in-lieu. In accordance with Section 27-800 of the City Zoning Regulations, the subdivision must provide a minimum of 2-percent of the net subdivision area as parkland or open space. This area is credited toward the parkland dedication requirements. The Subdivider must provide for a balance of 9-percent to satisfy these requirements.

The total area of residential lots created by the subdivision, smaller than ½ acre, is 16.26-acres. The total park area requirement is 1.46-acres. The Subdivider agrees to pay the City of Billings cash-in-leu for this land amount prior to recordation of the final plat.

**VII. IRRIGATION**

Subdivider shall grant to the Cove Ditch Company a 60-foot-wide easement, 30-feet each side of the center line of the cove ditch, to operate and maintain the ditch.

**VIII. SOILS/GEOTECHNICAL STUDY**

See Section I.C of this agreement.

**IX. FINANCIAL GUARANTEES**

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

**X. LEGAL PROVISIONS APPLYING TO SUBDIVIDER**

- A. Subdivider agrees to guarantee all public improvements for a period of one 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 and 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”

Michael Christensen Homes

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

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

STATE OF MONTANA )

: ss

County of Yellowstone )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of (*Subdivider*), 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 \_\_\_\_\_, 2005.

“CITY”  
CITY OF BILLINGS  
MONTANA

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

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



# 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.

This Waiver is in addition to any other recorded waiver related to the property described herein and is not intended to replace, supersede, or invalidate any such waiver.

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

*Fifty Four West Subdivision*

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

Subdivider/Owner

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

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

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

On this \_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be Subdivider/Owner Name, 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 in Billings, Montana  
My commission expires: \_\_\_\_\_

## **FINDINGS OF FACT**

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

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

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

The subject property is Vacant. Perimeter 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** – Water service will be provided by the City of Billings. New individual services will be provided to all the lots, and new fire hydrants will be installed as required by the City Fire Department. The water service for this subdivision comes from 54<sup>th</sup> Street West. Any needed extension of those water lines will be installed by the subdivider to meet the requirements of the City of Billings Engineering Department regulations. The subdivider will install all new water lines in the local streets and individual services for each lot in accordance with design standards, specifications, rules and regulations of the City of Billings Engineering/Public Works Department and MDEQ. This is outlined in the SIA under the heading VI Utilities, A, Water.

Sanitary sewer service will be provided by connecting to the existing City of Billings' sewer mains. There is an existing sewer main on 54<sup>th</sup> Street West. All new services shall be installed in accordance with design standards, specifications, rules and regulations of the City of Billings Public Works Department and MDEQ. This is outlined in the SIA under the heading VI Utilities, B, Sanitary Sewer.

Private Utilities will be provided from existing facilities to the subdivision. No additional easements on the lot frontage have been requested.

**Stormwater** – Stormwater drainage for the public streets is proposed to be provided by curb and gutters that discharge into storm water pipes. These and all other drainage improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the City Engineering Department.

- b. **Solid Waste** – The City of Billings will provide solid waste collection and disposal. The City’s landfill has adequate capacity for this waste.
- c. **Streets** – The subdivision is adjacent to 54<sup>th</sup> Street West and Rimrock Road. Subdivider shall construct the east half of 54<sup>th</sup> Street West along the west subdivision boundary. Construction shall include pavement widening, curb, gutter and sidewalk. The street half-width shall be 19.5-feet from the right-of-way centerline to the east back-of-curb. Subdivider shall dedicate a 37-foot-wide right-of-way half-width along 54th Street West. Rimrock Road is a developed right of way and no street improvements are anticipated at this time. Street improvements are included in the Waiver of Right to Protest Future Special Improvement Districts.

The sidewalks will be installed by the respective lot owner on a lot-by-lot basis, as lots develop. Sidewalks along the street frontage shall be minimum 5-foot-wide and separated with a boulevard width not less than five feet. The developer will also install all ADA required ramps at the intersections within the proposed subdivision. This information is all in the SIA under the heading Transportation.

The 40’ linear private open space adjacent to Rimrock Road will be landscaped with one tree and 6 shrubs every 40 feet in order to screen adjacent properties from the nearby arterial roads. **(Condition #7)**

- d. **Emergency Services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station, Station #7, is located at 1501 54<sup>th</sup> St West. The subdivision is located within the ambulance service area of American Medical Response (AMR).
- e. **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. Previous correspondence with the district has mentioned schools in this vicinity are over or near capacity.
- f. **Parks and Recreation** – In accordance with Section 23-1002 of the City Subdivision Regulations, the Subdivider must dedicate park land at a proportion of 11-percent of the area of residential lots being create that are smaller than ½-acre or pay cash-in-lieu. In accordance with Section 27-803 and Table 27-800.1 of the City Zoning Regulations, the subdivision must provide a minimum of 2-percent of the net subdivision area as developed parkland. This area is credited toward the parkland dedication requirements. The Subdivider must provide for a balance of 9-percent to satisfy these requirements. The total area of residential lots created by the subdivision, smaller than ½ acre, is 16.26-acres. The developed park area requirement is 0.33 acres, with 0.83 acres provided. The Subdivider

agrees pay the City of Billings cash-in-leu for the remaining 1.46-acres prior to recordation of the final plat. **(Condition #2)**

- g. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision and has indicated that centralized mailbox units will be required as were installed for the previous filings of this subdivision. The developer will need to coordinate mailbox locations with the postal service. **(Condition #1)**

**3. Effect on the natural environment**

The subject property is currently vacant with the proposed use of residential lots. The property is not located in a floodplain. During development, storm water pollution prevention best management practices are required to be used and monitored to prevent erosion on exposed ground. Overall, the effect on the natural environment should be minimal.

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

There are no known endangered or threatened species on the property. There is a paragraph in the SIA that warns future lot owners of the presence of deer in the area, which may cause damage to their landscaping. This subdivision should have a minimal effect on wildlife and wildlife habitat.

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

There may be some impacts to public health, safety and welfare because of this subdivision in relation to visibility of the multi-use pathways along the south border of the subdivision on Rimrock Road and along the pathway corridor from the internal streets connecting to the pathway on Rimrock Road. Since passage of the FY23 Budget and the direction for use of resources and staff time on CPTED implementation, City Administration in consultation with City Council has directed City staff to incorporate CPTED evaluation and principals into projects and processes like transportation planning, park planning, and public safety related activities. **(Condition #6)**

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

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

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

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

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

**Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods):** Neighborhoods that are safe and attractive and provide essential services are much desired (p.8).

**Home Base (healthy, safe and diverse housing options)** Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings.

## **2. West Shiloh Area Plan**

The proposed subdivision is consistent with the following goals of the West Shiloh Area Plan.

**PLANNED GROWTH GOAL 1** - Establish Development Patterns that use land more efficiently

**Policy A** Promote efficient utilization of land within the West Billings planning area by promoting well designed, more pedestrian friendly, urban development patterns with a mix of uses and an efficient, creative use of land.

## **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 is within the jurisdiction of the Billings Area Bikeways and Trail Master Plan. There is an existing trail on Rimrock Road. No additional improvements of this nature are anticipated.

### **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 Suburban Neighborhood Residential (N3) zoning, and is currently undergoing a rezone process as a Planned Neighborhood Development (PND). The lot frontages shall conform to the requirements of this PND. Other building setbacks and structure specific requirements will be reviewed for compliance at the time of building permit review.

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

The subdivider will provide utility easements as requested by private utility companies on the face of the plat.

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

Legal and physical access is provided to the proposed will be from 54 Street West. New internal accesses will provide circulation to individual lots.

**CONCLUSIONS OF FINDINGS OF FACT**

- The preliminary plat of Fifty Four West Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several of the goals and policies of the 2016 Growth Policy, West Shiloh Area Plan and does not conflict with the Transportation or Bikeway/Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

**RECOMMENDATION**

The Planning Board recommends to City Council that the preliminary plat of Fifty Four West Subdivision be conditionally approved and adopt the Findings of Fact as presented in the staff report.

Approved by the Billings City Council, May 22, 2023

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William A. Cole, Mayor